

FRS - KF KOREA PROGRAM ON SECURITY AND DIPLOMACY

“President Moon’s ‘Berlin Initiative’ is based upon three basic strategies: Peace-making, Peace-keeping, and Peace-building.”

A conversation with Lee Jungwoo, June 2021



LEE Jungwoo is the former director of the Korean Peninsula Peace Regime Division of the Ministry of Foreign Affairs (MOFA) of the Republic of Korea. Since joining the Foreign Ministry in 2001, he served overseas at the Korean Embassy in the United States as First Secretary (2009-2012) and at the Korean Embassy in Côte d'Ivoire as Counsellor (2012-2014). After returning to Seoul in 2014, he worked at the office of Presidential Secretary for Foreign Policy in the Blue House and served as senior secretary for then Foreign Minister Yun Byung-se at MOFA in 2016. After finishing his directorship at the Korean Peninsula Peace Regime Division in 2018, he was seconded to the Ministry of Defense as a senior policy coordinator. He also served as director at the Foreign Ministry's Human Resources Bureau in 2019. Director LEE has a Bachelor of Arts from Seoul National University and received a Master Degree in international affairs from UC San Diego.

Q1/ The Korean Armistice Agreement (한국정전협정/조선정전협정) was signed on 27 July 1953. It was designed to “ensure a complete cessation of hostilities and of all acts of armed force in Korea until a final peaceful settlement is achieved”. This agreement is known to all, and, at the same time, very little known in its substance. What are the specificities of this agreement, notably concerning its signatories and its binding legal scope?

The Korean War Armistice Agreement brought about a complete cessation of hostilities of the Korean War in 1953. Like other armistice agreements, it was initially intended as a temporary measure to halt a military conflict on the Korean Peninsula until a final peaceful settlement is achieved. Article IV of the Armistice Agreement calls for a political conference to be held within 3 months of the signing of the agreement in order “to ensure the peaceful settlement of the Korean question”. In accordance with this article, an international

conference was held in Geneva, Switzerland, in April 1954.

However, it ended without adopting any declarations or proposals. Since then, there have been periodic discussions to resolve the Korean issue, but no progress has been made. This led to a prolonged state of armistice, which originally was meant to be only temporary.

Armistice agreements are also different from other agreements between governments in that they are usually signed by military representatives of the warring parties because they deal purely with military measures to ensure a ceasefire. Thus, military commanders from North Korea and China signed the Armistice Agreement on the one side, with the US-led United Nation Command (UNC) signing on the other side on behalf of countries sending troops to Korea. South Korea was not a signatory but was represented through the UNC.

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The Korean War Armistice Agreement was originally intended to stop the Korean War, but it has since served well in ensuring peace and security on the Korean Peninsula for the past 70 years. It has also contributed to curbing accidental clashes between the two Koreas and to preventing small armed clashes from escalating. However, despite the relative peace since the war ended, tensions remain high between the two Koreas. Therefore, the peacekeeping function of the Armistice Agreement is still important for peace and security on the Korean Peninsula.

Q2/ The DMZ is often presented as one of the most militarized zones in the world. What were the concrete consequences of this armistice in terms of border demarcation, both land and sea, but also in terms of the creation of institutions to guarantee the implementation of the agreement?

The Korean War Armistice Agreement established a Military Demarcation Line (MDL) which was drawn along the front line at the time of the signing of armistice. The MDL is not an official border under international law, but it has effectively served as a border between the two Koreas over the past 70 years. In addition, a Demilitarized Zone (DMZ) was established along the MDL as a buffer zone between the two conflicting parties. The entry of any military equipment into the DMZ is prohibited. The DMZ is 250-km long and approximately 4-km wide. Although the Korean Armistice Agreement specified the location of the MDL and DMZ on land, it did not mention lines or zones in adjacent ocean waters. Currently, the Northern Limit Line (NLL), which the UN Commander set in 1953 as the limit of South Korean fishing boats' or ships' navigation to the North, serves as a practical maritime border between the two Koreas.

The parties to the conflict also created the Military Armistice Commission (MAC) and the Neutral State Supervisory Commission (NSSC) as a supervisory organization for the Armistice Agreement. The MAC consisted of representatives of the signatories: the United Nations Command (UNC), the Korean People's Army (KPA), and the (Chinese) People's Volunteer Army (PVA) which was deployed by the People's Republic of China during the Korean War. Its main goal was to manage the implementation of the terms of Armistice, to investigate alleged violations, to serve as an intermediary between the commanders of the opposing sides, and to settle

through negotiation any violations of the Armistice Agreement.

Meanwhile, the NSSC was composed of neutral nations that did not participate in the hostilities in Korea. Participating countries at the NSSC from the UNC side were Switzerland and Sweden, and those from the Korean People's Army and Chinese People's Volunteer Army side were Czechoslovakia and Poland. The NSSC's goal is to ensure the restrictions as mentioned in the armistice such as preventing reinforcements from being brought into Korea, either additional military personnel or new weapons.

Q3/ Every year on July 27, Pyongyang celebrates the "Victory in the great Fatherland Liberation War". How does North Korea view the Korean Armistice Agreement and, more importantly, has the country's position changed over the decades?

North Korea calls the Korean War a "Victorious War" and the signing date of the armistice is commemorated as the "Day of Victory in the Great Fatherland Liberation War". Despite the national celebration of the Armistice Day, North Korea's attitude toward the Armistice Agreement is very hostile. From the early 1990s, North Korea has asserted that it would no longer abide by the obligations of this Agreement and has attempted to paralyze the operation of its supervisory organizations.

In 1991, when the UNC Commander decided to designate a South Korean military officer as the UNC's Senior Member to the Military Armistice Commission (MAC), North Korea refused to hold any further MAC meetings with a South Korean officer as the Senior Member. And in 1994, North Korea unilaterally announced its withdrawal from the MAC. China, one of signatories of the Armistice Agreement, joined North Korea in withdrawing from the MAC. The Neutral State Supervisory Commission was also severely crippled by North Korea's consistent non-cooperation. North Korea expelled the Czech component and the Polish component from the NSSC, respectively in 1993 and 1995. Only Switzerland and Sweden, selected by the UNC, are still in operation at the southern part of the MDL.

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The Armistice Agreement has no abrogation clause. Instead, its Article V states that “amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides” and that “the articles and paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides”. Therefore, even if North Korea declares its unilateral abrogation of the armistice, it cannot be terminated. Seoul and Washington will continue to abide by it until “a final peaceful settlement is achieved on the Korean Peninsula”.

Q4/ In 1972, the two Koreas signed the “July 4th North-South Joint Communiqué” (7.4 남북공동성명), the first inter-Korean joint declaration since the division of the Korean peninsula. What diplomatic efforts, both bilateral and multilateral, have been undertaken in order to achieve the replacement of the Armistice Agreement with a peace treaty, and why have these efforts failed so far?

The July 4th North-South Joint Communiqué in 1972 was the first political declaration in which the two Koreas agreed on the basic principles of independent and peaceful reunification. In addition, in this Communiqué the two Koreas agreed for the first time to ease military tensions and to build mutual trust, which laid the foundation for future discussions of a peace regime on the Korean Peninsula.

Twenty years later, in 1991, the two Koreas reached another inter-Korean agreement called the Agreement on Reconciliation, Non-Aggression, and Exchanges and Cooperation between South and North Korea (also called the Inter-Korean Basic Agreement). The agreement stated in Article 5 that “the two sides shall endeavor together to transform the present state of armistice into a solid state of peace between the South and the North and shall abide by the present Military Armistice Agreement (of July 27, 1953) until such a state of peace has been realized”. This was the first political statement made by the two Koreas to recognize the need for transition to a peace regime.

However, discussions on a peace regime did not make progress due to North Korea’s insistence that a peace treaty should be signed between North

Korea and the United States. Against this backdrop, in April 1996, the leaders of the ROK and the United States proposed the Four-Party Talks, which aimed to ease tensions and to build a permanent peace regime on the Korean Peninsula. From 1997 to 1999, a total of six rounds of the Four-Party Talks, in which the two Koreas, the U.S. and China participated, were held to discuss exclusively a peace regime on the Korean Peninsula. However, due to significant gaps in positions concerning issues such as the parties to the peace agreement as well as the relations between a peace regime and the ROK-US alliance, the Four-Party Talks failed to produce fruitful outcomes.

In the 2000s, the Six-Party Talks took place to resolve the North Korean nuclear issue. There emerged a need to discuss the establishment of a peace regime on the Korean Peninsula along with the North Korean nuclear issue. Thus, in the Joint Statement of the Fourth Round of the Six-Party Talks on September 19, 2005, it was agreed that the directly related parties would negotiate a permanent peace regime on the Korean Peninsula at an appropriate separate forum. However, with the Six-Party Talks stalled, the discussions on a peace regime also halted for a considerable period of time.

Since 2018, three rounds of inter-Korean summits and two rounds of U.S.-North Korea summits, as well as the meeting at Panmunjom among President Moon Jae-in, President Donald Trump and Chairman Kim Jong-un on June 30, 2019, have revitalized the discussions on a peace regime on the Korean Peninsula. In particular, it is notable that, in the Joint Statement signed by the leaders of the U.S. and North Korea on 12 June, 2018 in Singapore, the two sides also agreed to join their efforts to build a lasting and stable peace regime on the Korean Peninsula. As such, it can be said that there is a consensus among related countries on the need to establish a peace regime on the Korean Peninsula in parallel with complete denuclearization of North Korea.

Q5/ In July 2017, in a speech at the Korber Foundation in Berlin, President Moon outlined his government’s Korean Peninsula peace initiative in which he announced: “We need to institutionalize peace”. What was the President’s strategy then, its concrete objectives, and which South Korean actors were involved? Did the Korean summits in

Panmunjom and Pyongyang play a fundamental role?

The Korean Peninsula remains one of the most volatile conflict zones in the world. A lingering threat of war between the South and the North has haunted both Koreans for nearly 70 years. Worse still, North Korea is aggravating the security condition on the Korean Peninsula by developing nuclear weapons. In such a dire security condition, the South Korean government initiated the Korean Peninsula Peace Process, which is a comprehensive policy aimed at achieving complete denuclearization and establishing lasting peace on the Korean Peninsula.

This policy was unveiled by South Korean President Moon Jae-in in his speech delivered at the Korber Foundation in Berlin on July 7, 2017. This policy called “Berlin Initiative” is based upon three basic strategies: Peace-making, Peace-keeping, and Peace-building.

The peace-making strategy aims at eliminating the immediate and root causes of instability and insecurity on the Korean Peninsula. These are a North Korean nuclear program, a possibility of accidental military clashes between the two Koreas and a lack of peace mechanism.

South Korea strongly believes that the North Korean nuclear problem should be resolved through dialogue and negotiation. Specifically, it pursues a two-track approach in which Pyongyang and Washington engage in bilateral dialogue to resolve the nuclear problem, while Seoul resumes talks with Pyongyang on inter-Korean relations in parallel with a nuclear negotiation. This approach has produced positive outcomes like the Panmunjom Summit on April 27, 2018, the US-North Korea summit in Singapore on June 12, 2018 and the Pyongyang Summit on September 18-20, 2018.

In addition, South Korea also seeks to lessen the military tension between the two Koreas by reaching military agreements on operational arms control. The two Korean leaders agreed at the Panmunjom Summit to alleviate acute military tensions and take practical measures to eliminate the danger of war on the Korean Peninsula. At the following Pyongyang Summit, the ranking military officials of the two Koreas signed the inter-Korean military agreement. This agreement was intended to completely cease all hostility acts against each other in every domain – land, air, and sea.

The final component of the peace-making strategy is transforming the state of armistice into a state of a lasting peace. The two Korean leaders agreed at the Panmunjom Summit to actively cooperate to establish a permanent and solid peace regime on the Korean Peninsula. Following this agreement, the leaders of the United States and North Korea also agreed in Singapore to build a lasting and stable peace regime on the Korean Peninsula.

The peace-keeping strategy is composed of sanctions and maximum pressure, as well as strong military deterrence and alliance. Concerning the international sanctions on North Korea, South Korea has closely cooperated with the US and other like-minded countries to make sure that sanctions will work as intended. South Korea has also been pursuing a strategy of strong deterrence. Deterrence can work only when it can threaten to retaliate with credible military force in case of being attacked. It is composed of two elements.

One is enhancing South Korean self-defense postures on its own in company with strong conventional capabilities of the ROK-US combined forces. To this end, the current South Korean government increased its defense budget by 8.6 percent in 2018 and by 8.2 percent in 2019. The other is the nuclear deterrence extended by the United States. This US nuclear umbrella is being provided to South Korea through close coordination and cooperation between the two governments.

Lastly, the peace-building strategy is a long-term policy aimed at creating an environment for a lasting peace on the Korean Peninsula. The absence of inter-Korean economic cooperation and of personnel exchange for 70 years has widened the economic, social, and cultural gaps between the two Koreas to an unbridgeable level. These widening gaps, if not stopped, will work as a destabilizing factor in the region in the long term.

Against this backdrop, President Moon proposed a “New economic map of the Korean Peninsula”. This initiative was designed to foster the formation of an inter-Korean economic community, starting with railroads connections and energy networks. Such an economic community would facilitate the free flow of people, goods, and services. If this is realized as planned, it would fundamentally reduce military tension between the two Koreas and lay foundation for a permanent peace on the Korean Peninsula and beyond.

Unlike the previous government's policy toward North Korea, a Korean Peninsula Peace Process is characterized by a multilayered dialogue process that includes not only the two Koreas but also the United States and other related countries. It also takes balanced and comprehensive approaches by simultaneously pursuing a negotiated settlement of the North Korean nuclear problems along with peace-building and peace-making initiatives.

Q6/ This question may seem naive, but in fact, why is a peace regime necessary when the status quo has been maintained for nearly 70 years? What is the state of the public opinion in South Korea on the matter, and is there any reluctance?

Peace can be literally defined as a lack of military conflict in a given period of time. Under this definition, we may characterize the current state of affairs on the Korean Peninsula as a state of "peace", in the sense that a war has never erupted so far. However, this absence of military conflict does not mean that a permanent peace is established on the Korean Peninsula, because the current peace is maintained only by the military balance. Such a passive peace is essentially unstable and risks falling apart at any moment.

South Korea seeks a peace regime, based on which peace can sustain itself over a long period of time. A peace treaty alone cannot guarantee peace on the Korean Peninsula but can serve as an important component of a peace regime. A peace treaty can be also used as a primary legal document upholding the wide array of political arrangements for a peace on the Korean Peninsula.

We also need to consider that the *raison d'être* of the current armistice has been severely undermined by North Korea's continued non-compliance. Its supervisory organizations such as MAC and NNSC have been virtually inoperative for a long time. To secure institutional and legal grounds for a lasting peace on the Korean Peninsula, it is essential to replace the current defunct Armistice Agreement with a peace treaty. A final reason to sign a peace treaty is the fact that the current armistice presents itself as a transitional measure and supposes it to be replaced by an appropriate peace agreement.

At the Panmunjom summit on April 27, 2018, the two Koreas shared a common understanding that the

current state of armistice is "unnatural" and agreed to actively promote the holding of trilateral meetings involving the two Koreas and the United States, or quadrilateral meetings involving the two Koreas, the United States and China with a view to replacing the Armistice Agreement with a peace agreement. Therefore, it can be said that at least there is a common and explicit agreement between the two Koreas on the need to conclude a peace treaty.

Q7/ In terms of process, how do we articulate the two fundamental objectives of denuclearization of the Korean Peninsula and the establishment of a sustainable peace regime? Is it possible to sequence them or must one be achieved first before the other can be achieved as well? Can we envisage intermediary stages?

Currently, the imminent threat to peace and security on the Korean Peninsula is a North Korea's nuclear and missile program. To the United States, there can be no permanent peace or security on the Korean Peninsula or normalization of political and economic relations with Pyongyang without denuclearization of North Korea.

Yet, North Korea claims that the establishment of a peace regime including a sanction relief is an essential precondition for its denuclearization. Amid stark difference of their respective position, Washington and Pyongyang arrived at a compromise at the Singapore Summit in 2018. The Joint Statement issued at the summit lays out the goals for a series of parallel tracks: normalization of US-North Korea relations to ensure peace and prosperity, establishment of a lasting peace regime, and denuclearization of the Korean Peninsula.

The key challenge of such parallel tracks is how to link these two processes in a mutually supportive and reconcilable way. Considering a deep mistrust existing between Washington and Pyongyang, it is not easy to sequence concrete North Korean denuclearization measures with corresponding peace regime steps. The so called "sequencing problem" has so far posed great risk to nuclear diplomacy and will remain as most challenging issue to nuclear negotiators. South Korea's basic position is that it will first push for an end-of-war declaration along with initial steps towards North Korea's denuclearization, and sign a peace treaty at a stage where denuclearization is completely achieved.

Q8/ The Korean War remains the most important conflict in which US and Chinese troops have clashed to this day. What are the position, and perhaps the reservations, of these two protagonists on the establishment of a peace regime on the peninsula? Beyond that, given that many countries participate in the United Nations Command Military Armistice Commission (UNCMAC), what would be their role and the role of the UN more broadly?

The United States and China share geostrategic interests in the denuclearization of North Korea and peace and stability in the region, and they basically agree on the need to establish a peace regime on the Korean Peninsula. However, their approaches differ on how to sequence a peace-building process with North Korean denuclearization stages. The United States, considering Pyongyang's track record of not abiding by existing agreements, has emphasized that the discussion of a peace regime should come after North Korea takes significant measures for denuclearization. Meanwhile, China has advocated a "dual-track approach", which means the realization of the denuclearization of the Korean Peninsula and the establishment of a peaceful mechanism on the Korean Peninsula should proceed simultaneously.

The United Nations were deeply involved in the Korean War at the first place. Immediately after the outbreak of the Korean War, the UN Security Council called on UN member states to provide assistance in repelling North Korean invasion, and 22 nations including France contributed military or medical personnel to the United Nations Command (UNC), which was created to provide a cohesive command structure for the multinational forces. Although the United States practically led the UNC and provided the bulk of its troops and funding, all participating countries formally fought under the UN flag.

The UNC, even though it has decreased in size over time, still exists and carries out its primary function of maintaining and enforcing the Armistice Agreement.

Q9/ When one mentions the division of Korea, Europeans automatically think of the division of Germany. What are the examples of international treaties ending a war, or civil war, that Korean diplomats study when working on the issue of a peace treaty for the Korean

peninsula? Is there a model, a precedent, that is considered particularly useful?

Since World War II, the international community has seen various types of peace agreements signed, including the Treaty of San Francisco (1951), the Paris Peace Accords (1973), the Dayton Agreement (1995), The Rambouillet Agreement (1999), Camp David Accords (1978), the Egypt-Israel peace treaty (1979), the Good Friday Agreement (1998) and the Ethiopia-Eritrea Peace Agreement (2018).

Because each peace treaty is unique in its origin and its background is all different, it is pointless to apply its formula directly to the Korean situation. Nonetheless, it is worth studying each agreement to find practical components applicable to peace arrangements for the Korean Peninsula.

Q10/ Finally, you headed the Peace Regime Division at the Korean Ministry of Foreign Affairs. Could you please introduce us to this division, especially its functioning but also its role in relation to the Ministry of Unification?

The Ministry of Foreign Affairs of the Republic of Korea established a department exclusively responsible for the peace regime on the Korean Peninsula, operating separately from the department in charge of the nuclear diplomacy. Major missions of this department include formulating a strategy for a peace regime, preparing for a peace treaty negotiation and an end of war declaration, undertaking outreach activities in major countries, and conducting a policy coordination with other Ministries in South Korea.

The peace regime issue is basically interdepartmental, encompassing inter-Korean economic cooperation and military arms control. Therefore, we coordinate our policy closely with the Ministry of Unification, the Ministry of Defense and other related Ministries.

Interview conducted by Dr. Antoine Bondaz

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