

# Exploration on the Elements of the Korean Peninsula Peace Regime: From the Perspective of “Order”

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The main assumption of this article is that the essence of the sixty-five year-long ‘Korean question’ is to replace the Korean Armistice Agreement with a new security order, often referred to as a Korean Peninsula Peace Regime. As such, this article explores elements considerable for a stable order on the Korean Peninsula. First, this article reviews relevant literature on the concept of ‘order’ in the discipline of international relations mainly from Henry Kissinger. Second, this article analyzes the elements of the Armistice Agreement as a ‘living precedent.’ Furthermore, this article offers a preliminary study of a post-war order cases such as 2+4 Treaty and Austrian State Treaty. In conclusion this article experimentally proposes an outline of elements of a new security order on the Korean Peninsula.

**Keywords** Order, Korean Peninsula Peace Regime, Armistice Agreement, Korean Peninsula, North Korea

## Introduction

### *The Complexity of the Korean Question*

The highly anticipated second United States (U.S.)-North Korean Summit held in Hanoi on March 2019 unexpectedly ended without agreement. As the summit-level negotiation broke down dramatically, the disappointment of the related diplomatic circle seemed prominent. Even North Korean Vice Foreign Minister Choe Son Hui during a briefing in the post-summit period stated that, “Chairman Kim Jong-un got the feeling that he didn’t understand the way Americans calculate. I have a feeling that Chairman Kim may have lost the will to negotiate further” (Panda and Narang 2019).

However, notwithstanding the different views exposed at the Hanoi Summit, it is undoubtedly historic progress that the leaders of the United States and North Korea who are technically still at war and have been for over sixty years since

the outbreak of the Korean War in 1950 met face to face twice in less than a year. In addition, the momentum for talks to find a peaceful solution for the ‘Korean question’<sup>1</sup> has not dissipated. In early May 2019, North Korea fired projectiles and missiles two months after the Hanoi Summit, marking the end of nearly 500 days without missile tests. Although the firing could be seen as provocative, U.S. President Donald Trump continues to send restrained messages. On May 26, Trump (2019) tweeted that, “North Korea fired off some small weapons which disturbed some of my people and others, but not me. I have confidence that Chairman Kim [Jong-un] will keep his promise to me.”

Nevertheless, the fact that the two-time historic U.S.-North Korea summit meetings have not led to a perceptible roadmap for the denuclearization of North Korea explicitly or implicitly demonstrates that the Korean question is certainly not easy to resolve. The then-North Korean Foreign Minister Ri Yong ho’s press conference which was held just a few hours after the breakdown of the negotiation between Trump and Kim Jong-un implied the complexity of this question. According to a Reuters report from March 1 at the conference, Ri claimed that North Korea offered a realistic proposal, but the United States rejected it (Mason 2019). Ri said that, “This is the biggest denuclearization step we [North Korea] can take based on the current level of trust between the two countries...toward denuclearization, the most important issue is security but we thought it would be more burdensome for the United States to take military related measures, that is why we saw partial lifting of sanctions as corresponding action” (ibid.).

His comment implicitly or explicitly summarized the issues embedded in the ongoing Korean question. Procedural and technical issues for denuclearization—even including its definition—sanctions against and security assurance to Pyongyang, the issue of trust between Washington and Pyongyang and risk of deception are all involved in current as well as historical contexts. In addition, the issues such as how to handle these issues in which order and who are directly or indirectly concerned add to the complexity.

The Joint Statement at the first U.S.-North Korea Summit held in Singapore in 2018 also demonstrates the issues related to the Korean question. In the statement, Trump and Kim agreed to establish new U.S.-North Korea relations and to build a lasting and stable peace regime on the Korean Peninsula. Although there is much criticism on the joint statement due to its lack of specificity, some experts assess that the first summit proposed a big picture and a brief outline of [new] U.S.-North Korean relations (Moon 2018). Given a variety of issues related to the Korean question, this article lays out the need to approach the question in a broader context. In other words, it is essential to take a step further using the meta-perspective rather than merely being immersed in daily news clips.

*Research Focus: A New Order and Its Elements over the Korean Peninsula*

The meta-perspective which this article takes is ‘establishing a new security

order.' This article assumes that the essence of the ongoing Korean question is not singularly about resolving North Korea's ambition to be a nuclear state, but it is related to replacing the existing security system on the Korean Peninsula with a new order. This new order is referred to by a variety of names such as 'peace regime' and 'new regime on Korean Peninsula' (Park 2019).

Against this backdrop, this article focuses on studying the elements of a new order on the Korean Peninsula. In other words, to establish a stable security order on the Korean Peninsula, a so-called Korean Peninsula Peace Regime, this article experimentally explores what elements require consideration.<sup>2</sup> Attempting to study the research topic in a systematic manner, this article takes its approach from the perspectives of theory and practice.

#### *In Terms of Theory: The Concept of Order in International Relations*

First, in terms of theory, with a focus on the concept of 'order' in the discipline of international relations (IR), this article reviews what order is and which elements constitute the concept at the meta-level. The reason why this article takes a theoretical approach is based on the assumption that building a post-war order is not a particular matter for the Korean case but a universal one in the history of diplomacy. The history of diplomacy shows that when a revision such as war and political changes occurred in the established international order, the related parties held formal or informal meetings and negotiated new territorial boundaries and new relationships (Chun 2009). The negotiation normally led to the conclusion of agreements or treaties which formed the post-revision order. At the global level, the Paris Peace Conference and the Treaty of Versailles with regard to World War I, at the regional level, the Treaty on the Final Settlement with respect to Germany, the so-called 2+4 Agreement with regards to German Unification (1990) and at the state level, Austrian State Treaty (1955) are all examples. This article views a new order over the Korean Peninsula, a peace regime in commonality with those cases as their essence is basically the same: building a post-war order.

Through viewing the peace regime issue from the perspective of IR, one can approach this issue in a more general context and accordingly, one is expected to obtain a conceptual framework and an outline while designing a new order. In addition, as an attempt to view the peace regime issue from the perspective of diplomatic history which is a part of IR discipline, this article offers preliminary studies for the above mentioned historical cases. The aim of the preliminary study is to obtain ideas applicable to the Korean case.

#### *In Terms of Practice: Analysis of Armistice Agreement*

Second, in terms of practice, in order to explore a new order this article analyzes the elements of the Korean Armistice Agreement (hereafter referred to simply as "armistice agreement"). In other words, through reviewing the structure and

**Table 1.** Table of Contents of the Armistice Agreement

PREAMBLE
ARTICLE I: Military Demarcation Line and Demilitarized Zone
ARTICLE II: Concrete Arrangements for Cease-Fire and Armistice
A. General
B. Military Armistice Commission
C. Neutral Nations Supervisory Commission
ARTICLE III: Arrangement Relating to Prisoners of War
ARTICLE IV: Recommendations to the Governments Concerned on Both Side
ARTICLE V: Miscellaneous

Source: Korean War Armistice Agreement (1953)

elements of the armistice agreement this article tries to glean ideas for a new order on the Korean Peninsula. Some critics argue that a peace regime should break away from the armistice agreement. This is mainly because the sixty-five year-long armistice agreement has often showed its limitations.

However, it is undeniable that the current situation over the Korean Peninsula originated from the Korean War which has continued in the form of cease-fire. The armistice agreement was planned to manage the cease-fire and a peace regime describes a post-Korean War situation. In other words, the Korean War, the armistice agreement and a new order of the Korean Peninsula are interrelated. Given this relationship, it is natural to design a new security order in continuation of the armistice agreement, whereas the format of the continuation might be either a break away from or succession of the armistice agreement in a developmental manner.

In addition, as Table 1 shows, the armistice agreement was a complete set of arrangements used to manage the security situation caused by the Korean War and its truce. The agreement which consists of the preamble, five articles and sixty-three clauses was planned to function as a framework for regulating security matters on the Korean Peninsula after the Korean War. This is the reason why experts use the term Armistice Regime (in Korean, Jeongjeoncheje), a kind of order managing the cease-fire status of the Korean War. Accordingly, this article shows that reviewing the elements of the armistice agreement is helpful for planning a new order in a systematic manner.

#### *Academic Contribution of This Article*

The above-mentioned approach is expected to demonstrate the uniqueness of this article. First, this article is perceived to be a unique study which approaches the peace regime issue from the perspective of IR. In other words, while there is a lot of existing research handling this issue from the viewpoint of inter-Korean relationship and analysis of current affairs, there are limited number of studies

which try to explore the issue in the context of IR disciplines.

According to the database of the Korean Citation Index, recent research on the issue of peace regime has the following two tendencies: the first tendency is a research focus on the context of current issues. For example, Hwang Jihwan (2019) discussed the return of the debate on peace regime while analyzing the improvement of Inter-Korean and U.S.-North Korean relationships which took place in 2018. Do Kyung-ok (2019) discussed the issue of a declaration of the end of the Korean War which was proposed at the policy-level during the year 2017 and 2018. While studying the peace regime issue in general, Jhe Seong Ho (2019) discussed North Korea's perception on the issue and how to plan and implement a peace agreement in response to the phased improvement of North Korea's denuclearization. The second tendency is on studying the elements of the peace regime. For example, Song Seongjong (2019) analyzed the issue of the United Nations Command in Korea as a possible element of a peace regime. In this respect, through studying the peace regime issue with a focus on the concept of 'order,' this article contributes to the possibility of analyzing this issue within the universality of IR discipline, moving beyond the myopic short-term point of view. In addition, through preliminary reviewing of similar cases in the diplomatic history with regard to building a post-war order, this article opens room for further research.

Second, this article reinvigorates the debate on the armistice agreement and its relationship with a peace regime. The armistice has continued for more than sixty years and this issue is not only critical for the security of Korea but also for the East Asia region at large. Accordingly, there is a wide range of existing research on the armistice agreement. However, the standout of this article is that it has a clear purpose with regard to the study of the armistice and the purpose is to extract the necessary elements for a new order. In other words, although this article reviews the armistice, its main interest is not the armistice itself. This article approaches the armistice while considering which elements of the armistice needs to be reconfirmed, transformed, or dissolved for building a stable new order on the Korean Peninsula.

## Theoretical Exploration: What is Order?

### *The Definition of Order in IR Context*

The history of diplomacy shows that ending an existing security system does not naturally ensure peace. The end of the former system may lead to a political vacuum such as 'no order' situation or an imperfect order in which the seed for future conflicts is embedded, as in the case of Locarno Pact of 1925. The pact, which was breached by Hitler's remilitarization of Rhineland in 1936 and accordingly did last only around ten years, represented a definite and limited

commitment, though no military measures were ever (Anonymous 1963, 360). Accordingly, a new order should include the instruments enforcing the nature of status quo of as well as restraining the aspiration for revision against the order.

The concept of order has often been discussed in the field of IR academics. However, it seems that there is no clearly agreed upon definition of the concept.<sup>3</sup> Despite this diversity, this article focuses on Henry Kissinger's discussion on the concept of order. Kissinger is one of the maestros in the IR discipline who focuses on the study of post-war situation such as the Congress of Vienna in 1815 after the Napoleonic War. Considering Kissinger's defined concept of order in this context, this article argues for a similarity between Kissinger's discussion and the issue of a new order on the Korean Peninsula. The similarity comes from the essence of the Korean question, which is to build a post-war situation replacing the current armistice and, in other words, the continuation of the Korean War.

In his book, *World Order*, Henry Kissinger (2015, 9) defines the world order as, "the concept held by a region or civilization about the nature of just arrangements and the distribution of power thought to be applicable to the entire world." He mentions that there are three levels of order, that is to say: (1) world, (2) international, and (3) regional according to the scope which the order is applicable to. He views the Westphalia system after the Thirty Years' War and the Congress of Vienna as the examples of the European order.

#### *The Elements for Stable Order*

Kissinger (ibid., 9) suggests that the following components are required for an order to re-enforce stability. These are (1) a set of commonly accepted rules that define the limits of permissible action and (2) a balance of power that enforces restraint where rules breakdown, and the prevention of one political unit from subjugating others. The first component, a consensus on the legitimacy of existing arrangements does not foreclose competitions or confrontations, but it helps ensure that they will occur as adjustments within the existing order. The second component, balance of forces, does not in itself secure peace, but it can limit the scope and frequency of fundamental challenges and curtail their chance of succeeding when they do occur.

Kissinger's other writings and research about his ideas elaborates upon these two components. Regarding the component of legitimacy, Kissinger (2013, 1) said that the concept means no more than an international agreement about the nature of workable arrangements and the permissible aims and methods of foreign policy. It indicates the acceptance of the framework of the international order by all major powers, at least to the extent that no state is so dissatisfied like Germany after the Treaty of Versailles by expressing its dissatisfaction in a revolutionary foreign policy.

With regard to the component of balance of forces, Vanessa Lishingman (2000, 17) denotes that Kissinger adhered to the realist concept of balance of

power. According to her, states engage in balancing behavior which means that if one state threatens other states by expanding its power, the other states will seek methods to offset the expansion of power and the state explores several options for easing tension between states through methods such as diplomacy but also stated that in the anarchical system of IR, a state must be willing to follow through with its threat of using coercive power.

An American historian Paul W. Schroeder (1989)'s discussion on the concept of *political equilibrium* helps to enhance the understanding of the concept of order. While analyzing the Congress of Vienna, the so-called 'Concert of Europe,' Schroeder views that the concert maintains its stability as an order based on the concept of political equilibrium rather than the mere logic of balance of power. Schroeder (*ibid.*, 143) explains the concept as follows "political equilibrium requires that firstly the rights, influence, and vital interests claimed by individual states in the international system be somehow balanced against the rights, influence, and vital interests claimed by other states and the general community; and, secondly that a balance or harmony exist between the goals pursued by individual states, the requirements of the system and the means used to promote one's interests."

Schroeder says that political equilibrium, rather than a balance of power, means a balance of satisfactions, a balance of rights and obligations, a balance of performance and payoffs. With regard to the Concert of Europe, as a way to maintain stability, Schroeder (*ibid.*, 145) views that the concert appealed to international law and the sanctity of treaties and restrained a potential aggressor or hegemon, not by forming a blocking coalition against it but by bringing the dangerous power within a restraining alliance or partnership. He comments that the attempt to restrain a dangerous power by allying with it rather than against it seems to directly violate the standard balance of power practice with its reliance on blocking coalitions and countervailing power to deter aggression.

Kissinger (2011) also focused on the importance of establishing equilibrium. While saying that stable order requires elements of both power and morality, Kissinger argues that in a world without equilibrium the stronger will encounter no restraint and the weak will find no means of vindication. At the same time, if there is no commitment to the essential justice of existing arrangements; constant challenges or a crusading attempt to impose value systems maybe inevitable.

In addition, Arthur Scott (1920, 62-64) also hints to necessary elements of a peace treaty through his work on the case of the Paris Peace Conference in 1919 and the Treaty of Versailles. Scott says that before the negotiations in Paris began in an earnest manner, the great general principles of peace had been agreed on in advance. Although the interpretation of these principles and in their application to specific problems created difficulties, the supreme purpose of the Conference such as the guiding principle of self-determination and the establishment of an international organization such as League of Nations were agreed upon among

the participants.

The above brief theoretical sketch about a post-war order provides ideas for planning a new security system on the Korean Peninsula. Firstly, the parties need to share and agree on the general principle and goal which a new order would seek. Thereafter, the order needs to be equipped with the commonly accepted rules which set the limits of permissible action and the power of to enforce rules. If the parties are able to share the sense of a community within the order, the stability of the order can be strengthened.

## Practical Exploration: Review of the Armistice Agreement

### *Armistice Agreement as a Breaking and Starting Point*

The above theoretical review provides an intellectual framework and outline in designing a new order. Now it is time to define the required elements to fill in the practical outline for a peace regime on the Korean Peninsula. As mentioned above, this article assumes that the review of the formation and elements of the Armistice Agreement as the antecedent, provides tips for the exploration of a new order. However, this article does not view a new order over the Korean Peninsula as a simple continuation of the armistice agreement. This is because today the armistice agreement faces a necessity for change both internally and externally.

First, the armistice agreement itself defines its nature as being interim. The preamble of the agreement states that, “the objective of establishing an armistice will ensure a complete cessation of hostilities and of all acts of armed force in Korea *until a final peaceful settlement is achieved*” (italics added). In other words, according to the agreement, once the final settlement is established, then the reason for the existence of the armistice agreement needs to be reconsidered. Second, changes in military and political conditions have taken place since the armistice agreement was concluded. For example, the armistice does not provide detailed rules on nuclear and missile programs which now constitute major military capability of the signatory states of the armistice agreement. In particular, since his grip on power in 2011, Kim Jong-un has an ambitious ballistic missile development program. For example, North Korea has made efforts to raise the public profile of its ballistic missile command which is now called the Strategic Rocket Forces (Office of the U.S. Secretary Defense 2018, 19). The armistice agreement does not sufficiently reflect this recent development with regard to the security situation over the peninsula.

In addition, the relationship among the related states and the distribution of power over the Korean Peninsula and beyond has also changed. For example, when the armistice was concluded, the United States and the People’s Republic of China (hereafter China) were military enemies. At that time, the Republic of Korea (ROK) and China called each other ‘puppet’ states. However, the two

sides established diplomatic relations in 1991 and now China is the ROK's top trading partner. The armistice agreement does not fully reflect these changed and changing security situations in this region and the out-of-fashion nature of the armistice agreement has led to a vacuum in terms of rules and reality. This is the third reason why the armistice agreement faces the need for change. An analogy to the current situation is that, while now people use 5G smartphones (i.e. the changed security environment), a phone company does not sell Android (i.e. the Korean Peninsula Peace Regime, new order) as operating system but sticks to use DOS (i.e. the Armistice Agreement) of the old desktop computer's operating system. Moreover, some parties such as the ROK and North Korea aspire to replace the armistice with a new security order even though the substance of each party's version of new order might be different.

The above explanation is the reason why, while studying the armistice agreement for the purpose of finding the elements of a new order on the Korean Peninsula, it is necessary to take a critical viewpoint. While being reminded of the necessity to reflect on the changes taking place since the cease-fire of the Korean War, this article discusses the elements of a new order through analyzing the components of the armistice agreement: (1) scope and parties, (2) arrangement, (3) institutions, and (4) the rules on state boundaries.

### *Scope and Parties*

**The Scope of a New Order:** In the preamble, the armistice agreement articulates that (the parties) "agree to accept and to be bound and governed by the conditions and terms set forth [in the armistice], which said conditions and terms are intended to be purely military in character and to pertain solely to the belligerents in Korea" (Korean War Armistice Agreement 1953). In short, basically the scope to which the armistice agreement is applied is 'belligerents in Korea.' However, it is questionable that a new order's main area should be confined to the peninsula. This is because now the 'balance of forces' of the parties related to the Korean Peninsula as one of elements constituting an order suggested in the theoretical study section is exerted far beyond the peninsula. For instance, North Korea's nuclear and missile capability, the operational area of the U.S. forces and ROK-U.S. Combined Forces and Sino-U.S. relationship affect today's security environment around the Korean Peninsula. If one of the goals of the new order is to maintain stability over the peninsula, it is natural for a new order to reflect these regional and structural factors in so far as they have an effect on the security of Korea.

**Direct Parties:** The preamble and Article II.17 of the armistice agreement name the signatories and direct parties who have the responsibility for compliance with and enforcement of the agreement as follows: the Commander in Chief of the United Nations Command (UNC), Chinese People's Volunteers army (CPV), and Korea People's Army. Given that, a range of questions can be posed over the issue

of the direct parties of a new order such as who will be the direct parties and how the status of the existing parties will be changed. For example, some people argue that a change in the status quo between the two Koreas such as the termination of the Korean War leads to the dissolution of the UNC. However, the operating scope of the current UNC is beyond the Korean Peninsula. The UNC maintains the UNC-rear in Japan with seven bases and UNC-rear provides support combat operations on the peninsula primarily through logistical support and the facilitation of force flow and reinforcements (Chun 2019). Accordingly, from a pragmatic approach, it is difficult to say that a change in the status quo in the Korean Peninsula would be a sufficient cause for the termination of the UNC.<sup>4</sup>

The status of China is also an issue. The CPV is a direct party of the armistice agreement, but they were withdrawn from North Korea in 1958 and China recalled its delegation from the MAC in 1994. In terms of the armistice system, it is possible to say that the status of China is a bit different from North Korea, the United States, and ROK who maintain armed forces on the Korean Peninsula. However, some people view that China has a particular status on the Korean Peninsula considering its relationship with North Korea and its geopolitical proximity. In this respect, when one discusses the issue of direct parties of a new order, the point which one needs to focus on is not whether the parties ought to remain or not but whether they can contribute to the stability of the new order and in order to do so how they need to redefine themselves, if necessary. Given these similar and different statuses of the relevant countries, the role and scope of the participation of the members of a new order should be a theme for discussion in the process of building a new order.

#### *Arrangement and Institutions*

**Security Arrangement:** Under the title of “Concrete Arrangements for Cease-Fire and Armistice,” Article II of the armistice agreement lists the actions for the parties to observe such as the end of the introduction into Korea of reinforcing military personnel (II.13.c), weapons (II.13.d) and rules on the management of the Demilitarized Zone (DMZ) and the frontier areas such as withdrawing of all military forces, supplies, and equipment (II.13.a and b). In the same vein, actual military measures ensuring peace and the implementation of them will be the critical factors for exploring a new order.

For example, it is undeniable that one of the most critical security challenges which the Korean Peninsula faces now is North Korea’s nuclear capability. Accordingly, measures for ensuring North Korea’s denuclearization such as regular verification or on-sight inspections should be incorporated as elements of a new order. In addition, the strike capabilities of Korea’s conventional forces have been dramatically strengthened since the conclusion of the armistice. Accordingly, confidence building measures and confidence security building measure used to control and reduce both sides’ conventional weapons should

also be one of the indispensable steps undertaken to ensure the stability of a new order.

**Managing and Supervising Institutions:** In addition, channels and institutions for consultation on the implementation of the above-mentioned measures also need to be established. The armistice created three commissions charged with implementing, monitoring, and maintaining the ceasefire. These are (1) the Military Armistice Commission (MAC), (2) the Neutral Nations Supervisory Commission (NNSC), and (3) the Neutral Nations Repatriation Commission (NNRC), which ceased its functioning in 1954 after war prisoners were exchanged.

Article II.b of the armistice agreement articulates missions of MAC: “The MAC shall be committed to supervise the implementation of the armistice agreement and to settle through negotiations any violation of the armistice agreement” (II.24). In addition, “the MAC directs the operations of the Joint Observer Teams” (II.25) and “report violations to the Commanders of the opposing sides” (II.29). In fact, the MAC officially held 459 meetings between the year 1953 and 1991.

However, today the MAC does not exercise its original functions. North Korea has refused all further attempts to convene MAC meetings starting in 1991 and the delegations of China and North Korea left in 1994. In spite of the breakdown of MAC when planning a new order, there is a need to discuss whether institutions and channels responding to the originally designed functions of the MAC within the armistice agreement are required; and, if necessary, who the members of the institution will be, which missions the institution will carry out can be an issue for further discussion.

In addition, the MAC was planned to function as a quasi-permanent institution. For example, its Joint Duty Offices under the MAC Secretariat were planned to maintain 24-hour telephone communications between both sides and until 1994 when North Korea left the MAC, the Joint Duty Officers normally met as required.<sup>5</sup> In this respect, if the parties agree to establish a consultation institution such as the MAC when planning a new order, it is considerable to operate it in a permanent manner with the secretariat. A permanent institution accompanied by regular meetings is likely to work as a channel of interaction and as a forum for sharing information. In addition, a permanent organ may provide opportunity for expanding areas of cooperation when the political situation is favorable as the Organization of Security and Cooperation in Europe (OSCE) case has demonstrated. The OSCE holds Permanent Council and the Forum for Security Cooperation on a weekly basis in principle.<sup>6</sup>

In addition, along with the MAC, the Neutral Nations Supervisory Commission (NNSC) was also originally planned as one of the main institutions operating the armistice system. According to Article II.41 the NNSC, “shall carry out the functions of supervision, observation, inspection and investigation.” In addition,

the NNSC through its inspection team, “conduct the supervision and inspection at the ports of entry enumerated in para 43 (of the armistice agreement) and the special observation and inspections provided for in para 28 (of the armistice agreement) at those places where violation of the armistice agreement have been reported” (II.42.c). In other words, as a quasi-third party originally NNSC was projected to work as an independent, fact-finding body which should cooperate with the MAC (Global Security 2011).

The NNSC of the armistice system opens room for discussion on the necessity and role of the third-party actor as supervisor and facilitator in the planning of a new order over the Korean Peninsula. For example, the completion of North Korea’s denuclearization should be an integral part of the Korean Peninsula Peace Regime and it must require technical verification responsive to international standards. The specialized international organization such as the International Atomic Energy Agency can play the role of supervising and inspecting the body.

#### *Territorial Boundary and Inter-Korean Exchanges*

Article I of the armistice agreement describes the boundaries between North and South Korea as follows: the Demilitarized Zone (DMZ) as a buffer area (I.2), the military demarcation line (MDL) defined by the northern and southern boundaries (I.3), and the Waters of Han River Estuary (I.4). If a new order is not established with the full integration of the two Koreas such as through reunification, the boundary between the two Koreas might be discussed. This is because the history of diplomacy demonstrated that the uncertainty in boundaries among the related countries became a source of further conflict.

In fact, there are some points regarding the territorial boundary which the armistice agreement does not make clear. For example, while mentioning a variety of clashes between North-South Korea such as North Korea’s sinking of South Korea’s warship *Cheonan* in March 2010 and North Korea’s bombardment of South Korean Island in November 2010, Some foreign experts such as Narushige Michishita (2015, 29-63) forecasts that the most difficult issue in negotiating a peace agreement is the Northern Limit Line (NLL). In addition, even if the building of a new order is accompanied with the physical integration of the two Koreas such as a reunification, the boundaries between Korea and neighboring countries such as China and Russia need to be re-confirmed for the enforcement of stability given the geographical, historical, and social proximity between the Korean Peninsula and North Eastern provinces of China.

As mentioned above, on the one hand, the more evident the territorial boundary is, the more stable a new order would be. On the other hand, the boundary issue has a delicate aspect as far as the two Koreas define their relations as “not being a relationship between states but a special interim relationship stemming from the process towards reunification.”<sup>7</sup>

In other words, while enhancing the stability, the boundary between the two Koreas should also be open for the possibility for expanding inter-Korean exchanges. In this respect, measures to connect and share railways, roads and civil aviation route can also be an element of a new order which is indirectly and directly related to the boundary issue. In addition, the integration of postal, telephone, and internet network can be discussed as an area of linking 'virtual boundaries' between the two Koreas as well as within the region as a whole.

### Applicable Elements: Preliminary Study of Post-War Order Cases

As mentioned above, this article shows that establishing a new order on the Korean Peninsula is responsive to the universal trend of the history of IR field. The trend is transferring the existing system into a new one when a change in the political status quo takes place. This universal feature opens the possibility for conducting a comparative study between the Korean Peninsula Peace Regime and other cases on the history of diplomacy concerning the building of new orders. Given that, as a preliminary study this section touches other similar cases concerning the building of a post-war regime when a revision in the existing order took place at each level: the Treaty on the Final Settlement with respect to Germany (1990), the so-called '2+4 Treaty' and the State Treaty for the Re-establishment of an Independent and Democratic Austria (1955), also known as the Austria State Treaty. The focus of the preliminary study is to observe applicable elements comparable to the Korean Peninsula Peace Regime.

There are similarities between the Korean question and the German and Austrian case. First, the previous order was made by the so-called 'structural-level' of confrontation of the great powers such as the division of Germany, the trusteeship in Austria by the United States, United Kingdom, France, and the Soviet Union after the end of the World War II. Second, the main motive for building the post-war order was laid on the so-called 'agent-level,' that is to say Germany and Austria.

With regard to the elements applicable to the Korean case, the 2+4 Treaty comprises of the measures used for ensuring regional-level stability.<sup>8</sup> This is because while the main issue of the 2+4 Treaty was German Reunification, the issue was inseparable from the stability in Central Europe at that time. For example, as a general principle, stating in the preamble of the 2+4 Treaty that "recalling the principles of the Final Act of the Conference on Security and Cooperation in Europe (CSCE), signed in Helsinki" and "considering setting up appropriate institutional arrangements within the framework of the CSCE," the parties of the 2+4 Treaty confirmed that the treaty is in the context of the accumulated Pan-European cooperation. Considering the detailed arrangements of defined state boundaries, while confirming the existing border between the

united Germany and Poland, the treaty blocked the probability of a territorial dispute in the historical context (Article I.2). In addition, the treaty made it clear that the united Germany would reduce its armed forces responding to the regional-level confidence and security building measures and in the treaty on Conventional Armed Forces in Europe (Article III). In addition, while stating that, “the right of the united Germany to belong to alliances with all the rights and responsibilities arising therefrom, shall not be affected,” the treaty opened the space for the united Germany to continue being a member of the North Atlantic Treaty Organization (Article VI).

The Austria State Treaty which laid the foundation for the start of Austria as a free and independent state also reflected regional factors.<sup>9</sup> Mentioning the Allied victory over Hitlerite Germany at the preamble, this treaty implied that it is a part of the establishment of a new order in Austria from the World War II. While the Allies (United Kingdom, United States, France, and the Soviet Union) agreed to the withdrawal of their armed forces from Austria, the third section (III) of the treaty had a few instruments blocking a possible revision in Central Europe such as the renunciation by Germany of all territorial and political claims in respect of Austria and restricting the numbers and capability of the Austrian Armed Forces (section II). In addition, Austria agreed with the Allies not to join military alliance with other parties. In fact, Austria declared the country permanently neutral through the revision of its constitution after the complete withdrawal of the Allies’ armed forces. Dr. Deoborah Larson (1987, 27) at the University of California, Los Angeles assessed that the Austrian State Treaty prevented a dangerous confrontation between Western and Soviet troops over control of this strategic territory in the heart of Europe.

In a similar context, some people argue that a new order on the Korean Peninsula should include regional-level measures and the order needs to be connected into regional security cooperation. This is because, given the close relationship between the Korean Peninsula and Northeast Asia in terms of history as well as the distribution of power, the security of the peninsula and the region are mutually reinforcing. For example, addressing the 72nd UN General Assembly, the ROK President Moon Jae-in (2017) stated that “I believe that genuine peace and prosperity in Northeast Asia will begin when the foundation for a Northeast Asian economic community is solidified on one side and multilateral security cooperation is materialized on the other.”<sup>10</sup>

## Conclusion: Experimental Outline of a Peace Regime

This article began with the assumption that the essence of the ongoing sixty-five year-long Korean question which is recently represented by North Korea’s denuclearization issue, is related to the replacement of the existing security

**Table 2.** Outline of the Elements of a New Order, titled Korean Peninsula Peace Regime (KPPR)

Elements in Theory	Elements in Practice
<p><b>Legitimacy</b></p> <ul style="list-style-type: none"> <li>• Common rules on the limits of permissible actions of the parties</li> <li>• Commitment and morality of the parties</li> <li>- satisfactions of the parties to an order</li> </ul>	<ul style="list-style-type: none"> <li>• General principle of the KPPR</li> <li>• Shared goals and rules among the parties</li> <li>• Rights and obligations of the parties</li> </ul>
<p><b>Balance of Forces</b></p> <ul style="list-style-type: none"> <li>• Material/ physical capability of an order itself to limit the challenges</li> </ul>	<ul style="list-style-type: none"> <li>• Geopolitical scope of the KPPR                             <ul style="list-style-type: none"> <li>- concerning the Korean Peninsula/ East Asia and beyond</li> </ul> </li> <li>• Direct and indirect parties of the KPPR</li> <li>• Arrangements for ensuring stability                             <ul style="list-style-type: none"> <li>- limits and permits on military capability and actions</li> </ul> </li> <li>• Institutions/ mechanism for consultation among the parties</li> <li>• Territorial boundary of the KPPR                             <ul style="list-style-type: none"> <li>- concerning inter-Koreas/ Korean Peninsula and beyond</li> </ul> </li> <li>• Social and economic factors for enhancing integration</li> </ul>

Source: Author

system on the Korean Peninsula with a new order, which could be referred to as the Korean Peninsula Peace Regime. Given this assumption, this article experimentally explored the necessary elements to be considered in order to establish a stable security order on the Korean Peninsula.

In order to study the research topic in a systematic manner, this article took its approach from theory and practice. First, the review of literature on building a post-war order such as the writings of Kissinger (2011; 2013; 2015), Schroeder (1989), and Scott (1920) presented theoretical ideas for planning a new security system over the Korean Peninsula. The idea is that as based on the necessary element of legitimacy, the parties need to share mutually agreed upon general principles which the new order seeks and is guided by. In addition, as can be understood through the element of balance of forces, the order needs to be equipped with commonly accepted rules which set the limits of permissible actions and the power to reinforce the rules. Such theoretical review suggests that if the parties are able to share a sense of a community within the order, the stability of the order can be strengthened.

Second, in terms of practice this article analyzed the elements of the Korean Armistice Agreement signed during the Korean War including its scope, parties, arrangements, institutions, rules on territorial boundary and so on. The current situation on the Korean Peninsula originated from the Korean War which has not ended and it is possible to say that a new security order would be continuation of the armistice agreement whilst the format of the continuation might be either

a new start from or succession of the armistice agreement in a developmental manner. Accordingly, when planning a new order, it is helpful to review the characteristics of the armistice agreement while considering the changes which have taken place in the situations which the armistice agreement originally was designed to manage. In addition, this article preliminarily studied other cases in the history of diplomacy related to the building of a new order for the purpose of getting ideas for finding the applicable elements. The 2+4 Treaty of the German Reunification and the Austria State Treaty proposed the necessity and importance of considering a new order in a geopolitically broad context. Table 2 summarizes the potentially useful elements which this article found and proposes for the building of a new order on the Korean Peninsula, a Korean Peninsula Peace Regime.

## Notes

This article was written by the author in his personal capacity. The views and opinions expressed in this article are fully based on the author's personal research.

1. The term 'Korean question' is referred in the Armistice Agreement of the Korean War. The Article IV of the agreement states "a political conference of a higher level...be held... [for] the peaceful settlement of the Korean question" (Korean War Armistice Agreement 1953). In addition, it seems that the term was mentioned in the diplomatic field before and after the conclusion of the armistice. The then-Chinese Foreign Minister Zhou Enlai used the term at the Geneva Conference held in 1954 (Chen and Shen 2011, 20). In this article, quoting Mark Tokola (2019)'s explanation, the term 'Korean question' refers to the question of "how to reunite and bring peace to a Korean Peninsula that had been divided since 1945 and which had just endured three years of devastating warfare."
2. The reason why this article uses the term 'experimental' is that establishing a new order is an ongoing process and one cannot easily anticipate what the final product of the process will look like. In addition, the process should require negotiations among the related parties, which is far beyond the reach of this article. Given this limitation, this article aims to academically prospect what elements should be considered with a view to establishing a stable order.
3. Hedley Bull (1977, 20) defines the concept of order as "patterns or dispositions of human activity that sustain the elementary or primary goals of social life among mankind as a whole." John G. Ikenberry (2001, 23) views this concept as "governing arrangement among states meeting the current demand for order in major areas of concern."
4. While some people argue that the existence of the UNC is valid only as long as the armistice agreement is maintained, others holds that the UNC is one thing and the armistice agreement another. In their opinion, the UNC is an auxiliary body of the UN established by the UN Security Council Resolution(S/1588) dated July 7, 1950, and hence the question of its dissolution should be treated separately from the termination of the armistice agreement or its replacement by a peace agreement (Park 2009, 495).
5. About the detailed activities of the UNC such as how it was planned to work and it

really worked (See UN Security Council 1993).

6. Reviewing the political body of the OSCE, Cohen (1999, 16-17) said that the Permanent Council is the core political body of the European organization. In addition, these institutions of the OSCE offer opportunities for regular consultations and information exchanges among member states. About the OSCE's consultation mechanism as permanent security organization (See Shin 2018, 217-43).

7. For full text see "The Treaty on the Final Settlement with Respect to Germany." Opened for signature September 12, 1990. <https://usa.usembassy.de/etexts/2plusfour8994e.htm> (accessed August 1, 2019).

8. For full text see "The State Treaty for the Re-establishment of an Independent and Democratic Austria." Opened for signature May 15, 1955. [https://www.cvce.eu/content/publication/1999/3/2/5c586461-7528-4a74-92c3d3eba73c2d7d/publishable\\_n.pdf](https://www.cvce.eu/content/publication/1999/3/2/5c586461-7528-4a74-92c3d3eba73c2d7d/publishable_n.pdf) (accessed August 1, 2019).

9. "The Agreement on Reconciliation, Non-aggression and Exchanges and Cooperation between the South and the North." Opened for signature December 13, 1991. United Nations' Peace Agreements Online Database. <https://peacemaker.un.org/korea-reconciliation-nonaggression91> (accessed April 8, 2020).

10. There are peace treaties which include economic benefits to the parties. For example, at the Egypt-Israel Peace Treaty (1979), the two countries agreed to enjoy the right of free passage through the Suez Canal and the Protocol on Qualifying Industrial Zones was followed (2014). The Israel-Jordan Peace Treaty (1994) is similar. The Treaty includes articles about the settlement of the water problem (Article VI) and promoting economic co-operation (Article VII) between Israel and Jordan. The case of the peace treaties in the Middle East demonstrate that economic and social elements can be an important part of the order as they can directly or indirectly contribute to the stability of the new order. For full text see "The Peace Treaty between the State of Israel and the Arab Republic of Egypt." Opened for signature March 26, 1979. <https://peacemaker.un.org/egyptisrael-peacetreaty79> (accessed August 1, 2019); "The Treaty of Peace between The Hashemite Kingdom of Jordan and the State of Israel." Opened for signature October 26, 1994. <http://www.kinghussein.gov.jo/peacetreaty.html> (accessed August 1, 2019).

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