



Time for a Modest Deal: How to Get U.S.-North Korean Talks Moving Forward

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What's new? 2017's war of words between the U.S. and North Korea is a fading memory. In its place has come a period of calm, particularly after the leader-level summit in June. But substantive negotiations have foundered, and the parties' current holding pattern cannot be sustained forever.

Why does it matter? The lack of progress means that U.S.-North Korean relations could easily turn ugly once more – perhaps reawakening the spectre of war on the Korean peninsula. Hardliners on both sides (and in South Korea, too) are poised to exploit opportunities to derail talks altogether.

What should be done? Negotiators should aim for small, concrete achievements that serve the main parties' long-term interests: for Washington, progress toward verifiable closure of the Yongbyon nuclear facility; for Pyongyang, a commitment to develop an end-of-war declaration; and for both Koreas, a reopening of the Kaesong industrial complex.

I. Overview

What a difference a year makes. The situation on the Korean peninsula may well be complex, challenging and dangerous, but the risk of major conflict was much higher twelve months ago. Indeed, the near-term risks of cataclysm have diminished so considerably since December 2017 that it is almost difficult to recall the pervasive alarm that led UN Secretary-General António Guterres and others to evoke the beginnings of World War I in warnings against sleepwalking into disaster.

But while a new war on the Korean peninsula, mercifully, did not happen in 2018, there is hardly cause for celebration. As 2019 begins, the immediate question is whether the current calm will hold or whether a lack of progress toward resolution of the issues the parties care most about – denuclearisation, an end to hostilities and sanctions relief – will tug U.S. President Donald Trump and North Korean leader Kim Jong-un back toward the edge of confrontation.

Both scenarios are entirely plausible. The de facto freeze-for-freeze arrangement underlying the present quiet – pursuant to which North Korea has suspended the flight testing of long-range missiles as well as the explosion of nuclear devices, and

the U.S. has suspended joint military exercises with South Korea (as well as the imposition of new sanctions) – has worked well enough to date, but it is far from a stable resting place. The arrangement is shallow as a matter of formal commitment (there is nothing in writing) and narrow as a matter of scope (it does nothing to restrict North Korea's fissile material production, or its non-flight testing or production of missiles).

Moreover, as time passes, the chafing of unaddressed long-term interests can only generate dangerous friction among the parties. These interests include not just the security, political and economic concerns of the U.S. and North Korea, but also those of North Korea's neighbours, especially South Korea. To begin addressing these interests, Washington needs to see concrete steps in the direction of denuclearisation, Seoul needs to see the glimmer of new commercial opportunities, and Pyongyang needs to see economic and political benefits. Progress on those fronts can help neutralise the ambitions of hardliners in each capital – who see engagement as counterproductive. Conversely, lack of progress will embolden and empower the hawks and could send the U.S. and North Korea quickly back to the brink.

It remains to be seen whether the second Trump-Kim summit (which the U.S. president has recently confirmed and could happen early in the new year) can help catalyse the kind of progress that is needed. Critics have been quick to argue that President Trump squandered important leverage with Pyongyang when he agreed to the first summit without having worked out in advance a deal that could be announced. But while there are downsides, a modified reprise of the top-down strategy that led to Singapore may be the best option for breaking out of what otherwise seems an intractable diplomatic impasse, and creating both the framework and motivation for meaningful working-level engagement that the Singapore joint statement lacked.

If there is going to be even a modest breakthrough, however, both sides should go into the second summit ready to deal. The contours of a credible quid pro quo are already on the table. Pyongyang has suggested willingness to decommission some or all of the Yongbyon nuclear facility, potentially taking offline North Korea's only known source of plutonium production, but it will need something substantial in return. What it says it wants is a political declaration that the Korean War is over – as well as sanctions relief.

Washington almost certainly will not be prepared to meet those demands fully. But they contain the kernel of a plausible next step: a trade involving a verifiable Yongbyon closure, tightly focused sanctions relief and a commitment to working-level engagement that would (among other things) develop an end-of-war declaration and start moving the parties more solidly onto the four-step path that Crisis Group previously recommended. There may well be objections from hawkish U.S. officials such as National Security Advisor John Bolton and Secretary of State Mike Pompeo, but Trump has reined in these men before, and he can do so again.

Both Trump and Kim should throw themselves into crafting a workable trade along these lines and strengthening the fragile progress they made over the course of 2018. Others with vested interests in peace on the Korean peninsula – from Seoul to Tokyo to Beijing to Moscow – should lend their weight to encouraging the effort. Then the parties should order their teams to get cracking on a disciplined process for making the progress stick. It may be the best hope for helping the parties navigate what could otherwise be a treacherous new year.

II. The Year of Living Less Dangerously

There were several key players in the 2018 drama of welcome but inconclusive de-escalation on the Korean peninsula, but the prize for most unexpected performance has to go to Donald Trump.

Trump and his administration had, after all, spent 2017 showing every sign of being dangerously provoked by North Korea's undeniable provocations.¹ In the spring of 2018, even after Trump surprised the whole world by agreeing to a summit for which there had been no groundwork, it was unclear whether the meeting would inaugurate a period of diplomatic engagement or just the opposite. Some commentators worried that because Trump would invariably be frustrated with the outcome of the summit (which could not plausibly produce the short-order nuclear disarmament that Bolton and Pompeo were urging) the parties could find themselves not on a path to peace but on a fast track to war.²

In fact, neither the worst- nor the best-case scenario came to pass. Contrary to the well-advertised inclinations of his advisers, Trump settled for a minimalist outcome at the June summit in Singapore. His advisers had warned that they did not want a repeat of the 1994 Agreed Framework or the 2005 Six-Party Talks joint statement or the 2012 Leap Day deal – all of which sought and failed to create a pathway to disarmament – and they did not get one.³ They got something far less. The joint statement that emerged from Singapore set out four basic objectives (a new relationship, a stable peninsular peace regime, efforts at complete denuclearisation of the peninsula and recovery of prisoner of war remains) in gossamer-thin language with only a general reference to follow-up negotiations at the ministerial level to achieve the goals.⁴ Trump's arguably more important commitment to suspend military exercises – the complement to Pyongyang's testing moratorium – was announced at a press conference, reportedly surprised his own Department of Defense and is not recorded in the Singapore document.

¹ See Crisis Group Asia Report N°294, *The Korean Peninsula Crisis (II): From Fire and Fury to Freeze for Freeze*, 23 January 2018, p. 2. "On 8 August 2017, Trump vowed that, were North Korea to threaten the U.S., he would respond with 'fire, fury and frankly power, the likes of which this world has never seen before'. Soon thereafter, his national security adviser, H.R. McMaster, warned that the U.S. 'cannot tolerate, will not tolerate, a threat to the United States from North Korea involving nuclear weapons'. After meeting White House officials, Admiral Mike Mullen, former chairman of the Joint Chiefs of Staff, warned that the U.S. is 'closer to a nuclear war with North Korea' than ever before. U.S. officials speak of a narrow strike aimed at either sending a message of deterrence to Kim or damaging his nuclear program".

² See Crisis Group United States Report N°1, *Deep Freeze and Beyond: Making the Trump-Kim Summit a Success*, 12 June 2018, p. 11.

³ See, eg, Secretary Pompeo's interview with Chris Wallace of "Fox News Sunday", 13 May 2018, at www.state.gov/secretary/remarks/2018/05/282048.htm. "We've done this before, right? We've done trade for trade, moment for moment; you give me X, I give you Y. And it has failed repeatedly. I think Chairman Kim understands that. I think he appreciates that this is going to have to be different and big and special, and something that has never been undertaken before".

⁴ Joint Statement of President Donald J. Trump of the United States of America and Chairman Kim Jong Un of the Democratic People's Republic of Korea at the Singapore Summit, 12 June 2018.

The summit was far from the breakout success that Trump quickly declared it to be.⁵ But neither was it the abject failure portrayed by some critics.⁶ In some respects, the summit document's looseness was a strength, at least in the short term. It allowed the parties to settle further into a much-needed de-escalation without creating tripwires that one party or the other might be tempted to test, the result of which could have been a return to high tensions. And the mere fact of the summit both broke the seal on leader-level engagement between Pyongyang and Washington – something that Washington elites criticised but that could well give both parties more diplomatic tools to work with over time. It also gave President Trump what he needed politically to declare to his base that the Korean crisis had been addressed and that it was time to turn to other things. That he was de-escalating a crisis largely of his own making did not make the de-escalation any less welcome.

Moreover, now that the administration has achieved de-escalation it shows no signs of wanting to rock the boat. Whatever fast-track disarmament plans his staff may be quietly nurturing, the president's public message has been that there is no rush.⁷ And tonally, U.S. officials seem to be at pains not to find fault with the North Koreans or get into pointless spats. "If they blow up a nuclear weapon that would be a problem. If they test an ICBM [intercontinental ballistic missile] that would be a provocation", as one senior U.S. official summed up the attitude.⁸ But U.S. diplomats have for the most part been on a very long fuse. "We are not going to get into wars of words", said the same official.⁹ Quite the opposite, President Trump's sometimes implausibly fond words for Kim Jong-un ("we fell in love") have engendered both domestic ridicule and criticism.¹⁰

Still, U.S. policy toward North Korea is not just sweet nothings. Washington continues to focus heavily on enforcement of the UN sanctions regime that it took the lead in negotiating over the course of 2017.¹¹ To be sure, there are cracks in that regime.¹² In September, the press reported that a draft UN panel of experts report cites "a group of nearly 300 foreign businesses and individuals, including 215 from China and 39 from Russia, that have allegedly flouted sanctions by forming joint

⁵ Immediately following the summit, Trump posted to his Twitter account that, "everybody can now feel much safer than the day I took office. There is no longer a Nuclear Threat from North Korea. Meeting with Kim Jong Un was an interesting and very positive experience". Tweet by Donald J. Trump, @realDonaldTrump, 2:56 am, 13 June 2018.

⁶ See, eg, Mark Gongloff, "Trump gives away the store in Singapore", Bloomberg, 12 June 2018.

⁷ Crisis Group interviews, U.S. officials, Washington, November 2018. On Trump's apparent feeling, see Julian Borger, "All the time in the world': Trump says no rush for North Korea to denuclearise", *The Guardian*, 26 September 2018.

⁸ Crisis Group interview, senior U.S. official, Washington, November 2018.

⁹ *Ibid.*

¹⁰ John Bacon, "President Donald Trump on Kim Jong Un: 'We fell in love' over 'beautiful letters'", *USA Today*, 30 September 2018. For a taste of the reactions, see, eg, Fred Kaplan, "Trump said *what* about Kim Jong Un", Slate, 30 September 2018.

¹¹ "Japan releases new images of potential North Korean sanctions evasion at sea", NK News, 4 June 2018.

¹² See Eric Brewer, "Can the U.S. Reinstate 'Maximum Pressure' on North Korea? Washington Needs a Plan B If Diplomacy Fails". *Foreign Affairs*, 4 December 2018.

ventures with North Koreans”.¹³ The draft report (which was bottled up because of sparring between the U.S. and Russia and has not yet been released) also finds that North Korea is violating UN sanctions through illicit ship-to-ship transfers of petroleum products and transfers-at-sea of coal.¹⁴ Some U.S. experts suggest that the sanctions effort is losing steam and worry about Washington’s ability to regain the full force of maximum pressure sanctions if talks fail.¹⁵

Nevertheless, U.S. officials project confidence when it comes to the sanctions regime, maintaining that the sanctions continue to bite.¹⁶ One official recently argued that North Korea’s resort to inter-ship transfers is a measure of desperation, that at least some percentage of Chinese violations appear to be happening without Beijing’s knowledge, and that the U.S. can still constructively press smaller countries to up their sanctions game.¹⁷ An interagency effort led from the White House by Bolton hire Anthony Ruggiero is focused on keeping sanctions at highest ebb.¹⁸

Much as the U.S. has been able to sustain de-escalation on the one hand, and some level of sanctions pressure on the other, the place where its engagement strategy is showing the most meagre results is in the area of diplomacy between Washington and Pyongyang. There has been disappointingly little. Over the summer, Secretary Pompeo’s trip to Pyongyang for follow-up talks floundered.¹⁹ Pyongyang’s return of 55 sets of U.S. soldiers’ remains from the Korean War likewise largely fell flat as a confidence-building measure.²⁰ That said, after President Trump’s cancellation in August of what would have been Pompeo’s second trip to Pyongyang, citing a lack of progress toward denuclearisation, there were some tentative steps forward.²¹

September and October 2018 brought a successful inter-Korean summit in Pyongyang, a meeting between Pompeo and North Korean Foreign Minister Ri Yong-ho on the margins of the UN General Assembly,²² and a trip by Pompeo to Pyongyang. Of greatest potential significance, Kim announced his willingness to allow experts to observe the dismantling of a missile engine test site at Sohae, and that North Korea would permanently decommission some or all of the country’s ageing nuclear research facility at Yongbyon conditional upon undefined U.S. “corresponding measures in accordance with the spirit” of the Singapore statement.²³ For its part, the U.S. admin-

¹³ Colum Lynch, “U.N. Report Details How North Korea Evades Sanctions”, *Foreign Policy*, 20 September 2018.

¹⁴ *Ibid.*

¹⁵ Brewer, “Can the U.S. Reinstate ‘Maximum Pressure’ on North Korea?”, *op. cit.*

¹⁶ Crisis Group interviews, U.S. officials, Washington, November-December 2018.

¹⁷ Crisis Group interview, U.S. official, Washington, December 2018.

¹⁸ *Ibid.*

¹⁹ Chairman Kim pointedly denied Secretary Pompeo a meeting during his July trip, and Pyongyang then accused the U.S. of making “unilateral and gangster-like” demands for denuclearisation. “Pompeo’s North Korea meeting went ‘as badly as it could have gone’”, CNN, 11 July 2018.

²⁰ Press release, Democratic People’s Republic of Korea (DPRK) Permanent Mission to the United Nations, 9 August 2018.

²¹ “Trump cancels Pompeo’s trip to North Korea over stalled nuclear diplomacy,” Reuters, 24 August 2018.

²² “Pompeo, N.K. foreign minister meet over 2nd summit”, Yonhap, 27 September 2018.

²³ Victor Cha, Sue Mi Terry and Michael Green, “The Ledger on the Third Inter-Korean Summit”, Center for Strategic and International Studies, 19 September 2018.

istration confirmed that President Trump would participate in a second leader-level summit, suggesting the meeting could happen in the first two months of 2019.²⁴

But these moves have not opened the gates to sustained diplomatic engagement that will be required for durable progress on the complex issues facing Washington and Pyongyang. Indeed, in November it was Pyongyang's turn to cancel a meeting with Pompeo.²⁵ North Korea has also steered clear of meaningful engagement with the administration's new Korea envoy, Steve Biegun, although CIA Korea expert Andrew Kim (whose departure from the U.S. government prior to the new year has been announced) reportedly travelled to the region in November, and there are rumours of lower-level discussions between U.S. and North Korean officials.²⁶

Overall, North Korea clearly feels it can get better terms and more favourable treatment directly from Trump and sees no benefit in dealing with subordinates who are likely to demand more. But there also appears to be a deeper substantive problem. Notwithstanding its recent acquiescence in a sanctions waiver that allowed an inter-Korean survey of North Korean railways to proceed,²⁷ the U.S. does not seem to have budged from a maximalist approach to negotiation – seeking to reach a deal that denuclearises North Korea in one or two giant steps²⁸ – that is both unrealistic and highly likely to end in a broken negotiation.²⁹

It may be that such an outcome would suit at least some of the President Trump's top foreign policy advisers. After all, John Bolton stated before assuming his current position that the best thing about the Singapore summit was that it would demonstrate the folly of engagement and the need to return to pressure tactics.³⁰ If that is the case, and while Trump sent shock waves through his own team and the Washington foreign policy community when he seized the reins of Korea policy in 2018 and agreed to the first U.S.-North Korea summit, the truth is that a similar intervention may be necessary to jog his team into deal-making mode for the second.

²⁴ “2nd North Korea summit expected after Pompeo's ‘productive’ talk with Kim Jong Un”, CBS News, 7 October 2018; see also the tweet by Michael Pompeo, @SecPompeo, U.S. secretary of state, 1:20 am, 7 October 2018. With respect to timing, President Trump has suggested that the summit could happen as soon as the first two months of 2019. Roberta Rampton, “Trump says next meeting with North Korea's Kim likely in early 2019”, Reuters, 1 December 2018. For Pyongyang, however, this timing is likely to be less than ideal. In North Korea, the first two months of any year are generally consumed with the leader's televised New Year's address, subsequent public education sessions to memorise the speech's key elements and winter military drills. While that does not make a summit impossible, it does diminish the likelihood that it will fall in January or February.

²⁵ “North Korea cancels nuclear talks With Pompeo”, *Wall Street Journal*, 7 November 2018.

²⁶ Crisis Group interview, former U.S. official, Washington, November 2018; Nicholas Wadhams, “Pompeo's North Korea envoy can't get face time with counterparts”, Bloomberg, 7 December 2018.

²⁷ “S. Korea secures U.N. sanctions exemption for inter-Korean rail survey”, Reuters, 24 November 2018.

²⁸ Crisis Group interview, senior U.S. official, Washington, November 2018.

²⁹ “The talks are stalled because the U.S. will not talk about anything except denuke”. Tweet by Chris Steinitz, @SteinitzChris, North Korea program director, CNA Analysis and Solutions, 3:40 am, 5 December 2018.

³⁰ Matthew Haag, “3 examples of John Bolton's long-time hard-line views”, *The New York Times*, 22 March 2018. In early December 2018, Bolton spoke publicly about his frustration with the progress of post-Singapore talks. See Wadhams, “Pompeo's North Korea envoy can't get face time with counterparts”, op. cit.

III. The Perils of a Holding Pattern

Though neither President Trump nor Kim Jong-un shows much sign of wanting a return to confrontation, avoiding such a return will be increasingly difficult if negotiations do not begin to show progress. As one senior U.S. official put it, “we can’t be in a holding pattern forever”.³¹

A big part of the problem is the pull of long-term interests. In the U.S., critics on both the left and the right worry that the Trump administration is getting little of value from the negotiation, while the Kim regime continues to develop and refine a nuclear weapons and missile arsenal that can put the U.S. and its partners at risk. Washington policymakers also worry that accepting North Korea as a nuclear state in any way sets a bad example inviting other would-be nuclear states to follow suit; that its weapons could end up in the hands of terrorists; and that North Korea’s status as a de facto nuclear power could, over time, encourage the nuclearisation of neighbours South Korea and Japan.³² While Trump has tended to downplay these concerns since the Singapore summit, press reports about continuing North Korean activities have recently brought them to the fore.³³ They will likely intensify – and empower both internal and external sceptics of the current engagement policy – unless the administration can show progress in reducing the risks posed by the North Korean nuclear program.

The pressures are equally salient, if slightly different for Washington’s chief ally in the Korean peninsula situation, the South Korean government in Seoul. Here, the concerns that could derail progress are less about peace and security than about kitchen-table issues. South Korean President Moon Jae-in gets credit domestically for lowering tensions on the peninsula (including through a raft of recent de-escalatory measures).³⁴ But one perhaps unintended consequence is that South Koreans are now shifting their attention to the potential economic benefits of rapprochement and wondering when the payoff will come.³⁵ Moon’s handling of the economy so far is seen as a political vulnerability.³⁶ It will thus be essential for him to find an economic up-

³¹ Crisis Group interview, senior U.S. official, Washington, November 2018.

³² Crisis Group interviews, current and former U.S. government officials, Washington, 2017 and 2018.

³³ Rebecca Morin, “Trump says he knows about North Korea’s hidden missile bases”, Politico, 13 November 2018; “New satellite images reveal activity at unidentified Korean missile base”, CNN, 6 December 2018.

³⁴ “Pyongyang Joint Declaration of September 2018”, press release, South Korean Ministry of Unification, 21 September 2018. In addition to requiring bilateral consultation to avoid military clashes, and that each party to refrain from attempting to “infiltrate” the other, the two Koreas also committed to the withdrawal of eleven guard posts each along the shared border, the establishment of border region no-fly zones for non-civilian aircraft, and establishment of a protocol for the joint utilisation and management of the Han/Imjin River estuary and contiguous regions of the Yellow/West Sea.

³⁵ Crisis Group interview, former South Korean intelligence official, Seoul, October 2018.

³⁶ More than half of all respondents in recent polling believe the economy will be worse in a year’s time than it is now. This perception is reflected in business sentiment. See Moody’s Analytics Economic Indicators: www.economy.com/south-korea/business-confidence. Similar themes emerged in Crisis Group interviews with multiple South Korean subject matter experts and businesspeople, Seoul, October 2018.

side for South Korean firms and workers in order to shore up support for continued engagement both for the duration of his term and afterward.³⁷ But it will also be tricky.

One part of the challenge is figuring out how to derive economic benefit from the emerging inter-Korean relationship at a time when UN sanctions prohibit joint ventures and the U.S. has suggested that sanctions relief cannot come until the end of a denuclearisation process that has yet to move past square one.³⁸ A second challenge is that even if Moon had a free hand to begin investing in North Korea, he would need to step carefully amid deep public concerns that there will be a unidirectional wealth transfer from South to North.³⁹ For many South Koreans, that was the chief outcome of the “sunshine policy” era from 1998 to 2008, which they remember less than fondly.⁴⁰ Finally, Moon could use an economic win to gird him against attacks from hardliners who among other things worry that he is risking the U.S.-South Korean alliance through his assertive engagement with Pyongyang.⁴¹

As for Pyongyang, because Kim sits atop a personalist dictatorship, he does not face the same kind of political pressures that have the potential to shake up policy in

³⁷ While South Korea’s single-term presidency prevents Moon from running in 2022, his Democratic Party will have to fight a legislative election in April 2020, and will then seek to retain the presidency in part on the basis of Moon’s record.

³⁸ U.S. concerns about a growing disconnect between Seoul’s pursuit of economic opportunity and Washington’s desire to sustain economic pressure pending a breakthrough on the security front have led to, among other things, the development of a bilateral “working group” to help mediate those issues. See, eg, “S. Korea, US hold inaugural session of NK working group”, *The Korea Herald*, 21 November 2018.

³⁹ An early indication of this trend concerned the cost of delivering 200 tonnes of citrus fruit to North Korea, which followed North Korea’s delivery of two tonnes of pine mushrooms to South Korea. The presidential chief secretary, Im Jong-seok, was quizzed by a parliamentary committee about the source of the money. “N. Korea’s Kim sends expensive yet touchy gift to Moon”, *Yonhap*, 20 September 2018; “Cheong Wa Dae gifts N.K. tangerines in return for mushrooms”, *Yonhap*, 11 November 2018.

⁴⁰ The “sunshine policy” ultimately tarnished the liberal presidencies of both Kim Dae-jung and his successor, Roh Moo-hyun, for whom Moon was a senior aide. South Korea not only orchestrated a payment to the North Korean government in exchange for the first inter-Korean summit of June 2000; it also made large loans to Pyongyang which, though ostensibly to be repaid, never have been. Notwithstanding these efforts, North Korea returned to acts of violence against South Korean targets. Most prominently, a North Korean soldier shot a South Korean tourist dead at the Mount Kumgang resort in July 2008; North Korean forces sank the South Korean submarine *Cheonan* in March 2010; and North Korean ships shelled the South Korean island of Yeonpyeong-do in November of the same year. There was also an incident in August 2015 in which a landmine maimed two South Korean soldiers patrolling the inter-Korean border. South Koreans widely believe the mine’s placement to be deliberate, though North Korea denies culpability.

⁴¹ One example concerns the Moon administration’s opening of a liaison office in the Kaesong region, where the two Koreas ran a joint manufacturing zone from 2005 to 2016. The office is designed to facilitate inter-Korean dialogue and reduce the risk of military exchanges across the demilitarised zone (DMZ), but a former official told Crisis Group that it is probably also intended to create cracks in the sanctions regime. Crisis Group interview, former South Korean intelligence official, Seoul, October 2018. The South Korean right is critical, saying Moon is trying to push inter-Korean projects so far that they cannot be reversed, in the process using underhanded tactics to secure funding for projects involving North Korea, all while recklessly ignoring the declining state of relations between South Korea and the U.S. “Moon is jumping the gun by ratifying cross-border agreements”, *Chosun Ilbo*, 24 October 2018; “Hasty engagement”, *JoongAng Ilbo*, 9 November 2018; “Orange alert”, *JoongAng Ilbo*, 13 November 2018.

Washington and Seoul. But there are still things that he wants and needs from negotiation with the U.S. One is an improved political relationship (or, as expressed in the Singapore statement, “new U.S.-DPRK relations”), the desire for which has led Pyongyang to urge Washington to sign a declaration announcing an end to the decades-old Korean conflict, at the same time that it insists that the war’s official end should not be regarded as an item for negotiation.⁴²

But at least as important to Kim is sanctions relief.⁴³ Thanks to unprecedented levels of Chinese enforcement, the 2017 multilateral sanctions on exports of bulk materials such as coal, textiles, fisheries and labour imposed costs not only on trading companies linked to state institutions but also on elite families involved in commerce.⁴⁴ Kim Jong-un requires the support of both. Even if North Korea is right in saying it can survive without any sanctions relief (and indeed the country has proven unusually resilient in the past), the fewer sanctions that are in place and the weaker the enforcement of those that remain, the more power accrues to Kim Jong-un’s patronage networks and the lower the cost to Pyongyang of achieving elite compliance with government diktat.⁴⁵

While Pyongyang wants sanctions relief, however, it is unlikely to wait for it indefinitely.⁴⁶ If dissatisfied with the pace of talks, Pyongyang might take provocative action (one commentator suggested it might consist of pre-notification of the sort of space launch that scuttled the Leap Day deal) in order to focus Washington on the need for progress.⁴⁷ Hardliners in the North Korean leadership will likely cite every diplomatic hiccup as a compelling reason to stop wasting time on a process that inevitably, in their view, poses a threat to the country’s defences.⁴⁸

⁴² Pyongyang claims that the Korean War should have been ended more than 60 years ago, and ending it can therefore “never be a bargaining chip for getting the DPRK denuclearised”. “War end is not just gift: KCNA commentary”, KCNA, 2 October 2018; “Sanctions and dialogue can never go together”, *Rodong Sinmun*, 2 October 2018; “Does U.S. feel ashamed of itself for approaching DPRK with two faces”, KCNA, 20 October 2018.

⁴³ According to a November commentary by the head of the DPRK Ministry of Foreign Affairs department that deals with North American affairs (an official who is also director-general of the ministry’s subordinate Institute for American Studies): “The improvement of relations and sanctions are incompatible” and “‘friendship’ is inconsistent with ‘pressure’”. “Institute for American Studies of DPRK Foreign Ministry urges U.S. to abandon foolish daydream”, KCNA, 2 November 2018; Robert Carlin, “DPRK notches up the warnings”, 38 North, 5 November 2018.

⁴⁴ Anecdotal evidence from visitors to North Korea in early 2018 suggests that household incomes in Pyongyang declined as a result of sanctions imposed in 2017. Crisis Group interview, former NGO employee, The Netherlands, July 2018.

⁴⁵ Crisis Group interview, U.S. Department of Defense analyst, Washington, October 2018.

⁴⁶ Crisis Group interview, South Korean activist, Seoul, October 2018.

⁴⁷ Tweet by Ankit Panda, @nktpnd, defence analyst, 1:47 pm, 5 December 2018. “I don’t think the risks of a Leap Day 2.0 scenario are all that far-fetched – pre-notification for a scheduled space launch, in particular, would light a fire under the Trump administration to either move or risk the moratorium that Trump so loves falling apart”.

⁴⁸ It is almost impossible to trace debates within the North Korean leadership in real time. Stories do eventually emerge, however, highlighting the conflicts in the country’s politics engendered by economic collaboration with the outside. In June 2013, the South Korean intelligence service released a transcript of the 2007 inter-Korean summit between the late Roh Moo-hyun and Kim Jong-il, in which Kim explained the North Korean military’s objections to the development of a special economic zone in Haeju, a militarily sensitive location on the contested West/Yellow Sea coast of North

None of the foregoing is to say that the holding pattern will necessarily fall apart if the upcoming summit fails to produce a concrete outcome that helps Washington, Seoul, and Pyongyang advance their long-term interests. But the dynamics that helped the 2018 thaw to emerge – with Washington settling for less than full, immediate denuclearisation, Pyongyang desisting from provocations and Seoul playing the unabashed matchmaker – will at some point need sustenance if they are to continue.

IV. A Simple Deal for the New Year

Fortunately, the contours of a modest deal that could fortify the key players' most constructive impulses have already begun to surface and could be manoeuvred into place by the coming summit. In particular:

- ❑ North Korea has offered to shutter its nuclear facility at Yongbyon under inspections if the price is right.⁴⁹ It has made clear that in return it wants sanctions relief and an end-of-war declaration (though it seeks to delink the latter from negotiations).
- ❑ South Korea has made clear its interest in restarting the joint facility at Kaesong. That step would require the UN Security Council to grant tailored sanctions relief as well as licensing from the U.S. Treasury.⁵⁰
- ❑ The U.S. wants tangible constraints on North Korea's nuclear efforts and a serious, working-level dialogue where the nuts and bolts of denuclearisation can be worked out.

In order to make a deal from these beginnings, Washington should start by taking a clear-eyed view of the potential value of the Yongbyon proffer that Kim has made. Former U.S. government officials describe access to and closure of Yongbyon as a necessary but insufficient step along the path toward denuclearisation. It is necessary because it is the single biggest piece of North Korea's nuclear weapons program. It is insufficient in part because North Korea is widely thought to have at least one additional uranium enrichment plant, the location of which is not publicly known or confirmed.⁵¹ Thus, shuttering Yongbyon would leave Pyongyang in possession of a nuclear and missile arsenal and the ability to produce more of both. Experts also express concern that President Trump might oversell the shutdown of Yongbyon as a true end to the nuclear potential of North Korea.⁵²

But notwithstanding these caveats, achieving Yongbyon's verified shutdown would be a useful step toward denuclearisation. Its closure would be an important risk reduction measure, a device for reintroducing outside monitors to North Korea and a meaningful indicator of openness to broader disarmament. Of particular

Korea. The country's military similarly protested the creation of the Kaesong industrial complex. Crisis Group interview, former South Korean intelligence official, Seoul, November 2018.

⁴⁹ Simon Denyer and Anne Gearan, "North Korea leader offers to dismantle nuclear test site – but only after U.S. acts", *The Washington Post*, 19 September 2018.

⁵⁰ Crisis Group written exchange, senior U.S. official, Washington, December 2018.

⁵¹ Crisis Group interviews, former U.S. government officials and non-proliferation experts, Washington, November and December 2018.

⁵² *Ibid.*

interest at Yongbyon is North Korea's only known operating plutonium production reactor, which continues to produce between one and two weapons worth (six to eight kilograms) of plutonium every year, and is of great importance to the growth of North Korea's nuclear arsenal, which was developed on plutonium-based designs.⁵³ There is also a chemical extraction facility at Yongbyon where plutonium is extracted from spent nuclear fuel when it is removed from the reactor, as well as North Korea's only publicly identified uranium enrichment facility. North Korea also fabricates fuel from natural uranium at the site. It is unclear, though subject to doubt, whether Kim's offer included all the Yongbyon facilities.⁵⁴ The question is likely something the parties would have to negotiate.

Setting up an inspections regime is entirely feasible as a practical matter. Though no outside inspection has taken place at Yongbyon since 2005 (and it has expanded its operations since), the U.S. and the International Atomic Energy Agency (IAEA) have operated previously at the Yonbyon site. Indeed, under the 1994 Agreed Framework and the 2005 Six-Party arrangements, parts of the Yongbyon nuclear complex were frozen and deactivated under inspections. The IAEA has been steadily preparing for the possible resumption of inspections in North Korea for almost a year. Inspections could begin quickly, with a production freeze to follow.

In terms of what might make a diplomatically acceptable and politically sustainable trade for access to and partial freezing and dismantlement of Yongbyon (and taking into account that this may depend on how much of Yongbyon is on the table), Washington should look at what Pyongyang has identified as of particular importance. The first of these desiderata is a political declaration that the Korean War is over. Such a declaration would not put a legal end to hostilities, but it would put the parties on a path to the negotiation of a legal document to do so. Washington has baulked at the idea both out of a desire to preserve scarce negotiating chips and out of a widely shared concern that an end-of-war declaration would put pressure on Washington to withdraw forces from South Korea.

That second concern, however, is overblown and can be managed through the content of the declaration itself. One former senior U.S. official suggests that the declaration might include four provisos along the following lines: first, the armistice (ie, state of suspended hostilities) should remain in effect until a formal peace treaty can be concluded. Secondly, it should be explicit that the document does not have any effect on the U.S.-South Korean bilateral relationship – meaning that issues like the U.S. force presence in the South or mutual defence commitments between Seoul and Washington would remain untouched. Thirdly, it should commit the parties to work together toward a formal peace treaty. And fourthly, it should make clear that the declaration is part of a broader effort to achieve the denuclearisation objectives agreed in Singapore. “Why not do it?” says the former official. “It’s reality. We’ve had had an end of the war since 1953. Those who insist that it would make the situation more dangerous ... that’s ridiculous”.⁵⁵

⁵³ Crisis Group written exchange, former U.S. official, Washington, December 2018. “While they could conceivably redesign their arsenal to be based on only uranium, doing so would set back their programs considerably”.

⁵⁴ Crisis Group interview, former senior U.S. official, Washington, November 2018.

⁵⁵ Crisis Group interview, former senior U.S. official, November 2018.

At the same time, the U.S. should take seriously the North Korean position that an end-of-war declaration by itself will not win significant concessions from them, and that concessions will require sanctions relief. The U.S. insists that full sanctions relief is something that it will entertain only after significant progress toward denuclearisation, and that it especially does not wish to create cracks in the sanctions regime that will allow resources to be diverted to the North's nuclear program.⁵⁶ But this position is likely untenable.⁵⁷ Rather than digging in, it should consider whether there might be a measured step it can take in Pyongyang's direction.

A sensible way to do that would be to focus on a sanctions relief package that would enable the recommencement of operations at the Kaesong industrial complex.⁵⁸ Putting Kaesong on the table would be a limited, responsible way for the parties to begin the fraught conversation about sanctions relief. It involves few firms in total, in a small number of sectors, with no major conglomerates other than Hyundai involved. As such, it does not generate massive revenues, either for South Korean firms or the North Korean state. Importantly, that should make it relatively less controversial for the U.S. in terms of concerns that it is funding the North Korean government's bad behaviour.

Moreover, reopening Kaesong would be symbolically important for the South, allowing the Moon administration to claim that it is delivering on its promise to start improving South Korea's economy and its citizens' livelihoods. It would also be symbolically important for the North, demonstrating that there is some flexibility on sanctions on the part of the U.S.⁵⁹

Finally, the U.S. need not frame this as trading both sanctions relief and the end-of-war declaration for Yongbyon. Indeed, if North Korea insists that the end-of-war declaration should not be a chit in the substantive denuclearisation negotiations, the U.S. might suggest a different linkage: as part of a package deal that involves the Yongbyon-for-Kaesong trade, it could agree in principle to an end-of-war declaration but leave the text to be developed in negotiations at the level of Special Representative Biegun in advance of a third U.S.-North Korean summit to occur over the course of 2019. Do the parties really need such a structured dialogue to work out the text of a fairly straightforward declaration? Possibly not, but it would be a useful way to empower negotiators at the sub-leader level in a channel that could also be used to make progress on the full suite of Singapore commitments.

⁵⁶ Crisis Group interviews and other engagements, current and former U.S. officials, Washington, fall and winter 2018.

⁵⁷ Crisis Group interview, U.S. Department of Defense analyst, Washington, October 2018; Crisis Group interview, prominent academic, Seoul, November 2018; Robert Carlin, "Pyongyang warns again on 'Byungjin' revival", 38 North, 13 November 2018.

⁵⁸ Kaesong is a joint North-South economic cooperation project launched in 2004 on northern territory and suspended by the South in 2016. It includes manufacturing facilities for South Korean firms that are intended to employ Northern labour and produce goods for export to South Korea.

⁵⁹ Crisis Group interview, former South Korean intelligence official, Seoul, October 2018; Crisis Group email interview, senior South Korean government official, November 2018.

V. Conclusion

Crisis Group's June 2018 report on the Trump-Kim summit encouraged the parties to get behind a four-step plan for reaching denuclearisation.⁶⁰ The plan called for formalising the current freeze-for-freeze arrangements, deepening those arrangements (including by introducing some monitors and inspectors), comprehensive monitoring, and ultimately freezing all fissile material, nuclear weapons and long-range missile production. Over the longer term, that plan remains a good roadmap for the parties, but first they need to put themselves squarely on the road. They are not there yet.

The leader-level summit anticipated at the beginning of the new year presents an opportunity to remedy that through a modest deal that begins to address key stakeholders' long-term interests. Such a deal may be the surest way to create a path forward for negotiations, further distance the parties from the dangerous brinkmanship of 2017 and set up 2019 to be a year of slow, but welcome progress on the Korean peninsula.

Washington/Brussels, 17 December 2018

⁶⁰ Crisis Group Report, *Deep Freeze and Beyond: Making the Trump-Kim Summit a Success*, op. cit.

Appendix A: Map of North East Asia



Appendix B: Map of the Korean Peninsula





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