

Toward a Nuclear Weapons Free Zone in Northeast Asia Morton H. Halperin

The threat by Russian President Vladimir Putin at the start of the invasion of Ukraine that Russia might use nuclear weapons in the conflict triggered a global reaction making clear in the words of the G-20 that “the use or threat of use of nuclear weapons is inadmissible.”

This widespread reaction has led to the perception that the possibility that there will be further nuclear threats by Russia has greatly diminished. At the same time the world was reminded that the moratorium on nuclear use since Nagasaki was by no means guaranteed to continue. Attention is focused on filling in the gaps in the set of international agreements which stigmatize nuclear weapons and constrain their use.

Among the proposals getting serious attention is one that would make any threat to use a nuclear weapon, as well as any actual detonation of a nuclear device, a crime under international law. This could be done by amending the NPT to add such a provision. Alternatively, the UN Security Council could adopt a resolution deciding that such a threat or use was a threat to the peace. There is a major global effort advocating this step which deserves support and which would reduce the risk of nuclear threats in Northeast Asia.

I will focus on another possible step which thus far has gotten much less attention, namely the creation of a nuclear weapons free zone in Northeast Asia which would cover both North and South Korea and Japan. The United States, Russia and China would also be parties to the treaty. The former countries would commit not to have nuclear weapons on their territory – whether their own or those of a nuclear weapon state. The three nuclear powers would commit not to store nuclear weapons on the territory of the non-nuclear states or to threaten or use nuclear weapons against them.

Nuclear Weapons Free Zones are not a new idea. They are attractive to states that fear that their neighbors might develop nuclear weapons and are ready to forego their own such capability. Typically, the nuclear weapons states are asked to adhere to a protocol to the treaty promising not to threaten or use nuclear weapons against the state parties nor to store nuclear weapons on their territory. Every state in the Southern Hemisphere is a party to such a zone treaty. The United States has adhered only to the protocol of the treaty covering

Latin America and the Caribbean. There are no such zones in the Northern Hemisphere although Mongolia has declared itself to be a nuclear weapons free zone and the five nuclear powers have each made a political commitment to accept the zone.

Two current trends lead me to suggest that this is the moment to press to begin the long process which might lead to a NWF zone in NEA.

I have already briefly described the growing support for provisions that stigmatize nuclear weapons, and which puts pressure on the United States, Japan and the ROK to support efforts to reduce the risk of nuclear war.

The other is the perception that the decades long effort to persuade the DPRK not to develop and deploy nuclear weapons has failed and is unlikely to be revived with the existing proposals. That effort assumed that a large enough economic package could lead North Korea to forgo a nuclear program or dismantle it in its early stages without changes in the military posture of the United States or legally binding commitments by the ROK and Japan. I will leave it to historians to debate where there was ever any realistic possibility of reaching such an agreement, but I suggest it is no longer a viable option.

The inducements to the DPRK need to be much more comprehensive.

An early task for the new alliance of the United States, Japan and the ROK should be to develop a common position on the role of nuclear weapons in the region as well as a comprehensive proposal for a security structure for Northeast Asia with a nuclear weapons free zone at its core.

The common position on the role of nuclear weapons in Northeast Asia should start with a reaffirmation of the G20 position that neither threats to use nuclear weapons nor their use are admissible. The United States should affirm that it will respond to any nuclear threat against Japan or the ROK with appropriate actions to protect the security of all but will not be the first to use or threaten to use nuclear weapons. The three governments should agree that no nuclear weapons will be stored on the territory of Japan or the ROK. They should indicate their readiness to negotiate a comprehensive security package including a nuclear weapons free zone a political settlement including a peace treaty and an economic assistance program. The proposed package would also end the state of belligerency from the Korean War, establish a security organization for the region, commit all parties to normalization of relations with no hostile intent..

The proposed comprehensive treaty would be signed and ratified by the six parties. Some sections would confer obligations on only some of the signatories; others would confer obligations on all parties. There should be flexibility about when the treaty and each of its elements enters into force. Other states may be invited to join, including other nuclear weapons states (NWS), as recognized by the NPT, who might be asked to sign a protocol banning nuclear threats, and other states in the region, including Mongolia should be invited. A way of including Taiwan might be explored, although this should not be a deal breaker if China objects.

Let me describe briefly each element of the proposed package.

1. Termination of the state of war This is clearly a major objective of North Korea. This section of the treaty should be adhered to by the states that signed the armistice agreement and by South Korea. It should provide for the normalization of relations while supporting the eventual unification of the Peninsula. The agreement should provide for opening the border between the North and South and the pulling back of military forces in the demilitarized zone. The territorial disputes between the North and South, including at sea, should either be settled or the two parties should commit to a peaceful resolution of the disputes.

2. Creation of a permanent council on security The permanent council and support organization would monitor the provisions of the treaty and provide a forum to deal with future security problems in the region. In addition to the six parties to the treaty, other states from the region could be invited to join as full participants or observers.

3. Mutual declaration of no hostile intent This is another key objective of North Korea, which put great stock in getting such a statement from US President Bill Clinton's administration. It was flummoxed when the administration of President George W. Bush simply withdrew it and when President Barack Obama's administration refused to reaffirm the commitment. To be credible, this commitment must be embodied in the treaty and affect all the parties' relations with each other.

4. Provisions of assistance for nuclear and other energy. The right of all parties to the treaty to have access to necessary sources of energy including nuclear power will need to be affirmed. Any limitations on North Korea will need to apply equally to the other non-nuclear parties to the treaty. A new multilateral framework might be appropriate to deal with the fuel cycle. North Korea will also want assurances that its energy needs will be subsidized. Beyond a general commitment this will probably need to be negotiated as a separate agreement.

5. Termination of sanctions/response to violations of the treaty The parties to the treaty will need to commit to refrain from the use of sanctions on any other party to the treaty and to remove them from its list of state sponsors of terrorism. The parties would reserve the right to collectively impose sanctions on any state that violates its commitments under the treaty.

6. A nuclear weapons-free zone Finally, the treaty would contain a chapter that would create a nuclear weapons-free zone in Northeast Asia.

These articles of the treaty would be consistent with UN resolutions concerning the appropriate elements of an NWF zone treaty and with the conditions laid down by the US and China. It would have specific obligations for non-nuclear states and others for nuclear states. It would refer to the commitments of both the NPT and the obligation of all states to reduce the role of nuclear weapons in international affairs and to work toward their eventual elimination.

South Korea, Japan and North Korea would commit themselves to abstain from the manufacture, testing or deployment of nuclear weapons and to refuse to allow nuclear weapons to be stored on their territory. They might agree to future restrictions on reprocessing and perhaps to a common reprocessing facility inspected by all three states and initially by Japan and South Korea. They would agree to permit inspections on their territory by the security organization created by the treaty so as to insure effective verification of the agreement. The inspection provisions and the obligations to provide information would apply equally to all the non-nuclear parties to the treaty.

In the case of North Korea, there would need to be specific provisions concerning the destruction of its existing stockpile and production facilities under the auspices of the security organization. Both South Korea and North Korea would need to make a commitment that, in the event Korea were unified before the weapons and production facilities were fully dismantled, the unified government would immediately turn over the weapons to a nuclear weapons state for destruction and agree to international supervision of the dismantlement of the facilities.

The US, China and Russia would agree not to store nuclear weapons in the zone or in any way support violations of the treaty by the non-nuclear states. It would be worth exploring if China would agree to designate the island of Taiwan as within the zone and agree not to store nuclear weapons there and perhaps to reach an understanding with the de-facto authorities on Taiwan to accept this obligation.

The three nuclear states that are party to the treaty would agree not to threaten or use nuclear weapons against any non-nuclear state that was a party to the treaty and that was observing its terms. It is worth noting that a similar offer by the US government is inherent in the “clean negative security assurance” made by the US in its most recent Nuclear Posture Review and is consistent with the past commitments of Russia and China, as well as the US. This agreement would not have an exception for chemical and biological weapons, although an effort should be made to secure adherence to existing chemical and biological weapons treaties by all parties to the treaty.

China might also be asked to agree not to station intermediate range ballistic or cruise missiles that can reach the territory of any non-nuclear state that is party to the treaty.

The parties would agree to confer, and to take appropriate actions, if any non-nuclear state that is party to the treaty and compliant with its terms were threatened with the use of nuclear weapons by another party to the treaty or another nuclear weapon state. The US security treaty commitments to Japan and South Korea would remain in force but would be understood to be consistent with all the obligations of the proposed treaty. The US would be free to consider offering to use nuclear weapons to defend its allies only if there were a violation of the treaty in the form of a nuclear threat or the use of nuclear weapons against them by a party to the treaty.

The UK and France would be asked to adhere to a protocol that commits them to the provisions of the treaty that apply to nuclear weapons states.

There would need to be provisions spelling out issues of transit of nuclear-armed ships or planes and defining the territorial scope of the treaty in terms of international waters.

It goes without saying that any hope of success for the proposed treaty depends on North Korea’s willingness, at the end of the day, to give up its nuclear weapons. I believe that there is a chance that with the right incentives and the right pressure, particularly from China, it might ultimately do so. I suggest that the provisions in the treaty concerning implementation and a possible transition period be structured so as to maximize the pressure on North Korea and to give both China and North Korea the greatest incentives to accept the framework. One piece of that is the inclusion of the other objectives that the North has been seeking. Another is to propose a scenario for adherence by Japan and South Korea that contributes to this process.

I am not at all persuaded that having South Korea and Japan sign their own NWF zone treaty is an effective scenario. For one thing, I do not envision either government agreeing by treaty, beyond the NPT, not to acquire nuclear weapons when North Korea has not accepted limits on its nuclear weapons program, let alone made a commitment to denuclearization. Moreover, I believe that the greatest concern of the Chinese government is that Japan will acquire nuclear weapons under a right-wing nationalist government. The Chinese fear that if the North Korean program continues unchecked, the South will eventually develop nuclear weapons (or will obtain them if the North collapses) and that, as a result, Japan will move to acquire nuclear weapons. Thus, we want to underscore China's concerns – not alleviate them – and at the same time assure China that if it succeeds in persuading the North to give up nuclear weapons, South Korea and Japan would, by treaty, be committed not to develop nuclear weapons.

One way to achieve this is to have a provision in the treaty that permits South Korea and Japan to sign and ratify the treaty on a conditional basis. The treaty could be structured so that it goes into effect when the three nuclear weapons states (the US, Russia and China) and the two non-nuclear states (Japan and South Korea) ratify it. However, South Korea and Japan would have the right to withdraw from the treaty after three or five years if the provisions were not being enforced effectively throughout the Korean Peninsula. Effective enforcement would occur if either North Korea ratified and implemented the treaty, or if it collapsed and the Peninsula were unified under South Korea.

The obligations of nuclear weapons states that ratify the treaty or the protocol would apply only to those non-nuclear states that also ratify and are in compliance with all the provisions of the treaty.

These provisions would accomplish several purposes. First, South Korea would be obliged to surrender any nuclear weapons or weapons grade material it acquires as a result of the collapse of North Korea. Second, China would know that if it persuaded the North to adhere to the treaty, it would have a permanent treaty commitment by Japan and South Korea not to acquire nuclear weapons or permit them to be stored on their territory. North Korea would be aware of this, and would have a negative security assurance from the US if it joined the treaty.

Specific provisions would be included to develop a process by which the North would dismantle its existing stockpile over a fixed period of time and receive compensation, the specifics of which would be subject to agreement. A provision of the treaty might permit the North to accept the basic commitment that it become a non-nuclear weapons state while delaying its obligation to begin the dismantling process. Still, it will not be easy to persuade North Korea to give up its existing nuclear capability and it will certainly take some time. One possible

approach would be through Mongolia, which has declared itself a nuclear weapons-free zone and which has good relations with the North. De-nuclearizing the Korean Peninsula must remain a high priority of the international community. Failure to dismantle North Korea's nuclear capabilities will lead to further proliferation and to a more dangerous world. The outline proposed here, with a flexible NWF zone, is a way forward that deserves careful consideration.

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