Lessons from the Unhappy History of Verification in North Korea

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Verification of North Korea’s denuclearization now preoccupies negotiators. An unhappy past holds some important lessons for what may work this time around. Among them is that verification takes time and is best achieved through reciprocal steps, not unilateral demands, and that reneging on an agreement leads to retaliation which damages US security.

Verification is a political judgment in a technical guise. It is not the same as monitoring, just as a net assessment is not the same as raw intelligence.

Verification is sometimes confused with playing “gotcha,” seizing on a suspected breach—however minor—as evidence of cheating and using it to invalidate a deal. While no agreement can be absolutely verifiable and any breach takes on political significance because of what it implies about a violator’s intention to some, to say that an agreement is verifiable is to assert that no militarily significant breach is very likely to go undetected for long and that lesser breaches are constrained by the prudential calculation that trivial military advantages are not worth the risk. Nor are they sufficient to cancel an agreement. Absolutism in verification may pose as great a risk to US security as some North Korean violations.

“Gotcha” Bites Back

The distinction between the “gotcha” approach and a breach that could affect the balance of power can be seen in 2002 when National Security Adviser John Bolton—then the Under Secretary of State for Arms Control and International Security—seized on raw intelligence that North Korea had been acquiring the means to enrich uranium as “the hammer I had been looking for to shatter the Agreed Framework.” A declassified version of an untitled CIA statement reads,

“We assess that North Korea embarked on the effort to develop a centrifuge-based uranium enrichment program about two years ago. Last Year the North began seeking centrifuge-related materials in large quantities. It also obtained equipment suitable for use
in uranium feed and withdrawal systems. We recently learned that the North is constructing a plant that could produce enough weapons-grade uranium for two or more nuclear weapons per year when fully operational—which could be as soon as mid-decade.”

The issue came to a head in the Department of State in July 2002. To Bolton, that was conclusive evidence of cheating, as he said, “I wanted a decisive conclusion that the Agreed Framework was dead.” To others, like Assistant Secretary of State for Asian and Pacific Affairs James Kelly, what mattered for US national security was when the enrichment plant would start operating and how long it would take to generate enough highly enriched uranium for a weapon. Bolton recalls, “Kelly responded that there was still disagreement about exactly when North Korea would have enough highly enriched uranium to make a warhead, which was true but irrelevant to the point that the DPRK was violating the Agreed Framework.”[1] Those who assessed that it would take a full decade for the plant to become operational turned out to be correct. Shattering the Agreed Framework prompted North Korea to restart its 5 MWe reactor at Yongbyon and resume reprocessing plutonium to fuel its first handful of nuclear weapons.

Even worse, when Kelly went to Pyongyang in October 2002, North Korea put its enrichment effort on the negotiating table, but he was under strict instruction, consistent with the “gotcha” approach, not to pursue the offer. In her memoir, Condoleezza Rice—the then-National Security Adviser—recalls how Kelly was bound in a diplomatic straitjacket:

“Usually there is enough trust in an experienced negotiator that the guidance is used more as points of reference than as a script. But in this case, given the fissures, the points were to be read verbatim. There were literally stage directions for Kelly. He was not to engage the North Koreans in any side conversation in any way. That left him actually moving to the corner of the table to avoid Pyongyang’s representatives.”

Rice’s conclusion is worth underscoring: “Because his instructions were so constraining, Jim couldn’t fully explore what might have been an opening to put the program on the table.”[2]

Artifacts Are Not Facts

Verification is analogous to threat assessment in the absence of any arms control agreement. Such estimates are artifacts that Washington treats as facts; erroneous assessments can complicate verification. That was not only the case in 2002. How much plutonium North Korea reprocessed before 1991 dogged the implementation of the 1994 Agreed Framework.

The pre-1991 reprocessing issue arose after May 4, 1992, when the DPRK gave the IAEA a 150-page initial declaration inventorying its nuclear material and equipment. It included the surprising revelation, which had gone undetected by US intelligence, that it had reprocessed spent fuel once in spring 1990 to extract 90 grams of plutonium from spent reactor fuel. During an official visit to North Korea on May 11-16, 1992, IAEA Executive Director Hans Blix toured the reprocessing facility at Yongbyon and found it under construction and far from fully equipped. Later, when the IAEA conducted ad hoc inspections to verify the initial declaration, inspectors took smear samples at glove boxes used to handle nuclear material. Subsequent
analysis revealed an “anomaly” that reprocessing had taken place on three distinct occasions—not one—in 1989, 1990, and 1991. It reached no firm conclusion about the amount of plutonium extracted.

Nevertheless, it led Blix on February 9, 1993, to demand a special inspection of the nuclear waste sites at Yongbyon, which the North rebuffed. On February 25, the IAEA Board of Governors took the unusual step of threatening to refer the matter to the UN Security Council. On March 12, the DPRK gave 90 days’ notice of its intention to withdraw from the nonproliferation (NPT). A sharply divided intelligence community produced a November 1993 National Intelligence Estimate (NIE) that assessed there was a “better than even chance” that the North had extracted 12 to 13 kilograms of plutonium and made one or two nuclear devices. It was based on guesswork about the reactor history—how long and at what power the reactor had been operating—as well how long the North would take to fabricate a working device. The Department of State’s Bureau of Intelligence and Research (INR) dissented. Subsequent analysis by the national laboratories would question whether the North had yielded even one bomb’s worth of plutonium but the November 1993 estimate would confound subsequent nuclear diplomacy for years to come.

It was at heart a dispute over verification that led to the breakdown of the September 2005 Six-Party Joint Statement. An October 3, 2007, agreement committed the North to provide “a complete and correct declaration of all its nuclear programs” and put Pyongyang on a path to disable, not dismantle, its plutonium facilities at Yongbyon, making it more time-consuming and costly to restart, and thereby whittling away a bit of its nuclear leverage. In return, the other parties pledged to supply the North with energy aid and the United States agreed to ease sanctions under the Trading with the Enemy Act and delist the DPRK as a “state sponsor of international terrorism,” as a gesture of reconciliation. This agreement said nothing about verifying the North’s declaration, which was left to a later phase of implementation.

Reneging Begets Reneging

On June 26, 2008, the DPRK handed China a written declaration of its plutonium program, as required by the October 2007 accord. The declaration had been worked out in US-DPRK talks. North Korea reportedly declared it had separated 38 kilograms of plutonium—within the range of US estimates, albeit at the low end. In a side agreement with Washington, Pyongyang committed to disclosing its enrichment and proliferation activities, including its help constructing Syria’s nuclear reactor that Israel destroyed in 2007. Many in Washington, Tokyo and Seoul questioned whether the declaration was “complete and correct,” as required by the October 2007 agreement. The crux of the dispute was again how much plutonium the North had separated before the end of 1991, as well as the help it lent to construct Syria’s reactor.

Washington decided to demand arrangements to verify the declaration before completing the disabling and moving on to the dismantlement phase of talks. The trouble was the October 2007 agreement contained no provision for verification in the second phase of denuclearization. The day that Pyongyang turned in its declaration, the White House announced its intention to relax sanctions under the Trading with the Enemy Act and to delist the DPRK as a “state-sponsor of terrorism”—but with a caveat. As Secretary of State Rice told the Heritage Foundation on June
“Before those actions go into effect, we would continue to assess the level of North Korean cooperation in helping to verify the accuracy and completeness of its declaration. And if that cooperation is insufficient, we will respond accordingly.” Rice acknowledged Washington was moving the goalposts: “What we’ve done, in a sense, is move up issues that were to be taken up in phase three, like verification, like access to the reactor, into phase two.”[4]

In bilateral talks, the DPRK agreed to establish a six-party verification mechanism and allow visits to declared nuclear facilities, a review of documents and interviews with technical personnel. These commitments were later codified in a July 12 six-party communiqué. Undisclosed at the time, it also committed orally to cooperate on verification during the dismantlement phase. That was not good enough for the new right-of-center governments in South Korea and Japan. They demanded a written verification protocol, and President Bush agreed. US officials gave the North Koreans a draft with demands for highly intrusive verification, and in late July the White House announced it had delayed delisting the DPRK as a “state-sponsor of terrorism” until they agreed to it. North Korea’s negative reaction was predictably swift.

Retaliating for what it took to be a renege on the October 2007 accord, Pyongyang suspended disabling the Yongbyon plutonium facilities on August 14 and soon began to restore those facilities. It also attempted to send WMD equipment by air to Iran, overflying India in a transparent threat to resume the proliferation that it had forsworn under the October 2007 accord. On August 26, a Foreign Ministry spokesman accused the United States of an “outright violation” of the October agreement in failing to delist the DPRK as a “state-sponsor of terrorism” and threatened to resume operations at Yongbyon. Noting that verification was to be fulfilled in the final phase of denuclearization, the spokesman added that the September 2005 agreement had called for denuclearization of the entire Korean Peninsula and required verification to ensure that no nuclear weapons had been reintroduced “in and around South Korea.”[5] On October 9, it barred IAEA inspectors from its Yongbyon nuclear complex.

**Reciprocity Succeeds, Reneging Fails Again**

With the freeze and disabling in jeopardy, US negotiator Christopher Hill met his DPRK counterpart Kim Kye Gwan in Pyongyang from October 1-3 armed with a revised draft protocol. Stopping short of accepting it, Kim agreed to allow “full access” to “experts of the six parties” with the IAEA “to provide consultancy and assistance” for “safeguards appropriate to non-nuclear-weapons states.” It included access to records and “personal notebooks,” “interviews with technical personnel,” “forensic measurements of nuclear materials and equipment,” “environmental samples and samples of nuclear waste,” at the three declared sites at Yongbyon—the reactor, reprocessing plant and fuel fabrication plant—which might suffice to ascertain how much plutonium it had produced.[6] If these measures proved insufficient, Kim also accepted “access, based on mutual consent, to undeclared sites,” according to a Department of State briefing on October 11, which also declared that, “[t]he US-North Korea agreement on these verification measures has been codified in a joint document between the United States and North Korea and certain other understandings, and has been reaffirmed through intensive consultations.” These measures, it said, “will serve as the baseline for a verification protocol,” which would come in the third phase of implementation.[7]
That day, overriding Japanese and South Korean objections to the lack of a formal verification protocol, President Bush went ahead and delisted the North as a “state-sponsor of terrorism.” That angered Prime Minister Taro Aso in Tokyo. As Secretary of State Rice recalls, “It began to feel as if the Japanese wanted the six-party talks to fail lest they lose their leverage with us to help them with the admittedly tragic abduction issue.”[8] Tokyo and Seoul signaled their intention to raise objections in the talks. In the first week of December, the North objected to the Department of State’s inclusion of environmental sampling in the list of verification measures. “The agreement includes no paragraph referring to the collection of samples. To demand what is not mentioned in the written agreement…is an infringement upon sovereignty as it is little short of seeking a house search.”[9] Tokyo and Seoul thereupon insisted on halting energy aid, and Washington went along.

The issue was joined at the December 8-11, 2008, session of the Six-Party Talks. The chairman’s statement tried to paper over the differences, but there was no disguising the threat by South Korea, Japan and the United States to suspend the provision of energy aid unless the DPRK accepted a written verification protocol. On his departure from the talks, DPRK envoy Kim Kye Gwan made it clear the North would retaliate for any reneging and would “probably adjust the speed of disablement work at nuclear facilities” if energy aid was “suspended.” When Seoul failed to deliver promised energy aid, retaliate it did by accelerating its weapons programs.

**Lessons from the Past**

Will North Korea allow monitoring of any new accord? The historical record is inconclusive. The North balked when the IAEA demanded access to its nuclear waste site in 1992 and gave notice of its withdrawal from the NPT. It allowed IAEA monitoring of the Agreed Framework to verify that its reactor and reprocessing facility remained shuttered and the spent fuel it had removed from the Yongbyon reactor in 1994 was not diverted. But when the Bush administration abandoned the Agreed Framework, it threw out the inspectors, reprocessed the spent fuel and resumed operations at its nuclear facilities. The North Koreans also agreed to “[e]very element of verification that we sought” for the 2005 Six-Party Joint Statement according to the Department of State,[10] though this commitment had not yet been codified in a formal protocol when South Korea and Japan signaled they would object to proceeding without one and Pyongyang balked at environmental sampling.

Some lessons can be drawn from this unhappy history:

- A “gotcha” approach can jeopardize national security;
- Invoking international law to compel the North to comply, the crime-and-punishment approach, does not work;
- Reneging on agreements only prompts North Korea to renege in turn;
- Verification takes time and patience;
- Coordination on verification positions with allies in advance is essential; and
- Reciprocity involving steps to end enmity and reconcile just might succeed.

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