

The Amateur Computerist

<http://www.ais.org/~jrh/acn/>

Spring 2020

Obstacles to Peace on the Korean Peninsula

Volume 33 No. 1

Table of Contents

Introduction	Page 1
Letter to UN SG about ‘UNCs’ Use of UN Flag	Page 4
‘Peace–Forwarding Actions’ with DPRK	Page 8
Chinese and Russian Draft DPRK Resolution.	Page 10
U.S. Misrepresents its Role in Korean War	Page 13
‘United Nations Command’ As Camouflage	Page 17
Article 32: Right to Due Process in UN Charter	Page 30
The Problem Facing the U.N.	Page 35
Behind the Blacklisting of Banco Delta Asia	Page 39
UN SC Controversy over NK Satellite Launch.	Page 45
Position of the UN SG on the Use of the UN Flag	Page 49
Open Letter to the UN Security Council Members.	Page 54
Letter to UN SC Regarding Sanctions on North Korea	Page 57
Call to Ease the Sanctions Against the DPRK.	Page 59
Resolution Proposes Easing Some UN Sanctions	Page 64
Dissolution of the ‘United Nations Command’	Page 71

Introduction

What is happening about Korea? The question of how to encourage the resumption of U.S.–DPRK negotiations has seemed to fade from public discussion and attention. It becomes ever more urgent to review

recent developments and consider what is needed for forward developments.

This issue of the *Amateur Computerist* contains a collection of articles that helps to review some of the events and actions that have helped to lead to the current impasse. In February 2020 a significant article appeared in the South Korean newspaper *Hankyoreh*. The article titled “The ‘UNC’s’ time is up” was contributed by Professor Lee Jang–hue, who is an emeritus professor of civil law at the Hangeul University of Foreign Studies in South Korea.

Professor Lee’s article reviews developments in the efforts to support inter–Korean cooperation on the Korean Peninsula and comes to the conclusion that the U.S. and the role it plays under the cover of being the United Nations Command (UNC) is a force functioning in opposition to the obligation it has to be moving toward a peace agreement between the two Koreas. Professor Lee writes:

As the only signatory from the South Korean side to the Korean Armistice Agreement on July 27, 1953, the UN Command’s duties involve managing the agreement, preventing military clashes and acts of hostility, and spearheading a peace agreement.

This is why, the ‘UNC’ holds authority to approve passage over the Military Demarcation Line (MDL) and entry to the DMZ. But now these duties of the ‘UNC’ are posing a major obstacle to the effort of linking inter–Korean railways and roads. Rather than cooperating toward a peace agreement — which should be its biggest responsibility following the April 27 Panmunjom Declaration in 2018 — it is instead finding faults with and hamstringing inter–Korean exchange and cooperation efforts. The same is true about its overzealous micro–management of the DMZ.

In his article Professor Lee proposes that in order to stop the introduction of obstacles to peace on the Korean Peninsula, the ‘UN Command’ should be replaced by the Republic of Korea as a signatory to the Armistice Agreement.

Several of the articles in this issue of the *Amateur Computerist* explore various aspects of how the ‘UN Command’ was created and the

problems that accompanied that process. Also there are critical articles written by some NGO's as letters either to the UN Secretary-General or the Security Council protesting the continued violation of UN processes and procedures by the role played by the U.S. under the guise of being the 'UN Command'.

Also articles in this issue discuss the obligation of the Security Council to invite those parties to a conflict to the discussion in the Council on the conflict so the Council can hear the nature of the problem at the root of the conflict.

In the conflict regarding the U.S. and the DPRK the Security Council failed to fulfill this obligation established by the UN Charter. Therefore it is important that there be public attention to and acknowledgment of the DPRK side of the conflict. A conflict can only be resolved when there is an effort at impartial deliberation. This issue is organized into four parts. The four parts are:

Part 1 is about activist and Security Council Members criticism of UN activity on the so-called 'United Nations Command' ('UN Command') as the chief obstacle to peace on the Korean Peninsula or of the Security Council sanctions imposed on the DPRK.

Part 1

Letter to the Secretary General about 'UN Command's' Use of UN Flag NGOs' Letter to UN Security Council Proposes Peace-Forwarding Actions' with DPRK

Chinese Russian Draft DPRK Resolution

Part 2 includes reprints of previous articles about the problem represented by the 'UN Command' and related problems.

Part 2

U.S. Misrepresents it's Role in Korean War and in Armistice Agreement as 'UN Command'

'United Nations Command' As Camouflage: On the Role of the UN in the Unending Korean War

Article 32: Right to Due Process Enshrined in UN Charter, Violated by Security Council

The Problem Facing the UN

Behind the Blacklisting of Banco Delta Asia: Is the Policy Aimed at Targeting China as Well as North Korea

UN Security Council Controversy over North Korean Satellite Launch: Reconvening Six-party Talks or Penalizing Pyongyang

Part 3 includes the original letters sent to UN by NGO's or published as Open Letters by NGOs.

Part 3

Letter from Jeanne Mirer to UN Secretary-General on behalf of itself and civil society actions on North Korean Groups about improper use of the UN flag by 'UN Command'

Open Letter to UN Security Council Members: We Cannot Possibly Go Back to Times of Competition and Hostility

Letter to UN Security Council Regarding Sanctions on North Korea

Call to Ease or Suspend the Sanctions Against the DPRK that Impede the Response to COVID-19

Part 4 includes other relevant documents.

Part 4

Security Council Resolution Submitted by China and Russia Proposes Easing Some United Nations Sanctions Against DPRK

Dissolution of the 'United Nations Command' is the Essential Requirement in Defending Peace and Stability on the Korean Peninsula and in the Asia-Pacific Region by the DPRK

Part 1

[Editor's Note: The following article appeared on the netizenblog on Jan 29, 2020. It can be seen online at: <https://blogs.taz.de/netizenblog/2020/01/29/letter-to-un-secretary-general-on-un-command-use-of-un-flag/>]

Letter to UN Secretary-General about 'UN Command's' Use of UN Flag

by Ronda Hauben

In September 2019, several Korean peace and international activists visited New York City to raise concerns during the period of the opening of the 2019-2020 session of the UN General Assembly (GA).

One of the issues they raised related to the growing concern in South Korea with the activities of an entity calling itself the ‘United Nations Command’, despite the fact that the UN has no role in determining or overseeing its activities.¹

It has been reported that the so called ‘United Nations Command’ prevented inter-Korean joint activity to inspect railroad compatibility in the two Koreas. The activists pointed out that there was increasing attention in the Republic of Korea by various government officials and others to such activity of the ‘United Nations Command’ questioning the legitimacy of the so-called ‘United Nations Command’.

One action taken by activists concerned with these issues was to transmit a letter to UN Secretary-General Antonio Guterres from the International Association of Democratic Lawyers (IADL) on behalf of itself and 46 other Korean and international peace organizations dated September 30, 2019.² Also the activists held a press conference across from the UN on October 1, 2019 about this letter.

The activists pointed out that over the years there have been various complaints and concerns raised about the inappropriate activity of the U.S. using the name ‘United Nations Command’.

For example, the letter points to the 1947 GA Resolution A/RES/92(I) which refers to the need for the UN to protect the name of the organization and its official emblem and seal from any use not authorized by the UN Secretary-General.³

The letter also cites provisions of the United Nation Flag Code providing for how the UN flag can be used.⁴ And the letter refers to action taken in the General Assembly by 28 member states in 1972 seeking to encourage the peaceful reunification of Korea. At that time among other proposals was that the “right to use the United Nations flag ... in South Korea, should be annulled.”⁵ The letter also cites a UN document from June 1975 (S/11737) in which the U.S. agrees to work toward the termination of the ‘UN Command’ including restricting the use of the UN flag.⁶ In this 1975 document, the U.S. said it would be part of negotiations to replace the ‘UN Command’.

Citing other references to actions taken by the General Assembly or members of the Security Council, the letter raised four questions for the Secretary-General and requested that the Secretary-General act to stop

such use.

The letter also referred to some of the concerns raised by legal scholar Hans Kelsen in the Supplement to his book *The Law of the United Nations: A Critical Analysis of its Fundamental Problems*.⁷

In response to their letter to the UN Secretary–General, the IADL received a reply from Stephen Mathias, Assistant Secretary–General for Legal Affairs (ASG). ASG Mathias wrote “regarding the use of the United Nations flag by the ‘United Nations Command’ I regret to inform you that the questions that you have asked concern matters that do not fall within the competence of the Secretary–General.” There was no further explanation from the ASG for Legal Affairs about why he gave the response he did or what authority he was referring to in stating that the UN Secretary–General was unable to act in a way that would fulfill on the obligations that the GA had assigned to the Secretary–General.

Commenting on the reply received from the UN Secretariat, activists of the “International Campaign to Abolish the Fake ‘United Nations Command’” write:

Due to the irresponsible neglect of the UN in the last 70 years, an abnormal state of affairs persists for the United Nations because the so–called ‘United Nations Command’ which is not a UN entity, has been continuing its activities — undermining the dignity and order of the United Nations A first step is to prohibit the abuse of the UN flag in the name of the ‘UNC’.

This is an exchange between the activists questioning the legitimacy of the U.S. use of the United Nations name and flag and the statement by the UN legal office top official without explanation. Presented are two different views as to whether there is activity contrary to the obligations of the UN Charter in the U.S. government’s actions calling some of its military and control activities on the Korean Peninsula, the ‘United Nations Command’, and of its use of the UN flag by this so called ‘United Nations Command’.

The activists propose that the Secretary–General has the authority under the Charter to determine what is appropriate and not appropriate use. The UN Legal Office claims that the Secretary–General does not have such “competence.”

If in fact, the ‘United Nations Command’ is an entity functioning

without any connection with the UN Charter, then by what authority does the so-called ‘United Nations Command’ act to restrict interaction by the two Koreas? This is indeed a serious question for the UN to consider.

Notes

1. Ronda Hauben, “U.S. Misrepresents its Role in Korean War and in Armistice Agreement as ‘UN Command’.”: <https://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command>, June 6, 2013. See also, Ronda Hauben, “‘United Nations Command’ As Camouflage: On the Role of the UN in the Unending Korean War,”: <https://blogs.taz.de/netizenblog/2013/08/31/united-nations-command-as-camouflage/>, August 31, 2013.
 2. Letter to Secretary–General, September 30, 2019,: https://www.veteransforpeace.org/files/8015/7065/0224/IADL_letter-Final_1.doc
 3. A/RES/92(I), Official Seal and Emblem of the UN, 7 December, 1946; A/RES/167(II), United Nations Flag, 20 October 1947.
 4. ST/AFS/SGB/89. The United Nations Flag Code (as amended), 28 July, 1950.
 5. A/8752/Add. 9. “Creation of Favourable Conditions to Accelerate The Independent and Peaceful Reunification of Korea.”
 6. S/11737, 27 June, 1975 “Letter Dated 27 June, 1975 from the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council.”
 7. Hans Kelsen, “The Law of the United Nations: A Critical Analysis of Its Fundamental Problems With Supplement,” 1951, pp. 938–940.
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[Editor's Note: The following article appeared on the netizenblog on Jan 31, 2020. It can be seen online at: <https://blogs.taz.de/netizenblog/2020/01/31/ngos-letter-for-peace-with-dprk/>.]

NGOs' Letter to UN Security Council Proposes 'Peace–Forwarding Actions' with DPRK

by Ronda Hauben

There has often been criticism of how the Security Council conducts its deliberations. One recent civil society effort to contribute to improvement of the negotiation process in the UN Security Council was sent to the Security Council in January 2020.¹ It was an open letter to members of the Security Council, dated January 7, 2020.²

The letter is titled “We cannot possibly go back to times of competition and hostility.” In their letter, four civil society organizations present both an analysis of the current situation and propose what they see as needed steps toward transforming the roadblocks to fruitful progress in the negotiations with the DPRK.

Pointing out that this year 2020 marks the 70th year since the beginning of the Korean War, the letter proposes that Korean civil society is an important agent to contribute to peace on the Korean Peninsula. The letter proposes that not only the DPRK and the U.S., but also the whole international community is needed to contribute to “peace–forwarding actions.”

The letter notes that there were no meaningful negotiations either after “last year’s Trump–Kim Hanoi Summit nor after the meeting at Panmunjom in June 2019.” Though the U.S. and DPRK at their Singapore meeting declared that “mutual trust building” would “expedite denuclearization of the Korean Peninsula,” this agreement was not implemented. In particular the letter notes “that the U.S. has not taken any measures to show their trust compared to DPRK’s set of actions including a freeze of nuclear and missile experiments.” That is why, the letter proposes, there have been “no points of contact” between the two parties.

“We are strongly against a practical muddling through of the U.S. by insisting ‘denuclearization first’” the letter explains, critiquing the U.S. position, and critiquing the DPRK, for the “North’s missile tests conduct that creates militaristic tensions.”

The letter proposes that the United Nations and the U.S. “lift the sanctions against the DPRK that are related to humanitarian aid at least.”

The letter points out that the original claimed purpose of the sanctions was to act as “a medium of problem–solving.” Instead, however, the sanctions have developed to a point of “aggravating the situation” for the people of the DPRK. Also the sanctions have been used to stymie inter–peninsula cooperation.

The letter asks that the UN Security Council have constructive discussions about partially lifting economic sanctions “which could lead to the negotiation table.” And it urges Seoul and Washington to pause the joint exercises they have planned for March 2020. It also calls for resolute action by the ROK government to “proactively ask for broad sanction lifting and to exercise some autonomy in solving the problem.”

The letter points out that the efforts toward inter–Korean exchange and cooperation projects were prevented from happening by the economic sanction of the UN and U.S. Among these were Mount Geumgang tours, humanitarian cooperation for separated families, road and rail connect projects, and the formation of a Joint South–North Military Committee.

The groups writing the letter propose that “We will strive to mark 2020 a year to be one that will halt the war and open the way to a new age of peace.”

The groups signing the letter include, Civil Society Organization Network in Korea — Civil Peace Forum, Korean Confederation of Religions for Peace, Korean Council for Reconciliation and Cooperation, Korean NGO Council for Cooperation with North Korea, and the Southern Committee on June 15 Joint Declaration.

Notes

1. See Ronda Hauben, “Channel for Individuals or NGO’s to Send Communication to UN Security Council,” netizenblog, Jan 29, 2017: <https://blogs.taz.de/netizenblog/2017/01/29/channel-for-communication-to-unsc/>
2. “Open Letter to Security Council, ‘We cannot possibly go back to times of competition

[Editor’s Note: The following article was written in January 2020. The resolution had not been acted on as of March 2020.]

Chinese and Russian Draft DPRK Resolution

by Ronda Hauben

The UN Security Council has on the whole appeared content that two years of efforts to explore the possibility of dialogue between the U.S. and the DPRK and between the DPRK and ROK appears to have broken down. On December 7, 2019, however, China and the Russian Federation made an effort to propose a draft Security Council resolution which could lead to a more constructive direction for negotiations between the DPRK and the Security Council.

The proposed resolution has yet to receive enough support from other Security Council members to have it pass through the stages needed for Security Council adoption. It is however useful to look at some of the elements contained in the resolution in order to consider how such a resolution could provide a needed change in the Security Council direction with respect to the DPRK.

The proposed resolution provides for the UNSC to “adjust the sanction measures” as needed to correspond with the DPRK’s compliance with relevant UN Security Council resolutions.

One criticism of the actions of the U.S. in negotiations with the DPRK is that there is not any flexibility in the U.S. stance but only that the DPRK must make all the concessions while the U.S. offers nothing in return. Such a behavior is contrary to the normal process for settlement of a dispute by negotiation. Instead it is directed toward inflicting punishment on one party to the dispute, making negotiations toward resolving the dispute impossible.

Another provision in the proposed resolution welcomes “close dia-

logue and communication between the authorities of the two sides.” This refers to civilian cooperation and exchanges in many areas, “in particular the projects of rail and road connections on the Korean Peninsula,” as agreed on 27 April, 2018 and 19 September, 2018 by Moon Jae-in and Kim Jung Un. In particular, the proposed resolution provides for the 1718 Sanctions Committee to respond favorably to “requests for exemption from existing UN sanctions against the DPRK for humanitarian and livelihood purposes.” It also provides for the exemption from existing sanctions for inter-Korean rail and road cooperation projects.

The proposed inter-Korean projects provide a means for cooperation between the two Koreas, and in this way, creating a basis for the DPRK to have a more secure and positive environment. This begins to provide a means of meeting the DPRK demand that the U.S. cease its hostile actions and attitude toward the DPRK.

Also Security Council sanctions are illegitimate when they impede humanitarian aid. Yet the Security Council in general has ignored the criticisms of its actions in violation of this obligation.

The proposed resolution provides for lifting at an early date the sanctions against the DPRK “which are directly related to the livelihood of the civilian population.” That a number of the sanctions are directed at stopping or interfering with activity related to the livelihood of the people of the DPRK demonstrates the hostile nature of the sanctions rather than that their purpose is directed to help resolve the dispute.

The proposed resolution provides for lifting the sanctions against the supply, sale, etc. of machinery or vehicles, “which are used for infrastructure construction and cannot be diverted to the DPRK’s nuclear and ballistic missile programs.” The proposed resolution contains a substantial list of such items.

The proposed resolution calls on member states to step up their efforts to provide humanitarian assistance needed by the population of the DPRK. The sanctions against the DPRK have led to the ending of several humanitarian programs previously functioning in the DPRK. Particularly, by interfering with banking transactions in the DPRK, the sanctions not only impeded humanitarian projects and aid previously functioning in the DPRK, but made other forms of humanitarian aid difficult to deliver.

Other parts of the proposed resolution encourages building peace

related activities.

For example, the proposed resolution welcomes the continuing dialogue between the U.S. and the DPRK toward building a “lasting and stable peace on the Korean Peninsula in accordance with the 12 June, 2018 joint statement” of the President of the U.S., and the Chairman of the State Affairs Committee of the DPRK.

Also, the proposed resolution calls on all parties concerned to find ways to implement steps to reduce military confrontations including but not limited to a peace treaty to end the Korean war.

Toward such a goal, the proposed resolution calls for the resumption of the Six Party Talks or dialogue in other formats to work to reduce tension and promote beneficial regional cooperation in North East Asia.

Considering these various aspects of the proposed resolution demonstrates that there has been a serious vacuum within the Security Council toward fulfilling its obligation toward supporting the dialogue and positive cooperation between the two Koreas and between the U.S. and the DPRK.

Though the proposed resolution does not appear to have gotten support in the Security Council for a discussion of its merits, the Republic of Korea government (ROK) has indicated that it is pursuing efforts to restore work on certain joint projects, particularly, for example, the inter-Korean railway project.

It would seem appropriate that the 15 members of the Security Council recognize the need for an active means of encouraging inter-Korean activity and negotiation. Also the Security Council has basically left negotiations between the U.S. and the DPRK up to the U.S., rather than investigating the nature of the dispute by hearing the views of both parties toward finding a resolution. Why this is true and how to end this state of affairs deserves a serious investigation and analysis of why the Security Council has been so lax in its obligation to work toward a peaceful settlement of the Korean Peninsula conflict. This is the process that Article 32 of the UN Charter requires and it is the obligation of the members of the Security Council to act according to the procedures and principles outlined in the Charter.

Part 2

[Editor's Note: The following article appeared on the netizenblog on June 6, 2013. It can be seen online at: <http://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command/>.]

U.S. Misrepresents its Role in Korean War and in Armistice Agreement as 'UN Command'

by Ronda Hauben

July 27, 2013 was an important anniversary. It was the 60th anniversary of the Armistice Agreement which provided the means to end the hostilities of the Korean War.

The armistice was recognized as a temporary means to stop the military action. It included a provision that it be followed by a political conference three months later to hammer out a political agreement which would serve as a peace treaty ending the Korean war.

The political conference has never been held. And no means has yet been created to settle the unresolved issues of the Korean War.

At the UN on Friday, June 21, 2013, the permanent mission of the Democratic People's Republic of Korea (DPRK), more commonly known as North Korea, held a press conference.¹ Sin Son Ho, DPRK's Ambassador to the United Nations, presented journalists with a statement outlining the background of a serious problem remaining from the Korean War, a problem that needs to be resolved if the tension on the Korean Peninsula is not to escalate.

He documented how the United States, without any authority from the United Nations, changed the name of the Unified Command it was to direct, to the name 'UN Command'. This change falsifies the nature of the U.S. role in the Korean War and in the Armistice, making it appear that the U.S. is acting under the authority of the United Nations. The decisions made by what is called the 'UN Command' are made by the U.S. The U.S. is not acting as a subsidiary or representative of the UN when it acts under the name of the 'UN Command'. Yet the false appearance given is that the

U.S. is acting under the authority of the UN.

The DPRK Ambassador explained how this misrepresentation was accomplished by the U.S. in July 1950. On July 7, a Security Council Resolution (SC 84, 1950) was passed putting the U.S. as the head of what was called in the resolution the Unified Command, but with no oversight obligations by the UN for the actions of the U.S. On July 25, 1950 the U.S. submitted a report to the Security Council in which it replaced the name Unified Command with the name 'UN Command'.

Subsequently, the U.S. uses the designation 'UN Command' despite the fact that this creates a false impression that there is a role played by the UN in Korean Armistice activities. The U.S. even uses 'UN Command' as its designation in the actual Armistice Agreement.

The DPRK has at various times tried to get the U.S. to drop its misleading use of the title 'UN Command'. In November 1975, Resolution 3390 (XXX) B was passed by the UN General Assembly calling for negotiations between the relevant parties so that the U.S. would no longer use the misleading designation 'UN Command' to represent the U.S. military role. The U.S. has not fulfilled on the obligation to carry out these negotiations. Instead the U.S. at the time argued that changing its designation as the 'UN Command' would affect the oversight provisions provided for in the Armistice Agreement.

Subsequently, the DPRK points out that in the 60 years since the Armistice Agreement was signed, any oversight provisions it may have included no longer exist and the actual decisions regarding the agreement currently are made through negotiations between the Korean People's Army (KPA) and the U.S. military authority.

In view of the facts, Ambassador Sin said, the existence of the 'UN Command' is an "anachronism." Instead of agreeing to dissolve it, however, he explained, the U.S. is projecting that it can serve as a "multinational force command" which would constitute the "matrix of an Asian version of NATO."

Two former UN Secretary-Generals have spoken out against the continuing use by the U.S. military of the name 'UN Command'. Ambassador Sin noted that both Boutros Boutros-Ghali and Kofi Annan have gone on record confirming that there is no UN military activity related to the U.S. claim that it is the 'UN Command'.

At the June 21, 2013 noon press briefing by the Deputy Spokesman for UN Secretary-General Ban Ki-moon, a question was raised asking for Ban Ki-moon's views on the issue. The journalist asked:²

As I am sure you know, just now, Sin Son Ho, the Permanent Representative of the Democratic People's Republic of Korea, held a press conference in which he said he called for the dismantling of the 'UN Command' uh, in South Korea, and he said it is not really a UN body at all, and quoted Boutros Boutros-Ghali and Kofi Annan to that effect. So what I wonder is as, as, the office of the Secretary-General, Ban Ki-moon, as the head of the UN system, has, does he, what is his position on the legal status in terms of the UN of the 'UN Command'? And separately, does he have any, what ... would be, what's his response to a call to, to dismantle this entity?

In apparent agreement with the DPRK, Deputy Spokesperson for the Secretary-General, Eduardo del Buey responded:

But the United Nations has never had any role in the command of any armed forces deployed in the Korean peninsula. In particular, the United Nations did not at any time have any role in the command of the forces that operated in Korea under the Unified Command between 1950 and 1953.

In response, to the part of the question relating to Ban Ki-moon's view on the U.S. representing itself as the 'UN Command', the Deputy Spokesperson promised a future reply. He noted that:

Well, first of all, as you know, the Secretary-General is just getting off the plane from China now, so he is going to be reading the transcript of the statement by the Permanent Representative of the Democratic People's Republic of Korea, and we'll have something later on to say.

To an email asking for further clarification of the Secretary-General's view about the DPRK's call for the dissolution of the 'UN Command', the Deputy Spokesperson answered by referring to the Secretary-General's view that with respect to an issue related to the Armistice Agreement:³

This is a matter for the parties to the Agreement. The United Nations is not party to the Armistice Agreement.

Does this mean Ban Ki-moon believes that the misuse of the UN

name by the U.S. is an issue to be solved by the parties to the Armistice Agreement, and is not a concern for the UN?

In his press briefing Ambassador Sin said that if the U.S. did not dissolve the ‘UN Command’, the DPRK is considering once again pursuing this issue at the UN General Assembly, which in November 1975 had already urged the U.S. to dissolve the ‘UN Command’ (See 3390 (XXX)B 1975).

Ambassador Sin explained that “due to the existence of the ‘UN Command’, the security mechanism on the Korean peninsula has become war-oriented not peace-oriented.”

“In other words,” he elaborated, “the existence of the ‘UN Command’ is not serving the peace building efforts on the Korean peninsula. On the contrary, it is the root of evil or tumor laying a stepping stone for the U.S. armed forces of aggression toward the DPRK and the realization of the America’s Pivot to Asia strategy.”

Notes

1. Press conference June 21 2013, Ambassador Sin Son Ho at the UN: <http://webtv.un.org/media/press-conferences/watch/ambassador-sin-son-ho-the-permanent-representative-of-the-democratic-peoples-republic-of-korea-to-the-un-press-conference/2498682301001>
For an earlier version of the statement, see: KCNA, “DPRK Foreign Ministry Issues Memorandum,” January 14, 2013.
 2. Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, June 21, 2013: <https://www.un.org/press/en/2013/db130621.doc.htm>
 3. Email from Eduardo del Buey on June 25, 2013. See follow up article, Ronda Hauben, “‘United Nations Command’ As Camouflage: On the Role of the UN in the Unending Korean War,”: <https://blogs.taz.de/netizenblog/2013/08/31/united-nations-command-as-camouflage/>, August 31, 2013.
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[Editor's Note: The following article appeared on the netizenblog on Aug 31, 2013. It can be seen online at: <http://blogs.taz.de/netizenblog/2013/08/31/united-nations-command-as-camouflage/>.]

'United Nations Command' As Camouflage: On the Role of the UN in the Unending Korean War

by Ronda Hauben

I – Some Background

The story of the Korean War is a story not often told. Yet sixty years after the agreement to end the military hostilities on July 27, 1953, there is not yet a peace treaty to end the war. This article on the occasion of the 60th Anniversary of the Armistice Agreement is intended as a contribution to the body of research and study needed to find the underlying cause of the bottleneck impeding the negotiation of a peace treaty so a breakthrough can be made.

Korea, which had been one nation for over 1000 years, had been forcibly divided at the end of WWII. By the UN legitimating an election in the south of Korea in May 1948 which was boycotted by many Koreans and from which all Koreans north of the 38th parallel and many Koreans south of the 38th parallel were excluded, a formal structural division was created which continues until today.¹ The significant aspect of the UN supported election was that it led to an official government structure for only the southern part of Korea, thus solidifying the division of Korea. The government structure created in the South by the election was a repressive government structure. One view of the military conflict that became known as the Korean War was that it was a civil war that was trying to restore Korea as one country.

The U.S. Government response to the fighting which broke out in June 1950 in Korea was to perpetuate support for the repressive government that the U.S. and UN had put in place as the Republic of Korea (more commonly known as South Korea). This is the context in which the United Nations Security Council resolutions of June and July 1950

authorizing UN participation in the Korean War took place.

The question that led me to begin this study was: What Was the Role of the UN in the Korean War and What Should be the Role of the UN in Bringing an End to the War?

It is important to take into account that before any action was taken on the part of the UN on June 27, 1950, authorizing intervention in the war that had begun in Korea, the U.S. had decided and began to send military support to the South Korean side of the conflict. The independent journalist, I.F. Stone in his book, *The Hidden History of the Korean War*, describes this U.S. action as forcing the UN Security Council to support the U.S. Government action in Korea.²

Stone writes:

When Truman ‘ordered the United States air and sea forces to give the Korean Government troops cover and support’ he was in effect imposing military sanctions before they had been authorized by the Security Council. The Council had to vote sanctions or put itself in the position of opposing the action taken by the United States. For governments dependent on American bounty and themselves fearful of Soviet expansion, that was too much to expect, though again Yugoslavia had the courage to vote ‘No,’ an act of principle for which it got no credit from the Soviet bloc while antagonizing the United States to which it owed its Council seat.

By acting before the Security Council could act, the U.S. was in violation of Article 2(7) of the UN Charter which requires a Security Council action under Chapter VII before there is any armed intervention into the internal affairs of another nation unless the arms are used in self-defense. (See Article 51 of the UN Charter. The U.S. armed intervention in Korea was clearly not an act of self defense for the U.S.) Also the actions of the UN have come to be referred to as the actions of the ‘United Nations Command’ (UNC), but this designation is not to be found in the June and July 1950 Security Council resolutions authorizing participation in the Korean War.³ What is the significance of the U.S. using the UN in these ways?

The current U.S. military command in South Korea claims to wear three hats: Command of U.S. troops in South Korea, Combined Forces

Command (U.S. and South Korean troops), and “United Nations Command” with responsibilities with respect to the Armistice. The United Nations, however, has no role in the oversight or decision making processes of the ‘United Nations Command’. The U.S. Government is in control of the ‘United Nations Command’. The use by the U.S. of the designation ‘United Nations Command’, however, creates and perpetuates the misconception that the UN is in control of the actions and decisions taken by the U.S. under the ‘United Nations Command’.

The Democratic People’s Republic of Korea (more commonly referred to as North Korea) has called for disbanding the ‘United Nations Command’ (‘UN Command’). At a press conference held at the United Nations on June 21, 2013, the North Korean Ambassador to the UN, Ambassador Sin Son Ho argued that the actions of the U.S. Government using the designation ‘United Nations Command’ are not under any form of control by the United Nations.⁴ Since the UN has no role in the decision making process of what the U.S. does under the title of the ‘United Nations Command’, North Korea contends the U.S. should cease its claim that it is acting as the ‘United Nations Command’.

II – UN Authorized ‘Unified Command’

Looking at the Security Council resolutions related to Korea that were passed in June and July 1950, it is clear that the content of these resolutions supports North Korea’s argument. During this period the UN Security Council passed four resolutions. They are:

SC 82 (V)–S/1501 on June 25, 1950

SC 83 (V)–S/1511 on June 27, 1950

SC 84 (V)–S/1588 on July 7, 1950

SC 85 (V)–S/1657 on July 31, 1950

None of these resolutions refers to a ‘United Nations Command’ or gives the United States permission to call itself the ‘United Nations Command’.

The last two of these resolutions refer to a “Unified Command.” SC Resolution 84 of July 7, 1950 is the first Security Council resolution to refer to the creation of a “Unified Command.” The language of the resolution says that the Security Council, “Recommends that all members providing forces and other assistance pursuant to the aforesaid Security

Council resolution make such forces and other assistance available to a Unified Command under the United States of America.”

The resolution states that the Security Council requests the United States to designate the commander of such forces, and it authorizes the “Unified Command” at its discretion to use the United Nations flag “concurrently with the flags of the various nations participating.”

SC Resolution 84 also made the request that “the United States ... provide the Security Council with reports as appropriate on the course of action taken under the Unified Command.”

In subsequent action by the Security Council during this period, the members of the Security Council, were careful to refer to the U.S. command of the Korean War forces related to the United Nations as the “Unified Command.”

Therefore, when reviewing the action by the U.S. to designate itself as the ‘United Nations Command’, the question is raised as to how, why and by whom the designation ‘United Nations Command’ was substituted for the Security Council designation of a “Unified Command.”

SC Resolution 84 was passed on July 7 using the designation “Unified Command.” The following day, on July 8, the U.S. President Harry Truman appointed General Douglas MacArthur to head this Command. A Memo referring to this appointment, states that with this appointment, General MacArthur was designated as the Commander of the “Unified Command.”⁵

In the period immediately following the passing of UN Security Council Resolution 84, U.S. Ambassador Warren Austin refers to the U.S. government command as the “Unified Command.”

For example, “A Letter to the UN Secretary–General from Warren Austin, U.S. Ambassador to the UN,” on July 12, says:

(...) I have the honor to inform you that the President of the United States, in response to the Security Council resolution of 7 July, 1950, has on 8 July designated General Douglas MacArthur as the Commanding General of the military forces which the Members of the United Nations place under the Unified Command of the United States pursuant to the United Nations effort to assist the Republic of Korea.

Similarly the “Unified Command” was the designation used in a letter

dated 24 July, 1950 transmitting the first Report from General MacArthur to the Security Council. The Report is titled, “First Report to the Security Council by the United States Government on the course of action taken under the Unified Command (USG).”

III – U.S. Substitutes ‘United Nations Command’ as Camouflage

It appears that it was in a U.S. Government communiqué dated July 25 that the designation ‘UN Command’ was first officially used in a U.S. Government communication to the UN. This document was titled, “Communique Number 135 of the Far East Command S/1629 25 July, 1950.” It states:

The ‘United Nations Command’ with Headquarters in Tokyo was officially established today with General Douglas MacArthur as Commander-in-Chief. The announcement was made in General Order No. 1, General Headquarters, ‘United Nations Command’. The order reads:

1. In response to the resolution of the Security Council of the United Nations of July 7, 1950, the President of the United States has designated the undersigned Commander-in-Chief of the Military Forces this date the ‘United Nations Command’. Pursuant thereto, there is established this date the ‘United Nations Command’, with General Headquarters in Tokyo, Japan.

According to this communiqué dated July 25, 1950, it is the President of the United States not the United Nations that was responsible for creating the designation ‘United Nations Command’, as a replacement for the UN authorized “Unified Command.” The communiqué alleges that this was done to fulfill the obligations of SC Resolution 84 of July 7. It is evident, however, from reading the resolution of July 7 that there is no reference in that resolution to a ‘United Nations Command’.

Why did the U.S. government substitute the designation ‘United Nations Command’ for the Security Council designation “Unified Command” after initially referring to the designation of “Unified Command,” language which was actually provided for in the Security Council resolution of July 7?

There are accounts that are helpful in understanding what was going on behind the scenes at the time that can give clues to solve this puzzle. One such account is provided by an article by James W Houck titled, “The Command and Control of United Nation Forces In the Era of Peace Enforcement.”⁶ At the time he wrote this article in the early 1990s, Houck was Force Judge Advocate for the Commander of the U.S. Naval Forces Central Command in Bahrain.

Houck writes that UN Secretary–General Trygve Lie and some of the countries on the Security Council, namely the U.K., France and Norway were in favor of creating a structure to provide for a United Nations role in the Korean operations.

Houck describes how, “During the negotiations preceding authorization of the unified command, Secretary–General Trygve Lie had proposed a ‘committee as coordination of assistance for Korea’ consisting of troop contributing states and the Republic of Korea.”⁷

While the explicit purpose of the committee, Secretary–General Lie explained, was, “to stimulate and coordinate offers of assistance, its deeper purpose was to keep the United Nations ‘in the picture’,” as Lie himself writes in his recollections of his seven–year term as UN Secretary–General. He explains that his purpose was, “to promote continuing United Nations participation in and supervision of the military security action in Korea of a more intimate and undistracted character than the Security Council could be expected to provide.”⁸

The U.S., however, was opposed to the idea of such a supervisory committee and had the power to turn it down. This effectively left the U.S. in control of the decisions regarding what was to be done in the UN authorized operations of the Korean War.

“From the start of the Korean conflict,” Houck explains, “the United States exercised both political control and strategic direction over the operation.”⁹ Though the Security Council authorized the U.S. intervention in the Korean War, the Security Council failed to fulfill its obligation under the UN Charter to act as the political authority for military actions taken under the authority of the UN Security Council.¹⁰ Implicit in Chapter 7 of the UN Charter is that it is the Security Council that can exercise force not that it can cede its authority to others.

Instead of the United Nations fulfilling its charter obligations, how-

ever, as Houck documents, “The United Nations did not interfere at all in the purely military aspects of the operation and even in political matters it confined itself to making recommendations.”

Corroborating Houck’s account, military historian James Schnabel, in his account of the first year of the Korean War, describes why the U.S. government was opposed to the Committee favored by Trygve Lie and several Security Council members. Schnabel explains that the response of the Joint Chiefs of Staff was to oppose such a project. They were hostile to the potential of such a committee to try to control military operations.

“The Joint Chiefs of Staff,” Schnabel writes, “wanted a command arrangement in which the United States, as executive agent for the United Nations, would direct the Korean operation, with no positive contact between the field commander and the United Nations.”¹¹

Though the U.S. Government had turned down the political oversight committee proposed by the Secretary–General, there was, according to Schnabel, a recognition that the unilateral political and military control the U.S. Government exercised over the “Unified Command” was problematic. The Chiefs of Staff directed MacArthur “to avoid any appearance of unilateral American action in Korea.”

As Schnabel writes, “For worldwide political reasons,” the Joint Chiefs of Staff, directed that, “it is important to emphasize repeatedly the fact our operations are in support of the United Nations Security Council.”

According to Schnabel, “this led General MacArthur to identify himself whenever practicable as Commander–in–Chief, ‘United Nations Command’ (CINCUNC), and whenever justified, would emphasize in his communiqués the activities of forces of other member nations.”

Noting that the State Department proposed to the Secretary of Defense that reports be sent to the Security Council each week, Schnabel writes, “These would keep world attention on the fact that the United States was fighting in Korea for the United Nations, not itself.” But these reports were not required and were not a mechanism for UN supervision over the U.S. activities or decision making processes.

Decisions on the operations of MacArthur’s command were made by the U.S. Government, writes Schnabel. The United Nations at no time in the Korean War sought to interfere in the control of operations which were the responsibility of the United States. As MacArthur later testified to a

Senate investigating committee, “... my connections with the United Nations was largely nominal ... everything I did came from our own Chiefs of Staff The controls over me were exactly the same as though the forces under me were all Americans. All of my communications were to the American high command here.”¹²

IV – ‘United Nations Command’ as Achilles Heel

UN Secretary-General Trygve Lie, however, points out that the insistence on unilateral control of the conduct of the War waged in Korea by the U.S. had its Achilles heel. Lie wrote, “As the Korean War developed, Washington complained, and had reason to complain, that the United States was carrying too much of a burden; but its unwillingness, in those early days, when the pattern of the police action was being set, to accord the United Nations a larger measure of direction and thereby participation no doubt contributed to the tendency of the Members to let Washington assume most of the responsibility for the fighting.”¹³

So an interesting anomaly emerges. The UN resolution authorizing military action in Korea spoke about a “Unified Command” and the original resolution the UN Secretary-General proposed included a mechanism for the UN to supervise the military action. This control was rejected by the U.S. government, and it appears, the UN never pressed to exert its supervision over the conduct of the Korean War. This control was thus ceded to the U.S. government.

While the U.S. government had total control over the Korean campaign it was waging, it appears that it also needed a means to camouflage the unilateral nature of this operation. The designation ‘United Nations Command’, which the U.S. government assigned to its operation, replaced the designation of the “Unified Command” described in Security Council Resolution 84. This change of name provided the camouflage to hide the unilateral nature of the U.S. command and control and of its conduct of the war against North Korea.

The U.S. Government needed the appearance that its unilateral actions were on behalf of and under the United Nations. This was provided by changing the designation of the Command from the “Unified Command” to the ‘United Nations Command’. The change of name helped to create the needed misleading appearance. Similarly, the reports that the U.S.

Government voluntarily submitted to the UN Security Council were titled, “Reports of the ‘United Nations Command’.” This made it appear that the U.S. was conducting the war on behalf of the UN and under its supervision.

This misleading designation continues to exist today over 60 years after it was created, thereby continuing to give the world the false impression that the campaign waged by the U.S. in Korea was and continues to be a United Nations operation and that even today the UN has a presence on the Korean Peninsula.

While the UN did not participate in the decision making process of the military campaign carried out in its name, it played a role then and continues to play a role by allowing the U.S. Government to appropriate the United Nations name as a camouflage cover for the actions of the U.S. Government. What is the UN responsibility in such a matter for what was done, and for what continues to be done in its name? That is the essence of the question raised by North Korea’s call that the ‘United Nations Command’ be dissolved.

V – Conclusion

The research represented in this paper presents a curious, but significant irony. The UN authorized Member States to intervene in the Korean War, to form the “Unified Command,” to use the UN flag along with the flags of the member states participating in the “Unified Command,” and it authorized the U.S. to appoint a Commander in Chief for the “Unified Command.”

According to the obligation required under the UN Charter, and to the original efforts of Trygve Lie, with support from three Security Council members, namely, the U.K., France, and Norway, there was an effort to set up a political entity that would oversee the Korean War operation for the Security Council.

The U.S., however, rejected the proposal and succeeded in controlling the political and the strategic direction for the Korean War. After rejecting the UN proposal for UN supervision over U.S. actions and decisions, the U.S. put itself forward as the ‘United Nations Command’. Thus assuming the cloak of the United Nations, by referring to itself as the United Nations. This mechanism served as a means to misrepresent the U.S.

Government's unilateral actions and decision making processes in the Korean War.

Recently several UN Secretary–Generals, including Secretary– General Boutros Boutros–Gali, Secretary–General Kofi Annan, and Secretary–General Ban Ki–moon have acknowledged that the U.S. was in charge of the Command structure of the Korean War activity taken under the authority of the “Unified Command,” and that the United Nations had no role in overseeing the actions undertaken in the name of the UN. The statement is made that the UN “never had any role in the command of any armed forces deployed in the Korean peninsula.”

The difficulty raised by such a claim, however, is that it evades the salient fact that the Security Council authorized the U.S. to assume this role in violation of the obligations implicit in the UN Charter that the UN exercise supervision over the political, and strategic decision making processes of an action approved under Chapter 7 of the UN Charter.

Therefore, there is some truth to the statements of Boutros Boutros Ghali, Kofi Annan, and Ban Ki–moon that the UN had no role in the command of the military activity carried out under its name in Korea. Specifically as the Spokesperson for Ban Ki–moon stated, “The UN did not at any time have any role in the command of the forces that operated in Korea in 1950–1953.”¹⁴

But what this leaves out is that the UN authorized the U.S. to designate the Commander of the “Unified Command.” Then, however, under pressure from the U.S., the UN failed to exercise its obligation to supervise the actions of the “Unified Command.”

Subsequently, the UN continues to evade fulfilling its obligations by continuing to allow the U.S. to claim that it is the ‘United Nations Command’ in Korea and in failing to provide its political supervision over what the U.S. has done and continues to do in Korea in the name of the UN.

The DPRK proposal is that the U.S. cease to call itself the ‘United Nations Command’. It is important to include a recognition of how the U.S. Government activity represents a continuing violation of the UN Charter.

In 2013, in response to a question, the Spokesperson for Ban Ki–moon said that the issues of the Korean Armistice are issues that do not

concern the United Nations as the United Nations is not a party to the Armistice.¹⁵ Why then has the United Nations allowed the U.S. to continue to use the designation, ‘United Nations Command’ to misrepresent itself as acting under the control of the UN in the Armistice?

Unless the UN takes responsibility for allowing the U.S. to claim the authority of the United Nations in its continuing actions as part of the Armistice, the UN is continuing to allow actions in violation of the UN Charter. If there is a ‘United Nations Command’ that is part of the Korean Armistice Agreement, such a command must be under the political and strategic direction of the UN Security Council. Otherwise, the authority of the UN Charter is being treated as a charade to justify U.S. Government unilateral activity under the camouflage of the UN name. It is as if the UN is but a set of words to hide the illegal acts of one of the Great Powers.

VI – Epilogue

There is another significant aspect of the conduct of the U.S. government with respect to its initiating and intervening in the Korean War. This has to do with the role played by the U.S. Government in bypassing not only the requirements of the UN Charter, but also the requirement of the U.S. Constitution.

The UN Charter specifies that all military action taken to intervene in another country requires a resolution of the Security Council under Chapter 7. Yet the U.S. government made the decision and began to act on that decision to intervene in the Korean conflict before there was any such action by the UN Security Council. This represented a violation by the U.S. Government of the UN Charter.¹⁶

Similarly, the U.S. Executive Branch violated the provision of the U.S. Constitution requiring that no decision to go to war can be made without a Congressional Declaration of War. There was no such declaration with respect to the U.S. Government waging war on the Korean peninsula.

There is a provision in the UN Charter, Article 43(3) which states that member states participating in military actions under Chapter 7 of the UN Charter are obliged to have such actions “subject to the signatory states in accordance with their respective constitutional processes,”

In his article “The Korean War: On what Legal Basis Did Truman

Act?” Louis Fisher who is a specialist in Constitutional Law, points to the constitutional violation represented by Truman’s sending U.S. troops to the Korean War.

Truman used as an illegitimate excuse that the act had been authorized by the UN Security Council. Fisher’s article describes the extensive debate in the U.S. Congress before joining the UN to consider if it was appropriate for the U.S. government to claim that a Security Council resolution justified bypassing U.S. Constitutional obligations.

In his appearance before the House Committee on Foreign Relations then Under Secretary of State Dean Acheson explained that “only after the President receives the approval of Congress is he ‘bound to furnish that contingent of troops to the Security Council’.”¹⁷

Not only did Truman commit troops and aid to South Korea before the Security Council called for military action, but more importantly, no action of the Security Council authorizes the U.S. government to violate the U.S. Constitution. For the U.S. government to wage war, the U.S. Constitution requires that the U.S. Congress make the decision that authorizes that war.

Though other artifices were employed to evade U.S. Constitutional obligation, such as calling the Korean War a “police action,” U.S. Courts rejected such subterfuges.¹⁸

Responding to these subterfuges, Vito Marcantonio, the American Congressman from N.Y. for the American Labor Party said, “When we agreed to the United Nations Charter we never agreed to supplant our Constitution with the United Nations Charter. The power to declare and make war is vested in the representations of the people, in the Congress of the United States.”¹⁹

Commenting on this same situation, Justice Felix Frankfurter argued, “Illegality cannot attain legitimacy through practice. Presidential acts of war, including Truman’s initiative in Korea can never be accepted as constitutional or as a legal substitute for Congressional approval.”²⁰

Notes

1. See for example: Jay Hauben, “Is the UN Role in Korea 1947– 1953 the Model Being Repeated Today?”: <http://www.columbia.edu/~hauben/UN-Role-in-Korea.doc>

2. I. F. Stone, *The Hidden History of the Korean War*, New York, 1952, p. 75. By August 1, 1950, the Soviet Union had returned to the Security Council ending its six-month boycott and so there were no further UN resolutions authorized by the Security Council supporting UN participation in the Korean War.
 3. See for example: Ronda Hauben, "U.S. Misrepresents its Role in Korean War and in Armistice Agreement as 'UN Command'," taz blogs, June 26, 2013: <http://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command>
 4. Press conference June 21, 2013, Ambassador Sin Son Ho at the UN: <http://webtv.un.org/media/press-conferences/watch/ambassador-sin-son-ho-the-permanent-representative-of-the-democratic-peoples-republic-of-korea-to-the-un-press-conference/2498682301001>
 5. James F. Schnabel, *United States Army in the Korean War Policy and Direction: The First Year*, available at: http://www.history.army.mil/html/books/020/20-1/CMH_Pub_20-1.pdf. See p. 102, f/n 6 "Memo, JCS for Secy. Defense, 9 Jul. 50, sub: Designation of a United Nations Unified Comdr by the United States."
 6. James W. Houck, "The Command and Control of United Nations Forces in the Era of 'Peace Enforcement'," *Duke Journal of Comparative and International Law*, vol. 4, no. 1, 1993.
 7. See Houck, p. 13 f/n 51.
 8. Trygve Lie, *In the Cause of Peace*, New York, p. 334.
 9. Houck, p. 12. "None of the resolutions (referring to the June and July SC resolutions -ed)," writes Houck, "provided for Security Council control over the ensuing operation despite the fact that it would be conducted under Security Council authorization."
 10. See Articles 42, 44, 46 and 48 of the UN Charter. These articles authorize the Security Council to use force. There is no article in Chapter 7 of the UN Charter which authorizes the Security Council to cede political decision-making to a member state to carry out a Chapter 7 action.
 11. Schnabel, p. 103, Rad, WAR 85743, DA to CINCFE, Jul. 12, 50.
 12. Schnabel, p. 104, f/n 10. See MacArthur Hearings, p. 10.
 13. Lie, p. 334.
 14. Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, June 21, 2013: <https://www.un.org/press/en/2013/db130621.doc.htm>
 15. Email received from Eduardo del Buey on June 25, 2013.
 16. See I. F. Stone, *The Hidden History of the Korean War*, New York, 1952, p. 75.
 17. Louis Fisher, "The Korean War: On What Legal Basis Did Truman Act?," *American Journal of International Law*, Jan. 1995. (89 Am J. Int'l L. 21), p. 30.
 18. Fisher, p. 34.
 19. Fisher, p. 35.
 20. Fisher, p. 38.
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[Editor's Note: The following article appeared on the netizenblog on Dec. 13, 2017. It can be seen online at: <https://blogs.taz.de/netizenblog/2017-12/13/article-32-right-to-due-process/>.]

Article 32: Right to Due Process Enshrined in UN Charter, Violated by Security Council

by Ronda Hauben

There is a provision in the UN Charter which requires the Security Council, when it discusses a dispute, to invite those countries that are parties to the dispute to participate in that discussion. This requirement of the UN Charter is explained in Chapter V, Article 32 of the Charter.¹

The language of Article 32 says:

Any member of the United Nations which is not a member of the Security Council ... **if it is a party to a dispute** under consideration by the Security Council **shall be invited to participate**, without vote, in the discussion relating to the dispute. (Emphasis added)

The Security Council, however, does not comply with this requirement of the UN Charter. The many resolutions that have been passed by the Security Council condemning actions of the Democratic People's Republic of Korea (DPRK) were passed without the members of the Security Council inviting the DPRK into the discussion as is required by the UN Charter.

For example, shortly after the first nuclear test was carried out by the DPRK on October 9, 2006, the DPRK indicated that there were reasons why it took this action. In violation of the Charter, however, the members of the Security Council did not invite the DPRK to participate in the discussion in the Council about the dispute. Instead sanctions were imposed by the Security Council on the DPRK without hearing its side of the dispute. Only after the sanctions were voted on as Resolution 1718 was the Representative of the DPRK allowed to speak.

How can the members of the Security Council understand the nature

of a dispute without hearing from the parties to the dispute? How can Security Council members decide how to act to resolve a dispute unless they hear from those involved in the dispute?

In the many years since UN Security Council passed in 2006 Resolution 1718 punishing the DPRK for its first nuclear test, the DPRK has conducted several additional nuclear or missile tests. The UN Security Council has passed several additional resolutions against the DPRK, without making any attempt to hear from the DPRK. The DPRK has written to the Security Council several letters asking to have the Security Council consider the dispute that the DPRK says is why it needs to develop a nuclear weapon. The DPRK has also offered to freeze further nuclear development if the U.S. and the Republic of Korea (ROK) cease large scale military drills against the DPRK that they hold several times a year. The U.S. refused to consider this offer and the Security Council members continue to support the U.S.–created resolutions increasing the Security Council’s sanctions against the DPRK.²

While the Security Council ignores the letters from the DPRK, and the Charter requirement that it hear DPRK’s views about the dispute, several Security Council members publicly proclaim but inaccurately, that it is the DPRK that refuses to negotiate about its nuclear program.³

The failure of the Security Council to adhere to the obligation of the UN Charter, has led to an ever more tense situation over the dispute between the DPRK and the U.S.

An event, however, which helps to shed light on this situation took place at UN headquarters on September 22, 2017 during the week of the General Debate that began the 72nd Session of the General Assembly. A press conference was held by the Foreign Minister of the Russian Federation, Sergey Lavrov. In response to a question raised by a journalist at the press conference, FM Lavrov provided not only an understanding of the nature of the obligation that Article 32 bestows on the Security Council, but also an understanding of the importance of this obligation.⁴ The journalist asked Foreign Minister Lavrov:

My question is about the significance of the Security Council and the world not hearing, in the process of the sanctions, from the DPRK. Under Article 32, it says that the DPRK should be invited to the Security Council. They’ve [the DPRK] also asked to come

about the joint exercises. They've sent numerous letters to the Security Council and yet we are told they don't want to negotiate. But if the Security Council constantly doesn't even follow the Charter inviting them, how can they (the DPRK) have a sense there is any process going on within the Security Council? Can you say Russia's position about having an invitation the way Article 32 provides for a country who is being discussed and hearing their side of the story?

Foreign Minister Lavrov responded:

I believe that when the UN Security Council reviews the issues which regard any country, any member country, this country has to be invited and has to have an opportunity to present their position to the UN Security Council. For me, this is a given and it is enshrined in (the) Charter as you quite rightfully say. But when it goes for the practical actions not everything depends on us. There are many opportunities for other Security Council members, member states. Well, in any case, despite this article (in the Charter), the routine practice is the following: that we need consensus. Not everything depends on us.

Lavrov's response clarified that while the obligation is "enshrined in the Charter" to provide an opportunity for any country, involved in a dispute considered by the Security Council to be invited and to be able to present its view of the dispute to the Security Council, he also acknowledges that this obligation of the Charter is not practiced at present by Security Council members. Instead Security Council members determine by consensus what their practice will be. In addition, Lavrov explains that on its own the Russian Federation is not able to change this Security Council violation of the Charter.

But Lavrov is not alone in recognizing the violation by the Security Council of the right to due process under the Charter for those being condemned by the Security Council. This violation of the Charter by the practice of the Security Council also has been the subject of criticism by member states demonstrating the need for Security Council Reform.

For example, at the 62nd General Assembly meeting on the need for Security Council reform, Ambassador Hilario Davide of the Philippines told the Council:⁵

(D)ue process and the rule of law demand that Member States that are not members of the Security Council but are the subjects of the Council's scrutiny should have the right to appear before the Council at all stages of the proceedings concerning them to state or defend their positions on the issues that are the subjects of or are related to that scrutiny A denial of due process, . . . is a violation of the basic principle of the rule of law. Due process and the rule of law require that a party must be heard before it is condemned.

Also this violation of the Charter had been criticized by civil society groups, as for example, in a [2017] letter sent to the Secretary-General and signed by over 300 women and women's groups from 45 countries. In the letter, the women wrote:⁶

In accordance with UN Charter rules, we urge you to respond to North Korea's security concerns regarding these war drills, the world's largest, which rehearse surgical strikes on North Korea, 'decapitation,' and regime change. According to Article 32 of the UN Charter, 'Any Member of the United Nations which is not a member of the Security Council . . . if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute.' Yet the DPRK has never been invited to participate in UNSC sessions on sanctions resolutions, and the Permanent Mission of the DPRK to the UN has not received a response to its August 25, 2017 letter where they "strongly request[ed] the Security Council of the United Nations to place the issue of the joint military exercise as its emergent agenda and discuss in the meeting with no further delay."

Criticism of the Security Council's failure to provide due process to those they condemn has even been raised in court proceedings as with SC Resolution 1267, with the Court requiring the Security Council to change its procedures.⁷

Also, there is an example of the Security Council acting differently. In 2010 the Security Council took up a dispute regarding sinking of a war ship involving the Republic of Korea and the Democratic People's Republic of Korea. The Security Council invited both parties to present

their view of the dispute. Then it issued a Presidential Statement documenting the nature of the dispute and urging the two parties to settle it in a peaceful manner.⁸

It is significant that Lavrov recognized the obligation of the Security Council to hear the views of nations involved in a dispute being considered by the Security Council. His acknowledgment that such problems need others to take them up in order to be resolved, implies a current challenge for the UN. The ongoing failure of the Security Council to operate according to the Charter undermines the legitimacy of the Security Council and even of the UN.

Notes

1. Charter of the United Nations, Chapter V, Article 32.; <https://www.un.org/en/sections/un-charter/chapter-v/index.html>
 2. The U.S. is the pen holder writing the SC Resolutions against the DPRK and then uses various forms of pressure to get the SC to pass the resolution. This is the case even though the U.S. is a party to the dispute with the DPRK.
 3. See for example: <http://webtv.un.org/watch/japan-prime-minister-addresses-general-debate-72nd-session/5581786476001/> Japan — Prime Minister Addresses General Debate, 72nd Session, 20 Sep 2017 — Shinzo Abe, Prime Minister of Japan, addresses the general debate of the 72nd Session of the General Assembly of the UN (New York, 19–25 September, 2017).
 4. See: <http://webtv.un.org/media/watch/sergey-lavrov-russian-federation-press-conference-22-september-2017/5583136573001/?term=> (Start 30:23; End 32:03) Sergey Lavrov (Russian Federation) — Press Conference (22 September, 2017) 22 Sept., 2017 — Sergey V. Lavrov, Minister for Foreign Affairs of the Russian Federation, addresses the press on disarmament and other topics.
 5. See: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.5968 (Resumption 1) Transcript Security Council meeting, August 27, 2008, S/PV.5968, Resumption 1, p. 8.
 6. See for example: https://www.womencrossdmz.org/web/wp-content/uploads/2017/09/Final_Letter-to-UNSG-ver6.pdf
 7. See for example: <https://www.heise.de/tp/features/At-Legal-Crossroads-3419131.html> Ronda Hauben, “At Legal Crossroads: Security Council Sanctions Imposed Without Due Process,” *Telepolis*, 29 June, 2008.
 8. See for example: UN Security Council Presidential Statement S/PRST/2010/13: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PRST/2010/13
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[Editor's Note: The following article appeared in Ohmynews International on Oct 17, 2006. It can be seen online at: http://english.ohmynews.com/article_view/article_view.asp?no=323351&rel_no=1.]

The Problem Facing the U.N.

by Ronda Hauben

Only after an agreement was achieved among the five permanent members of the Security Council and supported by the ten temporary members, and voted on, did the Council agree to hear the party to the problem that was before them. And only after hearing the views of all the permanent members of the Security Council — the U.S., France, Britain, China and Russia — and some of the temporary members about why they voted for the sanctions on North Korea did the Council allow the representative from the Democratic People's Republic of Korea (North Korea), Pak Gil Yon, to have a few minutes to speak. His talk was followed by a brief statement from the South Korean ambassador to the U.N., who spoke in support of the sanctions.

In the brief opportunity he had to speak, Pak indicated that his country felt it was the victim of hostile acts by the U.S. and that it had a sovereign right to defend itself from such hostile acts. Also, he indicated that the process of the Security Council in mandating sanctions on his country was more like the activity of gangsters than an activity representing a legitimate means of investigating a dispute and determining how to diffuse a tense situation.

In the General Assembly on Friday, Oct. 13, 2006, there were speeches supporting discussion and investigation. But the closed decision-making process that culminated the following day in the issuing of sanctions against North Korea was in stark contrast.

The statements by several of the five permanent members of the Security Council, the members who have the power to veto Security Council decisions, emphasized that their resolution imposing sanctions against North Korea reflected the condemnation of the "international community" and that all the nations of the U.N. now had a legal obligation to carry out the provisions of the sanctions.

While the Security Council does indeed have the power to impose such sanctions on a country in the name of the U.N., the process by which the sanctions were decided, is a sorry demonstration of power politics that involves very few of the 192 member countries that make up the U.N.

The chairman of the Latin American and Caribbean regional group, in his comments at the General Assembly made to the future secretary-general, he explained that there are important challenges for the U.N. in the role it plays in “today’s world.”

“International public opinion demands that the Security Council and other bodies of the organization should perform a much better job. There is a trend at this time for great and infinite opportunities as well as unprecedented risks,” explained Ecuadorian Ambassador to the U.N. Diego Cordovez.

“The United Nations, it is said, should be a base, a forum, a mode that would enable the international community to take advantage of those transcendental opportunities and foresee and neutralize potential risks,” Cordovez added. “For those reasons, it is important to insist on the need to reform thoroughly and deeply the organization and undoubtedly, that would be the main task and responsibility of our new Secretary-General.” (He was referring to the failure of the member states to reform the Security Council.)

“It is inconceivable,” he said, “that we are discussing the reform of the Security Council for decades, preparing infinite numbers of formulas, doing report after report on that item, and yet it remains immutable and impossible to the critics for its lack of representation and its parsimonious conduct to confront [the] world’s crises.”

The act of bringing sanctions against a member state by the Security Council, with no investigation into the grievances that motivated North Korea’s actions, stands as an egregious example of the failure of the obligation of the U.N. to hear from each member state and to provide a place where problems can be heard and discussed to find a solution.

North Korea says its problems are with the U.S. and that it has developed nuclear devices because of its need to defend itself from the U.S. That is a serious statement requiring investigation to see who has caused the problem and who merits the imposition of sanctions.

Another aspect of the current process that ended in sanctions is that

the five permanent members of the Security Council are powerful countries that possess nuclear weapons. These very countries have failed to meet their obligations under the Nuclear Nonproliferation Treaty to carry out their disarmament.¹

Some scholars and diplomats explain that they are not surprised that North Korea believes it needs to develop a nuclear capacity in order to protect itself from danger. Given the actions of the U.S. government in branding North Korea as part of the “axis of evil” and attacking another, Iraq, which it had similarly branded, is but one of the reasons some scholars believe the U.S. government provided North Korea with a legitimate justification to develop nuclear weapons.² In its brief talk at the Security Council meeting, North Korea expressed one of its disappointments:

It was gangster-like for the Security Council to adopt such a coercive resolution against the Democratic People’s Republic of Korea while neglecting the nuclear threat posed by the United States against his country The council was incapable of offering a single word of concern when the United States threatened to launch nuclear pre-emptive attacks, reinforced its armed forces and conducted large-scale military exercises near the Korean Peninsula.

It must be remembered that the five permanent members of the Security Council possess thousands of nuclear weapons.

Although commentators and scholars who feel there is justification for North Korea’s actions want to discourage the proliferation of nuclear weapons, they explain that punishing North Korea, while ignoring those countries who are in the club of nations possessing nuclear weapons, can only breed cynicism and hostility to antinuclear development and enforcement efforts.

That North Korea can claim that it felt compelled to develop a nuclear device, is a signal that the current regime of power politics is not working in a way that provides alternatives for a small nation that feels threatened by the nations that are nuclear powers. North Korea’s situation is a demonstration that there is need for serious discussion by the 192 member states of the U.N. to understand the problems that North Korea claims compel it to develop nuclear weapons as a means of securing its borders

and protecting its sovereignty.

There is indeed an international community, and there is indeed a serious challenge facing it. The five big nuclear powers who wield veto power on the Security Council can bring to bear punishment upon a small nation that endeavors to develop nuclear capability. This, however, will only compound the problem as it will only increase the hostility and resentment that the small nation feels from such unequal treatment at the hands of those who themselves possess nuclear weapons and who use the power this capability bestows on them in such a self-serving manner.

The two Koreas have brought to the world stage the need for a truly international organization, one that will consider all its members' concerns and needs, and find ways to support serious consideration of the problems such nations have but are unable to solve themselves.

The urgent problem facing the U.N. at this juncture in its history is not whether North Korea has developed and tested a nuclear device. It is the breakdown reflected by the lack of participation and investigation by the international community into how a crisis will be handled once it develops, and whether the concerns and problems of those who are involved in the crisis will be considered as part of the process of seeking a solution. It is how the U.N. functions when tensions reach a point where serious attention is needed to help to understand and solve a problem.

Unfortunately for the world, and for North Korea, there was no such process in the decision to impose sanctions on North Korea. The decision to impose sanctions on North Korea was not made by the international community. It was the decision of a small set of nuclear countries. Who was responsible for the crisis was not explored before determining blame, and thus the proclaimed solution is likely only to worsen the problem rather than solve it. Yet the actual problem exists and the fact that people of the world recognize it is highlighted by a recent poll taken in South Korea, which showed that 43 percent of the population blames the U.S. government for North Korea's test of a nuclear device, while only 37.2 percent blame the North Koreans.³

The actions in the Security Council to punish North Korea occurred without the needed exploration of what had motivated North Korea to turn to nuclear weapons as a means of self-defense. Can the U.N. be changed in the needed ways so that it will be able to handle such problems? This

is the urgent issue facing the U.N. This is one of the challenges facing, member nations and people who are part of the U.N. organization of this needed global organization.

Notes

1. See “Pyongyang’s Nuke Test Sparks Fission Over Response.”: <http://www.ais.org/~jrh/acn/pyongyang-nuke-test.txt>
 2. See “What About North Korea’s sovereignty?”
 3. See “U.S. Most Responsible for Nuclear Test: Poll.”
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[Editor’s Note: The following article appeared in Ohmynews International on May 19, 2007. It can be seen online at: http://english.ohmynews.com/articleview/article_view.asp?no=362192&rel_no=1.]

Behind the Blacklisting of Banco Delta Asia Is the Policy Aimed at Targeting China as Well as North Korea?

by Ronda Hauben

U.S. Assistant Secretary of State Christopher Hill, speaking at the Korea Society’s 50th Anniversary dinner in New York City on May 15, 2007, said that he was determined not to “allow \$26 million or \$25 million get between us and a deal that will finally do something about nuclear weapons on the Korean peninsula.” He promised that Kathleen Stephens at the Korea desk at the State Department was working on the problem and that “we are going to keep after this problem till we solve it.” His statement didn’t give further details about how this problem was to be solved, a problem that had interrupted the progress that seemed at last possible in the Feb. 13 Six-Party agreement.¹

Just two days later, on May 17, the U.S. Wachovia Bank announced that it is exploring a request from the State Department to transfer the

funds from the Banco Delta Asia (BDA) to North Korea. Wachovia Bank reported that it would require the necessary approvals from bank regulators to do the transfer.

Until this latest announcement, banks have been unwilling to do the transfer because of the legal action that the U.S. government took against the BDA, by ruling that it was involved in criminal activity under Section 311 of the U.S. Patriot Act. Banks which deal with a bank that has been found guilty of such illegal acts risk losing their access to the international financial system. North Korea has said that the denuclearization and other aspects of the Six-Party agreement that it has been part of can only go forward when the BDA situation is resolved. "To make the money transfer possible freely just like before has been our demand ... from the beginning," a spokesperson from North Korea said.²

In his daily press briefing on May 17, Scott McCormack at the U.S. State Department said, "We all want to see the BDA issue resolved, obviously resolved within the laws and regulations of the United States as well as the international financial system, and we'd like to move on and get back to the business of the Six-Party Talks, which is really focused on the issue of denuclearizing the Korean Peninsula."³

Whether this latest development with Wachovia Bank will provide the needed breakthrough, it is too soon to tell. But there are other developments which may provide the needed pressures on the U.S. government to decriminalize the \$25 million it has frozen of North Korean funds and restore North Korea's access to the international banking system. Their access was severely impeded by the action that the U.S. Treasury Department took against the BDA.

The developments I am referring to are the release in the public domain of several documents related to the U. S. Treasury Department's actions against BDA. One of the documents is a sworn statement by the owner of the BDA, Mr. Stanley Au, in support of his petition to revoke the rule imposing the special measures taken by the U.S. Treasury Department against his bank. Another document is the petition in support of his case. Also the Treasury Department finding against the bank has been put online. These documents have been made available on the blog "China Matters."⁴

In his statement, Au explains the history of his bank's relations with

North Korea and how there was only one experience, which occurred in June 1994, when there was a problem with counterfeit U.S. dollars. At the time, the bank reported this incident to the U.S. government. Agents from the U.S. government came to the bank and questioned Au. He answered their questions and asked if the agents recommended that the bank “desist from doing business with North Korean entities.” The agents said “they would like us to continue to deal with them as it was better that we conducted this business than another financial entity that may not be so cooperative with the United States government.”

Au explains that there was no further experience with counterfeit money showing up in the transactions of the bank. All “large value deposits of U.S. dollar bills from North Korean sources” were sent to the Hong Kong branch of the Republic National Bank of New York (which became HSBC) to be certified that they were authentic via advanced technology possessed by that bank. Smaller quantities of bills were examined in accord with common banking practices by the bank itself.

Au also explains that he had not been approached by U.S. government agents alerting him to any problem or illegal activity. The first he learned that his bank was being charged as a bank engaged in “illicit activities” came when he saw a report in the *Asian Wall Street Journal* in September, 2005 that his bank was a candidate for a U.S. money–laundering blacklist. He tells how “this news came as a bolt out of the blue — the Bank had never been informed by the United States that its practices were a cause of any money–laundering concern, and the counterfeiting event that the media reported as the basis for the designation had occurred more than ten years earlier and had been promptly reported to the authorities by Banco Delta Asia.”⁵

Stanley Au’s statement is in sharp contrast with the account in the U.S. government’s Federal Register of the finding against the bank by the U.S. Treasury Department.⁶

The Federal Register finding states that the bank had provided financial services for more than 20 years to multiple North Korean–related individuals and entities that were engaged in illicit activities. It provides no specific details of what such illicit activities were. It claims that the entities paid a fee to Banco Delta Asia for their access to the bank. The finding claims that the bank facilitated wire transfers and helped a front

company.

In his statement, Stanley Au maintained that the BDA did not charge a fee for its services nor did it conduct illicit services for North Korea or any other customer. The bank was only one of the banks in Macau that did business with North Korea. The business his bank had with North Korea began in the mid 1970s and was to assist North Korea with its foreign trade transactions. Also Au described North Korea as a gold producing country and that in the late 1990s the bank had acted as a “gold bullion trader on behalf of the North Koreans.” Also the BDA bought or sold foreign currency notes for North Korea, including U.S. dollars, because North Korea had a limited banking system and so it couldn’t do such transactions itself (see Statement, pp. 3–4).

The petition submitted to the U.S. Dept. of the Treasury to challenge the finding against BDA proposes that BDA was targeted not because of any “voluminous” evidence of money–laundering but “because it was an easy target in the sense that it was not so large that its failure would bring down the financial system.”⁷

In the substantial and prolific analysis of the BDA problem that has been developed on the blog “China Matters,” there is the assessment that North Korea has legitimate financial activity and that the BDA was legitimately serving as one of the banks for that activity. Even with the UN’s sanctions, it was not appropriate to target for blacklisting the legitimate financial activities of North Korea. The sanctions that the UN–imposed against North Korea were to be aimed at its activity that was related to nuclear weapon development, not to normal financial transactions.

The author of China Matters blog writes:⁸

The alternative view ... is that legitimate North Korean financial activity does exist, BDA had a right to solicit North Korean accounts and handle North Korean transactions, and Stanley Au should be allowed to run his bank as long as he conforms to the laws of his jurisdiction — and (the bank) not be used as a political football in Washington’s dealings with Pyongyang.

To put it more succinctly, the blog China Matters quotes David Ascher, who had been the coordinator for the Bush Administration working group on North Korea and a senior adviser in East Asian affairs

in the State Department, in testimony to the U.S. House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade on April 18, 2007, explaining why Banco Delta was chosen to be blacklisted from the international banking system:⁹

Banco Delta was a symbolic target. We were trying to kill the chicken to scare the monkeys. And the monkeys were big Chinese banks doing business in North Korea ... and we're not talking about tens of millions, we're talking hundreds of millions.

The purpose of the action against the BDA appears not only to have been to target North Korea and its access to the international banking system, but also to send a message to China.

Therefore it would appear that the action against BDA is a carefully crafted political action and that it will be necessary that there be public understanding, discussion and debate about what is behind this action in order to find a way to have the policy that gave rise to the BDA action changed.

Instead of the U.S. mainstream press carrying out the needed investigation about why BDA has been targeted and what is behind this action, there have been continual condemnations of North Korea. Fortunately there are journalists like those who work with the McClatchy News Service who have made an effort to probe what is happening behind-the-scenes in the BDA affair and blogs like China Matters which have taken the time and care to begin uncovering what the BDA affair is really all about. This is but one of the stories of what is really going on behind the scenes within the U.S. government that has been hidden from the public. This is one of the stories yet to be unraveled by bloggers, and citizen journalists.¹⁰

Notes

1. See an earlier article "North Korea's \$25 Million and Banco Delta Asia.": http://english.ohmynews.com/ArticleView/article_view.asp?menu=A11100&no=351525&rel_no=1&back_url=%3Cbr%3E
2. "North Korea says work to transfer bank funds under way," *AFP*, May 15, 2007: https://www.spacewar.com/reports/North_Korea_Says_Work_To_Transfer_Bank_Funds_Under_Way_999.html

3. Scott McCormack, Daily Press Briefing, Washington, D.C., May 17, 2007.
4. “Bank owner disputes money–laundering allegations.”: <http://chinamatters.blogspot.com/2007/05/stanley-au-makes-his-case-for-banco.html>
5. Statement of Mr. Stanley Au in Support of Petition to Revoke Rule Imposing Special Measures Against Banco Delta Asia, p. 7.: http://www.ncnk.org/resources/publications/Jones_Day_Petition_Rescind_BDA_Rule.pdf See also: Kevin G. Hall, “Bank owner disputes money–laundering allegations,” McClatchy Newspapers, May 16, 2007: <https://www.mcclatchydc.com/news/nation-world/world/article24463246.html>
6. Department of the Treasury, 31 CFR Part 103, RIN 1506– AA83, *Federal Register*, vol. 72, no. 52, Monday, March 19, 2007, Rules and Regulations: https://www.fincen.gov/sites/default/files/shared/bda_final_rule.pdf
7. Petition of Mr. Stanley Au and Delta Asia Group (Holdings) Ltd. to Rescind Final Rule, p. 12: http://www.ncnk.org/resources/publications/Jones_Day_Petition_Rescind_BDA_Rule.pdf
8. “Stanley Au Makes His Case for Banco Delta Asia,” Tuesday, May 15, 2007: <http://chinamatters.blogspot.com/2007/05/stanley-au-makes-his-case-for-banco.html>
9. “David Asher’s Dead End,” Saturday, April 28, 2007: <http://chinamatters.blogspot.com/2007/04/david-ashers-dead-end.html> See also “China’s Proliferation to North Korea and Iran, and its role in addressing the nuclear and missile situations in both nations,” Hearing, Sept. 14, 2006, Nov. 2006, pp. 115–116: http://www.uscc.gov/hearings/2006/hearings/transcripts/sept_14/06_09_14_trans.pdf
10. Ronda Hauben, “Bill Moyers and the Emergence of U.S. Citizen Journalism: Power of Government Creates Need for Investigative News.”: http://english.ohmynews.com/articleview/article_view.asp?no=360069&rel_no=1

The above article can be seen at: http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=362192&rel_no=1

[Editor's Note: The following article appeared in OhmyNews International on Oct 4, 2009. It can be seen at: http://english.ohmynews.com/article/view/article_view.asp?no=385061&rel_no=1.]

UN Security Council Controversy Over North Korean Satellite Launch

Reconvening Six-Party Talks or Penalizing Pyongyang?

by Ronda Hauben

There has been a controversy among the members of the UN Security Council (UNSC) over how to react to the April 5, 2009, launch of a satellite by North Korea. The Security Council met for emergency consultations on Sunday, April 5, while the P-5 and Japan met in other consultations after the Sunday meeting.

Japan and the U.S. have encouraged the UNSC to take strong measures against North Korea to punish it for launching the satellite. The Russian Ambassador to the UN, Vitaly I. Churkin warned against a “knee jerk” reaction and proposed that the crucial goal was to ensure the continuation of the six-party talks toward the denuclearization of the Korean Peninsula. These talks broke down during the Bush administration and have not yet been resumed.

The Chinese Ambassador to the UN, Zhang Yesui said that the reaction of the Security Council had to be “cautious and proportionate.” He said that his delegation would be most willing to consider constructive responses.

U.S. Ambassador Susan Rice, called the launch by North Korea, “a clear-cut violation of UN Security Council Resolution 1718.”

She said that it is the view of the U.S. government “that this action merits a clear and strong response from the United Nations Security Council.”

Her position was that SC Resolution 1718 “prohibited missile related activity and called on the DPRK to halt further missile related activity.”

Vietnam, one of the elected members of the Security Council, called

for a “prudent reaction.” A spokesperson for the its Foreign Ministry said that Vietnam “hopes the relevant parties have a prudent reaction, find a reasonable solution and do not complicate the situation and affect peace and stability in the Northeast Asia region.”¹

While Vietnam said that it was opposed to the proliferation of nuclear weapons, an earlier statement indicated that Vietnam supports “the rights of countries to use science and technology for peaceful purposes.”

The Japanese Ambassador to the UN, Yukio Takasu requested an emergency consultative session of the Security Council on Sunday, April 5. His position was that North Korea’s launch of a satellite was banned by SC Resolution 1718 which demands that North Korea suspend all activities “related to its ballistic missile program.”

While SC Resolution 1718 explicitly demands that North Korea not conduct any “launch of a ballistic missile,” the members of the Security Council disagree about whether SC Resolution 1718 forbids the launch of a communication satellite.

Countries advocating the position that North Korea violated SC Resolution 1718, point to parts 5 and 8(a)ii of the resolution as the parts violated.

Part 5 reads that the Security Council:

Decides that the DPRK shall suspend all activities related to its ballistic missile program and in this context reestablish its pre-existing commitments to a moratorium on missile launch. (SC Resolution 1718, p. 2)

Section 8(a)ii is about member states preventing the sale or transfer to North Korea of “materials, equipment, goods and technology as set out in the lists ... which could contribute to DPRK’s nuclear-related, ballistic missile-related or other weapons of mass-destruction related programs.” (SC Resolution 1718, pp. 2–3)

North Korea was not invited to participate in the emergency consultations of the Security Council, despite the fact that Article 32 of the UN charter requires that a “party to a dispute under consideration by the Security Council shall be invited to participate, without vote, in the discussion relating to the dispute”

Speaking to reporters at the UN on Tuesday, April 7, the Deputy Ambassador to the UN from the Democratic People’s Republic of Korea

(North Korea), Pak Tok Hun said:²

Every country has the right, the inalienable right to use the outer space peacefully. Not a few countries, many countries, they have already launched satellites several hundred times.

Does it mean it would be OK for them to launch satellites but we are not allowed to do that? It's not fair. It's not fair.

This is a satellite. Everyone can distinguish (a) satellite with a missile. It's not a missile. I know most of the countries now recognize it's not a missile.

A reporter asked, "But you use ballistic technology. You need ballistic technologies."

Pak responded:

Those countries who launch satellites use similar technology and if the Security Council, they take any kind of step whatever, this is infringement on the sovereignty of our country and the next option will be ours and necessary and strong steps will follow that.

Along with the dispute in the Security Council over whether or not the North Korea's action is an actual violation of SC Resolution 1718, there is a controversy over whether the thrust of the Security Council action should be toward getting the six-party talks reconvened, or toward penalizing North Korea in some way.

The resolution of this controversy depends predominantly upon the U.S. because it can be argued that the U.S. was responsible for the current breakdown of the six-party talks.

In a talk at the Korea Society in NYC Fall 2008, Leon Sigal of the Social Science Research Council (SSRC) explained how the six-party talks broke down over the issue of verification. The U.S. government had changed the terms of the agreement unilaterally, imposing a condition on North Korea that was not part of the original agreement.³

The second phase of the six-party February, 2007 agreement required disabling the reactor, and other processes at Yongbyon and declaring the nuclear material and equipment which were to be eliminated in Phase 3 of the agreed actions.

The Bush administration was obligated to provide 'action for action' in response to North Korea's disabling the reactor and other steps.

The verification was to occur only later in the six-party talk process, in Phase 3 “when the dismantling of the North’s nuclear facilities and elimination of any plutonium or weapons it has would be taken up.” Instead the U.S. continued to press for a verification agreement during Phase 2 of the agreement.

Most of the mainstream U.S. media, with the exception of an important article in the *Washington Post*, failed to explain the reason for the breakdown in the talks.⁴ The *Washington Post* article which documented how the hostile U.S. State Department environment eroded the process of negotiation between the U.S. government and North Korea, was only carried on page 20 of the newspaper. It described how U.S. government hardliners fashioned a verification procedure to be imposed on North Korea which was in the words of an expert in nuclear disarmament akin to “a license to spy on any military site they (North Korea) have.”

By launching a satellite rather than a ballistic missile, North Korea has avoided violation of the ballistic missile sections of SC Resolution 1718. This gives the U.S. a chance to respond by returning to the six-party talks and seeking to finish Phase 2 before requiring verification in Phase 3 of the process.

The Security Council has this opportunity to call for all parties to cease any obstruction and to return to the six-party talks and to intensify their efforts to complete Phase 2 and enter the next phase of the agreed path to the denuclearization of the Korean Peninsula.

Notes

1. Vietnam calls for ‘prudent’ reaction to DPRK rocket, April 5, 2009, on line at: <http://travel.org.vn/news/politics/2009/04/vietnam-calls-for-rsquo prudentrsquo-reaction-to-dprk-rocket-launch.html>
 2. Pak Tok Hun, Deputy Ambassador from the Democratic People’s Republic of Korea (North Korea) to the UN, speaking to reporters at the UN on Tuesday, April 7, 2009.
 3. Ronda Hauben, “U.S. Media and the Breakdown in the Six-Party Talks,” *OhmyNews International*, Sept. 29, 2008, on line at: http://english.ohmynews.com/articleview/article_view.asp?menu=c10400&no=383769&rel_no=1
 4. Glenn Kessler, “Far Reaching U.S. Plan Impaired N. Korea Deal: Demands Began to Undo Nuclear Accord,” *Washington Post*, Friday, Sept. 26, 2008; p. A20.
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Part 3

[Editor's Note: The following letter was sent to the United Nations Secretary-General on September 30, 2019. It can be seen online at: https://www.veteransforpeace.org/files/8015/7065/0224/IADL_letter-Financial_1.doc]

Letter Seeking the Position of the UN Secretary-General on the Use of the UN Flag by the 'United Nations Command' in Korea and Japan

September 30, 2019

Hon. Antonio Guterres
Secretary-General
The United Nations
New York, New York

Dear Secretary-General Guterres:

The International Association of Democratic Lawyers, (IADL) a non-governmental organization with consultative status with ECOSOC, is writing on behalf of itself and other civil society groups that are supporting this letter (the list of these groups is [below]). We are seeking your opinion on the above issue because the UN General Assembly adopted a resolution beginning in its early history to protect the name of the United Nations and Secretary-General had been authorized by the General Assembly to adopt a UN flag code and protect its dignity.¹

1. The U.S. military is still using the UN flag at certain military bases in Korea and Japan, in claiming to be the 'United Nations Command', which was unilaterally created by the U.S. in July 1950. The U.S. uses Security Council Resolution 84 of 7 July, 1950 to justify its use of the UN flag. However, there are some serious problems with such use. For instance, the Security Council made a grave mistake in authorizing the use of the UN flag for a non-UN, multi-national military command that was only recommended in SCR 84. Perhaps, some members of the Security

Council at the time may have believed that the Security Council had such power. However, according to Prof. Hans Kelsen, the leading legal scholar on the Charter and Law of the United Nations at the time, such opinion had “no basis neither in the Charter nor in the Resolution 167(II) of the General Assembly.”² Moreover, SCR 84 authorized the “Unified Command” to use the UN flag in the “course of operations against North Korean forces,” but the U.S. military has used the UN flag in the name of the ‘UN Command’ in its military operations in Korea from the beginning.

2. The first UN Flag Code was issued on 19 December, 1947, and Pt. 8 of the Code stated that “the flag shall not be used except in accordance with this Flag Code.” However, the Code did not contain a provision authorizing the use of the flag in military operations. On 28 July, 1950, Secretary–General Trygve Lie added to the Code a new paragraph under Pt. 6 which stipulated that “the flag may be used in military operations only upon express authorization to that effect by a competent organ of the United Nations.”³ Prof. Kelsen criticized this new provision as “an ex post facto justification” of the SCR 84.⁴

3. In a joint letter sent to the Secretary– General by 28 Member States on 15 September, 1972, requesting to add to the agenda of the 27th session of the General Assembly a draft resolution with the title of “Creation of Favorable Conditions to Accelerate the Independent and Peaceful Reunification of Korea,” the second clause of the resolution stated that the General Assembly “Considers that the right to use the United Nations flag ... in South Korea, should be annulled.”⁵ Thereafter, the U.S. wrote a letter to the Security Council which informed the Council that it will “undertake measures to reduce manifestations of the ‘United Nations Command,’ including restricted use of the flag”⁶ About three months later, the U.S. sent another letter to the Security Council, informing the Council that “from 25 August, 1975, the United Nations flag” will no longer fly over military installations in the Republic of Korea “except at facilities directly associated with the implementation of the Armistice Agreement of 27 July, 1953.”⁷ The U.S. has taken the step of continually using the UN Flag unilaterally, in opposition to the growing demand of Member States that the U.S. stop using the UN flag in Korea. Such action was also taken in disregard of the Secretary–General’s authority and opinion.

4. On 24 December, 1993, while crossing the South–North dividing

line in the DMZ, the UN Secretary–General Boutros Boutros–Ghali stated that he did not authorize flying the UN flag at Panmunjom.⁸ His remark was true and just since the Secretary–General was also a scholar of international law. In June 1994, the Secretary–General further clarified that SCR 84 “did not establish the unified command as a subsidiary organ under its control ...”.⁹ In other words, the “Unified Command” was not under the control of the UN Security Council. Thus, it cannot be called as a ‘United Nations Command’.

5. In regard to this issue, we would like to ask the Secretary–General the following four questions:

1) Did the SCR 84 violate the UN Charter and the UN Flag Code when it authorized the “Unified Command,” which was a non–UN entity, to use the UN flag in the course of operations against North Korean forces?

2) Did the U.S. violate the SCR 84 by creating the so–called the ‘UN Command’ on its own initiative and then using the UN flag in the name of the ‘UN Command’?

3) Did the U.S. violate the SCR 84 by continuing the use of the UN flag in the name of the ‘UN Command’ even today, although active fighting in Korea ended on 27 July, 1953 and the main goal of the SCR 84 was achieved?

4) If the U.S. violated the UN Charter, the UN Flag Code, or the SCR 84, then what measures would the Secretary–General take to stop the abuse of the UN flag in Korea and Japan?

We would appreciate your attention to this matter and kind response as soon as possible.

Respectfully yours,

Jeanne Mirer, Esq.

President, International Association of Democratic Lawyers

Endorsed by the following civil society groups:

Confederation of Lawyers of Asia and the Pacific (COLAP)

Lawyers for a Democratic Society–Research Committee on USFK Affairs (ROK)

Citizen's Solidarity for Peace & Unification (ROK)
Peace Mothers of Korea (ROK)
Korean Confederation of Trade Unions (ROK)
Eurasia Peace Way (ROK)
Korea Youth Solidarity (ROK)
The Tomorrow (ROK)
National Federation of Peasant Society (ROK)
Korean Women Peasant Association (ROK)
National Women's Solidarity (ROK)
Korea International Peace Forum (ROK)
Action One Korea (ROK)
Democratic Workers' National Conference (ROK)
National Democratic Movement Families Association (ROK)
National Unification National Unity South Korea Headquarters (ROK)
Progressive College Student Network (ROK)
Unification Square (ROK)
Support Committee for Prisoners of Conscience for Justice, Peace and Human Rights (ROK)
Korea Progressive Solidarity (ROK)
National Poverty Alliance (ROK)
Democratization Practice Family Movement Council (ROK)
Citizen's Coalition for Resurrection of Chang Jun Ha, the Patriot of Korea (ROK)
Progress Union of Korea University Students (ROK)
World BEYOND War (U.S.)
Environmentalists Against War (U.S.)
Columban Mission Society
Des Moines Catholic Worker (U.S.)
Peace Action Maine (U.S.)
Peaceworkers (U.S.)
Veterans For Peace (U.S.)
Presbyterian Peace Network for Korea (U.S.)
National Association of Korean Americans (U.S.)
The Olympia, Washington Fellowship of Reconciliation (U.S.)
Citizens Opposing Active Sonar Threats (U.S.)
Popai Liem Education Foundation (U.S.)

Global Network against Weapons and Nuclear Power in Space (U.S.)
Australian Anti-Bases Campaign Coalition (Australia)
6.15 Komitee of South-North-Overseas Korean, Section Europe
(Germany)
International Network of Engineers and Scientists for Global Responsibility
(Germany)
Peace Philosophy Centre, Vancouver, B.C. (Canada)
Peace Women Partners International
Swedish Peace Council (Sweden)
Trident Ploughshares, XR Peace (U.K.)
SOAS University of London Social Justice Korea (Student Union Society)
(U.K.)
Policy Research for Development Alternative (Bangladesh)

Notes

1. A/RES/92(I), Official Seal and Emblem of the UN, 7 December, 1946; A/RES/167(II), United Nations Flag, 20 October, 1947.
 2. Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems* (New York: Frederick A. Praeger, 1950), p. 938.
 3. ST/AFS/SGB/89, The United Nations Flag Code (as amended), 28 July, 1950.
 4. *IBID.*, Kelsen, p. 939.
 5. A/8752/Add. 9.
 6. S/11737 (27 June, 1975).
 7. S/11830 (22 September, 1975).
 8. Shawn P. Creamer (U.S. Army Colonel), "The 'United Nations Command' and the Sending States," *International Journal of Korean Studies*, vol. XXI, n. 2, Fall-Winter 2017, p. 2.
 9. UN Secretary-General Boutros Boutros-Ghali letter to the DPRK's Foreign Minister, New York, NY, June 24, 1994.
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[Editor's Note: The following open letter to the UN Security Council members was dated 13 January, 2020. It was signed by five South Korean Civil Society organizations. A copy appeared on the People's Solidarity for Participatory Democracy (PSPD) website at: <http://www.peoplepower21.org/English/1679682.>]

Open Letter to the UN Security Council Members

We Cannot Possibly Go Back to Times of Competition and Hostility

At the beginning of 2020, the 70th new year since the outbreak of the Korean War, the situation of the Korean peninsula stays gloomy. The DPRK–U.S. negotiations have been stuck at a deadlock for the past year without a seemingly possible breakthrough. In the meanwhile, DPRK that has recently announced “a new path” have resolved a “frontal breakthrough” in the latest Workers’ Party Central Committee plenum and emphasized economic self–help strategies and development of new strategic weapons.

Two years have barely passed since 2018, when hope that this age of hostility and contention would end, was plated. As we all know, the road to peace establishment in the Korean peninsula should be a trust–building process through perpetual conversations and patience. We are now facing the uneasy obstacles along the road, but we cannot possibly abandon patience for a return for antagonism. Today, the civil society organizations have gathered here in a united wish to never go back to the time before the Panmunjom Inter–Korean Summit in any circumstances, when dangers of war were imminent. We assert that conversations between DPRK–U.S. and South–North should reconvene as soon as possible, and agreements which had been difficult to reach between them should be fulfilled, and we hereby suggest to governments of ROK, DPRK, and the U.S.

DPRK and the U.S. should both work to form adequate preconditions to resume dialogue.

DPRK and the U.S. have not been able to progress meaningful dis-

cussions, neither after last year's Hanoi Summit nor after the meeting at Panmunjom in June 2019. During Singapore, the two parties have declared that a mutual trust-building will expedite denuclearization of the Korean peninsula, but such resolutions have not been abided by. Above all, we pinpoint the fact that the U.S. has not taken any measures to show their trust compared to DPRK's set of actions including a freeze of nuclear and missile experiment conducts. This is also a reason why there have been no points of contact — none among packaged, phased, or concurrent settlements — between the two. We are strongly against a practical muddling-through of the U.S. by insisting "denuclearization first," and North's missile tests conduct that creates militaristic tensions. Both the U.S. and DPRK should do their best to establish conditions that will continue the dialogue, and clarify the principles of denuclearization and peace regime establishment. We ask for the U.S.'s political, militaristic, economic trust-building mechanisms that will allow for greater agreements, and also for DPRK to halt from taking further militaristic actions.

The UN and the U.S. should lift the sanctions against the DPRK that are related to humanitarian aid at least.

The United Nations and the U.S. have constantly maintained or built up the levels of economic sanctions against DPRK since it was first enacted. The U.S. is standing firm on the position that without prior denuclearization of DPRK, Washington cannot lift the sanctions. It has been testified that the economic sanctions have been aggravating the situation for especially the underprivileged. Now that the sanctions are outpacing their original purpose to act as a medium of problem-solving, the trust-building process between DPRK and the U.S. is even more injured. Moreover, these sanctions are keeping inter-peninsula cooperation. We hope that the unsuccessful history of insisting 'nuclearization first, sanction alleviation next' kind of solution without any fruit will not repeat itself. At the minimum, the sanctions that accelerate the humanitarian crisis should be lifted. We'd like to appeal to the UN Security Council for proactive discussions about China and Russia partially lifting economic sanctions, which could lead to the negotiation table.

Communication and militaristic actions cannot coexist.

We remember the fact that the postponement of ROK-U.S. joint military exercise worked as a driving force for the peace process on the

Korean peninsula. Raising militaristic threats and confrontations are no good for the negotiation. We hereby urge Seoul and Washington to pause another joint exercise planned in March. This decision will ignite the dying ember of negotiation between the DPRK and the U.S.

We urge for a resolute action for the ROK government to carry out the agreements.

When DPRK–U.S. negotiations have been stopped, South–North relations also chilled down. Including the exchanges and cooperation projects, the parts the two sides have agreed on has not been able to take a single step due to maintained economic sanctions of the UN and the U.S. This is a very lamentable situation. Operation of Gaeseong Industrial Complex, Mount Geumgang tours, humanitarian cooperation for solving separated families’ problems, road and railway connection projects should not be postponed any longer. This includes the formation of the Joint South–North Military Committee and other parts of the agreements that pertain to military issues. The ROK government should proactively ask for broad sanctions lift and exercise some autonomy in solving the problem. Though it will not be easy, the government should lead to provide room for problem solving and engine to change the current situation.

We will take up the civic society’s responsibility to cease the war and to make peace.

This is the 70th year since the Korean War. It is time to put an end to contentions and hatred as results of the divide and cease–fire that have been regenerating itself. The Korean civil society is the agent directly involved that will form the peace on this peninsula. We hold the responsibility to stimulate dialogue for permanent peace regime and denuclearization to continue. We will gather desperate voices for peace and deliver them not only to the DPRK and the U.S. but to the whole international community. We will ask the international community to be with us on our peace–forwarding actions. We will strive to mark 2020 a year to be one that will halt the war and open the way to a new age of peace.

7 January, 2020

Civil Society Organization Network in Korea — Civil Peace Forum
Korean Conference of Religions for Peace
Korean Council for Reconciliation and Cooperation

[Editor's Note: The following letter dated Dec 11, 2019 from four women's peace groups to the Members of the UN Security Council was posted on the Korea Peace Now website on Dec 11, 2019 at: <https://koreapeacenow.org/letter-to-un-security-council-regarding-sanctions-on-north-korea/>.]

Letter to UN Security Council Regarding Sanctions on North Korea

Members of the United Nations Security Council
December 11, 2019

Dear Ambassadors,

We are writing to you as members of the international women-led campaign Korea Peace Now! Women Mobilizing to End the War.

As you gather today to discuss the security crisis on the Korean Peninsula, we urge you to take a holistic approach considering the human costs of sanctions-based responses. The North Korean civilian population is caught in the crossfire of a geopolitical dispute they have little to no control over, perpetuated by the lack of resolution to the Korean War and made more acute by the imposition of sanctions so comprehensive they threaten their very existence. As it is part of the fundamental principles of the United Nations to settle disputes peacefully and in conformity with the principles of justice and international law, we urge you to call for an end to the Korean War and to review the conformity of nonproliferation sanctions to international human rights and humanitarian law.

Recently, our campaign commissioned a panel of independent experts to produce a report, "[The Human Costs and Gendered Impact of Sanctions on North Korea](#)," which highlighted the negative consequences of sanctions on the lives of the North Korean people. According to the report, the

sanctions regime against North Korea has since 2016 grown from a “smart sanctions” model essentially targeting the military and the elite to an almost total embargo on North Korea–related trade, investments, and financial transactions. Drawing evidence from UN and nongovernmental organizations on the ground as well as other relevant data sets, the report found that sanctions are having humanitarian, developmental and gendered impacts and that existing sanctions exemption mechanisms are insufficient to prevent adverse consequences. It raised concerns that the sanctions in their current form may overstep what is permissible under international humanitarian and human rights law, highlighting the rights to life, food, health, an adequate standard of living, and development, as well as women’s rights.

While the Security Council has repeatedly stated that its sanctions are not intended to have adverse humanitarian consequences, in their current form, sanctions are interfering with the ability of both international aid organizations and of the North Korean government to address the urgent and long–standing humanitarian needs of the population. According to the UN Panel of Experts, a wide range of humanitarian–sensitive items are banned from entering the country, including agricultural material and medical equipment, and generally any items containing metal, such as scalpels or nails.

Sanctions are also impeding the economic development of the DPRK, reversing the country’s growing trade and engagement with the world. This undermines progress that North Korea made in overcoming the economic crisis and famine of the 1990s, particularly market activity led by grassroots women, a key engine of social change. Sanctions undermine women’s economic security and their livelihoods, perhaps most clearly with UNSC resolution 2375’s ban on textile exports, an industry in which 82 percent of workers are female. Increasing gender inequality is counterproductive to the stated aims of those advocating sanctions. Furthering a gender divide and marginalizing women from any form of economic power and, hence, influence (even if limited) serves only to institutionalize the disparities that empirical research in various conflicts has shown is inimical to peace building.

As the crushing North Korean winter sets in and as expatriate North Korean workers are forced to give up their jobs by the end of the year and

return to the DPRK, we urge you to urgently address the unfolding human tragedy by (1) opening the space for dialogue on the adverse consequences of sanctions and the question of their conformity to international human rights and humanitarian law, (2) establishing a process to assess the human impact of sanctions and take expedient action to mitigate and ultimately eliminate undue harm; and (3) calling on the relevant parties to the unresolved Korean War to formally end it by replacing the 1953 Armistice with a peace agreement.

We look forward to your response and constructive engagement.

Sincerely,

Korean Women's Movement for Peace

Nobel Women's Initiative

Women Cross DMZ

Women's International League for Peace and Freedom (WILPF)

[Editor's Note: The following is a call issued March 31, 2020 to suspend sanctions against the DPRK. Endorsed by 87 South Korean Civil Society Organizations (CSOs), it argues that what is needed is to ease or suspend the sanctions against the DPRK imposed by the U.S. and UN, because the sanctions are blocking any possibly effective response to COVID-19. The call can be accessed online at: <http://www.peoplepower21.org/English/1695715>.]

Call to Ease or Suspend the Sanctions Against the DPRK That Impede the Response to COVID-19

On March 25, 2020, the U.S. Secretary of State Mike Pompeo asserted that “the G7, and all nations, must remain united in calling on North Korea to return to negotiations, and stay committed to apply diplomatic and economic pressure over its illegal nuclear and ballistic

missile programs.” This was a dismissal of remarks made the day before by Michelle Bachelet, United Nations High Commissioner for Human Rights, that “In a context of a global pandemic, both for global public health reasons, and to support the rights and lives of millions of people in these countries (e.g. the DPRK), sectoral sanctions should be eased or suspended.” Following this, Secretary Pompeo had an interview with the media on March 26 saying that “Venezuela, North Korea, Iran, in some of these countries, when humanitarian assistance is offered, they’ll often reject it.” However, maintaining the level of pressure in the DPRK policies while taking their rejection of humanitarian assistance does nothing to mitigate the current situation. If the U.S. is willing to cooperate with the DPRK in preventing the COVID–19 epidemic as President Trump wrote in his personal letter to Kim, what is needed right now is to ease or suspend the sanctions against the DPRK imposed by the U.S. and UN, which are blocking any possibly effective response to COVID–19.

Calls for easing or suspending sanctions are continued, as COVID–19 is spreading on a global scale. Michelle Bachelet said that “Broad sectoral sanctions should urgently be re–evaluated in countries facing the coronavirus pandemic” and mentioned Cuba, the DPRK, Venezuela, Zimbabwe and Iran to emphasize that sanctions may also impede medical efforts, which heightens the risk for all of us. António Guterres, UN Secretary–General, also sent a letter to G20 members and encouraged them to waive sanctions to ensure access to food, essential health supplies, and COVID–19 medical support. Humanitarian assistance groups of the U.S. also urge that sanctions against the DPRK should not impede the assistance.

The 1718 Sanctions Committee of the UN Security Council is approving the requested humanitarian exemptions on a case–by–case basis and they recently shortened the duration of the procedure, but it is still not enough. Even the necessary medical supplies such as thermometers, RT PCR machines, reagents, and ventilators have to go through a complex process. In order to obtain the waiver, a wide–ranged submission of information that encompasses the purpose of the aid, the travel position of the items, the quantity and method of the shipment, travel route of the package, its value converted into dollars, the reasons for seeking an exemption, and the financial institutions that will be used, is required and there should be no changes in its operation. Besides, even if an exemption

is granted, financial sanctions and the U.S. secondary boycott complicates the situation further because they make it difficult to find financial institutions to pay for the items and provide funds for resident NGOs or UN agencies in the DPRK. It is hard to deliver cash in person due to COVID-19 related restrictions, overall, assistance is met with severe adversity. Sanctions against the DPRK are blocking urgent and effective responses to a rapidly spreading epidemic.

The DPRK has reported that there is no case of COVID-19 up until now, but no one would be able to possibly predict situations to come. They have shut down flights since the beginning phase of proliferation and with other border controls, are said to be concentrating in the prevention of epidemics. Concurrently, they asked for reagent kits to Russia and medical supplies to Médecins Sans Frontières (MSF) and UNICEF, etc. Even if there is not a single case of infection, no country can be called safe unless a tight quarantine system is in operation. There are no borders for a virus. Experts accentuate the importance of multilateral and international cooperation because, if only one country fails to prevent and the outbreak goes out of control, it will pose the intensified level of threat to the whole world. Not just to ‘support’ the DPRK but also to jointly respond against COVID-19 as a whole, it is very urgent that some alteration in sanctions be made.

On March 26, G20 leaders have hosted an extraordinary summit regarding responses to COVID-19 and agreed that ‘global action, solidarity and international cooperation are more than ever necessary to address this pandemic.’ A number of countries have been requesting the international cooperation with South Korea because the ROK government’s actions have been acclaimed. Ironically, one country that the ROK cannot cooperate with is the DPRK, a country that resides on the same peninsula. Assistance from the ROK government and NGOs and inter-Korean cooperation on health care have been blocked by the sanctions. Effective mechanisms to prevent the outbreak of COVID-19 in the DPRK would expand supplies for prevention, quarantine, and treatment, which cannot possibly take place without an extensive easing or suspending sanctions against the DPRK and international cooperation. In addition, something that is as important as the elaborated agenda is the active participation of the DPRK to the proposals of the international society for

cooperation to prevent the epidemic. Cooperation does not bear fruit by efforts that are one-sided.

The two Koreas, through the Inter-Korean Sectoral Meeting for Cooperation on Health Care that took place in November 2018, agreed upon bilateral sharing of information to prevent the influx and spread of infectious diseases cooperation on diagnosis, prevention and treatment of infectious diseases; including tuberculosis and malaria; promotion of extensive mid and long-term cooperation projects for epidemics; health and medical care regular discussions and resolutions through inter-Korean Joint Liaison Office. However, in a context of a global pandemic of COVID-19, these pacts are not carried out at all. This is a clear case that shows the progress of a peace process on the Korean peninsula is directly connected with people's safety. As António Guterres, UN Secretary-General had highlighted, "this is the time for solidarity, not exclusion." There is no time to hesitate. The U.S. and the international society must immediately ease or suspend sanctions that impede the response to COVID-19 in the DPRK.

Endorsed by the following 87 Civil Society Organizations in ROK:

80 Millions' Movement for One Korea, Anti-THAAD Gimcheon Civil Action Committee, Childfund Korea, Citizen Solidarity for Participation & Autonomy of Chungbuk, Citizen Solidarity for Participation & Autonomy of Sejong, Citizens' Solidarity for Human Rights, Civil Peace Forum, Civilian Military Watch, Coal Briquettes for Neighbors in Korea, Committee of Reconciliation and Reunification in NCC-Korea, Cool-Jam, Cooperation for Peace and Prosperity on the Korean Peninsula, Corporation Nanum, Education Institutes for Workers, Gimje Justice Peace Act, Green KOREA, Hananuri, Health and Sharing, Hyungmyung Foundation, Incheon Citizen Culture Art Center, Incheon Movement for One Korea, Incheon Network for Making Peace City, Incheon Network for Peace & Welfare, Incheon Small Library Association, Incheon Urban Agriculture Network, Incheon Women's Association, Incorporated Organization Silcheon Bulgyo, Inmuyeon Humanities Center, Jeju Peace Human Rights Institute WHAT, Jeju People out of the Island, Jeju Solidarity for Participatory Self-government, Jeonnam Inter-Korean

Exchanges Peace Center, Kaesong Tourism Resume Movement, Kimcheon Education Beyond, Korea Alliance For Progressive Movement (KAPM), Korea Association for Restorative Justice, Korea Biopolitics Forum, Korea Vietnam Peace Foundation, Korea Women's Associations United, Korea Women Alliance, Korean Catholic Women's Community for a New World, Korean Confederation of Trade Unions, Korean Federation Medical Activist Groups for Health Rights (Association of Korea Doctors for Health Rights, Association of Physicians for Humanism, Korean Dentist's Association for Healthy Society, Korean Pharmacists for Democratic Society, Solidarity for Worker's Health), Korean House for International Solidarity, Korean Public Service and Transportation Worker's Union (KPTU), Korean Sharing Movement, Korean Women Peasants Association, Korean Women's Movement for Peace, Medical Aid for Children, Naeil Corp. for Youth Human Rights, National Council of YMCAs of Korea, Networks for Greentransport, New Bodhisattva Network, Nice People Foundation, Okedongmu Children in Korea, One Korea Tree, Pan Korean Association for Reconciliation, Pax Christi Korea, Peace and Human Rights Center in Jeju, Peace Network, Peace Railway of the Korea, Peacemomo, People not Profit, People's Solidarity for Participatory Democracy (PSPD), Professors for Democracy, SARANGBANG Group For Human Right, Seongju Soseongri Villagers' Association against THAAD, Solidarity for Another World, Solidarity for Independent Peaceful Reunification of Korea, Solidarity for Peace & Human Rights, The Center for Historical Truth and Justice, The Corea Peace 3000, The Headquarters of National Unification Movement of Young Korean Academy, The Korean Council for the Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, The Righteous People for Korean Unification, The Won-Buddhist Emergency Committee to Guard the Sacred Site at Seongju, Ulsan People's Solidarity, Unification Committee of MINBYUN-Lawyers for Democratic Society, Urinuri Peace Corp., West Sea Peace Zone Association, Women Making Peace, Won Buddhism Human Rights Commission, Won-Buddhists Social Movement Network

Part 4

[Editor’s Note: The following is the resolution proposed in December, 2019 by the People’s Republic of China and the Russian Federation missions to the UN Security Council for consultations and adoption.]

Security Council Resolution Submitted by China and Russia Proposes Easing Some United Nations Sanctions Against DPRK

The Security Council,

PP1. *Recalling* its previous relevant resolutions, including resolution 825 (1993), resolution 1695 (2006), resolution 1718 (2006), resolution 1874 (2009), resolution 1887 (2009), resolution 2321 (2016), resolution 2356 (2017), resolution 2371 (2017), resolution 2375 (2017), resolution 2397 (2017),

PP2. *Reaffirming* that proliferation of nuclear, chemical and biological weapons as well as their means of delivery constitutes a threat to international peace and security,

PP3. *Noting* that the Democratic People’s Republic of Korea (“the DPRK”) has refrained from conducting nuclear tests from September 2017 and introduced a moratorium on conducting further nuclear tests and test launches of intermediate–range and intercontinental missiles from 21 April, 2018,

PP4. *Welcoming* numerous important statements by the DPRK on firm and unwavering commitment to complete denuclearization of the Korean Peninsula and the decision by the DPRK to demolish Punggye–ri nuclear test site and Dongchang–ri missile engine test site and launch platform under the observation of experts from relevant countries,

PP5. *Considering* the development of inter–Korean relations based on the principles of independence and self–determination of the Korean nation as the key for a lasting peace on the Korean Peninsula,

PP6. *Underscoring* the necessity to respect the legitimate security concerns of the DPRK, and ensure the welfare, inherent dignity, and rights

of people in the DPRK, and *reaffirming* that the measures previously introduced by the UN Security Council are not intended to have adverse humanitarian consequences for the civilian population of the DPRK,

PP7. *Expressing* its support for the efforts by the United States of America and the DPRK to establish mutual trust and improve bilateral relations through dialogue and consultations,

PP8. *Stressing* the importance of further defusing military tension on the Korean Peninsula and fostering the atmosphere of cooperation and trust by preservation of the abovementioned moratorium of the DPRK and the decision by the United States of America and the Republic of Korea to indefinitely postpone their joint large-scale military exercises in the region,

PP9. *Reiterating* its commitment to a peaceful, diplomatic and political solution to the situation on the Korean Peninsula and beyond and welcoming the efforts by the Council Members as well as other States to facilitate a peaceful and comprehensive solution through dialogue,

OP1. *Reiterates* that all parties should commit to work toward complete denuclearization of the Korean Peninsula;

OP2. *Decides* that the Security Council shall adjust the sanction measures toward the DPRK as may be needed in light of the DPRK's compliance with relevant UN Security Council resolutions;

OP3. *Calls upon* the nuclear-weapon State Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to facilitate together with the DPRK the process of practical denuclearization of the Korean Peninsula;

OP4. *Welcomes* further development of inter-Korean relations through close dialogue and communication between the authorities of the two sides, civilian exchanges and cooperation in many areas, in particular the projects of rail and road connections on the Korean Peninsula, in accordance with Panmunjom Declaration of 27 April, 2018 and Pyongyang Declaration of 19 September, 2018 by the president of the Republic of Korea Moon Jae-in and the Chairman of the State Affairs Commission of the DPRK Kim Jong Un;

OP5. *Decides* that the 1718 Committee shall adopt the most favorable approach toward requests for exemptions from existing UN sanctions against the DPRK for humanitarian and livelihood purposes; and *decides* to exempt the inter-Korean rail and road cooperation projects from exist-

ing UN sanctions against the DPRK and such activities should be notified to the 1718 Committee in advance;

OP6. *Decides* that the measures imposed by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), 2321 (2016), 2356 (2017), 2371 (2017), 2375 (2017), 2397 (2017), which are directly related to the livelihood of the civilian population of the DPRK should be lifted at an early date;

OP7. *Decides* that the provision that all member states shall prohibit the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels and aircraft, of certain industrial machinery and transportation vehicles which are used for infrastructure construction and cannot be diverted to the DPRK's nuclear and ballistic missile programs, and certain items in the humanitarian and livelihood field is not applicable to the specific items and corresponding HS Codes as listed in the Annex;

OP8. *Decides* with the intent of enhancing the livelihood of the civilian population of the DPRK to terminate the provisions set out in paragraph 29 of resolution 2321 (2016), paragraph 9 of resolution 2371 (2017), paragraph 16 and 17 of resolution 2375 (2017), and paragraph 8 of resolution 2397 (2017);

OP9. *Calls upon* all Member States to intensify their efforts in providing humanitarian assistance to the DPRK both bilaterally and through the programmes of the UN and other international organizations, and non-governmental organizations, given grave concerns about the current humanitarian situation in the DPRK; and *stresses* that all member states should ensure the unobstructed and timely provision of humanitarian aid to the DPRK through their territory;

OP10. *Welcomes* the continuation of the dialogue between the United States and the DPRK at all levels, aimed at establishing new U.S.–DPRK relations, building mutual confidence and joining efforts to build a lasting and stable peace on the Korean Peninsula in a staged and synchronized manner, in accordance with the joint statement of 12 June, 2018 by the President of the United States of America Donald J. Trump and the Chairman of the State Affairs Commission of the DPRK Kim Jong Un;

OP11. *Calls upon* all parties concerned to consider implementing further practical steps to reduce military tension on the Korean Peninsula

and probability of any military confrontation by all appropriate means, such as, but not limited to, conclusion of agreements between military officials, adoption of formal declaration and/or a peace treaty for the end of the Korean war; and *affirms* its intention to provide needed assistance in this process;

OP12. *Reaffirms* the importance of maintaining peace and stability on the Korean Peninsula and in North–East Asia at large; and *stresses* that it can be achieved only on the basis of multilateral cooperation between the countries of the region;

OP13. *Calls for* prompt resumption of the six–party talks or re–launch of multilateral consultations in any other similar format, with the goal of facilitating a peaceful and comprehensive solution through dialogue, reducing tensions on the Korean Peninsula and beyond, and promoting peaceful co–existence and mutually beneficial regional cooperation in North–East Asia;

OP14. *Decides* to remain seized of the matter.

Annex

List of the Items to be removed from the sanctions with HS Codes

1. Materials, machines and vehicles for infrastructure constructions

	HS code	Items
1	721041	Iron or non–alloy steel; flat–rolled, width 600mm or more, corrugated, plated or coated with zinc (Color steel tile)
2	7302	Railway or tramway track materials of iron or steel; rails, ties, etc.
3	7308	Structure of iron or steel and parts thereof for roof, window, etc.

4	7318	Screws, bolts, rivets, washers, and the like, of iron or steel.
5	8429	Bulldozers, excavators, road rollers, etc.
6	8530	Electric signaling or traffic control equipment; for railways, port, airfields, etc.
7	ex870191	Tractors of an engine power not exceeding 18 kW
8	870421 870422	Vehicles of a gross vehicle weight not exceeding 20 tonnes
9	870431 ex870432	Vehicles of a gross vehicle weight not exceeding 8 tonnes
10	8705	Special purpose motor vehicles, such as breakdown lorries and fire fighting vehicles

2. Humanitarian and livelihood items

	HS code	Items
11	7317	Nails, drawing pins and the like, of iron or steel
12	7319	Sewing needles for use in the hand, pins and similar articles, of iron or steel
13	7321 through 7324	Stoves, radiators for central heating, kitchen articles and parts, sanitary ware and parts thereof, etc., of iron or steel
14	7415	Nails, drawing pins and the like, of copper or steel
15	7418 and 7615	Copper and aluminium; table, kitchen or other household articles and parts thereof

16	8211 through 8215	Cutlery such as knives, scissors, spoons and forks
17	83	Miscellaneous products of base metal, such as locks, filing cabinets, loose-leaf binders and name plates
18	8403	Central heating boilers
19	ex841510	Air conditioning machines, of a refrigerating effect not exceeding 4000 Cal per hour
20	841520	Air conditioning machines, of a kind used for persons, in motor vehicles
21	ex841821	Refrigerators for household use, compression-type, of a capacity exceeding 50 L, not exceeding 150 L
22	ex841919	Solar water heaters
23	842211	Dish washing machines, of the household type
24	8450	Household or laundry-type washing machines
25	8471	Automatic data processing machines and units thereof, such as panel computers and micro-computers
26	850811	Vacuum cleaners, with self contained electric motor, of a power not exceeding 1500 W and having a dust bag or other receptacle capacity not exceeding 20 L
27	8509 through 8510	Electro-mechanical domestic appliances, such as juice extractors, food grinders, and electric shavers

28	8516	Electric water heaters, electric irons, microwave ovens, electromagnetic ovens, etc.
29	8712 through 8715	Bicycles, carriages for disabled persons, baby carriages, parts and accessories thereof
30	8201	Spades, shovels, axes, sickles and other tools used in agriculture, horticulture, and forestry
31	8202 through 8206	Tools, hand; saws, files, spanners and wrenches, etc., two or more put up in sets for retail sale
32	8424	Fire extinguishers, spray guns, etc.
33	8432 through 8438	Machinery and equipments for agriculture, forestry, poultry-keeping, etc.
34	8439 through 8443	Machinery for paper making, binding and printing
35	8472	Office machines, such as copy machines, staplers, and paper shredders
36	8475	Lamps, tubes, etc., and machines for manufacturing glassware

[Editor's Note: The following is the Annex to the letter dated 14 January, 2013 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the President of the Security Council. It is posted online at: <https://undocs.org/pdf?symbol=en/S/2013/20>.]

Dissolution of the 'United Nations Command' is the Essential Requirement in Defending Peace and Stability On the Korean Peninsula and In the Asia–Pacific Region

Memorandum of the Ministry
of Foreign Affairs
of the Democratic People's Republic
of Korea

This year marks the sixtieth year since the Korean Armistice Agreement was signed.

It is now 60 years since the gunfire of war stopped roaring, but the war has not been terminated legally. There remains a fragile ceasefire status of neither peace nor war on the Korean peninsula, which has yet to build up a mechanism to ensure peace.

The United States has gone defiant against the Government of the Democratic People's Republic of Korea in its consistent stand and effort to replace the Armistice Agreement with a peace treaty and tries to maintain the ceasefire status. Lurking behind this background is the ghost of the cold war, i.e., the 'United Nations Command'.

This ghost, keeping pace with the recent United States defense strategy, is coming back to life as a tool for an aggressive war that would bring a fierce flame to the Asia–Pacific region, the greatest hotspot of the world.

The Ministry of Foreign Affairs of the Democratic People's Republic of Korea recognizes that there is a need to bring the attention of the international community to these moves of the United States, which would result in an extremely dangerous situation.

The United States, according to its new defence strategy, is trying to transform the 'United Nations Command' into a "multinational force command" which would serve as a matrix of the Asian version of the North Atlantic Treaty Organization (NATO).

The ulterior motive of the new United States defense strategy, released for the first time in January, 2012, is to encircle and put a military curb on other big Powers in Asia so that the latter cannot grow to make a resistance to it. For this purpose, the United States plans to concentrate 60 percent of its overseas-deployed forces to the Asia-Pacific region in the next 10 years. At the same time, the United States is stepping up its preparations to drag its bilateral allies in the region into a gradual concentration as a multilateral military alliance like NATO that moves under a unified command system.

It is a well-known fact that the United States has long kept its eye on forming a tripartite military alliance by combining the United States-Japan and United States-South Korea military alliances.

The United States drew its "experience" of containing and collapsing the former Soviet Union and East European countries by relying on NATO during the cold war time. Based on this, it is trying to set up a larger-scale collective military organization which would enable it to encircle its potential enemies in the Asia-Pacific region as well.

The United States, in order to get around the stiff resistance of the countries concerned, is trying to form a combined force instead of opting for a new one, by playing tricks to revive the functions of the 'United Nations Command', which is nothing more than just a name.

The 'United Nations Command', fundamentally speaking, is a tool of war which was organized by the United States for the purpose of deploying its satellite forces and exercising its control over them during the Korean war. After the ceasefire, the United States continued to seize and exercise its right to operational command in South Korea through the 'United Nations Command'. But, as pressure was mounting at home and

abroad in the 1970s to dismantle the ‘United Nations Command’ and withdraw its forces from South Korea, the United States had no other alternative but to form the United States–South Korea “Combined Forces Command” and transfer the right to operational command to it. Through this, it tried to legalize and perpetuate its occupation of South Korea by changing the nature of the United States troops in South Korea from “United Nations forces” to that of forces dispatched by the “Republic of Korea–United States Mutual Defense Treaty.”

Since then, the ‘United Nations Command’ has become a nominal one with nothing more than a name.

Behind the recent attempts of the United States to revive the functions of the ‘United Nations Command’ lie its strategic self interest to make South Korea a forward base for the domination of the Asia–Pacific region and hold fast to it as cannon fodder for an aggressive war under a changed situation.

As sentiment ran high for independence against the United States and pressure was exerted to take over the commanding power from the United States, the United States had no other choice but to return the right to peacetime operational command to the South Korean side in 1994. Furthermore, it is to hand over the right to wartime command by 2015. Accordingly, the United States–South Korea “Combined Forces Command,” which has served as a tool for exercising the right to United States operational command over South Korea, should be dismantled.

This does not mean that the United States is likely to easily give up its right to military command over South Korea, the strategic point in its strategy regarding the Asia–Pacific region.

It is none other than the revival of the ‘United Nations Command’ that the United States worked out as an “alternative” to seize and wield its actual command control over the South Korean armed forces.

The resolution of the Security Council which was railroaded for adoption by the United States in the 1950s stipulates that all the forces provided to South Korea should be under the control of the ‘United Nations Command’ under the United States. Together with this, the United States moved further in depriving South Korean authorities of the right to operational command in the name of the ‘United Nations Command’,

according to the July 1950 “Taejon Agreement.” Such being the case, if the ‘United Nations Command’ is to revive its function now, that would be as good as re-establishing the United States right to control over the South Korean puppet army.

When the United States began to discuss the issue of returning the right to wartime operational command to South Korea in March, 2006, the United States Commander in South Korea, at a hearing before the United States Senate Armed Services Committee, made an assertion that the ‘United Nations Command’ should increase its role and be turned into a “multinational force command” in such a way as to allow the member States of the ‘United Nations Command’ to participate in its detailed activities, let alone the fact that they are involved in the mapping of the wartime operational plans.

Following this, the United States made its gradual move to increase the scale and frequency of the joint military drills in and around South Korea and saw to it that the operational players from the member States of the ‘United Nations Command’ were involved in such drills, adapting them to the operational skills of the joint military drills led by the United States.

The United States and South Korea held the forty-fourth annual security meeting in Washington in October, 2012, and issued a joint statement “reaffirming that the ‘United Nations Command’ is indispensable for maintaining peace and stability on the Korean peninsula.”

This shows that the United States had already forced the South Korean authorities to accept its scheme to revive the ‘United Nations Command’.

It is also on a step-by-step basis that preparations are under way to expand the operational sphere of the ‘United Nations Command’ to the whole of the Asia-Pacific region.

The United States troops in South Korea, the mainstay of the ‘United Nations Command’, have already been afforded “strategic flexibility” so that they could provide support in case of emergencies in other parts of East Asia. Recently, the plan has been actively under review to revive the deployment of the United States marine forces to the Philippines and South Korea which are due to be present in Australia on a new basis.

If any move to establish a collective military bloc in the Asia–Pacific region is allowed, this would inevitably trigger off a countervailing force from other countries which are placed under the target of this bloc. If this is the case, it would be par for the course that this region, too, would be plunged into a theater to take sides with as in Europe, with a revival of the cold war and increased danger of a nuclear war beyond any measure. Under this worst–case scenario, it is none other than South Korea that would suffer most.

The ‘United Nations Command’ is primarily an unjust tool which only misuses the name of the United Nations. All this bears no relation to the consensus of the United Nations Member States.

According to Article 27 of the Charter of the United Nations, the important decisions of the Security Council shall be made by an affirmative vote of more than seven member States (at that time), including the concurring votes of all five permanent member States. This means that even if the United States scraped the bottom of the barrel in collecting seven satellite States, it was not possible to make any decisions against the Democratic People’s Republic of Korea when one of the permanent member States did not agree on it.

The situation was that the former Soviet Union, which held a seat on the Security Council, was not attending Council meetings from 13 January, 1950, in protest against the exercise of the representative right in the United Nations by the Taiwanese authorities, not by the People’s Republic of China.

The United States took this occasion as momentum in instigating the traitor Syngman Rhee to launch a pre–emptive all–out armed invasion against the Democratic People’s Republic of Korea. On that same day, the United States did not lose any time in convening a meeting of the Security Council where it adopted a resolution branding the Democratic People’s Republic of Korea as an “aggressor” (resolution 82 (1950)).

The Government of the Soviet Union responded to this by sending telegrams to the Security Council on 29 June and 6 July, 1950. In those messages, it emphasized that the resolution could not go into effect, as it had been adopted by permanent member States against the United Nations Charter without the consent of the Soviet Union and the People’s Republic

of China, permanent members of the Security Council.

Despite this, the United States convened a meeting on 7 July, again in the absence of the Soviet Union. At that meeting, it cooked up a resolution allowing United Nations Member States to dispatch forces to the Korean war and place those forces under the control of “‘the unified command’ under the authority of the United States” and giving free rein to that command to “use the United Nations flag” (resolution 84 (1950)).

On 25 July, 1950, the United States submitted a report of this command to the Security Council in which it had freely changed the name of the “unified command” to the ‘United Nations Command’.

It was only on 31 January, 1951, after the former Soviet Union, permanent member of the Security Council, had returned to its meetings, that the Council submitted an agenda and adopted resolution 90 (1951), calling for the removal of the agenda item “Complaint of aggression upon the Republic of Korea” from the list of items of which the Council was seized. This complaint was made by the United States when the Korean war broke out on 25 June, 1950. In the ensuing time, the Korea question was no longer discussed.

The Security Council adopted such a resolution even in the middle of the war. This itself is an admission of the fact that the United Nations made a mistake from the beginning by allowing it to be involved and misused in the Korean war.

Even the successive Secretaries–General of the United Nations have made an official recognition of the fact that the ‘United Nations Command’ is not a subsidiary organ of the United Nations, but absolutely a tool used by the United States for the war.

In June, 1994, the then Secretary–General, Boutros Boutros–Ghali, recognized that “the Security Council did not establish the ‘unified command’ as a subsidiary organ under its control and that it came to be placed under the authority of the United States” (24 June, 1994 letter from the Secretary–General to the Minister for Foreign Affairs of the Democratic People’s Republic of Korea).

In December, 1998, Secretary–General Kofi A. Annan made it clear that “none of my predecessors have granted any authorization to any State to make use of the name of the United Nations” when he referred to the

forces and command dispatched by the United States into the Korean war (21 December, 1998 letter from the Secretary-General to the President of the Presidium of the Supreme People's Assembly of the Democratic People's Republic of Korea).

On 27 July, 2004 and 6 March, 2006, the United Nations Spokesperson confirmed that the “‘United Nations Command,’ despite its name, is not the army of the United Nations, but a United States-led force.”

It is not the United Nations, but the United States, which has the power to appoint the “United Nations forces commander.” It is not the United Nations, but the United States Administration, which has an absolute power to decide on reduction or enforcement of the United States forces in south Korea that are under the helmets of the “United Nations forces.”

The United Nations has changed its composition with the passage of time. Given this, the ‘United Nations Command’ is all the more a subsidiary organ of the United States, which has no relevance to the United Nations.

The United Nations today is no longer the forum of the 1950s, when the United States organized the ‘United Nations Command’ at its will.

More than 20 years have passed since the Democratic People's Republic of Korea became a legitimate member of the United Nations after joining it. China, together with the Democratic People's Republic of Korea, sat face to face with the “United Nations forces” when it gave a joint signature to the Korean Armistice Agreement. It has been 40 years since China came to exercise its representative right as a permanent member of the Security Council.

Despite this prolonged time, the United Nations flag is still hanging and shows off in Panmunjom. This, a product of anachronism, is simply a shame to the United Nations.

The ‘United Nations Command’ should be dismantled without any further delay if the United Nations really wants to regain its lost authority and impartiality.

The ‘United Nations Command’ is the refuse of the times, the dissolution of which has already been declared by the General Assembly.

At its thirtieth session, held in November, 1975, the General Assembly adopted two resolutions on the dissolution of the 'United Nations Command.' Resolution 3390 (XXX) B, initiated by the progressive Member States of the United Nations, called for the immediate and unconditional dissolution of the 'United Nations Command'. The United States— sponsored resolution 3390 (XXX) A stated that the 'United Nations Command' might be dissolved on 1 January, 1976, if "alternative arrangements" for maintaining the Armistice Agreement were made.

This is how the United States came up with the conditional theory of dismantling the 'United Nations Command'. This is simply a despair counsel to avoid the voice of the broad international society calling for an immediate and unconditional dissolution of the 'United Nations Command'. All this shows that even the United States itself could not deny the illegal and anachronistic substance of the 'United Nations Command'.

If we look at the composition of the then 'United Nations Command', it was no longer the multinational forces, but the United States command which had only the United States troops stationed in South Korea.

As soon as the Armistice Agreement was signed, Member States of the United Nations which had participated in the Korean war withdrew their forces, to the exclusion only of the United States. Afterwards, Luxembourg and Ethiopia removed their flags from the 'United Nations Command' which they had left as a symbol. Even those countries that still have their own flags neither have staff in the 'United Nations Command' nor participate in its activities.

The United States asserted that the dissolution of the 'United Nations Command' would be possible only when another mechanism to maintain the Armistice was set up. But the current ceasefire status is not maintained by the 'United Nations Command' in practice. In March, 1991, the United States made an unannounced decision to replace the chief delegate to the "United Nations forces" at the Military Armistice Commission with the South Korean army general, a post so far occupied by the United States army general. The United States sought no prior consultations with the Democratic People's Republic of Korea side in replacing the chief delegate to the "United Nations forces" with the army general of South Korea, which is not a party to the Armistice Agreement. This was a clear

provocation violating paragraph 61, article V of the Armistice Agreement, which stipulates that amendments and additions to the Armistice Agreement must be mutually agreed to by the commanders of the opposing sides.

As the “United Nations forces” lost their delegation power, the Military Armistice Commission was virtually put in a state of paralysis. Eventually, the delegation of the Chinese People’s Volunteers, a member of the Korean–Chinese side of the Military Armistice Commission, withdrew in December, 1994 and the Democratic People’s Republic of Korea side formed the Panmunjom Mission of the Korean People’s Army (KPA) to maintain the ceasefire on behalf of the former Democratic People’s Republic of Korea–Chinese side.

As time passed, the members of the Neutral Nations Supervisory Commission (NNSC) failed to maintain the positions of neutrality which they had at the time of signing the Armistice Agreement. With this, the NNSC could no longer carry out its functions.

This led to the complete fall of the previous armistice mechanism, and the ‘United Nations Command’ was reduced to a scarecrow with no party left to deal with.

It has been since then that all the issues related to the running of the ceasefire status have been discussed and disposed of between the KPA and United States military authority rather than between the Democratic People’s Republic of Korea–China and the “United Nations forces.”

Both the Democratic People’s Republic of Korea side and the United States side have maintained effective control of the ceasefire status for decades, and this reality proves that there is no longer any reason to withhold the dissolution of the ‘United Nations Command’. Even from the viewpoint of replacing the Armistice Agreement with a peace treaty, the ‘United Nations Command’ stands in the way as a legacy of the cold war that would bring no good but only harm.

According to the Armistice Agreement, the issue of ensuring a lasting peace is to be negotiated only at a political conference at a level higher than that of military commanders. The actual political superior of the ‘United Nations Command’, a signatory to the Armistice Agreement, is not the United Nations, but the United States Administration.

The Democratic People's Republic of Korea Government proposed to establish a new peacemaking mechanism on the Korean peninsula in April, 1994, (28 April, 1994 statement of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea).

After that, the Democratic People's Republic of Korea also proposed to make a provisional agreement between the Democratic People's Republic of Korea and the United States that could replace the current Armistice Agreement in order to prevent armed conflicts, remove the danger of war and peacefully maintain the ceasefire status until a full peace treaty was signed on the Korean peninsula (22 February, 1996 statement by the Spokesman of the Ministry of Foreign Affairs of the Democratic People's Republic of Korea).

The Democratic People's Republic of Korea and the United States held several rounds of talks at the general level in Panmunjom over the issue of putting in place a new armistice mechanism on the Korean peninsula.

The issue of establishing a permanent peace regime on the Korean peninsula was also discussed in the four-party talks between the Democratic People's Republic of Korea and the United States, which also saw the participation of China and South Korea. The Democratic People's Republic of Korea and the United States held talks in Washington in October, 2000, where both sides confirmed that there were several ways, including the four-party talks, to put a formal end to the Korean war by easing tension and replacing the Armistice Agreement with a durable peace regime on the Korean peninsula (12 October, 2000 Democratic People's Republic of Korea–United States joint communiqué).

An agreement was reached at the North–South Summit in October, 2007 to proceed with the declaration of the end of the war by the leaders of three or four parties that are direct parties to the Korean question (4 October, 2007 Declaration for Development of North–South Relations and Peace and Prosperity).

As the facts show, there have been many discussions and agreements between the concerned parties on changing the ceasefire status to a durable peace on the Korean peninsula where we can find no mention of any method which presupposes the existence of the 'United Nations

Command’.

Despite that, the ‘United Nations Command’ still exists today, and, on top of that, it is trying to be revived as a tool of war to be used by multinational forces. This is an issue that can never be overlooked from the perspective of ensuring security in the Asia– Pacific region, including the Korean peninsula.

The United States is claiming that the effort of the Democratic People’s Republic of Korea to bolster its national defensive power is causing tension in the region. This is nothing but an imprudent trick to cover up the aggressive nature of its Asia–Pacific strategy.

Whether the United States immediately dismantles the ‘United Nations Command’ or not will serve as the acid test in deciding whether the United States will or will not maintain its anti–Democratic People’s Republic of Korea hostile policy and whether it wants peace and stability or a revival of the cold war in the Asia–Pacific region.

The Democratic People’s Republic of Korea will continue to strengthen its deterrence against all kinds of war, thereby actively contributing to peace and stability on the Korean peninsula and in the rest of Asia, until the United States makes a right choice.

Pyongyang, 14 January, 2013

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