

# How to deal with North Korea: Lessons from the JCPOA

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# How to deal with North Korea: Lessons from the JCPOA<sup>1</sup>

Sverre Lodgaard

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<sup>1</sup> I am indebted to Leon Sigal for his incisive comments. See, in particular, his “Getting What We Need With North Korea”, [Arms Control Today](#), April 2016.

## **Stuck in crime and punishment**

North Korea tests; the UN Security Council convenes; the world condemns; more sanctions are initiated; China negotiates with the US to dilute the sanctions; the United States discusses military countermeasures with its Asian allies – and North Korea continues its nuclear and missile programs. The same cycle is repeated over and over again in a crime and punishment mode.

There is nothing to indicate that this approach works as intended. At a press conference on February 23, 2016, when the latest round of sanctions was announced, Chinese foreign minister Wang Yi and US Secretary of State John Kerry admitted as much: “(sanctions) cannot provide a fundamental solution to the Korean nuclear issue” (Wang) and “..repetitive punishments...do not lead anywhere” (Kerry).<sup>2</sup>

A different approach is needed. In addition to 25 years of experience in dealing with the North Korean nuclear problem, some lessons can be drawn from the negotiation of the Joint Comprehensive Plan of Action (JCPOA) between the big powers and Iran.

## **The role of sanctions**

When UN sanctions were first imposed on Iran in 2006, a few hundred centrifuges were installed. The sanctions were ramped up four times and comprehensive US and EU economic and financial sanctions were added. Yet, when Hassan Rouhani was elected president in 2013, the number of centrifuges had increased to 19 000. The evidence flies in your face: the sanctions did not stop the nuclear program.

However, when realistic expectations of sanctions relief emerged, Iran offered its fair share of concessions and compromises to make an agreement possible. Then – and only then – did the sanctions function the way they were meant to do. In other words: for sanctions to be instrumental, there has to be a real possibility of lifting them. In the case of North Korea, that prospect has been missing.

Of course, North Korea is very different from Iran. Iran is outward oriented and well trained in the conduct of international affairs. Its foreign trade is comprehensive, and its oil and gas export is rapidly approaching pre-sanctions level. It represents a proud civilization and felt underestimated and humiliated by the derogatory treatment it was exposed to. In the face of comprehensive sanctions, it had to go for more self-reliance

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<sup>2</sup> Remarks With Chinese Foreign Minister Wang Yi, U.S. Department of State, Washington, DC, February 23, 2016.

– often referred to as “resistance economy” - but it longed to be reintegrated and accepted by the international community as a sovereign state with its own legitimate interests.

By contrast, under its founding father Kim Il Sung the North Korean regime purified its *juche* doctrine of self-reliance and willingly isolated itself not to be exposed to values and lifestyles that could undermine it. Economic sanctions do bite in North Korea, too, but to a much smaller extent than in the case of Iran. The reasons are historical and cultural as well as economic.

In Iran, the UN sanctions were perhaps more important for their political than for their economic impact, projecting pariah status not only on entities and individuals but, per implication, on the Iranian nation. What hit the Iranian economy hardest were the comprehensive US and EU economic and financial sanctions. During the negotiation of the JCPOA, they were the main bargaining cards of the Western powers.

Translated to the case of North Korea, what comes closest to the Western economic and financial sanctions would be a signal from China that in the face of continued recalcitrance, it might terminate its policy of engagement and sheltering: if you do not accommodate and curtail your nuclear and missile programmes, the (modest) cooperation that exists will be terminated. You would be on your own, and can no longer count on us to be your lifeline. So far, China has been steadfast in its policy of engagement, protecting the regime to keep the US at a distance. However, different from the policy toward Taiwan, which is elevated above public scrutiny, the policy toward North Korea is a legitimate subject of debate. The critical voices are plenty, so a policy shift may not be all that far-fetched.

Still, to convince the Chinese to ramp up the sanctions *in advance* of renewed talks is a long shot. China thinks the problem is not just North Korea, but the US as well, so absent a genuine US willingness to go for a diplomatic solution it is unlikely to put much more pressure on the North. What may be done during a negotiation is another matter. If the US shows a clear interest in negotiating a comprehensive deal, the choice between loss of its sole supporter and comprehensive sanctions relief may convince Pyongyang to go an extra mile on arms control to get an agreement.

### **Preconditions for negotiations**

After 35 tense years, when Iran and the United States were each other's number one enemies for much of the time, they managed to start constructive negotiations without conditions on the basis of mutual respect. The result bears witness to what became a win-win negotiation: the parties got the most in the areas that mattered most to them, arms control for the United States and sanctions relief for Iran.

Once again, North Korea is different. It is customary to perceive of North Korea as aggressive and potentially irrational, but it was never US enemy number one. When Pyongyang took actions that worried Japan and South Korea, the US reached out to support its allies, but without the bellicosity directed at Iran. In-between the flare-ups, North Korea was a curiosity that the US could afford to ignore: then, the North Koreans sometimes took to provocations to “wake the US up”. Often, inaction was also due to the fact that South Korea and Japan did not want it to make deals with the North.<sup>3</sup> George W. Bush lumped North Korea together with Iran and Syria in the “axis of evil”, but the Iranian evil was clearly of a higher political order. Unwavering US support for Israel accounts for much of the difference.

Only recently has North Korea emerged as a direct military threat to US bases and allies in East Asia. A new consensus is emerging in the US intelligence community that North Korea is able to place nuclear warheads on missiles of modest range (dissenting voices remain). As of June, 2016, however, all tests of the medium-range Musudan, which could reach Guam, had more or less failed, and no intercontinental missile has been flight-tested so far. It probably takes many more years to mount a potent threat to the US homeland.

Still, freezing the programme has become a matter of some urgency. Washington has tried to obtain a commitment to denuclearization – e.g. a freeze on nuclear and missile testing and fissile material production – making this a pre-condition for negotiations. This position has now been amended to a willingness to sit down with Pyongyang (without conditions), to discuss US preconditions for negotiations.<sup>4</sup> North Korea has proposed a halt in nuclear testing in return for a halt in US-South Korean military exercises, but Washington has asked it to do more and do better than communicating through the media.

In a sense, time is on North Korea’s side. The closer it comes to a capability to threaten US and allied assets, the more important it becomes to get a deal blocking that eventuality. This is reflected in the sequence in which the parties want to address the issues involved: while the US wants some denuclearization commitments first, North Korea gives priority to normalization and a peace treaty.

Time is of the essence for China as well. The more the North Korean programme advances and the stronger the US countermeasures, the more China is affected. When the US says North Korea, China is implicated. US build-up in its vicinity – of missile defence in particular - undermines its security. In a comprehensive negotiation, China may therefore be willing to enhance its pressure on North Korea. The Chinese chair

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<sup>3</sup> The exceptions were South Korean Presidents Kim Dae Jung and Roh and Japanese Prime Minister Koizumi.

<sup>4</sup> Sigal, *op.cit.*

of the suspended six-power talks holds that both sets of issues – denuclearization and normalization - must be addressed simultaneously, and it favours negotiations without preconditions.

How North Korea weighs its interests in normalization and economic growth vs further development of a nuclear deterrent capability, we do not know. The only way to find out is for the US to negotiate and keep its end of the bargain and see if they do. North Korea is biding its time to negotiate at an opportune moment, but it is an open question whether or to what extent it will acquiesce to nuclear constraints to get comprehensive negotiations going.

### **Probes**

If pre-conditions cannot be agreed, probes of seriousness in striking a deal become all the more important, and not only for the US: The North Koreans, too, must be reassured that the US is serious about normalization.

Prior to Rouhani's election and the subsequent negotiation of the JCPOA, Iran and the US met in secret in Oman to test the waters for a negotiated settlement. Oman has an interesting history as a diplomatic go-between, and rendered its services to the parties' satisfaction.<sup>5</sup> A new round of negotiations with North Korea also has to be preceded by extra efforts to establish the realism of a policy shift and what it may be about. In view of all the disappointments of the past, this is a must.

Kim Jong Un says he would enhance nuclear deterrence and improve people's standard of living. He inherited the nuclear priority from his father Kim Jong Il, but is more outspoken on the second objective. The thinking appears similar to be that of the big powers during the Cold War (before the huge clean-up costs of nuclear weapons production were addressed): nuclear weapons are less expensive than conventional ones, providing "bigger bang for the buck". North Korea has the fourth largest army in the world with 700 000 active frontline personnel and 4.500.000 reserves – a formidable drain on resources. In part, a functioning nuclear deterrent may substitute for conventional forces and, therefore, free resources for use in civilian sectors.

Obviously, access to international markets can also do much to raise the living standard of ordinary North Koreans. When the Cold War ended; the Soviet Union collapsed; and China looked in all other directions than North Korea, Kim Il Sung tried to improve relations with the

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<sup>5</sup> Jeremy Jones, «Oman's quiet Diplomacy», February 2014. Available at <http://www.nupi.no/en/Publications/CRIStin-Pub/Oman-s-Quiet-Diplomacy>

United States, Japan, South Korea and others, but the nuclear programme came in the way. Ever since, Pyongyang has sought to end the conflict with its arch enemies.

However, sanctions relief and economic normalization may not be among his most acute concerns. After all, the North Korean economy is growing, however slowly. The leadership probably believes that it can muddle along while waiting for a comprehensive political settlement along the lines envisioned in the September 2005 six-party joint statement. Yet Kim's emphasis on people's standard of living would seem to pull him in the direction of an economic opening to the world. The question is to what extent, the traditional assumption being that the benefits of international interaction are weighed against perceived threats to the regime's survival.

A better understanding of leadership priorities is essential to set future negotiations on a realistic track. The Omani example is worth replicating, in bilateral and/or multilateral form.

## Scope

The Framework Agreement of 1994 committed the US and North Korea to move

toward normalization of economic and political relations, including by reducing barriers to investment, opening liaison offices, and ultimately exchanging ambassadors. In essence, however, the agreement centred on the nuclear sector. North Korea would receive two large LWRs while phasing out its indigenous nuclear installations. Pending completion of the reactors, North Korea would receive fuel oil.

Over the years, the implementation of the agreement fell behind schedule. By the time the agreement collapsed, the first LWR - which should have been gone operational in 2003 - was only 20 percent finished. In 2002, when the US claimed that North Korea had a secret enrichment program - which Pyongyang denied, but which was later confirmed - the agreement was terminated. The overriding objective for Pyongyang was to move toward political and economic normalization", i.e., end the enmity. The reactors were important - North Korea had been interested in LWR for a long time - but they were not the be all and end all.

In the period 2003 - 2013, Iran and the big powers exchanged views not only on nuclear matters, but also on regional conflicts and normalizations of relations. The outline that the US caretaker in Iran, Swiss ambassador Tim Guldman, brought to Washington in the summer of 2003, covered a formidable range of contentious issues.<sup>6</sup> However, when the

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<sup>6</sup> Trita Parsi, [A Single Roll of the Dice](#), Yale University Press, 2012.

right constellation of governments was in place in 2013, strict limitation to nuclear issues was agreed not to overburden the negotiation.

More than anything else, it was the prospect of sanctions relief that brought Iran back to the international community as a bona fide partner. Iran could pick up from where it left when the sanctions were imposed; international business was keen to get back to a market of 78 million people; and the Rouhani government made economic reforms its top priority in order to make that happen. Not so with North Korea. Decades of self-isolation reinforced by sanctions means that there is much less to revive. Normality includes a modicum of economic cooperation and political connectivity with other countries and international organizations, but this has to start from scratch.

### **The meaning of normalization**

To bring North Korea into the international community as a bona fide partner is therefore a demanding proposition. Far from coming about by itself once the sanctions are lifted, normalization is a matter of shaping something that never existed in the history of the DPRK - not during the Cold War, when relations were confined to the Soviet Union and the communist world, and not later, as the nuclear controversy got in the way.

When the sanctions against Iran kicked in and international companies withdrew, the Revolutionary Guards filled much of the vacuum. The Guards became a major economic actor, controlling a significant part of the economy. Its political influence is substantial as well. The Supreme Leader relies on the Guards. Whenever the same actor is a major stakeholder in both the economic and political sphere, the ground is set for widespread corruption, and Iran is no exception. To facilitate access for international business, the Rouhani government has made the fight against corruption a top priority.

The North Korean political and economic system is uniquely difficult to relate to for international companies. The sanctions have enhanced the vested interests in continued isolation there, too, and corruption thrives at the interface between the growing private sector and old state companies. In its present state, the country does not offer much of interest to others, and those who are nevertheless attracted are easily deterred by the specter of unpredictability that surrounds the secretive dictatorship. However difficult Iran may be, the problems in North Korea are of an entirely different order.

For North Korea, normalization has many other ingredients as well. To be meaningful, a peace treaty substituting for the armistice agreement must ensure a change of military deployments and military exercises away from today's threatening postures.

The borders at sea, which have not been clearly delineated and which have led to numerous skirmishes, should be unambiguously agreed. Declaratory statements should be stripped of provocative language and threats of war. It takes a lot to create a sense of normality in relation to an abnormal country.

### **Interim accords or an all-encompassing agreement**

The Interim Agreement with Iran – the Joint Plan of Action of November 2013 – defined the ultimate objective of the talks. At the end of the road, Iran would be treated like all other NNWS members of the NPT in good standing. The JCPOA spells out the road-map toward that objective. Since the parties had little or no confidence in each other, the agreement describes the nuclear constraints and the sanctions relief in great detail.

The statement of principles that was agreed at the six-party talks in 2005 reiterated the 1992 agreement to denuclearize the Korean peninsula. It ruled out both weapons and fuel cycle facilities. The parties undertook to respect each other's sovereignty and to normalize relations, promoting economic cooperation in the fields of energy, trade and investment. Furthermore, they agreed to negotiate a permanent peace regime on the Korean peninsula, replacing the armistice agreement with a peace treaty. The scope of the undertaking was all-encompassing.

The parties also agreed to implement their consensus in a phased manner in line with the principle of “commitment for commitment, action for action”. Concrete, initial steps were agreed in 2007. North Korea committed to shut down and disable - in 12 steps - its Yongbyon facilities and to submit a list of its nuclear-related activities. When the agreement broke down at the end of 2008, 11 of the 12 steps had been implemented. The US would take North Korea off the list of states supporting terrorism; provide fuel oil; and engage in talks to normalize relations. The agreement outlined a framework for follow-on actions to implement the 2005 Joint Statement of Principles.

The approach to North Korea was different from the approach to Iran. The goals were laid out in the Joint Statement – like to Interim Agreement with Iran – but while the JCPOA is a done deal to be implemented on a specified time scale, without further negotiations, the approach to North Korea envisages a series of interim agreements to be negotiated sequentially, step by step on the basis of reciprocity, in an agreed framework including all the main issues waiting for resolution.

### **Resumption of negotiations?**

During Ahmadinejad's presidency in Iran, the enrichment capability was very much expanded. When Rouhani was elected and negotiations gained speed, that capability became an important bargaining card.

Similarly, during more than seven years with no negotiations or agreements, North Korea has strengthened its bargaining cards by improving its nuclear and missile capabilities.

To entice the North Koreans to a deal, the big powers may ramp up both sticks and carrots: the sticks if China, at some stage, would be ready to drop its policy of engagement and sheltering; the carrots by offering to negotiate the entire gamut of outstanding issues – sanctions relief, economic assistance, normalization and a peace treaty. To entice the North Koreans to arms control, the readiness to go for a comprehensive deal must be communicated in no uncertain terms. Similar to the case of Iran, it is only when such a deal becomes a realistic prospect that North Korea can be assumed to accept the necessary arms control limitations to make it happen.

The North Koreans likely perceive of the US position to sit down and talk about pre-conditions for resumption of talks as a negotiating tactic to obtain unilateral concessions. Probably, this is also part of the US logic. Another part of it is the need, in view of past failures, to test North Korea's seriousness in a negotiated solution. From Pyongyang's vantage point, the US reneged on past deals, too, so they also need reassurance. Hence the need for reciprocal steps. The first part - pressure by procedure - is unlikely to work. The posturing over the sequence in which the issues should be addressed is a clear sign of disapproval, and so is China's quest for parallel tracks and reciprocity. Probes are quite a different matter: in such a context, and on condition that the negotiations would be conducted along the lines advocated by China, North Korea may offer some initial concessions, like a halt in nuclear testing. Or it may not: there is no way to know before it has been tried.

For China, the six-party talks have been a conflict management mechanism. As long as North Korea was *in* the tent, they had a hand on the steering wheel. The unruly neighbour could be held within bounds and regional stability better managed. However, this modest ambition is not good enough any longer. A bigger question is pressing for early clarification: will North Korea establish itself as a de facto nuclear weapon state with a credible nuclear deterrence capability, or is it still possible to reverse its nuclear and missile programmes? The only way to find out is to go back to the table.

## War

The alternative to diplomacy is war, meaning a US attack to destroy the North Korean nuclear capabilities. In 1994, the two countries came close to military conflict – before Jimmy Carter went to Pyongyang and broke the ice for the Framework Agreement.

Pressure is mounting to stop the North Korean build-up before it is too late, i.e. before the retaliatory capability has reached a stage where

preemption can no longer be assured. Action must be taken before nuclear retaliation against US bases in the region can no longer be ignored. North Korea is not there yet: even if it has miniaturized its warheads so that they can be carried by missiles, by mid-2016 its missile capabilities appeared not good enough.

However, the near future is a period of opportunity for North Korea. A presidential election is coming up in the US, so for about a year ahead, it will be hard put to launch a high-risk war. In 2017, furthermore, it is time for South Korea to have a presidential election, and South Korean consent is crucial for any decision to wage war against the North. Pyongyang is likely to use this period of opportunity to the best of its abilities.

In 2003, the EU3 (France, Germany and the UK) launched a diplomatic initiative to avert war with Iran. Now, it is high time to give diplomacy another chance on the Korean peninsula.

The alternatives are war or another nuclear weapon state with a de facto nuclear deterrent capability. Both are discouraging.

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