

The Korean Armistice System and the Origins of the Cheonan and Yeonpyeong Incidents

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In spite of the intermittent serious clashes between South and North Korea, few scholars have paid attention to the Armistice Agreement and the system it put in place since its conclusion in 1953. This paper argues that the Armistice Agreement produced a security system, which will be called the “Armistice System,” which needs to be clarified in order to illuminate the structural and fundamental causes of two incidents that took place in 2010, the sinking of the Cheonan corvette and the shelling of Yeonpyeong island. Especially, we have to pay attention to the following questions: what are the basic characteristics of the agreement; what has changed in the agreement and the system since 1953; and why have military conflicts continued to erupt under the system, which prohibits hostility on the peninsula?

Through a historical analysis, this paper has uncovered several crucial problems and loopholes in the agreement and the system. First of all, it has failed to put an absolute end to hostilities and does not guarantee permanent peace due to the lack of a final settlement. Although the Military Armistice Commission (MAC) and the Neutral Nations Supervisory Commission (NNSC) were organized based on the agreement in order to block the escalation of clashes, neither of them has been operating since early 1994. Second, the armistice has a crucial defect: there is no agreed demarcation line on the sea. The areas where the 2010 incidents occurred are claimed by both North and South Korea as their own maritime territory. These kinds of incidents did not occur for the first time in 2010. There were two naval clashes in 1999 and 2002, and before that, in the 1960s and 1970s there were major incidents: the sinking of patrol vessel no. 56 in 1967, the Pueblo Incident in 1968, and the sinking of patrol boat no. 863 in 1974. Finally, another critical problem in the armistice is derived from the invalidation of some paragraphs in the Armistice Agreement. Paragraph 13 (d), prohibiting the importation of upgraded weapons from outside was declared null and void in 1956 and nuclear weapons were introduced to South Korea in 1958, which might be at the origin of the nuclear problem in North Korea.

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Introduction

Sixty years have passed since the outbreak of the Korean War. The civil war that started with North Korea's attack on June 25, 1950 ended with the Armistice Agreement signed between the commanders of the United Nations forces and the Communist forces on July 27, 1953. Although conflicts between the South and the North have continued after the war, a total war like the Korean War did not break out in the past sixty years under the armistice system. In October 2006, President George W. Bush made an important proposal to North Korea, however. He offered to end the war on the Korean Peninsula if North Korea completely ended its nuclear program. The proposal implies that the Armistice Agreement has failed as an adequate deterrent against war. Furthermore, in January 2009, the North Korean regime declared the agreement invalid. Does this mean that the Armistice Agreement is no longer operative?

For the past sixty years, many scholars have examined the Korean War from diverse angles, focusing on various issues and events regarding the war. Most of the literature has paid attention to the causes of the war.¹ Recently, new research has focused on the truce talks and social history rather than the war itself.² However, very few have paid attention to the Armistice Agreement and the system it has put in place since 1953, in spite of several serious clashes between South and North Korea, for example those that occurred in 1968 and 2010.³ Even though several works focused on the border area, they do not

1. Bruce Cumings, *The Origins of the Korean War, Vols. 1 & 2* (Princeton: Princeton University Press, 1981-1990); Pak Myeongrim [Park Myung Rim], *Hanguk jeonjaeng ui balbal gwa giwon = The Korean War: The Outbreak and its Origins, Vols. 1 & 2* (Seoul: Nanam, 1996); Kathryn Weathersby, "New Russian Documents on the Korean War," *Cold War International History Project Bulletin* 6-7 (Winter 1995/1996), 30-84.

2. Rosemary Foot, *Substitute for Victory: The Politics of Peacemaking at the Korean Armistice Talks* (Ithaca and London: Cornell University Press, 1990); Bak Chanseung, (*Maeul lo gan*) *Hanguk jeonjaeng: Hanguk jeonjaengi maeul eseo beoreojin jageun jeonjaengdeul* [The Korean War (seen from villages): The small wars that took place in villages during the Korean War] (Seoul: Dolbegae, 2010).

point out precisely the problems caused by the Armistice Agreement and the Armistice System.⁴

In particular, it is very significant to consider the fact that the Military Armistice Commission (MAC), which deals with violations of the Armistice Agreement, has not been convened in spite of the Cheonan vessel incident and North Korea's bombing of Yeonpyeong Island in 2010. Those two incidents would be clear violations by North Korea if the investigation reports by the South Korean Government are an accurate reflection of the incidents.

In this article, I would like to unravel the security system, which can be called the "Armistice System," that came into being as a result of the Armistice Agreement on the Korean Peninsula in order to illuminate the structural and fundamental cause of the two incidents. This study will focus especially on what the basic characteristics of the agreement are, what has changed in the agreement and the system since 1953, and why military conflicts have continued under the system, despite its prohibition of hostilities on the peninsula. This article will try to analyze the origins of continuous conflicts between the South and the North and the agreement/system since 1953 ultimately through a historical and chronological approach based on diverse resources.

The Military Character of the Armistice Agreement

First of all, it is crucial to define the characteristics of the Armistice Agreement

3. Park Myung Rim's [Bak Myeongrim] article entitled "Hanbando jeongjeon cheje: deungjang, gujo, teukseon, byeonhwan" [The Armistice System on the Korean Peninsula: Rise, Structure, Peculiarities, and Transformation] (*Hanguk gwa gukje jeongchi* 22, no. 1 (2006): 1-32), is a pioneering attempt in that it stresses the significance of the Armistice System in comprehending the security problem on the Korean Peninsula. In particular, he highlights changes in the system since 1953. However, the article only briefly mentions the transition after the Korea-China Normalization in 1992 and does not examine precisely the Armistice Agreement and transitions between 1950s and 1970s.

4. Gim Jaehan, *DMZ 2: Hoengjeok bundan eseo jongjeok yeongyeol ro* [DMZ 2: From the horizontal division to the vertical connection] (Seoul: Sohwa, 2000); Gim Jaehan, *DMZ 3: Jeopgyeong jiyek ui hwahoe-hyeomnyeok* [DMZ 3: Reconciliation and cooperation at the contact zone] (Seoul: Sohwa, 2002); Yi Munhang, "MDL ui yeonhyeok gwa DMZ, haesang eseo ui ginjang wanhwa reul wihan Nam-Buk gan silloe guchuk banghyang" [The history of MDL and DMZ: Directions for building trust through the reduction of tensions on the sea], in Gim Jaehan, *DMZ 3: Jeopgyeong jiyek ui hwahoe-hyeomnyeok*; Valérie Gelézeau, "Beyond the 'Long Partition': From Divisive Geographies of Korea to the Korean 'Meta-culture,'" *European Journal of East Asian Studies* 9, no. 1 (2010): 1-24.

in order to analyze the system formed by the agreement. The preamble of the Korean War Armistice Agreement states as follows:

The undersigned, the Commander-in-Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the other hand, in the interest of stopping the Korean conflict, with its great toil of suffering and bloodshed on both sides, and with the objective of establishing an armistice which will insure a complete cessation of hostilities and of all acts of armed force in Korea **until a final peaceful settlement is achieved**, do individually, collectively, and mutually agree to accept and to be bound and governed by the conditions and terms of armistice set forth in the following articles and paragraphs, which said conditions and terms are intended to be **purely military in character** and to pertain solely to the belligerents in Korea [emphasis added by the author].

As stated above, the purpose of the Armistice Agreement was to end hostilities "until a final peaceful settlement is achieved." This means that the agreement is not permanent, but only a temporary measure until a final resolution can be achieved. In addition, the agreement did not guarantee the complete end of the war because it is not political, but purely military in character. The limited character of the Armistice Agreement implies the necessity of political compromise between two parties for a final peaceful settlement, which is expressly stipulated in article IV of the agreement. Therefore, a political conference was to be held within three months of its signing, which resulted in the Geneva Conference of 1954. However, the conference ended without any agreement between the two parties. After the conclusion of the Geneva Conference, no further political conference has been held.

Not only the Korean people, but experts on the Korean Peninsula have overlooked the fundamental feature of the armistice on the Korean Peninsula. An armistice is a legal agreement that defines the terms for ending hostility between belligerent parties according to international law.⁵ However, an armistice does not mean the complete end of a conflict or a war, even though it is more binding than a truce, which is a kind of preparatory step towards an armistice. Furthermore, fighting can be resumed provided proper notification is given. If a deadline of the ceasefire is fixed in an armistice, the belligerent parties could restart battles at the end of the specified term. Of course, if the belligerent parties have reached a consensus that the armistice defines the

5. "Convention (IV) Respecting the Laws and Customs of War and its Annex: Regulations Concerning the Laws and Customs of War on Land, Chapter V," *The Hague*, 18 Oct. 1907. See <http://www.icrc.org/ihl.nsf/FULL/195>

eternal end of fighting without any end date, no more conflict or war is allowed at any time according to international law. However, still there is the possibility that fighting or battle would be resumed if a new ruling group or leader among either party in the agreement revokes consent with the other party. In fact, there is no international power or institution that can control and punish any kind of violation against the armistice. Although the power of international law itself is accepted in the international arena, this law cannot be enforced; the only thing that ensures its application is the potential stigma and ostracism that violation brings, in other words violation would risk destroying the perpetrator's international standing and reputation.

According to the preamble of the Armistice Agreement of 1953, the armistice does not have any fixed deadline date. It only stipulates that the armistice remains in effect until a final settlement is achieved and it cannot be revised unless both parties feel that it is necessary to do so. This means that the armistice remains in force continuously in the absence of any final political settlement between the belligerent parties. Given the fact that no political conference has been held since 1954, and that no final settlement has been achieved, if we interpret the preamble literally, the armistice agreement should be in force until now.

In that sense, another question arises. Although the agreement prohibits any kind of hostility, why have clashes on the Korean Peninsula occurred continuously? Is this because the agreement has too many loop-holes to prohibit conflicts completely or because the agreement is not working?

Provisions for Preventing further Armed Conflicts

Considering that the fundamental objective of the Armistice Agreement is the prevention of further hostile actions, the two most important clauses are the following. The first one practically disables South and North Korea from strengthening military capacity, and the other one stipulates investigation and observation of military conflict between the two Koreas. The most important part regarding the former is Sub-paragraph 13(d) under Article 2:

Cease the introduction into Korea of reinforcing combat aircraft, armored vehicles, weapons, and ammunition; provided however, that combat aircraft, armored vehicles, weapons, and ammunition which are destroyed, damaged, worn out, or used up during the period of the armistice may be replaced on the basis piece-for-piece [sic] of the same effectiveness and the same type. Such combat aircraft, armored vehicles, weapons, and ammunition shall be introduced

into Korea only through the ports of entry enumerated in paragraph 43 hereof.

Sub-paragraph 13 (d) is perhaps one of the most notable provisions in the Armistice Agreement. This clause prohibits the importation of more advanced weapons into the Korean peninsula, thereby fundamentally preventing the escalation of tensions. Although there may be covert transfer of military technology, outlawing direct importation of arms avoids conflicts due to military buildup and averts the possible outbreak of a total war. Furthermore, it could prevent nuclear armaments by both South and North Korea.

The agreement also enforces the establishment of the Neutral Nations Supervisory Commission (NNSC) in order to observe whether the two sides abide by Sub-paragraph 13(d). Composed of military officers from Switzerland, Sweden, Poland, and Czechoslovakia subject to mutual consent between the UN and the united Communist forces, the activities of NNSC are determined by Paragraph 42, which specifies the supervision and inspection tasks regarding the items mentioned in Sub-paragraph 13(d). In order to oversee whether the South and the North observe Sub-paragraph 13(d), NNSC established the Neutral Nations Inspection Team (NNIT). Formed of personnel dispatched from four neutral nations, NNIT was directed to conduct the supervision and inspection of the import of arms at five respective ports of entry, located in the territory under the military control of the “Commander-in-Chief of United Nations Command” on the one hand and of the “Supreme Commander of the Korean People’s Army and the Commander of the Chinese People’s Volunteers” on the other. The five ports of entry for each side were designated by paragraph 43 as follows:

Territory under the military control of the United Nations Command:

Inchon, Taegu, Pusan, Kangnung, Kunsan

Territory under the military control of the Korean People’s Army and the Chinese People’s Volunteers:

Sinuju, Chongjin, Hungnam, Manpo, and Sinanju.

The above were the biggest ports in South and North Korea at the time, and therefore the most relevant places to watch for the introduction of arms from outside. Certainly, the establishment of NNSC and NNIT at these ports cannot completely guarantee that there will be no introduction of arms from abroad; the clause omits inspection at airports and ports other than the five designated. As will be discussed below, the importation of more advanced weapons from an airport became problematic later. Nonetheless, the installment of personnel from third-party nations that watch over violations of the Armistice Agreement

in both South and North Korea may have been a symbolic as well as an internationally sanctioned device and made the introduction of new weapons difficult.

The agreement also prescribes the institution of a Military Armistice Commission (MAC), which is responsible for the investigation of possible violations of the Armistice Agreement. Under Paragraph 20, MAC is composed of five representatives appointed by the UNC (United Nations Command) and the joint Communist armies. MAC is the highest organization to discuss matters related to the Armistice Agreement according to the agreement, which transfers reports received from NNSC to their respective commanders and governments. The Commission is composed of three from each side who must have the rank of lieutenant general or at least major general, and the two remaining members may be ranked between major general and colonel. One of the most important roles of MAC is its function as an investigative body. Any Incident in the Demilitarized Zone (DMZ) should be investigated by MAC. Even when there is a violation of the Armistice Agreement outside of the DMZ and its examination is necessary, MAC is able to request NNSC to carry out an investigation on the matter. In that sense, MAC is given rights in areas outside of the DMZ as well, thus they may investigate in any area in South and North Korea for violations of the Armistice Agreement.

Clearly, the contents of Sub-paragraph 13(d), the establishment of NNSC and NNIT for its execution, and the formation of MAC as the highest institution that deals with violations of the agreement were not sufficient to completely prevent further military conflicts in the Korean peninsula. However, it can be said that the participation of neutral nations as well as high officials from the American and Chinese military provided an adequate international structure to guarantee armistice in Korea.⁶

Dissolution of Clauses to Deter, Investigate and Discuss Conflicts

1. Invalidation of Sub-paragraph 13 (d) and Placement of Nuclear Weapons

In 1957, General H.L. Litzenburg, Senior UNC Member of MAC, declared

6. MAC was actually utilized as an important discussion forum between North Korea and the US during crises such as the Pueblo Incident in 1968 and the Axe Murder Incident at Panmunjom in 1976. As the only window to discuss security issues between two parties that did not establish a diplomatic relationship, MAC functioned as a buffer that stymied the escalation of the security crisis in the Korean peninsula to a total war.

that UNC was not bound by Sub-paragraph 13(d) of the Armistice Agreement any longer.⁷ According to him, the basis of this invalidation was provided by North Korea's violation of the clause. In February 11, 1954, NNIT reported the possibility of the introduction of new aircrafts into North Korea. Also, the ROK government argued, based on information from a defector, that North Korea illegally brought in 300 MIG air fighters and that North Korean soldiers were trained by 3,000 Soviet soldiers. South Korea thereby blamed the North Korean regime for its violation of the Armistice Agreement, in particular Sub-paragraph 13(d). At MAC, the UNC complained to the Communist Army on this issue, but North Korean representatives in MAC refuted that the confession of the defector did not constitute reliable evidence.

In the end, the commander of UNC concluded that 13(d) would be no longer valid when it is impossible to supervise airports.⁸ This inevitably forced the withdrawal of NNIT from ten respective ports of entry. As aforementioned, the invalidation of 13(d) signified the dissolution of one of the most crucial regulations in the Armistice Agreement. It is difficult to clarify which side was telling the truth, since technologies such as satellite or aerial photography were unavailable at the time.

A more important point is that the US forces, which constituted the main force in UNC, had been considering the disposal of 13(d) right after signing the Armistice Agreement. This was in line with the Eisenhower administration's New Look policy, the main purpose of which was to balance the government budget. The American government faced a serious budget deficit due to the huge military expenditure as a result of the Korean War. One of the ways to reduce the military budget was to reduce costs for American forces abroad, an idea that is very similar to the Ground Posture Review (GPR) during the Bush administration in the first decade of the 2000s.

In South Korea, the US had a heavy military burden not only because of the big size of the US forces presence, but also because of Korean forces, the size of which was beyond the capacity of the ROK government to support. The Syngman Rhee government had asked the US government to provide financial support towards maintaining the ROK forces shortly after the Armistice, a proposal accepted by President Eisenhower on the condition of transferring operational control over ROK forces to the United Nations Commander. This

7. Editorial Note, *FRUS 1955-1957, Vol. XXIII, part 2*, 460-461: *Joseon ilbo*, June 22, 1957.

8. Actually supervision over airports on the Korean Peninsula was one of the controversial topics during the truce talks in 1952. Both the North Korean and the Chinese side strongly opposed the inclusion of airport areas observed by the NNIT.

was finalized in 1954 through the Agreed Minute drawn up during Rhee's visit to Washington, D.C. Therefore, the only possible way to reduce US military expenditure on the Korean Peninsula was to reduce the size of US forces in South Korea.

However, this may have created an imbalance of military strength on the Korean peninsula, because the Chinese army was stationed in North Korea until 1958, which was the crucial factor that the policymakers within the Eisenhower administration were concerned about.⁹ In order to compensate for a possible imbalance after the reduction of forces, the US considered the introduction of more advanced arms, including nuclear weapon. The establishment of a military strategy that focuses on nuclear weapons was in line with Secretary Dulles' "Massive Retaliation" strategy, which managed to significantly decrease military spending by downsizing the army abroad, saving personnel expenses, and reinforcing nuclear strength.¹⁰

Consequently, the Commander-in-Chief of UNC not only allowed the withdrawal of the NNIT consisting of delegations from Poland and Czechoslovakia, but also summoned the Swiss and Swedish ambassadors in Washington D.C. and urged their representatives in the NNIT to withdraw from five ports in North Korea. Then, within two years of the nullification statement of 13(d), Honest John missiles, which were capable of carrying nuclear warheads and 100th and 633rd artillery battalions that possessed the 280mm atomic cannon were publicly deployed in South Korea.¹¹

In addition, when North Korea forced the evacuation of Czechoslovakian and Polish representatives in 1993 and 1995 respectively, NNSC was virtually nullified, almost 40 years after the withdrawal of the NNIT both from the South and the North.¹² This action was taken as the Communist regimes in

9. Bak Taegyun [Park Tae Gyun], *Ubang gwa jeguk, Han-Mi gwangye ui du sinhwa* [Ally and empire, two myths in the Korea-US relationship] (Seoul: Changbi, 2006), Part 3, Chapter 4.

10. John Lewis Gaddis, *Strategies of Containment: A Critical Appraisal of American National Security Policy during the Cold War* (New York: Oxford University Press, 1982), 168-196.

11. "Hanguk e wonja mugi sugi doip" [Several nuclear weapons imported to Korea], *Joseon ilbo*, January 29, 1958; "280-miri wonjapo boyu: Han-Mi yanggun danggukseo gongsik balpyo" [ROK-US armies officially announce possession of 280mm Atomic Cannon], *Joseon ilbo*, January 30, 1958. Although the NNIT was invalidated, the NNSC continued to operate in the two Koreas until 1995.

12. "Bukcheuk chulsuro jeongjeon gamsi cheje yakhwa" [Weakened armistice monitoring system due to mistake by North], *Gungmin ilbo*, June 9, 2000; "Buk, junggamwi samusil pyesoe" [North shuts down NNSC office], *Dong-A Ilbo*, May 4 1995; "Buk, Pa chukchul gongsik balpyo" [North officially announces expulsion of Poland], *Gyeonghyang sinmun*, March 2, 1995.

Czechoslovakia and Poland collapsed and opened diplomatic relationships with South Korea.¹³ Although the NNSC office is still open in the Southern part of the Joint Security Area (JSA), the NNSC as an institution that should supervise the Armistice System and investigate violations outside the DMZ is no longer working.

2. *Dissolution of Military Armistice Commission*

Another problem occurred in 1991. After the prime ministers of the two Koreas signed the Inter-Korean Basic Agreement, UNC replaced their representative of delegation at MAC to a ROK military general.¹⁴ In March 1991, Major General Hwang Wontak of the ROK Army was appointed as the Senior UNC Member at MAC, a position previously only held by American generals. Although UNC had tried to appoint a Korean general as a representative at MAC in 1971, the replacement was not conducted because of opposition by both South and North Korea.¹⁵

North Korea opposed this appointment by UNC; the North Korean regime preferred to resolve security issues such as violations of the Armistice Agreement directly with the commander of US Forces in Korea (USFK), who is simultaneously acting as the commander of UN forces. The North Korean regime argued that because President Syngman Rhee of South Korea did not sign the Armistice Agreement in 1953, South Korea has not been a party of the Armistice system.¹⁶ North Korea did not recognize the fact that ROK forces

13. Establishing diplomatic relations with South Korea, the Polish government conveyed the message that the NNSC is no longer relevant to Poland. “Jungnipguk gamdokwi haeche wa jeongjeon cheje” [Dissolution of NNSC and the Armistice System], *Hangyeore*, June 23, 1991. Thus, the Polish pullout from NNSC reflected both North Korean demands as well as the Polish stance on this issue.

14. More research is needed regarding the question why UNC replaced their representative with a South Korean military officer. Considering that the US began the GPR in the early 1990s, it seems to be related to reduction or change in the role of US Forces in Korea and the issue of transferring operational control to ROK army.

15. “Conversation between Chair of ROK forces and Commander of UN Forces,” July 30, 1971, EA0004467, Presidential Archive in ROK; “Hanbando ginjang wanhoe Yuencheuk odangye bangan” [Five stages for easing the security tension on the Korean Peninsula by UN Forces], *Gyeonghyang sinmun*, July 28, 1971. At the time, the South Korean government worried about the withdrawal of US forces in South Korea shortly after the Nixon Doctrine and the change of composition in MAC was considered a signal of serious transition in US military policy toward South Korea.

16. Even for issues other than security, the DPRK preferred to directly talk with the US, even though the principle for unification which was agreed both by the South and the North in 1972 had different contents. The US-DPRK talks on nuclear issues that began in the early 1990s were

had been involved in the Armistice System as part of the United Nations forces. This intention of North Korea is clear from the following editorial in the *Rodong Sinmun*:

On March 25, UNC tried but failed to hand over to us the credentials to appoint a general of the South Joseon Puppet Army, who does not have any qualifications whatsoever, to the position of Senior Member at MAC. This is an aggressive violation of the Armistice Agreement . . . [I]t is obviously clear that all the clauses in the Armistice Agreement are to be interpreted solely within the two parties that signed it, united Joseon-China forces and the UNC.

. . . [I]n reality, the operational command of the South Korean Army is in the hands of the US and it is the US that is responsible for handling any issues that arise between the parties at MAC . . .¹⁷

North Korea was claiming that the UNC representative must be from the US for several reasons. First, USFK, which forms the majority of UNC, also has operational control of the Republic of Korea Army (ROKA). Second, since the US guaranteed ROKA's compliance with the Armistice Agreement (which South Korea did not sign), a US general must be a senior representative at the table to discuss the Armistice Agreement. Due to this issue, MAC was practically paralyzed.¹⁸ Until 1991, when one party summoned MAC, the other party was required to either accept or offer an alternative date for the meeting or an alternative agenda; at times when the agenda was deemed unfavorable, one side sometimes left the table early. However, when UNC called for a MAC meeting after the Korean People's Army infiltrated an area north of Cheorwon on May 22, 1992, North Korea did not attend the 460th MAC scheduled for May 29 without any response.¹⁹ MAC, which had been convened 459 times in the 38 years after 1953, was no longer active after 1991.²⁰

bilateral talks, in which the US government also isolated the ROK government.

17. Han, Eungho, "Jeongjeon hyeopjeong wibanja ui hwangdanghan gwebyeon" [Absurd rhetoric by violators of the Armistice Agreement], *Rodong sinmun*, April 6, 1991.

18. The DPRK officially declared their boycott of MAC in May 1994. "MAC Buk gunsajeongjeonwi cheolsu seoneon" [North announces withdrawal from MAC], *Gyeonghyang sinmun*, May 3, 1994.

19. "Gunsajeongjeonwi sasilsang mabi" [MAC is practically paralyzed], *Gyeonghyang sinmun*, May 30, 1992.

20. After the 453th meeting, North Korea did not suggest any new convening of MAC anymore. North Korea had not suggested an MAC meeting when four ROKA Air Corps helicopters trespassed the no-fly zone on May 15, 1992. The MAC meeting had been continually convened except for the 307 days from May 29, 1986 to April 3, 1987.

In addition, even the Chinese Representatives withdrew from MAC. On September 1, 1994, the People's Republic of China announced that they had decided to remove the PRC representatives from MAC.²¹ This decision was made when the DPRK's Vice-Minister of foreign affairs Song Hogyeong visited China for discussions with his counterpart, Vice-Minister of Foreign Affairs Tang Jiaxuan. According to the PRC government, it was a request by the DPRK that China accepted because the activities of MAC had been essentially suspended.²² Thus China completed the withdrawal of their delegation from MAC on December 15, 1994, almost two years after the normalization of South Korean-Chinese diplomatic relations.²³ Soon after the PRC representatives were evacuated from MAC, North Korea newly installed a "Panmunjom Mission of the Korean People's Army" (Panmunjeom Bukhangun Daepyobu).²⁴ North Korea then demanded a general-level talk with the USFK for the resolution of military issues. The ROK government was opposed to bilateral talks between the DPRK and the US, while China supported the replacement of MAC with general-level talks.²⁵

Problems arose for the South Korean side when the US accepted the DPRK's offer to hold general-level talks. On December 17, 1994, "a reconnaissance helicopter of the 17th Aviation Brigade of the 8th US Army crossed the border while reconnoitering near the demilitarized zone and crash-landed at a point approximately 5km north of the DMZ (10km northwest of the Hyangro Peak)." Aboard the aircraft were two pilots (warrant officers Hall and Hilemon), one of whom died; the other was taken into custody by North Korean forces.²⁶ This incident triggered a bilateral military conference between

21. "Jung, Gunsajeongjeonwiseo cheolsu" [China withdraws from MAC], *Gyeonghyang sinmun*, September 3, 1994.

22. At the meeting held at the State Guest House, Chinese Foreign Minister Qian Qichen told Vice Foreign Minister Song that until a new peace system is achieved in the Korean peninsula, the Armistice Agreement would be valid and the parties would need to comply with it.

23. "Jung Jeongjeonwi cheolsu wallyo" [China completes withdrawal from MAC], *Gyeonghyang sinmun*, December 16, 1994.

24. "Bukhan Jeongjeonwi ilbang cheolsu" [North Korea withdraws unilaterally from MAC], *Dong-A ilbo*, May 3, 1994; "Buk Gunsajeongjeonwi daeche Panmunjeom daepyobu seolchi" [North Installs Panmunjom Mission as MAC Substitute], *Gyeonghyang sinmun*, May 22, 1994.

25. "Buk-Mi dokdae gudo Jungseo eomho" [China supports bilateral structure between North Korea and the US], *Gyeonghyang sinmun*, September 3, 1994. However, China changed its attitude around 1996. It sought to mediate the four-party talks including South Korea and China as well as North Korea and America.

26. "Bukhan Mihelgi gyeokchu" [North Korea shoots down US helicopter], *Gyeonghyang sinmun*, December 18, 1994.

the DPRK and the US. It progressed speedily; the DPRK decided to repatriate the American pilot in two weeks. Delegates from the US State Department, including Deputy Assistant Secretary Thomas Hubbard, who would later be appointed as US ambassador in Seoul, were dispatched on December 28 to North Korea for the return of the pilot. Moreover, North Korea's broadcasting system reported that "the US has agreed to continue the Joseon-US military contact in order to devise measures to cease incidents that threaten the peace and security of the Joseon peninsula."²⁷

While these events sparked disputes between the US and ROK governments over MAC and the general-level talks, the Democratic People's Republic of Korea (DPRK) continued with its policy of effectively nullifying MAC and seeking ways to reconfirm bilateral talks with the US.²⁸ However, the US policy toward MAC seemed to be not clear due to the following dilemma: on the one hand, the US valued the US-ROK security alliance since 1953, which is premised on containing North Korea by military means, but on the other hand, the Clinton administration, when it concluded the Geneva Agreement in 1994 on the North Korean nuclear issue, showed America's soft landing policy toward North Korea. Furthermore, the relationship between the Clinton and the Kim Young-Sam government was not amicable since the Kim government strongly opposed the Geneva Agreement.

In April 1995, the UNC notified the ROK government that they will replace the MAC representative with an American general.²⁹ This decision was reportedly made without prior consultation with the ROK government. Afterwards, the UNC offered general-level talks to North Korea,³⁰ and notified the South Korean Defense Minister of this.³¹ However, the UNC Headquarters in South Korea changed its policy and announced that they had delivered a letter that refused the bilateral general-level talks between the US and the

27. "Buk-mi gansa hyeopui jiktong chaeneol gaeseol" [Opening direct military negotiation channel between North Korea and the US], *Gyeonghyang sinmun*, December 31, 1994.

28. "Dae Mi gansa chaeneol mosaek, Buk jangseonggeup hoedam jeeui" [Searching for a military communication channel with America, North Korea's proposal for general level talks], *Gyeonghyang sinmun*, March 2, 1995

29. "Jeongjeonwi daepyo Mi jangseong euro" [American general became senior officer in MAC], *Gyeonghyang sinmun*, 4 April 1995.

30. "Jeongjeonwi byeonjil susun chokgak" [Watching for changes in the status of MAC], *Gyeonghyang sinmun*, May 23, 1995. According to this article, the UNC accepted North Korea's proposal on the condition that a general-level meeting should be held under the frame of MAC and a senior position in MAC would be deleted.

31. "Gansa daehwa chaeneol yuji goyukchaek" [Desperate measures to maintain military communication channel], *Gyeonghyang sinmun*, May 21, 1995.

DPRK on July 20, 1995.³² The UNC added that General Hwang Wontak would remain as Senior UNC Member at MAC. Then on April 4 1996, the DPRK government declared that they would no longer uphold the Armistice Agreement and would give up their duty to protect the DMZ area, without any further explanation on the declaration. It seemed aimed at inducing American representatives in JSA to the negotiating table. In the end, the first US-DPRK general-level talks were finally convened after a North Korean spy submarine was found in Gangneung, South Korea, in June 1998.

Once the first general-level talks had been held in 1998, MAC was not convened anymore. When the representatives of both North Korean and Chinese forces were withdrawn, MAC could no longer be effective. Although partial functions of MAC were considered to have been revived following the Colonel-level meetings of MAC on March 3 and May 3, 1995,³³ and the exchange of letters between ROK Defense Minister Cho Seongtae and Vice-Minister of the DPRK People's Army Kim Il-Cheol after the June 15, 2000 Summit,³⁴ these efforts were merely temporary. Conversely, North Korea has demanded that Britain and Australia withdraw from MAC in November 2000, while consistently arguing that violation of the agreement by the UNC has disabled MAC.³⁵

Paragraph 34 of the Armistice Agreement states that “the Military Armistice Commission shall maintain duplicate files of the reports and records of proceeding ... upon eventual dissolution of the Commission, one set of the above files shall be turned over to each side,” but it does not outline under what specific circumstances MAC will be dissolved. The context implies the possibility of dissolution once the parties reach a peaceful settlement. Signed in 1953, the Armistice Agreement underwent a process of partial nullification, once in the mid-1950s and again in the mid-1990s. Though they can be seen as minor compared to the entire text of the agreement, considering their significance in preventing hostilities between the two sides and their internationalization

32. “Jangseonggeup hoedam e bandae” [Refusal of US-DPRK general level-talks], *Gyeonghyang simmun*, 21 July 1995.

33. “Pa daepyo cheolsu gongsik hangui” [Official complaint against withdrawal of Polish representative from MAC], *Gyeonghyang simmun*, March 3 1995; “Buk Jeongjeonwi biseojanghoe oneul Panmunjeom gaechoe jeui” [DPRK suggests to have the MAC colonel level meeting at Panmunjeom today], *Gyeonghyang simmun*, May 3, 1995.

34. “Gunsajeongjeonwiwonhoe chaeneol gadong” [Working of MAC channels], *Hanguk Ilbo*, September 16, 2000.

35. “Buk Ho-Yeong deung e Jeongjeonwi cheolsu yogu” [Request by North Korea to Australia and Britain to withdraw its representative from MAC], *Hanguk Ilbo*, November 28, 2000.

once they occur, the changes pose serious problems for the successful operation of the Armistice itself. The North Korean regime has shown solid willingness to paralyze the Armistice, while the South Korean and US government have not been able to decide on a unanimous position. However, regardless of the positions of the ROK and America, MAC and NNSC have been suspended in reality because the other party never responded on the matter since 1994.

Inherent Problems of the Armistice Agreement

It has been publicly pointed out several times that the Armistice Agreement has inherent problems. These particular problems have become hotly debated as many clashes in the Yellow Sea [West Sea] have occurred between South and North Korea since 1999. The hostilities on sea are of a wholly different dimension from the casual exchanges of gunshots during skirmishes along the DMZ. In most cases, the number of victims was enormous compared to casualties of clashes around the DMZ. Furthermore the so-called West Sea Clash was particularly shocking because the first one happened during a period of improved relations between the two Koreas in 1999,³⁶ and again in 2002 when South Korea was hosting the World Cup Games and North Korea planned to invite South Korean people to the Arirang Festival.

The problems in the Yellow Sea arise from the fact that the Armistice Agreement has not set a Military Demarcation Line (MDL) on water. The Eisenhower administration went as far as threatening with the use of nuclear weapons in order to finish the negotiations as quickly as possible, while the DPRK and the PRC also realized that it was urgent to quickly end hostilities in the Korean peninsula following the death of Stalin. Thus the parties agreed to discuss undecided matters after signing the Armistice Agreement. The Agreement merely delineates the MDL on Yellow Sea in Article II, Sub-paragraph 13(b):

13. (b) . . . provided, however, that all the islands lying to the north and west of the provincial boundary line between HWANGHAE-DO and KYONGGI-DO shall be under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's volunteers, except the

36. In 1998, the DPRK decided to open the Geumgang mountains area for South Korean tourists after Jeong Juyeong, founder of the Hyundai group, visited the North with 100 cows, and special tours of Mt. Geumgang were started in 1999. This was the first tourist exchange between South and North.

island groups of PAENGYONG-DO (37 58' N, 124 40' E), TAECHONG-DO (37 50' N, 124 42' E), SOCHONG-DO (37 46' N, 124 46' E), YONPYONG-DO (37 38' N, 125 40' E), and U-DO (37 36' N, 125 58' E), which shall remain under the military control of the Commander-in-Chief, United Nations Command. All the islands on the west coast of Korea lying south of the above-mentioned boundary line shall remain under the military control of the Commander-in-Chief, United Nations Command.

Other than the above, no separate paragraph on the MDL on sea has been agreed on during the truce talks.³⁷ Shortly after the Armistice Agreement, the UNC Commander unilaterally set the Northern Limit Line (NLL), without consent from the Communist Armies, on August 30, 1953.³⁸ However, the UNC line seemed to be drawn based on the sentence, “[a]ll the islands on the west coast of Korea lying south of the above-mentioned boundary line shall remain under the military control of the Commander-in-Chief, United Nations Command.” North Korea did not agree to this line, but when UNC drew its line, North Korea did not respond with its own separate MDL on the sea until the early 1970s. In 1973 North Korea stated its refusal to recognize the NLL that the UNC had unilaterally declared, and began arguing that a new line is necessary according to international law.³⁹ The following newspaper article from the early 1980s illustrates the situation leading up to the point:

The Northern puppets committed their provocations in these areas for more than 30 times since 1955, but never before have they invaded our airspace with MIGs as this time. Starting with the attack on our croaker fishing boats in October 1955, which resulted in one sunk and the other four missing, the Northern puppets

37. The UN wanted to set the MDL 3 miles away from land and island, while communists wanted 12 miles during the truce talks. Yi Munhang, “MDL ui yeonhyeok gwa DMZ,” 86.

38. “Bukbang hangyeseon namjjok haesang uri yeonghae inga aninga” [Is the southern sea area of the NLL ours or not?], *Donga Ilbo*, June 11, 1999. The official position of the ROK government is that the NLL was drawn by the UNC in 1953 shortly after the Armistice Agreement. However, Gelézeau argued that the line was drawn by the UNC in 1958, whereas the line was nonexistent until 1961 according to a declassified 1974 CIA report. For this, see Nan Kim, “Korea on the Brink: Reading the Yŏnp’yŏng Shelling and its Aftermath,” *Journal of Asian Studies* 70, no. 2 (2011), 339, footnote 2. However, there is a newspaper article dating from 1960 in which the MDL on the Yellow Sea is mentioned “Namhan eun sam ui nagwon” [South Korea is a heaven], *Donga Ilbo*, December 29, 1960. Judging from newspaper articles, at that time the term “haesang gyeonggye bungyeseon” [Coast Guard Demarcation Line] was used instead of NLL.

39. At the 346th meeting of MAC, North Korea declared that the demarcation line between Hwanghae Province and Gyeonggi Province should be the MDL on the West Sea. Although the argument was based on the Armistice Agreement, it did not consider the exceptional definition for islands in the paragraph 13 (b). Yi Munhang, “MDL ui yeonhyeok gwa DMZ,” 87.

had mostly abducted fishing boats or invaded our waters with submarines until 1974.

But since 1975 MIGs sent by the Northern puppets began invading our airspace; on March 24, 1975, 30 aircrafts presumed to be MIGs from the Northern puppets threatened the sky above Baengnyeong-do. For the past few years, here had not been much provocation until this surprise attack . . .

Kim Pungseop, the Senior Member of the Northern puppets at the 346th MAC held on December 1, 1973, claimed “we acknowledge that the five islands including Baengnyeong-do are under the jurisdiction of the UNC, but the sea surrounding the islands are territorial waters of the DPRK.” He also insisted that all vessels that sail in this area need prior approval and inspection by the Northern puppets.

In response, the Senior UNC Member, Major General Thomas H. Greer refuted that there is no regulation, including in the Armistice Agreement, which identifies the sea surrounding the islands as the territorial waters of the Northern puppets. An official from the Ministry of Defense also condemned the claim by the Northern puppets as a provocation that ignores the Armistice Agreement and international law.

On August 1st, 1977, the Northern puppets carried out an unprecedented action in international law by designating the so-called “Maritime Military Demarcation Line,” which prohibits activities of foreigners, foreign warship and combat aircraft within 50 nautical-miles in the East Sea and 200 nautical-miles in the West Sea. As for civilian ships (except fishing boats) and aircrafts, only the activities that received previous consent or approval will be allowed. Because of these heightened tensions in the West Sea the ships Hwangjin and Ongjin are to

Table 1. Record of Violation of MDL on the Yellow Sea⁴⁰

1967		Patrol Ship No. 56 sunk on the East Sea
1968	June 17	5 Fishing boats abducted to North on the Yellow Sea
	November 7-8	11 Fishing boats abducted to North on the East Sea
1970	April 4	Armed spy ship sunk on the Yellow Sea
	June 5	Navy broadcast vessel abducted to North
	July 9	5 Fishing boats abducted to North on the Yellow Sea
1971	January 6	5 Fishing boats sunk, abducted to North on the Yellow Sea
1972	February 4	1 Fishing boat sunk, 1 boat abducted to North
1973	November 19	Trespassing of the water near from 5 islands on Yellow Sea
1974	February 15	Fishing Boat Suwon 32 bombed, sunk by North
	June	Maritime Police Vessel no. 863 attacked, sunk by North
1975	March 24	Trespassing of airspace by 30 North’s aircrafts

40. This table is edited by author based on the article, “Iliil satae ihu bukgoe juyodobal ilji” [Chronology of North Korea’s incursion after the NK infiltrators’ attack on the Blue House in 1968] (*Gyeonghyang sinmun*, January 21, 1978).

sail under ROK protection.⁴¹

It is unclear why North Korea suddenly raised the issue of the NLL about which they had been silent until 1973. One hypothesis is based on its timing; it coincided with the US and South Korea's initial withdrawal of forces from Vietnam and the DPRK's reinforcement of its navy and air force strength. Even USFK was downsized in 1971. The record below as well as the article quoted above demonstrate that the MDL issue on the Yellow Sea mostly involves fishing boats, claimed to be "spy ships," until 1974.

The Maritime MDL was also considered a very sensitive issue in the DPRK. For example, since November 1967 – two months before the Pueblo Incident in 1968 – two articles in the DPRK's *Rodong Sinmun* and *Minju Chosun* describe "American spy ships" trespassing North Korean waters.⁴² After the Pueblo Incident, the American spy ship issue became the single most important narrative of the newspaper. Although more detailed analysis on inter-Korean clashes must take place, these reports seem to have been frequent.

In 1977, North Korea repeated its position on the Maritime Military Demarcation Line:

According to Pyongyang Broadcasting System, 50 miles for East Sea and 200 miles for West Sea must be designated as Maritime MDL, which prohibits military actions of foreign military ships and aircrafts while civilian access must be approved in advance by the northern puppet regime.⁴³

Such claims were reconfirmed by Japanese who visited the DPRK in the same year.⁴⁴ According to Japanese visitors, North Koreans considered it "unavoidable because neighboring nations had already declared 200 nautical-mile economic zones." Afterwards, the Maritime MDL did not become a huge issue apart

41. "Bukgoe ui Seohae odo gunsa chimgong ui baegyeong" [Background of incursion in the West Sea by North Korea], *Gyeonghyang sinmun*, August 21, 1981.

42. "Mije chimnyakgun i ttodasi gonghwaguk bukbanu yeonghae e gancheopseondeul eul chimip sikyeo dobaleul gamhaeng" [Another American imperialist incursion by spy vessels against DPRK aimed at provoking conflict], *Rodong Sinmun*, November 12, 1967; "Mijechimnyakgun i ttodasi Donghaean uricheuk yeonhae eseo dobalhaengdong eul gamhaeng" [Another American imperialist provocative act in our coastal areas along the Eastern Sea], *Minju Chosun*, January 12, 1968. Both articles were published before the Pueblo Incident in January 22, 1968.

43. "Bukgoe haesanggunsa gyeonggyeseon seoljeong" [North Korea fixed the DML on the Sea], *DongA ilbo*, August 1, 1977.

44. "Haesang ui gyeonggyeseon taguk seungin bulyo" [Foreign countries' consent on the DML on the sea should not be needed], *Gyeonghyang sinmun*, August 31, 1977.

from the occasional trespassing of fishing boats.

It was in this environment that the Inter-Korean Basic Agreement, which states in Chapter 2, Article 10 that “the South-North sea-demarcation line shall continue to be discussed in the future, the sea non-aggression zones should be identical with the areas that have been under the jurisdiction of each side until the present time,” was signed in 1991. This agreement aimed to stop conflicts on the Yellow Sea, but the phrase “the areas that have been under the jurisdiction of each side until the present time” can be interpreted in various ways. Moreover, because the agreement was not ratified by South Korea’s Congress, it does not have binding legal authority under the South Korean Constitution. Therefore, the Maritime MDL issue cannot be resolved based on Chapter 2, Article 10 of the Inter-Korean Basic Agreement. Under this condition, North Korea reestablished a new sea-demarcation line in September 1999. This has since led to numerous clashes on sea between the South and the North.

The last issue undetermined by the Armistice Agreement is the withdrawal of foreign forces from the Korean peninsula. In order to realistically end the security crisis and maintain a peaceful state, what must be resolved is the security dilemma resulting from the presence of foreign forces. The Communist Armies and the UNC both agreed that the foreign forces must pull out after the Armistice Agreement, but such an accord was not included in the agreement itself. There is not even a schedule. Ironically, different from North Korea’s propaganda that the “US has completely controlled and coordinated all aggressive activities” and “the South Korean regime is just a puppet of America,” the USFK played a crucial role in checking the aggressive strategy of the ROK government since 1953. It was the Commander of the USFK who blocked the slogan of President Rhee, “Marching North,” and the attempt to retaliate aggressively against the North by President Park.

However, it is highly likely that the presence of foreign forces will ultimately complicate the goal of “a final peaceful settlement.” Some predict that North Korea and China may accept the stationing of the USFK even after improvement of inter-Korean relations, mostly for the sake of peace in the Korean peninsula and the balance of power in Northeast Asia; but this is highly improbable. If such a role by foreign forces is necessary, it must consist of nations that were not directly involved in the Korean War, like those constituting the NNSC.

Conclusion – The Cheonan and Yeonpyeong Incidents and the Armistice System

Both the Cheonan Vessel Incident, which was, according to a final investigation report by the ROK government, sank by a North Korean torpedo on March 26, 2010, and the Yeonpyeong Island Shelling on November 23, 2010, which lead to the deaths of two civilians, occurred under the unstable Armistice system on the Korean Peninsula. Among them, what deserves attention is the process of the investigation on the Cheonan Vessel Incident. The ROK government formed an investigation committee that consisted of multinational experts. But according to the Armistice Agreement, the investigation should be conducted by the NNSC under the authority of MAC. Not only some South Korean NGOs, but also China and Russia, which were not involved in the investigation committee, did not agree with the final paper of the committee. And right after the presentation of the investigation report on the Cheonan Vessel Incident by the ROK government, North Korea proposed that it would like to send an “inspection group” (Geomyeoldan). The ROK government rejected this offer and instead suggested to resolve matters through MAC. The DPRK declined the offer, because MAC had already become “a ghost organization.”⁴⁵

Discussion between the South and the North on the Cheonan Vessel Incident shows the reality of the Armistice Agreement and the system, the crucial clauses of which have already been nullified. Thus, although the ROK’s argument may be more rational based on the terms of the Armistice Agreement, in practice it is impossible to discuss and resolve issues through MAC. In order to convene MAC, representatives from China must also return to it. The fact that MAC is not held any more means that there is no place where the UN and the communist forces can gather to consult about the Armistice System.

The Yeonpyeong Incident provoked another debate on the cause of the clashes. According to North Korea’s declaration on the DML on the Yellow Sea, joint US-South Korean naval training in the vicinity of the five islands is a clear violation of armistice regulations, even though the UNC and ROK never

45. “Buk ‘Cheonanham josa gaekgwanjeok gwahakjeok iramyeon geomyeoldan batara’ jaecha daenam tongjimun” [North Korea sends another dispatch to the South: ‘if the investigation is objective and scientific, allow North Korea’s investigation team,’], http://www.pressian.com/article/article.asp?article_num=40100523002225 The DPRK argued that article 10 in chapter 2 allows the formation of an inspection team. However, as I mentioned above, the agreement was not ratified in South Korea’s national assembly and North Korea does not consider the agreement seriously because neither Kim Il Sung nor Kim Jong Il signed it.

agreed with the DPRK's DML. Although the South Korean government repeatedly asked for an official apology for the provocation and for the death of two civilians from the DPRK government, the North Korean government continues to criticize naval training by ROK and US naval forces in an area that North Korea claims is part of its own territory. At the same time, since there is no agreed DML on the Yellow Sea, the South Korean and UNC position cannot be supported by international law.

In short, the two incidents clearly show the problem of the armistice system on the Korean Peninsula. First of all, it fails to completely prevent the eruption of hostilities because it does not guarantee the permanent peace due to the lack of a final settlement. Although MAC and NNSC were organized based on the agreement in order to prevent the escalation of clashes, neither of them have been in operation after early 1994. In the end, in spite of two serious incidents in 2010, there was no place to have a meeting to consult and to examine the incidents between two parties. And even if both parties of the Armistice System could have determined who violated it, it would not have been possible to punish a violator.

Furthermore, the armistice has a decisive defect; there is no agreed demarcation line on the sea. The areas where the Cheonan Vessel and Yeonpyeong Island incidents occurred are claimed as national territory on the sea by both South and North Korea. The 2010 incidents were also not the first. There were two serious naval clashes in 1999 and 2002, and even in the 1960s and 1970s there were big incidents; the sinking of patrol vessel no. 56 in 1967, the Pueblo Incident in 1968, and the sinking of patrol boat no. 863 in 1974.⁴⁶ Another problem in the armistice is derived from the invalidation of some paragraphs in the Armistice Agreement. Paragraph 13(d), prohibiting the importation of upgraded weapons from outside was null and void in 1956 and nuclear weapons were introduced to South Korea in 1958, which might be the origin of the nuclear problems in North Korea.

The most intense debate on the Korean War has been on who fired the first shot at the beginning, because it determines who is responsible for the war. Although these debates have quieted down as old Soviet documents were released, another issue on responsibility is being raised today around the

46. The incident of Maritime Police Vessel no. 863 in 1974 has some common points with the Cheonan Vessel incident. Although the 863 incident occurred in the East Sea [Sea of Japan], many navy sailors were killed with the vessel which seemed to be sunk by North Korea. And there are a lot of unsolved problems. Although South Korea's national assemblymen raised questions about the incident, there were many unresolved questions including the exact number of sailors, the cause of the incident, etc.

Cheonan Vessel Incident. What has happened in the Korean peninsula for the past 60 years? Has nothing changed? It is certainly important to verify the direct cause of the Cheonan Incident. But first and foremost, the structural cause that contributed to this incident must be removed. Furthermore, an institutional mechanism must be created so that a similar incident will not be repeated.⁴⁷ And the fundamental problem is derived not only from the aggressive strategy of both parties in the Armistice System, but also from the loopholes which are mentioned in this paper. Without solving the problem of the loopholes in the Armistice Agreement and the system based on it, similar incidents and problems are likely to occur in the foreseeable future.

47. In this light, we have now reached the time to replace the Armistice Agreement with a treaty for “a final peaceful settlement.” And at the same time, we should consider the importance of the Joint Summit Statement on October 4, 2007 between South and North Korean leaders, Roh Mu Hyun and Kim Jung Il, which is not working now due to serious tension between the South and the North. In the statement, the South and North Korean governments agreed to establish a peaceful fishing zone in the controversial area to protect fishing boats as well as to put an end to naval provocation.