From *De Jure* to *De Facto*: The Armistice Treaty and Redefining the Role of the United Nations in the Korean Conflict

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North Korea has long tried to undermine the Armistice Treaty of 1953 in order to replace it with a comprehensive peace treaty with the United States. With North Korea closing its territory to members of the Neutral Nations Supervisory Commission (NNSC) in 1995, the debate over the practicability of the Military Armistice Treaty has been rekindled in recent years. In a broader sense, at issue is the effectiveness of the United Nations Command in continuing to maintain peace on the Korean peninsula. How functional has the armistice treaty been in enforcing its rules? In what ways does the armistice treaty affect the inter-Korean relationship? To what extent would a U.S.-North Korea peace treaty compromise the positions of the United Nations Command and the U.S. armed forces in South Korea? Keeping in mind these and other questions, this article examines first, the challenges facing the UN-sponsored armistice apparatus, and second, how the involved parties -- South Korea in particular -- may cope with these challenges to ensure permanent security in Korea. This article suggests that South Korea should propose to revive the principles raised in the Geneva Conference of 1954, especially concerning the need for the recognition of the United Nations' authority and competence to deal with the Korean affairs. With the Cold War ended, the Conference stands a far better chance to survive and perhaps to resolve the Korean question once and for all. Further to this argument the article proposes a '16 + 2 + 2' formula as a new institutional structure governing the security issues on the Korean peninsula. Although the idea is still formative, it is argued that if the United States, South Korea, and the UN play their respective cards right, the proposed arrangement may stand as good a chance as any in resolving the Korean question, especially from a South Korean vantage point.

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North Korea's decision on May 3, 1995, to close its territory to members of the Neutral Nations Supervisory Commission (NNSC), in effect unilaterally implying an end to the armistice supervisory body in Korea, has rekindled the debate over the practicability of the Military Armistice Treaty (MAT) of 1953. In a broader sense, also at issue is the effectiveness of the United Nations Command in continuing to maintain peace on the Korean peninsula. Coming on the heels of the Bosnian crisis that had the effect of raising questions about the ability of the post-Cold War UN peacekeeping operations, the UN's role in the 'armistice debate' in South Korea has also been under fire in the wake of North Korea's attempts to undercut the armistice agreement. The main concern over North Korea's marginalization of the armistice pact has to do with its open intention to replace it with a peace treaty with the United States. If successful, it could throw off the political-military balance that has hitherto ensured security in this last bastion of the Cold War confrontation.

How functional has the armistice treaty been in enforcing its rules? In what ways does the armistice treaty affect the inter-Korean relationship? To what extent would a U.S.-North Korea peace treaty compromise the positions of the United Nations Command and the U.S. armed forces in South Korea? Keeping in mind these and other questions, this article examines first, the challenges facing the UN-sponsored armistice apparatus, and second, how the involved parties—South Korea in particular—may cope with these challenges to ensure permanent security in Korea.

THE KOREAN CONFLICT AND THE UNITED NATIONS

The United Nations' relationship with Korea dates back to 1948 when the UN Temporary Commission on Korea (UNTCOK) supervised general elections in the South, ultimately leading to the creation of the Republic of Korea (ROK).¹ But the foundation for the current UN-South Korea relationship was laid when the UN Security Council adopted a resolution on June 27, 1950 calling for members of the United Nations to "repel North Korean armed attack" of South Korean positions below the 38th parallel and to "restore international peace and security in the area."² Facilitating assistance in defence of the ROK required operational coordination. To this end, another resolution was adopted on July 7, 1950 requesting contributing nations to place themselves under a unified command—the UN Command—headed by the United States, with General Douglas MacArthur serving as its first Commander-in-Chief. Although for-

¹ One might say 1947 (October) since this is when the U.S. government proposed in the UN General Assembly that elections take place before the end of March 1948 to create a national assembly for all of Korea. By this time, in other words, the Korean problem was put on the UN agenda by the United States, in effect terminating the U.S.-Soviet Joint Commission. Of the many references available on this subject. See, for example, Bruce Cumings, *The Origins of Korean War: The Roaring of the Cataract, 1947-1950*, Vol. 1, (Princeton, NJ: Princeton University Press, 1990), pp. 65-78.

² The resolution was passed by a vote of 7 to 1 (Yugoslavia), with 2 abstentions (India and Egypt because of lack of instruction) and 1 absence (the Soviet Union was absent because of its boycott of the Council over the Chinese membership issue). Callam A. MacDonald, *Korea: The War Before Vietnam* (New York, NY: The Free Press, 1986), pp. 30-32.

mally under the UN flag, the United States as such came to dominate all military operations of the Korean conflict.³

By October 1950, the UN forces, having taken the offensive since landing in Inchon in September, not only regained the territory of the ROK, but more importantly, crossed the 38th parallel to advance into North Korea. It was never the UN's formal war aim to reunify the country. But the resolution of October 7 establishing the UN Commission for the Unification and Rehabilitation of Korea (UNCURK), calling for the "establishment of a unified, independent and democratic government in the sovereign state of Korea," implicitly suggested such a goal. General MacArthur took the liberty to magnify this point in order to legitimize his march toward the Yalu River.⁴

One of the unfortunate outcomes of the "expansion" of the UN goal was the Communist Chinese intervention. This decision would ultimately cost the Chinese dearly—over 900,000 casualties among the Chinese People's Volunteers (CPVs), continued denial of its UN membership, over \$2 billion debt to Moscow, and the non-fulfillment of Taiwan's "liberation"—but it also changed quite drastically the spectrum of the Korean Conflict.⁵

In particular, MacArthur's inability to understand more fully Beijing's fear of being encircled by what it considered to be hostile U.S.-led imperialist forces prompted a "defensive" response.⁶ Despite the efforts in November by some of the members of the Security Council to assure the Chinese of the UN policy to hold "inviolable" the Chinese frontier, the dreaded prospect of the conflict being spread was now irreversible. The consequent UN retreat would be followed by a stalemate by the summer of 1951 roughly along the 38th parallel.

From June 1951 to July 1953 negotiations for an armistice were conducted between the UN Command on the one hand and the Communist Command on the other.⁷ Central to the talks were:

- 1) the drawing of the demarcation line;
- 2) the prevention of a military buildup in either side; and
- 3) the prisoners-of-war exchange mechanism based on international law and humanitarian principles.

In all, the armistice negotiations lasted more than two years, requiring some 575 meet-

³ For a discussion on the Unified Command, see Isidor F. Stone, *The Hidden History of the Korean War*, 2nd ed. (New York: Monthly Review Press, 1969), pp. 76–81.

⁴ For a discussion on MacArthur's decision to cross the 38th parallel, see Max Hastings, *The Korean War* (London: Michael Joseph, 1987), pp. 134–49.

⁵ For a summary, but rather a revisionist, discussion on the Chinese position and its decision to commit its CPVs, see Robert R. Simmons, "The Korean Civil War" in Frank Baldwin, ed., *Without Parallel: The American-Korean Relationship Since 1945* (New York: Pantheon Books, 1973), pp. 163–66.

⁶ The UN advances toward their border, when coupled with the apparent consolidation of Washington-Taipei ties, was viewed by the Chinese not as an "exercise in collective security" but rather as a direct threat to their national security. MacDonald, *Korea: The War before Vietnam*, pp. 52–53.

⁷ On June 23, Yakov A. Malik, the Soviet representative at the United Nations, publicly called for negotiations for a cease-fire and an armistice providing for the mutual withdrawal of forces from the 38th parallel. For an excellent account of the armistice talks, see Rosemary Foot, *A Substitute for Victory: The Politics of Peacemaking at the Korean Armistice Talks* (Ithaca, NY: Cornell University Press, 1999).

ings before a settlement could be reached. But while the negotiations were being conducted, fighting continued to claim some 45 percent of American casualties during this period.⁸ The numbers were even more staggering for the more vulnerable Communist side. When the armistice agreement was finally signed at Panmunjom on July 27, 1953, it ended the costly war, but it fell short of creating a lasting peace as had been hoped for by the UN Command. The agreement did, nonetheless, provide for a cease-fire, a demilitarized zone, a military demarcation line, and a ban on reinforcements. And in order to supervise the armistice, a Military Armistice Commission (MAC), composed of representatives of the two belligerent sides, was established. The Neutral Nations Supervisory Commission (NNSC) was also established to see to each side's compliance with the specific terms concerning the ban on reinforcements [Armistice Agreement: Paragraph 13(c)]. The NNSC was comprised of representatives from Sweden, Switzerland, Poland, and Czechoslovakia — nations that had not participated in the war, and therefore, considered to be 'impartial.' But Sweden and Switzerland having been appointed by the UN Command, and Poland and Czechoslovakia by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, the question of 'neutrality' was always in doubt.

The Military Armistice Treaty did not end the war. Nor did it provide for a final peace settlement. Paragraph 60 of the agreement did recommend that a political conference be held soon to negotiate a peaceful settlement of the Korean question, but no concrete provisions were laid down as to how this was to be done. The armistice agreement was in essence an instrument to stop the belligerency, albeit temporarily, while providing for an arms control mechanism. The UN Command, in other words, had hoped to freeze, with the NNSC in charge of the verification, the arms level in both North and South Korea, thus facilitating a peace talk at some future time. It is this rather unrealistic aspect of the MAT that has spurred the recent debate over the usefulness of this forty-two year old agreement.

Advocates of the agreement argue that, irrespective of its weaknesses, it still remains the only available instrument that oversees the process of maintaining peace in Korea.⁹ As the argument goes, the need to govern the state of armistice legitimizes the continuing presence of the UN Command in Korea, i.e., the U.S. forces, which is still deemed critical to the peninsular security. On the other side of the spectrum, antagonists argue for the annulment of the MAT not only because of its ineffectiveness, but also as a step to check North Korea's attempts to use it to exclude South Korea in the negotiations for a comprehensive peace treaty, that is with the United States.¹⁰ Then there is the revisionist argument, which also calls for an end to the armistice agreement, but for an entirely different reason: its hindrance of a genuine North-South reconciliation by perpetuating the U.S.

⁸ Ibid., p. 208.

⁹ For an example of an advocate's argument, see Richard M. Curasi, "The Korean War Armistice: Relevant or Relic?" *The Korean Journal of Defense Analysis*, Vol. V, No. 2 (Seoul: The Korea Institute of Defense Analysis, Winter 1993), pp. 165-205.

¹⁰ Among the antagonists, Moon Chung-in, for example, argues for South Korea's unilateral annulment of the Armistice Treaty first and foremost to prevent the prospect of an exclusive U.S.-North Korea peace treaty. See Moon's arguments in *Sisa Journal*, June 8, 1995, pp. 54-55.

military presence in Korea.¹¹

Although goaded by the Cold War-conscious United States, the decision to intervene in the Korean conflict has inextricably intertwined the United Nations with the future security of Korea. Because the armistice, technically speaking, only suspended the military operations, the United Nations has endeavoured over the years to bring about a final resolution to the conflict by peaceful means. The lapsed time since the ending of the war has fundamentally altered the socio-political make-up of the two Koreas. But the two remain locked in a hostile confrontation, with neither side showing genuine signs of relenting. Against this background, the fact that the armistice is maintained by a weak governing structure, that of the Military Armistice Commission, has been pointed out as a source adding to Korea's insecurity. But the question remains as to how one might go about finding a viable alternative to the armistice treaty without compromising South Korea's security position? As concerns the United Nations, to what extent is it responsible for and capable of bringing about the necessary change?

Having briefly traced the origins of UN-ROK relationship in this section, this article will return to the above questions following a discussion on North Korea's recent efforts to dismiss the armistice agreement and how this has highlighted the issue at stake.

NORTH KOREA AND THE ARMISTICE CONUNDRUM

North Korea's call for a peace treaty between Washington and Pyongyang to replace the armistice agreement of 1953 is not new. In fact, North Koreans have consistently made demands on this matter for the past two decades. What makes Pyongyang's pitch in the 1990s unique, therefore, is the way the issue has been tied to the successful implementation of the landmark nuclear agreement signed in Geneva on 21 October 1994. It is no secret that earlier nuclear brinkmanship as exercised by the North Koreans has paid handsome dividends.¹² As such, Pyongyang's "no peace treaty, no nuclear deal" threat can be regarded as an extension of its brinkmanship, well in keeping with its long-held policy objective of detaching South Korea from the United States by somehow bringing about the withdrawal of U.S. troops from South Korea. It is assumed, in the main by the North Koreans themselves, that an exclusive U.S.-North Korean peace treaty would bring about just such results, potentially leaving South Korea vulnerable to North Korea's political, and to a lesser extent military, influence.¹³ This is doubtless the single most impor-

¹¹ For an argument that the MAT impedes a genuine North-South rapprochement, see Young-koo Cha, "The Future of ROK-US Military Relations" in William J. Taylor, Young-koo Cha and John Q. Blodgett, eds., *The Korean Peninsula: Prospects for Arms Reductions under Global Detente* (Boulder, CO: Westview Press, 1990).

¹² For agreeing to freeze and eventually dismantle its suspected bomb-making capability, North Korea gets two light-water reactors worth over \$4 billion; 500,000 tons of heavy oil supply every year until the promised reactors are built; a deferment of up to five years of special inspections of two undeclared waste sites; and a delay in the shipment of the 8,000 spent fuel rods. Potential indirect benefits are also substantial. The resumption of the normalization talks with Japan and the possibility of major foreign direct investments in the designated economic development zones are two of the most salient examples.

¹³ Without the presence of U.S. forces, Pyongyang has maintained that the discredited regime in the South would give way to the progressive forces who would negotiate a peaceful reunification of North Korea's terms. For a summary overview of North Korea's objectives, see Rinn-sup Shin, "North Korean Policy toward the United

tant reason why Pyongyang has been so active in trying to nullify the armistice agreement while calling for a peace treaty to replace it. With a direct channel of communication with Washington established in the midst of the nuclear talks, Pyongyang's push for the removal of the armistice treaty thus gained momentum since 1994. For example, this matter has been under discussion formally as part of the four-party talks set up on 16 April 1996.

If there is one explanation for North Korea's cavalier treatment of the armistice agreement, it is the lack of a consensus in the way the purpose of this agreement has been regarded. The UN Command saw it as a step toward an eventual peace settlement. The Communists, on the other hand, saw it more as a temporary measure that would allow them to regroup to prepare for an ultimate socialist victory. As such, the Communists—particularly the North Koreans—found it unnecessary to make a genuine commitment to honour the provisions of the agreement.

Against this backdrop, it is easy to see why the Military Armistice Commission failed to be effective from the moment it came into force. Moreover, the monitoring mechanism, which was the NNSC, was rendered dysfunctional because of the superpower confrontation. The NNSC was initially furnished with both fixed and mobile inspection teams, but lacking the necessary leverage to enforce verification, it was by 1956 reduced to a token presence at Panmunjom. Perfunctory meetings were still held, but they were mere formality, neither constructive nor productive.

The coinciding of the disintegration of the Soviet Union and the launching of South Korea's Nordpolitik in the late 1980s further chipped away at the viability of the NNSC. This was because the two "neutral" nations appointed by the Communist Command—Poland and Czechoslovakia—came to normalize their diplomatic relations with South Korea in 1989 and 1990, respectively. North Korea protested these developments, eventually leading to the expulsion in April 1993 of the new Czech representative who tried to take up residence in the North Korean zone of the truce village following the breakup of Czechoslovakia into the Czech Republic and Slovakia in January 1993.¹⁴ In February 1995, Poland, too, was evicted from the NNSC for having abandoned its "neutral" position.¹⁵

North Korea, on its part, has boycotted the MAC meetings since March 1991 when a South Korean Army Major General, Hwang Won-tak, was appointed the new chief UNC representative to the MAC. Citing South Korea's non-signatory status to the armistice agreement, North Korea has claimed the U.S.-sponsored appointment to be in violation of the principles of the agreement. To make its point more emphatic, North Korea on 28 April 1994 announced its decision to withdraw entirely from the MAC. The provisions of the armistice agreement were to be honoured, however, until it was replaced by a peace treaty with the United States. On August 31, 1994, China followed

States: Past and Future" in Bum Joon Lee and Sung Chul Yang, eds., *The Changing World Order: Prospects for Korea in the Asia Pacific Era* (Seoul: The Korean Association of International Studies, 1992), pp. 277-79.

¹⁴ For some accounts of North Korea's moves to nullify the armistice pact, see *The Korea Herald*, March 19, 1995; May 3, 1995. Also, see Tong a Ilbo, May 4, 5, 11, 1995.

¹⁵ North Korea criticized Poland for abandoning her neutrality not only by normalizing relations with South Korea, but also by sending observers to the U.S.-ROK Team Spirit military exercise.

North Korea's suit by recalling its own representatives to the MAC. Now left as the only party represented in the MAC, the UNC promptly moved to stop any further erosion of the MAC by reconfirming its commitment to the terms of the armistice agreement. As pointed out by one UNC official: "UNC will continue to honor the armistice agreement and each obligation under the agreement."¹⁶

For better or for worse, North Korea has to be credited for its persistence and consistency. In yet another attempt to dismantle the armistice agreement, North Korea, in a MAC meeting held on 3 May 1995, called on the Swedish and Swiss delegations to withdraw from North Korean sections in the Panmunjom Joint Security Area.¹⁷ To cross the demarcation line now required North Korea's permission. Methodically, if not meticulously, North Korea has thus managed to undermine the armistice apparatus not only by pulling out the Communist Command (North Korea and China) from the MAC, but also by either evicting or disrupting the operations of all four members of the NNSC. With the United States remaining the only constant in the armistice structure, North Korea has thus quite deftly set the stage to deal with the United States alone, presumably having cleared most of the barriers arising from the armistice structure.

The link between North Korea's attempts to undermine the armistice agreement and its intention to conclude a peace treaty with the United States, without Seoul's participation, is an open secret. Since its agreement with the United States in Kuala Lumpur accepting a technical description, which indirectly referred to a reactor model of South Korean origin -- Ulchin plants 3 and 4 North Korea has tried to get the United States to reciprocate what the North Koreans considered to be a major "compromise" on their position.¹⁸ In the immediate sense, at issue was the establishment of liaison offices in Pyongyang and Washington. Also at issue, at least earlier, was the possibility of a general-level meeting just between the two countries to work out a new security system on the Korean peninsula. If successful, this would have been a prelude to a more comprehensive political settlement, replacing the current armistice setup as a result.¹⁹

The UNC has so far countered that any such meeting should take on a multilateral approach, well reflective of the UNC structure. The conventional thinking is that any form of a peace treaty would involve the withdrawal of all foreign troops in Korea -- meaning the 37,000 U.S. troops in South Korea. What North Korea might do next once this is realized is still uncertain. It is safe to surmise simply that North Korea will have obtained one of its most important, long-held national goals, which is to facilitate a genuine reunification process, or rather, the "liberation" of the South. If the Geneva and the Kuala Lumpur agreements were an indication of further things to come, North Korea at

¹⁶ The Korea Herald, May 4, 1995.

¹⁷ Calling the supervisory commission defunct, North Korean Col. Pak Im Su proclaimed: "North Korea will close down three rooms in one of the supervisory commission buildings that straddles the North-South demarcation line... observers from commission-member countries as well as armistice personnel and journalists will need the North's permission to cross the demarcation line." See Shim Jae Hoon and Night Holloway, "Yanking the Armistice," *Far Eastern Review*, May 18, 1995, pp. 14-15.

¹⁸ For Seoul's position on the U.S.-North Korea nuclear deal concluded in Kuala Lumpur, see The International Herald Tribune, June 14, 1995.

¹⁹ Besides, the South Korean and the U.S. officials have maintained that any new peace settlement on the Korean peninsula must be concluded principally between the two Koreas. For the general-level meeting proposals, see The Korea Herald, May 23, 1995.

the time must have felt quite good about its position. Above all, the fact that it could reach a series of agreements with the United States without having to make any progress in North-South relations, and to reduce at least the perception of its threat to South Korea, was indeed encouraging for North Korea. By-passing South Korea while pursuing formal ties with the United States and Japan has since become a viable policy option for Pyongyang.²¹

The United States' continued dependence on Pyongyang's goodwill to implement successfully the nuclear deal also had the effect of strengthening North Korea's position. For Seoul, of course, this is precisely what it fears the most: the prospect of South Korea becoming a bystander to developments that have direct implications for its own national security.

THE ARMISTICE, THE UNC, AND POLICY OPTIONS FOR SOUTH KOREA

Nobody knows North Korea's 'peace treaty' for armistice' scenario better than South Korea. This is why South Korea's apparent alienation has been so frustrating, knowing that it has little control over affairs that may not necessarily bode well for its future security. The picture of North Korea often being a step ahead of its U.S. counterpart in setting the negotiations agenda is particularly alarming for South Korea. The United States of course has its own interests in wanting to see through the North Korean nuclear dilemma:

- 1) its link to the extension of the NPT regime;
- 2) a much-needed diplomatic achievement for the Clinton administration; and
- 3) the possibility of establishing a foothold in the entire Korean peninsula, a prospect which might be desirable if the United States accepts the inevitability of hegemonic power struggle in East Asia in the long-run. One might say that North Korea has been very successful in recognizing and exploiting the United States' eagerness to bring such interests into fruition.

But how did South Korea, still enjoying a firm relationship with the United States, come to be squeezed out by North Korea on this critical issue? Is it simply the case of South Korea not having appropriate leverage? A quick answer to the first question is diplomacy, or the lack of it, and to the second, an emphatic 'No'. The two questions are in a sense interrelated. In other words, South Korea's inability to make full use of the only leverage it had at its disposal has consequently led to its subsequent state of diplomatic bankruptcy. The leverage here refers to the South Korean capital that is expected to finance the construction of the light-water reactors in the North. Considering that no other country—inclusive of the United States and Japan—had expressed willingness to

²¹ For a discussion on the dangers of U.S. "leniency" in dealing with North Korea, see Paul D. Wolfowitz, "The North Korea Deal Ignores Tension with the South," *The International Herald Tribune*, February 23, 1995.

bear the cost, South Korea should have assumed a far more prominent position in the talks. To have squandered off this opportunity in the haste to "join" the U.S.-North Korea talks was injudicious and unproductive. Injudicious because a little patience would have compelled either the United States or North Korea eventually to approach South Korea for financial support, thereby completely changing the complexion of the latter's status. Similarly, unproductive because South Korea's resort to "voluntarism" — that is, to pay — ultimately failed to secure a greater voice for South Korea.

Since the United States and North Korea have reached an agreement in Kuala Lumpur in accordance with the conditions of the implementation of the Geneva accord, the focus of talks tended to shift more toward the question of replacing the armistice system with a more permanent arrangement. In a news conference held in Kuala Lumpur, North Korean chief negotiator, Kim Kye-gwan, made plain his government's desire to resolve the state of hostility between Pyongyang and Washington in order to ensure the smooth implementation of the reactor project. Again, the key question raised was to what extent South Korea might be a part of this next area of major discussions. Would South Korea be sidelined again in the armistice talks that are likely to have an even more direct impact on the future of South Korean security? Could South Korea afford to sit idly by while its chief adversary makes decisions for South Korea under the pretext of creating a wider peace for the Korean peninsula?

Most people are in agreement that the armistice treaty of 1953 is an anachronism that needs to be replaced by a more comprehensive peace treaty. But they also agree that with the fundamental U.S.-South Korean relationship at stake, South Korea can ill-afford to lose the initiative in determining the outcome of what would be a landmark transformation. From a four-party talk involving the United States, China, South Korea and North Korea to a cross-establishment of peace treaties between the United States and North Korea on the one hand, and China and South Korea on the other, a number of proposals have been put forward by scholars and concerned government officials to see to a resolution that would formally end the Korean War.²¹ In all proposals, however, the need to maintain the presence of U.S. forces in Korea is stressed, at least until an alternative peace arrangement can guarantee South Korea's security.²²

Amidst growing concern for South Korea's seemingly deteriorating bargaining position, a few interesting ideas have surfaced to help South Korea take the initiative to become more assertive in the peace treaty negotiations. Particularly interesting is the one calling for South Korea to go on a "diplomatic offensive" by unilaterally declaring, ahead of Pyongyang, the end to the armistice agreement. The basic objective is to take away

²¹ A UN-sponsored four-power conference to be held in New York is suggested by Tae Hwan Kwak of Eastern Kentucky University. See Tae Hwan Kwak, "The United Nations and Reunification," In Young Whan Kihl, ed., *Korea and the World: Beyond the Cold War*. Boulder, CA: Westview Press, 1994, pp. 307-310.

²² For further discussion on South Korea's security policy, inter-Korean relations, and the future role of the U.S. forces in Korea, see Tae Hwan Kwak, "The Reduction of U.S. forces in Korea in the Inter-Korean Peace Process," *The Korean Journal of Defense Analysis*, Vol. II, No. 2 (Winter 1990), pp. 171-194; Chang-II Ohn, "South Korea's New Defense Policy and Military Strategy," *The Korean Journal of Defense Analysis*, Vol. VI, No. 1 (Summer 1994), pp. 219-244; Michael J. Baier, "From Forward Defense to Forward Presence: Military Factors Influencing the ROK and US Combined Forces in the Approaching Unification Era," *The Korean Journal of Defense Analysis*, Vol. VI, No. 2 (Winter 1994), pp. 261-284.

North Korea's "armistice card" so that it would be compelled to deal more directly with the South. In other words, since South Korea is not a signatory to the armistice treaty, with this treaty invalidated, North Korea would no longer have the legal basis to exclude South Korea from the new peace negotiations.²³ This is a rather fresh approach to the armistice issue but not without its pitfalls. First, there is the question of South Korea having the legal basis to take such an action. Can South Korea nullify an agreement that it is not a party to? Assuming that it can, then there arises another problem of a security vacuum that would result from a sudden dismantling of an armistice treaty without first having secured a viable alternative security arrangement. In particular, how can the United States or South Korea justify the continuing presence of U.S. forces in Korea in the absence of the very source of its legitimacy? An ad hoc or even a permanent presence of UN peacekeeping force has been suggested by some as a possible alternative to U.S. forces in Korea. But why do away with a system of peace -- more in terms of U.S. military commitment in Korea rather than the armistice agreement *per se* -- that has worked so well in preventing the resumption of war in Korea? Coming on the heels of the apparent failures of UN peacekeeping operations in Bosnia, the argument for UN peacekeeping forces in Korea is not very convincing at this juncture.²⁴

The question is not about whether the armistice agreement should be dismantled or not. Rather, it is about finding an alternative arrangement that could replace the armistice without disrupting the security balance in Korea. In doing so, a '16+2+2 formula' might be proposed that would deal with the following three questions: First, how might South Korea prevent North Korea from concluding a separate peace deal with the United States that could lead to the withdrawal of U.S. forces from Korea? Second, is there a way to enhance the UN profile in the search for the long-overdue peaceful resolution to the Korean conflict? And third, what would be the most effective deterrent against North Korea's military adventurism?

In the '16+2+2 formula' the sixteen refers to all the countries that had contributed military forces to the UN Command during the Korean War. The first set of two refers to Russia and China, and the second set of two to South and North Korea. Rather than taking the usual UN Security Council or the General Assembly approach, the '16+2+2' approach might be desirable because it involves only those nations that had actually participated in the Korean War. Having made significant material and human sacrifices during the war, these nations should have strong interest in reaching a peaceful settlement in Korea. For South Korea, it is particularly important to revive the "collective security" character of the sixteen-member UN Command for two reasons: First, this would be in

²³ For further detail on Moon Chang-In's proposal for a "diplomatic offensive," see *Sisa Journal*, June 8, 1995. The idea was originally put forward in Moon Chung-In, "Kukje chilseo ui kaep'yon kwa nampukhan kwanye ui chaep'yongka: Chonryakjok kongsaecheu ui nul uwihan cheon" [The Restructuring of the World Order and Redefining North-South Relations: A Proposal for a Strategic Offensive], *T'ongil Kyongje* (May 1995).

²⁴ As concerns Bosnia, Jeanne Kirkpatrick, frustrated over the UN's dismal record of peacekeeping operations, has suggested that U.S. forces extricate themselves from the stifling UN rules of engagement and take unilateral retaliatory actions to punish Bosnian-Serb forces. See her article in *The International Herald Tribune*, 10-11 June 1995. For a comprehensive treatment of the new role of the UN peacekeeping operations in the post-Cold War era, see Steven R. Ratner, *The New UN Peacekeeping: Building Peace in Lands of Conflict after the Cold War* (London: MacMillan, 1995).

line with the growth in UN activities throughout the world spurred on by the U.S.-Soviet (or Russia) cooperation. The UNC having been dominated by the United States since its inception, this would be a good time to redress the imbalance and take on a more genuine UN form. Second, the creation of a more balanced and vibrant UNC would reduce the dangers of the United States making a naive decision to deal exclusively with North Korea on the peace treaty issue. Judging from the way the U.S. behaved during the Geneva and Kuala Lumpur negotiations with North Korea, this is a prospect that South Korea cannot ignore. So to check both North Korea and the United States from making decisions that might run counter to South Korean national interest, Seoul could take initiatives to rekindle the interests of all sixteen nations that have 'earned' their say in how peace should be maintained in Korea.

Against this backdrop, it is perhaps only natural that the new forum be modelled on the Geneva Conference of 1954. In fact, it may add just the right touch of symbolism to revive the Geneva Conference. The two main principles raised back in 1954 would remain intact:

- 1) that any unified Korean government must be based on genuinely free elections; and
- 2) that the authority and competence of the United Nations to deal with Korea must be recognized. In 1954, the Conference failed because of the Cold War confrontation.

With the Cold War over, the Conference stands a far better chance to survive and perhaps to resolve the Korean question once and for all. One important condition, however, might be added to put the pressure on North Korea. The new condition would entail the stationing of representative forces of the UNC in conjunction with existing U.S. forces.²⁵ A token Russian and Chinese forces might also be invited to ensure their full support. It would be preferable to divide these forces to be stationed in both North and South Korea. Pyongyang will most likely object, in which case, the South Korean government should go ahead to accommodate the "combined" forces in South Korea alone, that is until Pyongyang succumbs to UN-sponsored CSBMs, arms control, and ultimately all-Korea democratic elections. If South Korea is able to take the initiative to bring about such an arrangement the pressure will have been transferred to the North Koreans to respond with positive steps. Moreover, it would be most difficult for North Korea to conceive of another invasion in the face of "collective security" firmly set up in the South. Most importantly, under such an arrangement, South Korea would no longer have to fear the dire consequences of yet another Pyongyang-Washington agreement, this time on what might possibly be a bilateral peace treaty.

It is important to establish a legitimate institutional structure governing the security issues on the Korean peninsula. Peace processes are less effective, if not meaningless, without a proper institution in place to facilitate them. The point about '16+2+2'

²⁵ Here, the UNC combined forces should not result in the reduction of U.S. forces. So, in fact, the new format would be the current U.S. forces strength plus the additional "UN" forces, however small they may be. For the invited Russian and Chinese forces, there is no need for them to be large for they would only serve as a token symbol of "collective security."

approach is that South Korea, in the absence of a "guarantee" from the United States to defend South Korea's sovereignty in case of war, should seek alternative arrangements, not as a substitute for a U.S.-South Korea security alliance, but simply as a security safety-net. No one doubts the paramount role the United States plays in maintaining peace in Korea. But who's to guarantee that the United States will never again turn isolationist and propose to withdraw its forces from Korea? Where would that leave South Korea?

The '16+2+2' formula is not perfect. For example there's the problem of involving both Russia and China, especially if their troops were to be dispatched to somewhere in Korea, even in small numbers. Detractors will raise Korean sovereignty issue as well as pointing out the political implausibility of the suggested "mix". But if the arrangement, especially the collective forces concept, is viewed as a major UN effort, rather than as an individual country's effort, then much of the politically-based misunderstanding could be eliminated. The important thing to remember is that the arrangement does not discredit or undercut anyone in any significant way: For the United Nations, this is an opportunity to re-establish its lost role in the resolution of the Korean conflict; For South Korea, the arrangement would be welcome as an added deterrent against North Korea as well as the uncertainty of U.S.-South Korean alliance in the long-run; For the United States, the reinforcement of the UN role should be acceptable since the U.S. role and position in Korea remain quite intact. South Koreans still live in fear of North Korea. Yet, in spite of the passing of nearly five decades since the outbreak of the Korean War, South Korea is still void of a viable solution to ensure peace. This has been the domain of the United States on whom South Korea has relied with extraordinary trust and faith. But the absence of any other effective approach to the Korean question, other than the traditional reliance on U.S. leadership, begs one to ask the question, why not at least try the '16+2+2' arrangement?

CONCLUSION

Almost from the very beginning of the United Nations' creation, the Korean question has loomed large on the agenda of this international organization. First having helped to establish the ROK in 1948, and then having launched the first collective security effort on behalf of South Korea to repel Communist aggression in 1950, the United Nations has had to deal with this perennial General Assembly issue that has come to be known as the 'Korean question'. For the most part of the Cold War period, the annual debate on the Korean question became both automatic and rhetorical. But now with the Security Council paralysis cured to an extent, expectations on the United Nations have increased to formally end the Korean Conflict. Against the background of dramatic events that have changed the political landscape of the world, North Korea's triggering of the armistice debate has provided the setting for the UN to reassess its role in Korea. Having created the problem by suspending the war some forty-five years ago, the UN should take the responsibility to resolve this problem by, first and foremost, consolidating its ties with

South Korea.

Although the idea is still formative, this article has proposed one possible alternative the '16 + 2 + 2 formula' – in bringing about a lasting peace on the Korean peninsula. If the United States, South Korea, and the UN play their respective cards right, the proposed arrangement may stand as good a chance as any in resolving the Korean question, especially from a South Korean vantage point.

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