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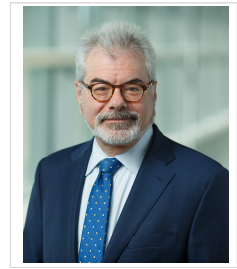
Implications of the Nuclear Build up in Asia

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Nuclear Buildup

East Asia is in the midst of a major nuclear build up.

China, which has long maintained a “minimum deterrence” posture with only a few hundred deployed nuclear weapons, is now pursuing a dramatic expansion of its silo-based ICBM force as well as modernization of its manned long-range bombers and submarine launched missile forces - intending (according to the U.S. Department of Defense) to deploy some 1,000 nuclear warheads by 2030.

The motives behind China’s nuclear build up are uncertain. Some analysts emphasize China’s concern to maintain a secure second-strike capability against the risk of a U.S. disarming first strike with precision guided conventional weapons, backed by national missile defenses. Others speculate that more robust Chinese nuclear forces are intended to deter the U.S. from coming to Taiwan’s aid in the event of a Chinese attack on the Island. Probably both factors are involved.

Although on a smaller scale, North Korea has also continued to enhance its nuclear and missile capabilities, including the test of a thermonuclear device in 2017 and testing of more advanced short-range missiles and ICBMs. North Korea’s declaratory policy - including recent amendments to the 2013 nuclear law - emphasize North Korea’s intent to use nuclear weapons preemptively in response to conventional attacks or decapitating attacks against the leadership. This declaratory posture fits with North Korea’s weak conventional forces and development of U.S. and ROK precision

strike weapons and reconnaissance capabilities.

Unfortunately, there is not much the US and its Asian allies can do to prevent this nuclear build up.

International Legal Framework

There is no international legal mechanism to challenge China's nuclear build up. As a nuclear weapons state under the Non-Proliferation Treaty (NPT), China has made a political commitment "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control." However, there are no legal restrictions in the NPT on China's possession of nuclear weapons or limits on China's development of nuclear forces in accordance with its national security interests. Indeed, all of the other nuclear weapons states in the NPT (the United States, Russia, United Kingdom and France) are pursuing programs to modernize their nuclear forces in various degrees, although only China is engaged in significant nuclear expansion. In theory, the Treaty on the Prohibition of Nuclear Weapons (TPNW), which entered into force in January 2021, would create a legal obligation for China to disarm, but China - like the other nuclear weapons states and their treaty allies - have refused to join the TPNW because they continue to rely on nuclear weapons for deterrence and national security.

Unlike China, North Korea is not recognized as a nuclear weapons state under international law. North Korea acceded to the NPT as a non-nuclear weapons state in December 1985, hence undertaking an international legal obligation "not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices" (Article II) and to allow international inspections of its nuclear facilities by the International Atomic Energy Agency (IAEA) to prevent the "diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices" (Article III).

In March 1993, however, in response to IAEA investigations of undeclared plutonium production in North Korea, Pyongyang announced its intention to withdraw from the NPT within three months, as required by Article X of the NPT. In June 1993, following an initial bilateral meeting with the U.S., North Korea agreed to “suspend” its withdrawal from the NPT. Subsequent bilateral negotiations with the U.S. produced the October 1994 Agreed Framework, in which North Korea agreed to freeze and eventually dismantle its plutonium production facilities and eventually comply with its NPT safeguards obligations in exchange for light water nuclear power reactors and interim energy supplies.

In 2002, the Agreed Framework collapsed after the U.S. discovered that North Korea was pursuing a clandestine uranium enrichment program in violation of the Agreed Framework, the North-South Denuclearization Declaration of 1992 and the NPT. In response, North Korea declared in January 2003 that it was “no longer bound” by the NPT, but North Korea’s withdraw from the NPT is not recognized by most legal experts as legally valid. Technically, North Korea is still listed as a party to the NPT by the UN Office of Disarmament Affairs, although North Korea has not participated in NPT meetings since 2003.

In addition to the NPT, numerous UN Security Council resolutions (UNSCR) have imposed legally-binding restrictions on North Korea’s nuclear and ballistic missile program, as well as a wide variety of economic sanctions. The first such resolution, UNSCR 1718, passed in October 2006 after North Korea’s first nuclear test, “demands” that North Korea return to the NPT and IAEA safeguards and “not conduct any further nuclear test or launch of a ballistic missile” and “decides” that North Korea “shall suspend all activities related to its ballistic missile programme” and “shall abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner.” For the first time, UNSCR 1718 also imposed legally binding sanctions on North Korea, prohibiting any country from selling or transferring to North Korea heavy weapons, materials and technologies that could contribute to North

Korea's WMD and missile programs, and "luxury goods."

In response to subsequent North Korean nuclear and long-range missile tests, the UN Security Council has passed numerous additional resolutions demanding that North Korea abandon its nuclear weapons and missile programs and imposing much broader economic sanctions, including UNSCR 1874 (June 2009), UNSCR 2087 (January 2013), UNSCR 2094 (March 2013), UNSCR 2270 (March 2016), UNSCR 2321 (November 2016), UNSCR 2371 (August 2017), UNSCR 2375 (September 2017) and UNSCR 2397 (December 2017). Unfortunately, North Korea has ignored these UN Security Council demands, and the enforcement of economic sanctions has become increasingly lax, especially by Russia and China.

With the Russian invasion of Ukraine and increased tensions between the U.S. and China over Taiwan and other issues, it seems increasingly unlikely that the UN Security Council will be able to muster a united response to North Korean tests, giving Kim Jung Un more latitude to conduct additional test with less risk of additional UN sanctions. In May 2022, for example, Russia and China vetoed a U.S.-proposed Security Council resolution to impose additional sanctions on North Korea in response to ICBM tests in March and May 2022. It remains to be seen whether Russia and China will block UN Security Council action if and when North Korea conducts a seventh nuclear test.

Arms Control and Disarmament Agreements

Another option to address the nuclear build up in East Asia are bilateral or multilateral arms control agreements. During the Cold War, for example, the U.S. and the USSR entered into several bilateral arms control agreements to limit strategic offensive weapons and missile defenses in order to avoid an arms race and strengthen strategic stability. During the Trump administration, the U.S. proposed that China join the U.S. and Russia to negotiate a replacement for the New START treaty, which limits

the US and Russia to 1,500 deployed strategic warheads and was set to expire in February 2021. China, however, refused to participate, on the grounds that its nuclear forces are far smaller than the U.S. and Russia. Upon taking office, the Biden administration decided to extend the New START treaty with Russia for five years on a bilateral basis and has not pursued proposals to include China in a trilateral agreement, recognizing that a trilateral agreement is not feasible. China is not willing to accept any agreement that sets its strategic limits below the U.S. and Russia and neither the U.S. nor Russia are willing to grant numerical parity to China. In any event, U.S.-Russian discussions on strategic stability and negotiations to replace the New START Treaty, which expires in February 2026, are on hold because of the Russian invasion of Ukraine.

There have been many arms control and disarmament agreements and declarations with North Korea over the years: the January 1992 North-South Denuclearization Declaration, the October 1994 Agreed Framework, the October 2005 Six Party Statement, the April 2012 Leap Day Agreement, and the June 2018 Singapore Summit statement. While some of these agreements may have limited or delayed North Korea's nuclear and missile development, in the end they failed to prevent North Korea from developing a nuclear arsenal and ballistic missile forces.

Current prospects for nuclear negotiations with North Korea are very poor. Obviously, Kim Jung Un has rejected denuclearization and refused to respond to the Biden administration's offers to resume nuclear talks without conditions. At some point, Kim Jung Un may be willing to accept a deal to limit nuclear and missile activities in exchange for sanctions relief and economic assistance, but complete disarmament seems very unlikely at this stage.

In the meantime, North Korea is likely to continue to develop its nuclear forces - pursuing tactical nuclear weapons, solid fuel missiles, multiple reentry vehicles, submarine launched missiles and so forth.

Deterrence and Defense

So - for the foreseeable future - China and North Korea will remain nuclear powers and will likely continue to modernize and expand their capabilities to some degree.

As a result, the logical focus of policy for the U.S. and its East Asian allies and partners is to prevent use - in other words deterrence. Deterrence is based on the perceived capability and commitment of the U.S. to use force (including nuclear weapons if necessary) to defend its allies/partners in the region. Preventing nuclear use means - first and foremost - preventing a large-scale conventional conflict - such as a Chinese invasion of Taiwan or North Korean attack on South Korea - because nuclear use is most likely to arise from escalation of a conventional war rather than a nuclear attack out of the blue.

Of course, the U.S. has a long history of deterring a Chinese attack on Taiwan since 1949 and a North Korea attack on the South since 1953, even after China and North Korea acquired nuclear weapons. The issue is whether changes in political conditions and the military balance have eroded the basis for deterrence.

In the case of China, China's nuclear expansion does not fundamentally change the condition of mutual vulnerability that has existed between the U.S. and China for many years, meaning that a nuclear war would be fatal to both countries. What has changed is the conventional military balance. China has modernized and expanded its maritime and air forces and conventionally armed missiles across the Taiwan Straits to the point where some analysts believe that China might be tempted to launch a lightning invasion of Taiwan that would defeat any U.S. effort to come to Taiwan's aid. This seems like a very high-risk gamble (unless Taiwan forces a war by declaring independence), but it is prudent to ensure that Taiwan's defenses and the forces of the U.S. and its allies in East Asia are sufficient to discourage any Chinese temptation to seize Taiwan.

The case for deterrence on the Korean Peninsula is even stronger. Unlike

Taiwan, the U.S. has an unambiguous security treaty with the ROK, backed by the presence of U.S. forces. In addition, the conventional balance on the Korean has shifted drastically in South Korea's favor, which makes it much less plausible that North Korea could expect invade South Korea under the protection of its nuclear forces. Finally, in contrast to China, the U.S. does not accept mutual vulnerability with North Korea, as U.S. national missile defense is intended to prevent North Korea from striking the U.S. homeland in a conflict.

In theory, these factors should make nuclear use on the Korean peninsula unlikely. Mutual deterrence applies. Neither North nor South Korea has an incentive to start a war that would be disastrous in terms of damage and human loss. The risk is that North Korea's weakness and fear of leadership decapitation and preemptive strike against its nuclear missile forces could make North Korea more likely to use nuclear weapons early in a crisis. Therefore, it is important for the U.S. and ROK to consider ways to enhance the credibility of extended deterrence, as the U.S. and ROK are doing through the Extended Deterrence Strategy and Consultative Group (EDSCG).■

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