

Eric Yong Joong Lee  
Ridoan Karim

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# Preface

My academic and practical interest in the legal approach to inter-Korean peace building traces back to the mid-1990s when I just began my doctoral research at Erasmus University Rotterdam, The Netherlands. As North Korea declared its withdrawal from the Nuclear Non-Proliferation Treaty at that time, a nuclear crisis was sweeping the world. My then supervisor, Professor Peter Malanczuk, wholeheartedly encouraged me to address the issue of peace in the Korean peninsula from an international legal perspective as my Ph.D. research topic. I recognized it as a historical question because the year 1998 marked the fiftieth anniversary of Korea's division into two parts. While peace loomed with the historic 1994 Geneva Agreed Framework between the US and North Korea, unfortunately, it did not come to the Korean peninsula ultimately. Upon entering the new millennium, the nuclear crisis escalated in the Korean peninsula with both sides blaming the other and often referring to armed attacks. Since the first nuclear weapons test in 2006, North Korea's nuclear capacity and technology have rapidly progressed from 1kt to over 100kt at its sixth test in 2017. For an appreciation of scale, 100kt is at least six times greater than those dropped on Hiroshima. Finally, denuclearization of the Korean peninsula has become one of the few most critical issues of global politics in the twenty-first century.

Since the sixth test in 2017, we have heard of no nuclear tests reported from North Korea. However, it is evident that North Korea has been vying for recognition as a nuclear power to gain political leverage in future negotiations concerning denuclearization. With its nuclear weapons development program, North Korea has been testing the postwar Nuclear Non-Proliferation System, which is the normative ground for peaceful use of nuclear energy. North Korea's strategy to gain leverage continue to come at a significant cost, attracting sanctions from the international community including the UN Security Council. However, North Korea is not enjoying nuclear weapons development even at the expense of its absolute political isolation and total economic collapse. The regime has not so far considered nuclear attacks on the US, Japan, or South Korea, either. Instead, a primary goal of North Korea's nuclear weapons development is to defend its political security and resist the pressure of fundamental regime change, especially following the collapse of the former Soviet

Union and the Eastern Bloc. Given these circumstances, denuclearization would be better realized through a real peace regime in the Korean peninsula, not through sanctions.

After the war, two Koreas entered into an armistice signed on July 27, 1953. Thus, the political status of the Korean peninsula is regarded as a “de facto peace, but *de jure* war.” This contradictory structure could perpetuate a hostile balance rather than a peaceful coexistence. The key to resolving this deadlock is to build “peace as a system” in the Korean peninsula by replacing the armistice with a functional peace treaty. This means the end of the state of war and the beginning of a peace regime including the ultimate denuclearization of the Korean peninsula.

A peace treaty may be generally defined as “an agreement between two or more belligerent parties which formally ends a state of war.”<sup>1</sup> Ideally, a comprehensive, multilateral peace treaty should be entered into by the two Koreas, the US (representing all UN forces) and China. Practically, however, a bilateral peace treaty between the US and North Korea should form an initial ground, not only because the US is the key actor in the Northeast Asian regional politics, but also because North Korea’s primary concern is to rehabilitate its relationship with the US.

Historically, the US has often ended the wars with a surrender by the enemy or a declaration of termination of the state of war. The US practice shows that it has never signed peace treaties to approve an already established regional order, but concluded when doing so might have a significant influence on its strategic interest in a region.<sup>2</sup> In this sense, it is unimaginable for the US to be just a part of a comprehensive peace treaty among the four belligerent parties of the Korean War. A peace treaty between the US and North Korea would thus be an indispensable matrix towards ultimate systemic peace in the Korean peninsula.

In 2018, I published a scientific research article on the US practices concerning peace treaties at the Cornell International Law Journal.<sup>3</sup> In the end of this article, I drafted a possible peace treaty between the US and North Korea titled, “Agreement between the United States of America [US] and the Democratic People’s Republic of Korea [DPRK] on the Termination of the 1953 Armistice, Denuclearization, and Rapprochement.” This draft US-DPRK Peace Treaty contains 26 articles with eight chapters including: the Preamble; Mutual Respect and Recognition (Chap. 1); Termination of the 1953 Armistice (Chap. 2); Military Confidence and Disarmament (Chap. 3); Denuclearization of the Korean Peninsula (Chap. 4); Normalization of Relationship (Chap. 5); Economic Cooperation (Chap. 6); International Commission for Monitoring, Control and Supervision (Chap. 7); and Final Clauses (Chap. 8).<sup>4</sup>

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<sup>1</sup> ABA, Understanding Peace Treaties, [https://www.americanbar.org/groups/public\\_education/publications/teaching-legal-docs/understanding-peace-treaties](https://www.americanbar.org/groups/public_education/publications/teaching-legal-docs/understanding-peace-treaties).

<sup>2</sup> Lee EYJ (2018), The “Peace Treaty” as a U.S. Doctrinal Option and Its Application to the DPRK: A Historical and Analytic Review. Cornell International Law Journal 51(1): 102, <https://scholarship.law.cornell.edu/cilj/vol51/iss1/3>.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid. 140-144 (annex 1).

While I was grateful to receive favorable responses to the article, I further wanted to write a commentary examining each article from a viewpoint of international law, global politics, and regional policy. A great moment luckily came not long before when Dr. Ridoan Karim agreed to coauthor this commentary with me. Dr. Karim is a most promising young legal scholar teaching at Monash University in Malaysia. His precise, insightful, and responsible assistance in drafting this book was enormous. I am grateful to have found such an academic soul mate while working on this research. Without his countless efforts, this ambitious work could not have been completed.

Nearly 70 years have passed since the Korean War ended with the armistice, but the Korean peninsula is still officially at war. With rapid changes in domestic and international circumstances, however, the time has come to replace the armistice with a peace treaty. The authors suggest the US-DPRK Peace Treaty as the most plausible initial step to establish *de jure* peace on the Korean peninsula. We hope our contribution can be a firm steppingstone for the painstaking peace-making process which includes a complete, verifiable, and irreversible dismantlement of nuclear weapons in the region.

We are beholden to Mr. Sivananth S. Siva Chandran and Ms. Anushangi Weerakoon at Springer Nature for this publication. The views reflected in this book are our own. Eric Yong Joong Lee takes a prior responsibility for any shortcomings and omissions in this work.

Seoul, Korea (Republic of)  
Kuala Lumpur, Malaysia  
2022

Eric Yong Joong Lee  
Ridoan Karim

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# **Agreement between the United States of America and the Democratic People’s Republic of Korea on the Termination of the 1953 Armistice, Denuclearization and Rapprochement**

The United States of America (“USA”) and the Democratic People’s Republic of Korea (“DPRK”) (hereinafter “Contracting Parties”),

*Recognizing* that peace and stability on the Korean peninsula is the foundation for the prosperity and security in Northeast Asia, and the world;

*Recalling* that the hostilities of the past decades have posed grave threats to the peaceful co-existence of States on the Korean peninsula;

*Respecting* the principle of the United Nations Charter regarding the peaceful settlement of international disputes, the spirit of the Geneva Agreed Framework, and the September 19 Joint Statement on the abandonment of the nuclear weapons development program of the DPRK in a peaceful manner;

*Reaffirming* that the denuclearization of the Korean peninsula is an indispensable requirement for the contemporary international community;

*Requiring* the termination of the 1953 Armistice and the normalization of the relationship between the Contracting Parties to establish eternal peace in this region;

HEREBY have agreed to the following provisions:

## **Chapter I: Mutual Respect and Recognition**

### Article 1

The Contracting Parties shall respect the sovereignty, political independence and territorial integrity of the other Party. Both parties agree not to insult or provoke each other.

### Article 2

The Contracting Parties shall make efforts to promote peaceful exchanges and cooperation under international law.

## **Chapter II: Termination of the 1953 Armistice**

### Article 3

The Contracting Parties agree that the Armistice Agreement concluded on July 27, 1953 shall be terminated and immediately replaced by this Agreement effective from the date of its entry into force.

### Article 4

The USA shall effectively disassemble the United Nations Command stationed in the Korean peninsula conclusively upon consultation with the United Nations.

### Article 5

The Contracting Parties shall closely cooperate to maintain peaceful coexistence between them following this Agreement.

## **Chapter III: Military Confidence and Disarmament**

### Article 6

The Contracting Parties shall refrain from the threat or the use of force against the other Party under any circumstances. All disputes shall be resolved by peaceful means as recognized under international law.

### Article 7

The USA shall not deploy any strategic weapons of mass destruction in the Korean peninsula and the DPRK shall discontinue the development and launch of long range missiles.

### Article 8

1. The Contracting Parties shall not undertake any large scale military exercise in the Korean peninsula. In the interest of preventing military hostilities or surprise attacks, any troop deployment, movements of military personnel or any military training exceeding the scale agreed to by both Parties shall be reported to the other's military authority in advance.
2. To boost mutual military confidence, Contracting Parties may directly communicate with each other through any convenient or reasonable means of communication, and exchange military personnel and information without prejudice.

3. The military authorities of each Contracting Party may facilitate the exchange of liaison officers for the mutual confirmation of military confidence.
4. Contracting Parties shall consult with each other to set up the joint control of maritime areas in both the Yellow Sea and the East Sea of Korea.

#### Article 9

The Contracting Parties shall retreat the heavy weapons and military personnel which can be used for surprise attacks from the Demilitarized Zone. Both Parties shall consult with the Republic of Korea on this matter.

#### Article 10

1. The Contracting Parties shall operate a Council of Disarmament to be organized by both Parties jointly, together with the Republic of Korea, the People's Republic of China, Russia and Japan.
2. The Contracting Parties shall consult with each other for the details of military confidence building.

### **Chapter IV: Denuclearization of the Korean Peninsula**

#### Article 11

1. The DPRK shall dismantle and abandon its nuclear weapons development program in a complete, verifiable, and irreversible manner. Any experiment, test, development, storage, deployment, or use of nuclear weapons shall be prohibited in the territory of the DPRK or anywhere on the earth.
2. The DPRK shall return to the Non-Proliferation of Nuclear Weapons Treaty ("NPT") system, assuming full responsibilities and obligations therein within three months from the entry into force of this Agreement.
3. Upon the entry into force of this Agreement, the DPRK shall cooperate with the International Atomic Energy Agency ("IAEA") to facilitate and comply with safeguard inspections of the nuclear facilities in the DPRK.
4. The DPRK shall open its nuclear sites and provide access to the IAEA for inspections under Article 12(B) to the IAEA Statute and to the USA in an effort to verify the abandonment of DPRK's nuclear weapons development program.
5. The Contracting Parties shall respect the accords under the Geneva Agreed Framework and the September 11 Joint Statement for dismantling the Nuclear Weapons Development Program of the DPRK.

## Article 12

1. The USA shall not attack, try to attack, or threaten attacking at any level, the DPRK with nuclear weapons under any circumstances.
2. The USA shall not take any action for the proliferation of nuclear weapons in the Korean peninsula including import, storage, test, deployment, operation, or transfer of nuclear weapons or any other related nuclear material with a view to use it for the military purpose.

## Article 13

The Contracting Parties shall make a *bona fide* effort to establish a nuclear weapon free zone on the Korean peninsula.

# Chapter V: Normalization of Relationship

## Article 14

The Contracting Parties shall agree to suspend diplomatic, and political hostility toward the other Party and set up a friendly relationship based on mutual respect for state sovereignty under international law.

## Article 15

The Contracting Parties shall establish diplomatic ties at the ambassadorial level in an expedited manner. Each Party will establish a liaison office in the other's capital city for handling practical issues, including consular affairs.

## Article 16

The USA shall assist and support the DPRK's efforts to join regional and international organizations to fully participate in international affairs.

## Article 17

The DPRK shall release all American citizens detained in its territory with immediate effect upon the entry into force of this Agreement, and assist the USA to excavate the remains of US military personnel.

## Article 18

The Contracting Parties shall promote exchanges and cooperation in culture and sports.

## **Chapter VI: Economic Cooperation**

### Article 19

The USA shall lift with immediate effect upon the entry into force of this Agreement, economic sanctions placed against the DPRK through the United Nations Security Council Resolutions.

### Article 20

The USA shall remove with immediate effect upon the entry into force of this Agreement its ban and any other alienating restrictions on the exports of strategic goods to the DPRK.

### Article 21

The Contracting Parties shall promote trade and investment in the other's territory.

### Article 22

The USA shall aid the DPRK in tackling the energy shortage of the DPRK. Details of such assistance will be negotiated between the Parties based on the Geneva Agreed Framework.

## **Chapter VII: International Commission for Monitoring, Control and Supervision**

### Article 23

1. The Contracting Parties shall organize an international commission for the monitoring, controlling, and supervision of the implementation of obligations undertaken by both Parties under this Agreement.
2. The international commission under Article 23(1) shall be composed of representatives of the USA, the DPRK, the Republic of Korea, the People's Republic of China, Russian Federation, Japan under the supervision of the United Nations.

## **Chapter VIII: Final Clauses**

### Article 24

1. This Agreement shall enter into force on the date of ratification by both Parties.
2. The English and Korean texts of this Agreement are both original and are equally authentic, are to be deposited with both governments as well as the United Nations.

### Article 25

Each Contracting Party shall enact all necessary domestic legislation to strictly implement the obligations undertaken in this Agreement.

### Article 26

This Agreement may be modified by mutual accord.

DONE at Place, on DD/MM/YYYY

For the Government of the United States of America

(Signed):

For the Government of the Democratic People’s Republic of Korea

(Signed):



# Preamble

The United States of America (“USA”) and the Democratic People’s Republic of Korea (“DPRK”) (hereinafter “Contracting Parties”),

*Recognizing* that peace and stability on the Korean peninsula is the foundation for the prosperity and security in Northeast Asia, and the world;

*Recalling* that the hostilities of the past decades have posed grave threats to the peaceful coexistence of States on the Korean peninsula;

*Respecting* the principle of the United Nations Charter regarding the peaceful settlement of international disputes, the spirit of the Geneva Agreed Framework, and the September 19 Joint Statement on the abandonment of the nuclear weapons development program of the DPRK in a peaceful manner;

*Reaffirming* that the denuclearization of the Korean peninsula is an indispensable requirement for the contemporary international community;

*Requiring* the termination of the 1953 Armistice and the normalization of the relationship between the Contracting Parties to establish eternal peace in this region.

## Introduction

The preamble to the draft Agreement between the United States of America and the Democratic People’s Republic of Korea on the Termination of the 1953 Armistice, Denuclearization, and Rapprochement (US-DPRK Peace Treaty) contains five critical elements including the treaty’s functional sections. Preambles to treaties are introductory statements outlining the treaty’s goal, underlying philosophy, drafter’s aim, and historical development.<sup>5</sup>

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<sup>5</sup> Art. 31(1) of the Vienna Convention on the Law of Treaties (VCLT). 1155 U.N.T.S. 340. See also Haraszti G (1973) Some Fundamental Problems of the Law of Treaties. *Akademiai Kiado*, 106–107. The word ‘preamble’ comes from Medieval Latin ‘praeambulum’ and Late Latin ‘praeambulus,’ both of which imply ‘going before.’ It consists of provision (or series of clauses) at the start of a contract that defines the treaty’s purpose, goal, and/or grounds for adoption, and aids for its

The preamble aids in treaty interpretation, as observed by the International Criminal Court Appeals Chamber remarked “the wider aims of the law as may be gathered from its preamble and general tenor of the treaty.”<sup>6</sup> And, while preambular paragraphs do not confer specific rights and obligations due to their characteristic hortatory language, as explained in the ICRC Commentary to Geneva Convention IV, the preamble frequently facilitates the interpretation of particular provisions that are less precise than they should be by indicating the general idea behind them and the spirit in which they should be applied.<sup>7</sup>

The preamble of a treaty summarizes the aims and factors that motivated the parties to negotiate the treaty. A preamble is often composed of a series of secondary clauses (*considérants*) that begin with ‘Recognizing’, ‘Recalling’, ‘Respecting’, ‘Reaffirming’, ‘Requiring’, and so on. Additionally, the preamble may provide the parties’ objectives for finalizing the treaty by detailing the foundations of their past, present, and future interactions with respect to the agreement. Thus, preambles serve as indicators of the parties to a treaty’s aim. Preambles may aid in the crystallization of an international norm and ensure the preservation of human rights, values, and public conscience mandates.

## History (1953–2019)

Modern armed conflicts have been resolved politically and legally through peace treaties. War begins primarily in history as a demonstration of the human drive for violence; nonetheless, war takes artificial labor to end.

Under international law, an armistice is a product of human wisdom.<sup>8</sup> There are various ways to terminate an armed battle, including capitulation, unilateral declarations of peace, peace treaties, and armistice agreements. Wars aided enormously in the expansion of the United States (“US”), with comparatively few “defensive” acts occurring throughout its history. Because the US was often victorious in achieving its war objectives, the majority of conflicts ended with an enemy retreat or a declaration of victory. Peace accords are highly acknowledged for their substantial impact on

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interpretations. See (1993) *The New Shorter Oxford English Dictionary on Historical Principles* 2. Oxford University Press, 2323; ‘Preamble’ in Garner BA (2009) *Black’s Law Dictionary*. West.

<sup>6</sup> Situation in Democratic Republic of the Congo, Judgment on the Prosecutor’s Application for Extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision Denying Leave to Appeal, ICC-01/04-168 (13 July 2006) para. 33. The VCLT provides that international agreements are to be interpreted in accordance with the ordinary meaning of their terms, in their context, and in light of their object and purpose. See Art. 31(1) of VCLT. Further, the negotiating history of an agreement is a ‘supplementary’ means of interpretation, to be used when the meaning of a provision is ambiguous or obscure. Art. 32 of VCLT.

<sup>7</sup> ICRC (1958) *Commentary to the Convention (IV) relative to the Protection of Civilian Persons in Time of War*, Preamble; ICRC (2016) *Commentary to Convention (IV) relative to the Protection of Civilian Persons in Time of War*, Preamble.

<sup>8</sup> Neff SC (2005) *War and the law of nations: A general history*. Cambridge University Press.

an area of geopolitical interests. As a result, peace treaties became a major feature of US political and legal philosophy. Since the late eighteenth century, the United States has signed roughly twenty peace treaties, including ten that are now undergoing mediation.<sup>9</sup> As the 1919 Treaty of Versailles and the 1952 San Francisco Peace Treaty indicate, both negotiations changed the regional order fundamentally.<sup>10</sup>

A hypothetical peace treaty between the United States and the Democratic People’s Republic of Korea (“DPRK”) might serve as a solid and initial foundation for establishing a peace regime on the Korean peninsula—one of the world’s most vital, hazardous, and sensitive places. A potential treaty would have legal, political, and practical ramifications.<sup>11</sup> Thus, this commentary on the possible treaty will provide new insights, both in an academic and practical manner, for each stakeholder to analyze the current situation and how a treaty like this between the US and the DPRK could alter the overall legal and political landscape.

### *The Korean Armistice Agreement*

Armed hostilities in the Korean War ceased on July 27, 1953, with the signing of an Armistice Agreement between the UN Command (headed by US troops) and the communist side (headed by the DPRK and Chinese Voluntary Army). However, the armistice created merely a “complete cessation of all hostilities in Korea by all armed force[s]”<sup>12</sup> along the Korean peninsula’s Demilitarized Zone (“DMZ”), which was to be implemented by both sides’ commanders. It was not a *de jure* cessation of hostilities between governments, but rather a cease-fire between armed troops.<sup>13</sup> Both sides did not agree on any basic proposals for completely ending the war in the armistice, but instead saved them for “a political conference of a higher level of both sides.”

The Korean Armistice Agreement’s Clause 60 states:

In order to insure the peaceful settlement of the Korean question, the military Commanders of both sides hereby recommend to the governments of the countries concerned on both sides that, within three (3) months after the Armistice Agreement is signed and becomes effective, a political conference of a higher level of both sides be held by representatives appointed respectively to settle through negotiation the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc.<sup>14</sup>

<sup>9</sup> U.S. Department of State (2017) Treaties in Force. <https://perma.cc/7879-YW9U>.

<sup>10</sup> Lee, EYJ (2018) The “Peace Treaty” as a U.S. Doctrinal Option and Its Application to the DPRK: A Historical and Analytic Review. *Cornell International Law Journal* 51:101.

<sup>11</sup> Lee EYJ (2003) Establishment of a De Jure Peace on the Korean Peninsula: Inter-Korean Peace Treaty-Making under International Law. *Asian Yearbook of International Law* 8:77–104.

<sup>12</sup> Art. II(A) of Korean Armistice Agreement.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.* clause 60.

## *Geneva Peace Conference of 1954*

From April 26 to July 20, 1954, the Geneva Conference took place. The conference's primary objective was to promote peace on Indochina and the Korean peninsula.<sup>15</sup> According to Clause 60 of the Armistice Agreement, both sides in the Korean War met in the Conference; however, there was minimal agreement on the Korean issue.<sup>16</sup> They should have concentrated on a "peace treaty," but instead engaged in cross-firing over the armistice's implementation parameters.<sup>17</sup> Finally, no productive outcomes were achieved. In Geneva, the South Korean envoy asked that his government be recognized as the sole legitimate government on the Korean peninsula; sought the UN-supervised elections in the North; pushed for China's withdrawal of soldiers; and pleaded for UN forces to stay as a police force.<sup>18</sup> Conversely, the North Korean representative draft that elections be held throughout Korea; all foreign forces be evacuated prior to the elections; the elections be run by an all-Korean Commission comprised of equal representation from North and South Korea; and economic and cultural ties between the two sides be strengthened.<sup>19</sup> The Chinese delegation suggested that the elections be overseen by a committee of "neutral states."<sup>20</sup> The US argued that the Soviet Union sought to establish a puppet state in North Korea.<sup>21</sup> The Soviet Union and the People's Republic of China reaffirmed their support for a united, democratic, and independent Korea on June 15. They urged that discussions should restart at the earliest possible opportunity.<sup>22</sup> They never agreed on anything till the very end.

## *Geneva Agreed Framework (1994)*

The US maintained a protracted confrontation with North Korea until the late 1980s. Such antagonistic ties precluded either party from referring to a peace agreement.<sup>23</sup>

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<sup>15</sup> Donelan, MD & Grieve, MJ (1973) *International Disputes*. 61; Goodrich SS (1959) *The Nature and Function of International Organization*. Oxford University Press, 261; U.S. Department of State Bulletin (1 March 1954), 317–318.

<sup>16</sup> Sound and the Fury—The 1954 Geneva Conference on Vietnam and Korea. Association for Diplomatic Studies & Training. <https://adst.org/2015/06/sound-and-the-fury-the-1954-geneva-conference-on-vietnam-and-korea>.

<sup>17</sup> Ibid.

<sup>18</sup> Srivastava, MP (1982) *The Korean Conflict: Search for Unification*. Prentice Hall of India, 69–70; U.S. Department of State (1981) *Foreign Relations of the United States 1952–1954 (Vol. XVI), The Geneva Conference*. U.S. Government Printing Office, 131–134.

<sup>19</sup> Srivastava *ibid.* at 220. U.S. Department of State *ibid.* at 134.

<sup>20</sup> Bailey, S (1992) *The Korean Armistice*. 167–168.

<sup>21</sup> Ibid. at 163.

<sup>22</sup> U.S. Department of State *op. cit.* 14. at 235–237.

<sup>23</sup> United States-North Korea Relations. Wilson Center Digital Archive. <https://digitalarchive.wilsoncenter.org/collection/I18/united-states-north-korea-relations>.

Ironically, the tipping moment occurred in 1992, during North Korea's nuclear issue. When the IAEA conducted inspections of North Korea's nuclear facilities, it discovered that the country might be accumulating radioactive waste from plutonium extraction.<sup>24</sup> By March 25, 1993, the Agency asked North Korea to reopen the two suspected locations for the special examination.<sup>25</sup> After months of deliberation, North Korea notified its withdrawal from the Nuclear Non-Proliferation Treaty (NPT) and the Safeguard Agreement on March 12, 1993,<sup>26</sup> and from the IAEA in June 1994.<sup>27</sup> North Korea's move posed a significant threat to the IAEA's Safeguard and, more fundamentally, to the postwar non-proliferation system as a whole. The tension between the United States and North Korea deteriorated long before a military confrontation.<sup>28</sup>

However, this nuclear confrontation was temporarily averted by lengthy diplomatic discussions that culminated through the signing of the Agreed Framework in Geneva on October 21, 1994.<sup>29</sup> The US agreed to supply North Korea with the light-water reactor (LWR) in exchange for North Korea abandoning its nuclear weapons development program in accordance with the NPT framework.<sup>30</sup> Even more significantly, the Geneva Agreed Framework provides important measures for the establishment of a complete peace regime. The US promised under Article II to "work toward complete normalization of political and economic ties" with North Korea.<sup>31</sup> The US also announced tangible enforcement steps aimed at lowering trade and investment obstacles,<sup>32</sup> and both countries intended to establish a liaison office in Pyongyang.<sup>33</sup> They also agreed in Article III (3) to elevate bilateral ties to the ambassadorial level to conclude a peace treaty.<sup>34</sup> Regrettably, the Geneva Agreed

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<sup>24</sup> Lee, EYJ (2004) The Six-Party Talks and the North Korean Nuclear Dispute Resolution under the IAEA Safeguards Regime. *Asian-Pacific Law and Policy Journal* 5:104.

<sup>25</sup> Lee, EYJ (2010) The Complete Denuclearization of the Korean Peninsula. *Chinese Journal of International Law* 9:803.

<sup>26</sup> Although the DPRK announced its decision to withdraw from the NPT, but in June 1993 "suspended the effectuation" of that withdrawal. See IAEA The DPRK's Violation of its NPT Safeguards Agreement with the IAEA. Excerpt from Fischer D (1997) *History of the International Atomic Energy Agency*. IAEA. <https://perma.cc/4WTZ-84AP>.

<sup>27</sup> IAEA believed that the withdrawal did not affect the DPRK obligations under its Safeguards Agreement; however, the DPRK took the position that it was in a special position with regard to the Safeguards Agreement and that it was no longer obliged to allow the inspectors to carry out their work under the Safeguards Agreement. See *Ibid.* at 2.

<sup>28</sup> Lee, EYJ (2002) *Legal Issues of Inter-Korean Economic Cooperation under the Armistice System*. Kluwer, 50–51.

<sup>29</sup> IAEA (2 November 1994) Agreed Framework of 21 October 1994 between the United States of America and The Democratic People's Republic of Korea. <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1994/infcirc457.pdf>.

<sup>30</sup> *Ibid.* arts. I & IV.

<sup>31</sup> *Ibid.* art. II.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

**Table 1** Major Articles of Geneva Agreed Framework of 1994 (Summary)

I	Both sides will cooperate to replace the DPRK's graphite—moderated reactors and related facilities with light-water reactor (LWR) power plants
II	The two sides will move toward full normalization of political and economic relations
III	Both sides will work together for peace and security on a nuclear-free Korean Peninsula
IV	Both sides will work together to strengthen the international nuclear non-proliferation regime

Framework was not implemented completely.<sup>35</sup> However, these accords marked a change in the US strategy toward North Korea to a more cooperative course (Table 1).

### *The September 19 Joint Statement*

When the Bush administration regarded North Korea as a “grave threat to the peace and security of Northeast Asia,” the US policy toward North Korea shifted radically.<sup>36</sup> Their standoff became more severe when President Bush named North Korea, along with Iran and Iraq, as a member of an “axis of evil.”<sup>37</sup> As North Korea confirmed its nuclear weapons development program obliquely, the situation deteriorated. In response to North Korea’s hostile behavior, the US implemented a “tailored containment strategy” that culminated in political and economic sanctions on the country toward the end of 2002.<sup>38</sup> It was seen as a major danger to North Korea’s “supreme national interest.”<sup>39</sup> North Korea eventually notified its withdrawal from the NPT effective as of 11 January 2003.<sup>40</sup> This “chicken game” was eventually resolved during the Six-Party discussions. On September 19, 2005, the Fourth Round of the Six-Party Talks issued a Joint Statement reaffirming “the verifiable denuclearization of the Korean Peninsula in a peaceful manner.”<sup>41</sup> (Table 2).

<sup>35</sup> Lee, E. (2010) Operation ‘Denucleunification’: A Proposal for the Reunification and Denuclearization of the Korean Peninsula. *Hastings International and Comparative Law Review* 33:257.

<sup>36</sup> Lee, op. cit. 21. at 804.

<sup>37</sup> The President’s State of the Union Address (29 January 2002) <https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html>.

<sup>38</sup> Ibid. at 115; Raines E (2004) North Korea: Analyzing the “New” Nuclear Threat. *Cardozo International & Comparative Law Review* 12:372.

<sup>39</sup> Lee, op. cit. 20. at 115.

<sup>40</sup> Lee, op. cit. 21. at 805.

<sup>41</sup> U.S. Department of State (19 September 2005) Joint Statement of the Fourth Round of the Six-Party Talks. Art. 1. <https://perma.cc/DC2W-9QCJ>.