

A Comprehensive Agreement for Security in Northeast Asia

Morton H. Halperin

September 2014

The security of Northeast Asia is threatened by the Democratic People's Republic of Korea's (DPRK) apparent intention to continue developing, test, and deploy nuclear weapons and their delivery systems and by its assertion that it is a nuclear weapons state.. The other five participants in the negotiations of the Six Party Talks—The United States, Japan, Republic of Korea (ROK), Russia, and The People's Republic of China (PRC)—have all expressed their opposition to the development of nuclear weapons by the DPRK and their refusal to deal with the DPRK as a nuclear weapon state. However, in the past few years none of the five have developed or put forward a workable strategy to prevent the DPRK from emerging as a nuclear weapons state.

The United States, preoccupied with other matters including a thus far successful effort to prevent Iran from acquiring nuclear weapons, has opted for a policy of strategic patience. It has demanded that the DPRK implement substantial steps to curb its existing and suspected nuclear capability – both plutonium based and uranium based -- as preconditions for holding another round of Six Party Talks. The USG seems to believe that the DPRK will not, under any circumstances, give up its existing nuclear capability and has not been interested in trying to find a way forward. Japan has focused on seeking satisfaction on its longstanding abductee issue with the DPRK, with some recent success,

but has not been in the lead in developing a plan to eliminate the DPRK's nuclear capacity. Under its new President, the ROK has sought to improve its relations with DPRK and has focused on building trust between the two countries. Russia has been preoccupied with other parts of the world and has not been an active participant in Northeast Asia. China has been the most active and constructive of the Six Parties, pressing the DPRK not to test a missile or a nuclear weapon and pressuring the United States' Government to permit the Six Party Talks to resume. It has not been successful however, and China seems to alternate between blaming the United States and the DPRK for the failure.

A new approach is clearly needed to prevent the DPRK from testing and deploying its operational nuclear weapons capability. This paper presents such an approach and outlines the steps that might be taken to initiate serious talks either within the Six Party framework or under a new arrangement.

The process outlined assumes that with the necessary incentives, the DPRK might be willing to verifiably dismantle its nuclear weapons programs and rejoin the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) as a non-nuclear state. At the least, this will require the creation of a nuclear-weapons-free zone in Northeast Asia, a peace process in Korea, and the establishment of new security architecture to provide protection to all countries of the region. It is certainly possible however, as many believe, that the DPRK is not willingly under any circumstances to give up its existing nuclear stockpile. The only way to explore the DPRK's willingness is to resume serious negotiations.

The first step in the process must be to find a way to bring the United

States Government and the DPRK to the negotiating table. At this time the DPRK seems willing to resume unconditional negotiations under the Six Party framework—a result of intense pressure from China, the government chairing the Six Party Talks. The United States, as noted, has been unwilling to resume the talks until the DPRK agrees to dismantle its nuclear programs. The United States has not spelled out precisely what it would require the DPRK to do before talks can begin.

The standoff between the United States and the DPRK has lasted for several years. It results not only from the two government's differing security perspectives but also from their diametrically different understanding of their failed efforts to reach an agreement. In short each side believes that it had negotiated in good faith and met its commitments and that the other had reneged. Historians may, one day, sort out the truth but what is relevant know is that each side thinks the other violated the agreements they reached and neither is open to another effort to proceed in the same way.

A new approach is needed, one which takes account of where we are today and the fundamental interests of the two sides.

The first hurdle to overcome is to initiate negotiations. Private conversations over the past year suggest that the gap may be narrowing and point to a possible way forward. The United States is clearly not willing to begin negotiations, only to have the DPRK test a nuclear weapon or a space launcher while talks are underway. The DPRK now seems willing to reaffirm the so-called “leap day” agreement plus an added ban on space launch vehicle tests in return for some limited forms of economic assistance. The United States still seems to be insisting that the DPRK reveal all its uranium related weapons

production facilities and agree to halt production as a pre-condition for talks. The DPRK is unlikely to be willing to make this commitment prior to the initiation of talks. So this gap still needs to be closed.

If that is done, the parties should be able to agree that the goal of the negotiations is to reach an agreement on the verified denuclearization of the Korean peninsula, preferably within a larger de-nuclearized zone in Northeast Asia.

Getting North Korean agreement will likely require a comprehensive security agreement which includes an end to hostile intent and a peace treaty. Getting the DPRK and the United States to come back to the table on these terms will not be easy. A new impetus is needed.

This might well be the moment for Japan to play a leading role in getting the talks underway. With progress toward an understanding on the longstanding issue of abduction of Japanese citizens by the DPRK, Japan should now be willing to offer some economic assistance to the DPRK which should be tied to a resumption of the Six Party Talks.

More important over the long run, would be a Japanese proposal for a nuclear-weapons-free zone in Northeast Asia that would include Japan and both Koreas. This proposal would make denuclearization more acceptable to the DPRK since it would involve a treaty commitment from both the ROK and Japan to not develop nuclear weapons, as well as a treaty commitment from the five nuclear weapons states including the United States to not threaten the DPRK with nuclear weapons.

Japan's support for the Joint Statement on the Humanitarian Consequences of Nuclear Weapons at the UNGA in October 2013 suggests that the current government may be open to considering

additional steps to demonstrate its commitment to the elimination of nuclear weapons including support for a Northeast Asia Nuclear Weapons Free Zone.

This proposal would also increase China's interest in securing an agreement considering it has long held concerns that Japan and/or the ROK would develop nuclear weapons.

A commitment by Japan to participate in a nuclear-weapons-free zone would benefit the country by helping to cope with the Asian response to various action of the Japanese government in the security field including its assertion that it wants to expand Japan's security role by re-interpreting the Japanese constitution so as to permit collective defense. There is substantial opposition to this proposal in Japan including from the Komeito Party which is part of the ruling coalition. The objections are both to the effort to make these change without formally amending the constitution and to the substance of the change. Whether it can push this change in the understanding of the constitution through or not, the current government will press forward its effort to expand Japan's security role.

Much of the concern about these actions both in Japan and elsewhere is the fear that it reflects a revival of Japan's nationalism which will ultimately lead to a Japanese nuclear weapons capability. Japan can counter this concern by announcing its support for a Northeast Asia nuclear-weapons-free zone and playing an active role in spurring agreement to resume the Six Party Talks.

When the Six Party Talks resume the governments should focus on simultaneous, serious, negotiations about each element of the package. Only after the text of the full package is agreed should the parties

negotiate the steps each will take to bring the entire agreement into force in a way that assures compliance with all the provisions of the agreement.

Such an approach will 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 international verification and enforcement procedures. Every participant will be aware of 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 with unilateral statements to the world or to its own society.

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 state of war in Korea.

This is clearly a major objective of the DPRK. This section should be adhered to by the armistice nations and by the ROK. It should end the state of war and provide for the normalization of relations among the signatures while providing for the eventual unification of the

peninsula.

Creation of a permanent council on security

The Treaty should create a permanent council and organization to monitor the other provisions of the treaty and to provide a forum to deal with future security problems in the region. In addition to the six parties, and the other two nuclear weapons states, other states from the region and beyond would be invited to join.

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.

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 will need to be affirmed. Any limitations on the DPRK will need to apply equally to other non-nuclear states party to the treaty especially the ROK and Japan. The DPRK will also want assurances that its energy needs will be subsidized. Beyond a general commitment this will probably need to be negotiated as a separate agreement.

Termination of sanctions

The Parties to the treaty will need to commit not to impose sanctions on any other party to the treaty or to maintain them on a list

of state sponsors of terrorism. The parties would reserve the right to collectively impose sanctions on any state which violates its commitments under the treaty.

Nuclear weapons free zone

Finally, the treaty would contain a chapter which would create a Nuclear Weapons Free Zone 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. They might agree to future restrictions on reprocessing and enrichment. 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. In the case of North Korea there would need to be specific provisions providing for the destruction of their existing stockpile and production facilities under the auspices of the security organization. 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). 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 EIF 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 and the right pressure especially from China that it might at the end of the day 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 a 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 the three nuclear weapons states (U.S., Russia, and China) ratify the treaty and when two non-nuclear states (ie. Japan and ROK) ratify it. However, the ROK and Japan 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 was 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 to not acquire nuclear weapons or permit them to be stored on their territory. The DPRK would be aware of this, and 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 become 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. One possible approach to them would be through Mongolia which has declared itself to be a nuclear weapons free zone and which has good relations with the DPRK. In fact it might make sense to include Mongolia in the proposed Treaty.