

Options for Denuclearising the Korean Peninsula

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A critically important part of assembling the Korean peninsula-wide denuclearization jigsaw puzzle is the institutional and legal form of North Korean commitments on the one hand, and the nuclear negative security assurances by the NPT-Nuclear Weapons States (NWSs), especially the United States, on the other. Given the risk of mutual annihilation between the two Koreas as well as to third parties such as the United States, Japan, and China, finding a way to square this circle is urgent.

The Nautilus Institute has published a special report 'A Korean nuclear weapons-free zone treaty and nuclear extended deterrence: options for denuclearising the Korean Peninsula, A Korean Nuclear Weapons-Free Zone Treaty and Nuclear Extended Deterrence: Options for Denuclearizing the Korean Peninsula

This article (<https://nautilus.org/napsnet/napsnet-special-reports/a-korean-nuclear-weapons-free-zone-treaty-and-nuclear-extended-deterrence-options-for-denuclearizing-the-korean-peninsula/>) summarizes the special report.



A critically important part of assembling the Korean peninsula-wide denuclearization jigsaw puzzle is the institutional and legal form of North Korean commitments on the one hand, and the nuclear negative security assurances by the NPT-Nuclear Weapons States (NWSs),¹ especially the United States, sought by North Korea on the other.

The institutional framework might take one of three possible forms.

The first, a Korean peninsula-only deal between the ROK and the DPRK is possible. It would essentially revise and expand the 1992 Denuclearization Declaration, and make the commitments specific, with stringent monitoring and verification measures. The United States, Russia, and China would make a general security assurance commitment to the DPRK, and at least the United States, provide a specific nuclear negative security assurance to the DPRK that it would not threaten or attack the DPRK first with nuclear weapons once the DPRK complies fully with its NPT obligations as a non-nuclear weapons state (NNWS).

Such a Korean Peninsula-only deal is likely easier to negotiate, but may not be credible at the outset to the DPRK given its perception of past reversals of US executive branch commitments such as the rapid demise of Clinton's non-hostility statement to the DPRK in 2000 under the Bush administration, and the failure of the 1994 Budapest security assurances to protect the Ukraine against Russian aggression. The DPRK's perceptions of the non-binding US negative security assurance commitment implied by a new Denuclearization Declaration, especially if the Trump

Administration tears up the Obama-era Iran Deal, may lead it to balk or hedge against uncertainty from a Korea-only deal.

A Korean Peninsula-only deal might be made more legally binding if it were elevated from a mere declaration to an inter-Korean treaty between the two states and if each Korea were to caveat its ratification by issuing a reservation with regard to sovereignty issues (both Koreas refuse to sign treaties with the other because it would imply recognition of the others' constitutional claims to exercise sovereignty over the entire Korean peninsula). Whether this issue can be finessed at this time in either Korea is doubtful politically, especially in democratic South Korea.

The second, a full-fledged regional nuclear weapons-free zone (NWFZ) UN treaty may be more enduring because it affects how the NWSs use nuclear threats against all the NNWSs party to a treaty, and thereby against each other. It may be difficult, however, to bring the United States and Japan into such a treaty even if the DPRK, China, and Russia favor it and it may take time for the NWSs to ratify their nuclear negative security assurances to a regional NWFZ (which would be calibrated to DPRK compliance).

It may be possible to square the circle: the ROK and the DPRK could implement a third, hybrid option of a UN NWFZ Treaty that specifies that additional members may join at the outset or later. This approach may be optimal in providing for a politically less demanding Korean Peninsula-only, rather than a full regional NWFZ treaty at the outset, but it may also result in a more legally binding framework than a Korean Peninsula-only, fragile political agreement. Its feasibility depends on whether such a UN treaty framework, as it has in the past with many other UN treaties, gives the two

Koreas an acceptable "work around" on their competing sovereignty claims when they sign and ratify the treaty.

At minimum, South Korean and American officials should explore at the senior official level the DPRK's interest in these options, and study carefully the pros and cons of these options in preparation for the two summits. It is especially important to clarify what type of nuclear negative security assurance is sought by the DPRK and if they are not clear, suggest some desirable options that would serve to improve the security of all parties to a comprehensive settlement of the nuclear issue in the Korean Peninsula.

This issue is important because it is linked to the degree to which the United States' and other NWSs' negative security assurances are legally binding, thereby affecting the DPRK's perception of the desirability and credibility of a proposed deal. In the full-length paper, we therefore review how a NWFZ would affect the existence of nuclear extended deterrence in US security commitments to the ROK and to Japan.²

Whichever framework is employed for the denuclearization process, the US commitment of extended deterrence would remain subject to the normal political prerogatives of the United States and the ROK at any time to vary these understandings on the use of nuclear threat against the DPRK and other parties. We conclude that concerns in Seoul (and Tokyo) that a NWFZ would terminate nuclear extended deterrence are groundless.

In short, there is no incompatibility between nuclear extended deterrence and adherence by the United States and the ROK to a NWFZ treaty.

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Notes

¹ NWFZ treaties predate the Nuclear Non-Proliferation Treaty, Article VII of which states: “Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.” In principle, any nuclear-armed state can provide nuclear negative security assurances to NPT-non-nuclear weapons states (NNWS) who are party to a UN NWFZ treaty, and have ratified the NNPT and are fully compliant with their NPT obligations. In practice, in Northeast Asia, only NPT-NWSs would make such commitments to NNWSs such as the ROK, Japan should it join, and the DPRK should it comply. See UN Office of Disarmament Affairs, Nuclear Weapons Free Zones (<https://www.un.org/disarmament/wmd/nuclear/nwfz/>).

² Morton Halperin, Peter Hayes, Leon Sigal, "A KOREAN NUCLEAR WEAPONS-FREE ZONE TREATY AND NUCLEAR EXTENDED DETERRENCE: OPTIONS FOR DENUCLEARIZING THE KOREAN PENINSULA (<https://nautilus.org/napsnet/napsnet-special-reports/a-korean-nuclear-weapons-free-zone-treaty-and-nuclear-extended-deterrence-options-for-denuclearizing-the-korean-peninsula/>)", NAPSNet Special Reports, April 12, 2018.