

Korea – France First Strategic Dialogue: the DPRK Nuclear Crisis

Benjamin Hautecouverture

Issues and Strategies for Building a Peace Regime on the Korean Peninsula

SHIN, Beomchul

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Benjamin Hautecouverture

Senior Research Fellow

Fondation Pour la Recherche Stratégique (FRS)

b.hautecouverture@frstrategie.org

A Northeast Asia agenda

The Research Institute for National Security Affairs (RINSA, ROK) and the Foundation for Strategic Research (French acronym FRS, France) organized the first French-Korean Strategic Dialogue on the 28th and 29th of March, 2017 on the premises of RINSA, Seoul. Both institutes had in mind a project to initiate a sustainable exercise of reflection between the two countries, bringing together officials and think-tankers willing to share their thoughts on nuclear matters and strategic relations between states.

Northeast Asia was the main target of this exercise during which participants had the opportunity to compare the European and the Euro-Atlantic stages with the Northeast Asian strategic challenges so as to draw lessons and,

when feasible and appropriate, provide thoughts on the way forward. The dialogue was organized into five working sessions branching out from the assessment of the DPRK nuclear and ballistic programmes to the strategic future of the region. Each session was introduced by two speakers. The forum was strictly driven by the Chatham House rule (no attribution of statements and comments), as follows:

1. Recent developments of the DPRK - From nuclear and ballistic programmes to emerging doctrine
2. Addressing the DPRK threat: Lessons learned from previous policies and ways forward
3. The future of US extended deterrence - Asian and European perspectives

The views expressed in the RINSA FORUM do not necessarily reflect views or policies of RINSA or KNDU.

4. Strategic stability and missile defence
5. Nuclear and Strategic futures in Northeast Asia

Options to address the DPRK threats

When looking back at the past twenty-five years, one could argue that every reasonable solution has already been attempted to address the DPRK nuclear challenge. As a focus point of the debates, the DPRK nuclear and ballistic crisis allowed the participants to inquire and evaluate the relevance of possible new answers: Has the Obama's "strategic patience" policy towards the DPRK been a failure to date or the necessary basis for a long-term containment strategy? How to assess the two-track policy of economic development and nuclear weapons development, so called the "byungjin" line, since 2012 by Pyongyang? Is there another choice than to restart the diplomatic process in a multilateral format in order to resume negotiations? Is the purpose of future negotiations to implement a freeze on further missile and nuclear developments? Are high level officials in Pyongyang interested in taking the first step in a renewed negotiating process with the US? Is the dual-track strategy of negotiations and pressure, as experienced in the Iranian case, one that could be adapted to the DPRK crisis? Would stronger sanctions be the solution? Can China's compliance to UNSC 2321 be assessed?

A Faultless determination

All of the participants were reminded of the chronology of the crisis in order to share their perceptions of the various diplomatic and political failures experienced so far:

- In 1989, the US decided to remove tactical nuclear weapons from South Korea.
- In 1991, the North-South Denuclearization agreement between Seoul and Pyongyang to forego uranium enrichment and plutonium reprocessing was signed under a US initiative.
- But in 1993 North Korea refused access to

inspectors and a new wave of negotiations led to the 1994 agreed framework: the DPRK agreed to freeze its nuclear facilities in exchange for the US provision of two proliferation-resistant light-water reactors.

- Then the European Union (EU) actively participated through the European Atomic Energy Community (EURATOM), which took part in the Korean Peninsula Energy Development Organization (KEDO) set up in March 1995 to implement the Agreed Framework. For the record, EURATOM contributed to funding the two light-water reactors (LWR) and was active in this regard from 1997. A second agreement between EURATOM and the KEDO in 2001 renewed European participation to the Board of Directors of the Organization as well as its annual financial contribution of €20 million until 2005.
- The Agreed Framework collapsed in October 2002 after US Assistant Secretary of State James Kelly confronted North Korea with evidence of a secret uranium enrichment programme.
- The United States initiated the halting of energy assistance to North Korea at the end of 2002. In response, Pyongyang expelled international monitors.
- In January 2003, North Korea declared its withdrawal from the nuclear Non-Proliferation Treaty (NPT).
- Then various forms of multilateral diplomacy were tested, the most so-called successful being the six-party talks launched in August 2003. These talks have been deadlocked since the start of the first Obama presidential term even if the United States, China, Japan, and South Korea continued to work in the hope of breaking the deadlock. It can be asserted that the six-party talks collapsed after March 2007 and have never been resumed seriously since then.
- The US-North Korea "leap day" deal in February 2012 was meant to suspend enrich-

ment, nuclear tests and long-range missile launches but it collapsed three weeks after being signed when Pyongyang announced plans to test a space rocket using banned technology.

Being made of broken agreements and bad faith, this process now appears to be what it has always been: a way to save time and to advance the nuclear and ballistic programmes which might have been conceived in the 1960's by the communist regime in Pyongyang. A first lesson of recent history, shared by all of the participants, was this relentless determination of the Kim family for three generations.

The international sanctions regime and the role of China

The international sanctions regime against the DPRK nuclear and ballistic programmes has been the main diplomatic answer at the multilateral level for ten years. The UN Security Council (UNSC) adopted six resolutions against North Korea since its first nuclear underground test in 2006, paving the way for an international sanctions regime focused on denying North Korea access to technology, materials and assistance for its nuclear and missile activities. The international sanctions regime between 2006 and 2013 has progressively strengthened, but it was linked to a demonstrated nexus between North Korean activity and its WMD programmes. Thus, any ambiguity could be the means for countries to avoid taking action. Besides, some of the provisions in the first four resolutions could result in differing interpretations. The will of North Korea's trading partners to take action was key for the nascent international regime to have any real value. UNSC resolution 2270 adopted on 2 March 2016 has deeply modified the ambition of the UN sanctions regime. It created a comprehensive, legally-binding sanctions framework. Its provisions cover both military areas as well as broader economic issues, target major North Korean economic vulnerabilities and potential pathways for its

procurement of foreign items necessary for its programmes. Lastly, the purpose of UNSC resolution 2321 (November 30, 2016), which clarifies and tightens UNSC resolution 2270's restrictions on coal exports by the DPRK, was to close some of the main loopholes in previous resolutions.

The international sanctions regime has not managed to hamper Pyongyang's ballistic and nuclear programmes' development so far. A first assessment of UNSC resolution 2321's implementation will be produced in 2018 by the UNSC Panel of Experts of the 1718 Sanctions Committee. If fully implemented, the new mechanism could delete 20% of the DPRK's external resources according to estimates. Whatever the results, the mechanism has already been described as "the toughest sanctions ever" by then Secretary-General Ban Ki-moon, even if China's compliance is instrumental to the success of it and in fact, Chinese compliance will be the key to it since China has been the supplier of around 90% of North Korea's international trade if one excludes inter-Korean trade.

Another lesson to be drawn from recent history deals with the role of China: It must be argued that Beijing has always refused to consider sanctions that might undermine the stability of the Kim regime. Many assessments consider the DPRK as a regime that could collapse at any moment but that could continue to exist for an important period of time. The economy has improved. Visible improvements in the quality of life, especially in Pyongyang, have been witnessed by many visitors to North Korea during the past two years.

All in all, many participants to the dialogue considered that there is little reason for hope in a diplomatic solution in the short run even if it is too early to conclude that the ongoing sanctions regime is not demonstrating any effectiveness. Speaking at the Council of Foreign Relations in New York on 1st November 2016, the (then) Director of U.S. National Intelligence James R. Clapper Jr. said the U.S. policy of trying to

persuade North Korea to give up its nuclear weapons “is probably a lost cause”.

Regional equation and global effects

Finally, particular options ahead were discussed among the participants:

1. The DPRK is *de facto* accepted as a nuclear weapon state outside the NPT, as are India and Pakistan, but without acknowledging it officially. A long-term containment strategy would protect the region from nuclear and ballistic proliferation concerns.
2. The programme run is cancelled by military pre-emptive action.
3. China is seriously considered as the main leverage of the international community towards the DPRK, which means that China’s interests towards North Korea are driven to be deeply shifted by, *inter alia*, the strategic engagement of the US in the protection of its allies in the region through the development of a robust regional ballistic missile defence system and the deployment of strategic assets in allied countries.


The nuclear factor of the crisis in the Korean peninsula is at the core of strategic issues in the region. It has become a global issue since North Korea claimed to withdraw from the NPT in 2003. Not only has the crisis not been resolved but it has been dangerously aggravated. Other serious nuclear issues have been at the forefront of the international security agenda since then: the Iranian crisis, nuclear terrorism, the strategic balance between the US and Russia, and nuclear disarmament. In the meantime, apparently far away from day to day western preoccupations, the nuclear crisis on the Korean peninsula has been making dangerous progress to the extent which:

- the nuclear non-proliferation regime could be damaged,
- economic interests of all states could be at stake,
- strategic relations between great powers and middle powers could be affected,

- vital interests of many countries, even in Europe, could be involved.

It was recognized that at a time of political transition and/or turmoil, in the ROK, in the US, within the EU and even possibly in France, many factors of the nuclear issue on the Peninsula are moving fast. As far as the EU is concerned, France has been one of the main Member States within the Union, continuously raising the issue in multiple arenas and bilaterally with its partners.

This being said, the participants experienced during the two days of their dialogue that North Korea is one variable among others in a regional and a global equation involving strategic balance between great powers in the region. Whatever the way the topic is addressed, one faces the fact that the Korean peninsula is at the heart of great powers’ strategic interests, with South Korea being an economic superpower as well as a middle power on the strategic stage; and North Korea being run by a family who has always played, with talent, with the great powers’ interests so far. How to break this dynamic may be one of the main challenges the region has to face in the future. Participants to this first strategic dialogue did not solve it but came away with ideas rooted in the reality of international security relations.

At a time when offensive and defensive strategic systems are still at the forefront of international relations, it was concluded that the nuclear factor in international relations was mistakenly buried by the “global zero” perception of international affairs at the end of the first decade of this century, whatever the hopes were which came along with President Obama’s “Prague Agenda”. This first strategic dialogue between France and the RoK stood against this backdrop. 



Benjamin Hautecouverture
Senior Research Fellow, Fondation
Pour la Recherche Stratégique (FRS)

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SHIN, Beomchul

Professor

Korea National Diplomatic Academy

sbc1007@gmail.com

I. Introduction

The peace regime on the Korean Peninsula means legally terminating the war on the Korean Peninsula by concluding a peace agreement, which replaces the armistice agreement, and substantially solidifying peace on the Korean Peninsula by building mutual political and military trust among related countries including North and South Korea. Namely, it refers to the peace agreement from the legal point of view and the trust building and peace-securing measures among the concerned parties from the substantive point of view.

Peace is desired both in Northeast Asia and South and North Korea, but a peace regime has not yet been established on the Korean Peninsula due to differences in national goals and interests. The confrontation between the East and West camps of the Cold War, the rivalry of the post-Cold War era, and North Korea's nuclear development, which has caused constant antagonism, confrontation, threat and countermeasure, have overshadowed the discussion of the peace regime. Thus, it is becoming more and more difficult to build a peace regime on the Korean Peninsula.

Yet, discussion of the peace regime, such as the so-called Wang Yi Formula, China's proposal for dealing North Korean nuclear issue and the peace regime at the same time, is still a key issue related to the peace and stability of the Korean Peninsula and Northeast Asia. In particular, if the Trump administration's new strategy on North Korea, so called "maximum pressure and engagement," works effectively, there will be another round of denuclearization talks, and, as a part of the nuclear negotiation, the peace regime issues will also arise.

II. Issues of the Peace Regime on the Korean Peninsula

1. Peace agreement

There are several characteristics of the major peace treaties since the Second World War, namely the 1951 San Francisco Peace Treaty, the 1952 Sino-Japanese Peace Treaty, the 1973 Vietnam Peace Treaty, and the 1979 Camp David Middle East Peace Treaty: First, the end of the hostilities and the restoration of the peaceful state, which are taken for granted as a peace treaty, are specified. Also, the issue of stationing foreign troops, repatriation of prisoners, compensation for damages, and demarcation of territory are included and the same applies to the Korean Peninsula peace treaty. In addition, there are some additional considerations that have arisen as a result of long periods of time on the Korean Peninsula Peace Agreement.

First, it is the necessity of a peace treaty. In essence, an armistice agreement is a consensus among the commanding officers to temporarily suspend the engagement. The peace treaty, on the other hand, is more a fundamental consensus between the representatives of the warring parties or nations that end the war and restore peace. Therefore, it is common to conclude a peace treaty in order to restore peace immediately after an armistice agreement is concluded to stop an engagement. The problem is that the Korean peninsula has been in a state of armistice for a long period of time without any war. Here, some scholars have argued that a new peace treaty is not necessary if the peace like the situation on the Korean Peninsula persists in the long term. This perception is related to the effort in 2007, when

replacing the peace treaty with the declaration of the end of the war was discussed, if substantive peace assurance is achieved. Although the majority of domestic scholars in South Korea claim that a peace treaty should be concluded, the argument that the peace treaty should be replaced by the political declaration of the end of the war is also well enough worth it for policy consideration.

Second, it is a matter of the parties. In general international practice, the problem of the parties is not a big issue because the parties who want to enjoy peace are signing a peace treaty. On the Korean Peninsula, however, the armistice parties are the North Korean People's Army, the Chinese People's Volunteer Army, and the UNC. At the time of the ceasefire, South Korea did not participate in the negotiations because it was against the armistice policy. This provided a reason for North Korea to advocate a peace treaty between the North and the U.S., claiming that South Korea cannot be a party to a peace treaty. However, an agreement to settle peace on the Korean Peninsula cannot be made without the party of the Korean Peninsula. Therefore, North Korea's claim to exclude South Korea cannot be accepted in international practice or in peace regime theory.

Third, it is the issue of foreign troops stationed. At the time of the armistice agreement, the Korean Peninsula was stationed with the Chinese People's Voluntary Army and the UNC centered on the United States. Currently there are 28,500 U.S. military personnel in South Korea. North Korea has a precedent in discussing a peace treaty for the withdrawal of USFK. If so, the issue of whether withdrawing foreign troops must be included in the peace treaty can be raised. And the answer is "No." It is an international practice that can be determined at any time by agreement between the parties. For example, the Treaty on the Final Settlement with Respect to Germany, commonly referred to as the Two Plus Four Agreement, is a treaty among East and West Germany, and the past victor nations, the United States, the United Kingdom, France and the Soviet Union. In the process of unifying Germany, it in fact played the

same role as the Paris Peace Treaties in the Second World War. However, even after the conclusion of the Treaty, the U.S. troops were still stationed in West Germany because East and West Germany and Russia accepted it. Therefore, the peace treaty on the Korean Peninsula does not necessarily include withdrawing the USFK, and yet it can be subject to political compromise. The position that the USFK issue should never be discussed is also undesirable. If we can maintain a solid ROK-US alliance and bring about substantial peace through dialogue with North Korea, we need to open our minds so that we can fully discuss the size of USFK and its stationed areas in the process.

2. Substantial trust building

The peace regime on the Korean Peninsula is achieved only when a state in which mutual trust among parties is established and peace is built up. To this end, the North Korean nuclear issue threatening the Korean Peninsula and Northeast Asia should be solved, military tensions should be relaxed, and arms control should be implemented.

First, resolving the North Korean nuclear issue is a key issue in the peace regime on the Korean peninsula. North Korea's nuclear development is a military threat to South Korea and its neighbors, and at the same time it is an illegal act in violation of the international nonproliferation regime. It is a problem that must be solved in the process of discussing the peace regime because trust cannot be built in the situation of North Korea's nuclear weapon existence. For this reason, the September joint statement of the Six-Party Talks in 2005 declared that discussion of the peace regime would occur with the progress of the denuclearization process for resolving the North Korean nuclear issue. There is also a debate on the relationship of the resolution of the North Korean nuclear issue and the establishment of a peace regime. Some argue that it is possible to discuss a substantial peace regime only after North Korea has implemented some degree of denuclearization, while others insist that discuss denuclearization with the peace regime, or discuss the peace regime first. Finally,

at what point should the international sanctions on North Korea's nuclear development be lifted is one of the important issues surrounding the North Korean nuclear issue and the peace regime.

In order to settle peace on the Korean Peninsula, it is necessary to establish political and military trust between the two Koreas in addition to resolving the nuclear issue. It is especially important to establish military trust, because the South and the North are continuing their military confrontations centered on the Military Demarcation Line (MDL). Therefore, the establishment of a dialogue mechanism between North and South Korean military authorities to ease such military tensions, enable the prevention of accidental conflicts, and the control of arms should be pursued separately from the peace agreement. In particular, military trust building measures need to be agreed upon between the two Koreas in that the South and the North should resolve matters bilaterally without involving neighboring countries.

III. The Position of Each Party

In order to establish a peace regime on the Korean Peninsula, close consultation with the related parties is necessary. This is because there are related parties in addition to South and North Korea in relation to the nature of the peace regime on the Korean Peninsula, such as the peace treaty or the North Korean nuclear issue. Therefore, it is necessary to examine what position the two Koreas and neighboring countries stand for regarding the peace regime. However, since the discussions on the Korean Peninsula peace regime have not been discussed in detail for some time, it should be noted that some issues cannot be directly confirmed as the opinions of the parties.

South Korea has been the most enthusiastic for the peace regime on the Korean Peninsula. South Korea recognizes that North Korea should be able to discuss the peace regime after it achieves some degree of denuclearization. As for the parties to the peace treaty, it seems that this should consist of four parties, the two Koreas, the US, and China or three parties, the two Koreas and the US. In the

process of discussing the peace regime, it seems that South Korea continues sanctions against the North but that sanctions can be lifted gradually in accordance with actual results. For South Korea, the issue of USFK withdrawal is a matter for the US-ROK alliance, not for the two Koreas. South Korea maintains an active position on the need for military trust building and arms control over the two Koreas.

In the case of North Korea, it places an emphasis on its own stability and nuclear possession rather than a peace regime. First, it is a position to discuss the peace regime and nuclear disarmament after ending hostile action under the North Korea and US peace treaty. North Korea exercised its claims over the disputes of the parties in accordance with their needs, insisting at various times from two parties, the North and the US, to four parties, North and South Korea, the US, and China. Recently, however, North Korea is advocating a bilateral peace treaty with the US. The North asserts that the sanctions should be lifted immediately, and that the issue of USFK should be discussed. However, it is argued that former leader Kim Jong Il, the Chairman of the National Defense Commission of the North, had a more flexible position in the first inter-Korean summit meeting with the South Korean President Kim Dae-jung. North Korea shows no interest in establishing military trust or arms control between the two Koreas.

The United States position is similar to that of South Korea. It also considers discussion of the peace regime possible if the denuclearization problem is resolved to some degree. It also shares the same position with South Korea on other issues regarding the parties to the peace treaty, the maintenance of sanctions, the USFK problem, and building up of military trust between the two Koreas. It should be noted, however, that the position of the United States may change more flexibly than South Korea in the case of the nuclear problem resolution or US-North Korea contact.

China, maintains its unique position which is different from North and South Korea. It argues for a parallelism to discuss the denuclearization

and the peace regime, and the conditions of sanctions are also more relaxed than South Korea or the US. With regard to USFK, China hopes for the withdrawal of USFK or weakened US influence on the Korean Peninsula. The issue of establishing military trust between the two Koreas is in principle welcomed. In terms of the issue of parties, China are opposed to the declaration of the end of the war by three parties, North and South Korea, and the US, excluding China.


IV. Strategies to Build a Peace Regime

Competition on the Korean Peninsula and in Northeast Asia that is under way today is making the gap between the parties even greater in relation to the peace regime. South Korea wants to achieve a substantial peace settlement and denuclearization of the Korean Peninsula, while North Korea wants to secure regime survival and possess nuclear weapons. The United States, along with the peace of the Korean Peninsula, hopes to maintain a nonproliferation regime and strengthen its influence in Northeast Asia. On the contrary, China expects to reduce U.S. influence. As a result, discussions on the peace regime are unlikely to be easily resolved even if they enter full-scale negotiations. Thus, it is necessary to establish systematic strategies in order to overcome the negative and complicated situation and lead the establishment of the peace regime. South Korea, which is most desirous of peace and stability on the Korean Peninsula and Northeast Asia, should take the lead in building a peace regime.

First, related parties need to find ways to bring North Korea to a denuclearization and peace dialogue. At present, the international community is trying to pull North Korea into a denuclearization dialogue through pressure on them. Given the North Korean practice of showing opportunistic behavior in the past, it would not be impossible if the strong sanctions of the international community, including China, were realized. Therefore, South Korea and the US have to offer good logic for persuading China. In addition to the existing pressure measures, it is necessary to consider the

dialogue resumption time and the position on the relationship of the dialogue and the nuclear issue to gain China's interest and support.

Second, it is necessary to prepare for coordinating opinions of relevant countries. Considering the different position of each country, the key pending issues of the peace regime can be attributed to the problem of the parties. First, concerning the importance of including the key stakeholders of peace on the Korean peninsula, it is desirable to hold discussions among the four sides of the two Koreas, the US, and China. With regard to the relationship between the peace regime and denuclearization, it seems necessary to add some flexibility if the North returns to the denuclearization dialogue.

Third, North and South Korea should carry forward with military trust building measures. It is easy to overlook the importance of military trust building measures between the two Koreas if the issue of the peace regime is seen only from an international perspective. However, the peace regime on the Korean Peninsula is only possible when the South and the North actually form military trust. Therefore, the establishment of a separate dialogue channel between North and South Korea, the prevention of accidental collision, and the arms control measures should be prepared together and these measures should be utilized for persuading neighboring countries. 



SHIN, Beomchul
Professor
Korea National Diplomatic Academy



RINSA, KNDU
33 Je2Jayu-ro, Deogyang-gu, Goyang-si, Gyeonggi-do, 10544,
Republic of Korea
Tel: +82-2-300-4213
Publisher: Byung Jo Kim
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RINSA, KNDU