

BRIEF:

Why the Armistice Should Be Replaced with a Peace Agreement

A peace agreement is a binding and final recognition of the end of wartime rights to use force. Such an agreement is an essential first step in resolving the dangerous and costly nuclear standoff in Korea.

1. Failing to end the Korean War has fueled an unsustainable security crisis.

- a. The state of war undermines security by maintaining a low-trust, low-communication environment, with few safeguards against an intentional or accidental escalation. If fighting broke out today, it is estimated as many as 300,000 people could die in the first days of conventional fighting, and that number could swell to millions in the event of a nuclear confrontation.
- b. The state of war also carries ongoing and immediate human costs as governments divert resources to the military and curtail rights and liberties in the name of national security.

2. A peace agreement is essential to build trust and solve the crisis diplomatically, as it would recognize once and for all that wartime rights to use force have ended.

- a. International legal rules that govern the use of force are more permissive during a state of war than a state of peace. Ending the Korean War would significantly raise the bar for the use of force.
- b. For a peace agreement to qualify as a legal end to a state of war, the parties involved must intend for the agreement to be binding under international law and a final settlement of war.

3. A peace agreement is the clearest available expression of the parties' sincerity in building toward a fair, lasting, and stable peace regime.

- a. Unlike peace agreements, "end-of-war declarations" or non-aggression agreements do not necessarily end a state of war. While they provide limited trust and security, they can help build political momentum toward peace.
- b. A normalization agreement addresses the establishment of diplomatic relations, not necessarily the question of use of force. However, normalization may demonstrate that states tacitly recognize a state of peace.

4. A peace agreement should include the United States and the two Koreas.

- a. The participation of the United States in a trust-building peace agreement is essential, as the country remains one of the parties most susceptible to be engaged in the use of force in Korea. US participation is not a question of legal obstacles, but of political will.
- b. The participation of the two Koreas is essential. Although the two Koreas do not share full mutual recognition, it is possible for belligerents who do not fully recognize each other to conclude peace agreements.
- c. The participation of other combatant members of the UNC intervention force or of China is not strictly necessary. They have almost all already normalized relations with the relevant parties of the war.

