

## SECURITY

by Daniel Snider

## Nuke Negotiations with North Korea Half full or half empty?

Somewhere on the long list of problems that President Barack Obama will inherit next January will be the ongoing negotiations to roll back North Korea's nuclear weapons program. The announcement on October 11, removing North Korea from the U.S. list of state sponsors of terrorism in exchange for a verification mechanism, has the virtue of keeping the diplomatic avenue open. But if we look carefully at what it took even to get to this interim point, there should be no illusions about the difficulties of finishing the job.

The latest deal merely closes the second phase of an agreement that was originally signed in February 2007. This phase was supposed to be completed in 60 days. Instead it has taken 19 months.

### Fifth time the charm?

The phase two agreement has actually been negotiated and renegotiated at least five times—beginning with a bilateral deal reached between the U.S. and North Korea in Berlin in January, 2007, followed by the February, 2007 six-party agreement, which stalled, then another six-party agreement in October, 2007 on actions to implement the February deal, leading again to another bilateral deal in April, 2008 to iron out issues regarding North Korea's declaration of its nuclear program, and finally yet another bilateral negotiation on the same set of issues in early October.

The North Koreans have proven yet again how tenacious they are in such negotiations. Every ambiguity is exploited to the hilt to evade and delay implementation. Political vulnerabilities on the part of negotiating partners, and contradictions among them, are seized for tactical negotiating advantage. And the North Koreans invariably are willing to go up the escalation ladder farther than anyone else. Indeed, the deal reached in early 2007 is a direct result of the nuclear test in October 2006, crossing without serious consequences what had seemed—even for China—a bright red line.

The February 2007 agreement only froze North Korea's production of weapons grade plutonium—the goal of phase two. Actual denuclearization—dismantling the nuclear facilities and abandoning the possible stockpile of a handful of nuclear warheads—would only come in phase three, a period of time left purposely undefined.

Even among supporters of negotiations with Pyongyang, this deal was not warmly received. The Bush administration had failed to stop North Korea from going nuclear. Potentially it could leave a small residual arsenal in place, enough to threaten Japan and South Korea. And it kicked down the road a full accounting of North Korea's clandestine efforts to find another route to the bomb through uranium enrichment and its proliferation of nuclear technology—and possibly even materials—to Syria, Iran and other would-be nuclear powers.

North Korea policy experts divide roughly into two camps—those who see this deal as a glass half-empty and those who see it half-full. In the half-empty camp, this is a fatally flawed compromise, applying the limited leverage from sanctions and Chinese pressure to achieve a freeze that does not lead to actual denuclearization.

The glass half-full camp argues that the deal addresses the most serious threat, the plutonium program, effectively containing Pyongyang's ability to make more bombs. It holds out the promise of eventual full dismantling of all nuclear programs.

### Let's look at the record

The record of negotiations, particularly in the last year and a half, lends support to both camps. In the February, 2007 agreement, the Bush administration backed off from its earlier insistence that North Korea dismantle its nuclear program first, a la Libya. Instead, it accepted North Korea's demand that all steps be parallel and simultaneous—the “action for action” principle. During phase two, the Democratic Peoples Republic of Korea (DPRK, as North Korea is formally

known) would shut down and seal, “for the purpose of eventual abandonment,” the Yongbyon plutonium production facilities (the reactor, fuel fabrication and reprocessing plants) and bring back the personnel of the International Atomic Energy Agency (IAEA) to conduct necessary monitoring and “verifications as agreed between IAEA and the DPRK.”

The agreement also required Pyongyang to declare all its nuclear programs, but it only mentioned specifically the facilities at Yongbyon. Neither weapons-related facilities located elsewhere—including the nuclear test site—nor possible uranium enrichment facilities were mentioned.

In exchange for these actions, the U.S. agreed to “begin the process” of removing North Korea from the state sponsor of terrorism list and the application to North Korea of the Trading with the Enemy Act (TWEA). At the January meeting in Berlin, U.S. chief negotiator Chris Hill had also promised to remove American financial sanctions that had shut down most of Pyongyang's international banking operations.

### Trust but (no) verify

Nowhere in the February agreement was there a clear requirement that the nuclear shutdown and the declaration be verified before the U.S. delivered on its part of the action-for-action trade. Nor does it spell out the scope of the nuclear declaration or specify actions should Pyongyang fail to present a “complete and accurate” inventory of programs and facilities.

Pyongyang predictably and adroitly exploited these openings, balking at full disclosure. Their hand was forced in September when Israel destroyed a nuclear reactor in Syria being built with North Korean help, details of which were leaked to the press.

A follow-up agreement reached in October 2007 called for the North Koreans to “provide a full and correct declaration of all its nuclear programs.” The DPRK also “reaffirmed its commitment not to transfer nuclear materials, technology or know-how,” a vague bow to the Syrian revelations.

In exchange, the U.S. pledged to “fulfill its commitments to the DPRK in parallel with the DPRK's actions,” removing it from the terrorism list and the TWEA. After the deal, American experts arrived in the North to monitor and aid the disablement of the

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Yongbyon facilities.

Again, however, the new version did not explicitly address verification, other than the language calling for a “full and correct declaration.” According to participants in the six-party talks, the U.S. made clear during the negotiations the need for a verification agreement, but the North Koreans later argued, based on the narrowest interpretation of the language of the deal, that this had never been part of the agreed bargain.

So when the North Koreans delivered a draft declaration to the Americans in January, they claimed to have fulfilled their part of the bargain, to be reciprocated—rewarded—with the pledged U.S. actions. But the American negotiators found the declaration lacking, particularly in its failure to disclose both the uranium enrichment effort and the proliferation activities in the Middle East. When American inspectors found traces of enriched uranium on aluminum tubes the North Koreans showed them as supposed evidence that they had not used the tubes to build uranium centrifuges, the agreement again stalled.

### Here we go again

Yet another bargain was reached in bilateral talks in Singapore in April. The Americans yielded on separating uranium enrichment and proliferation from the declaration. In May the North Koreans provided some 19,000 pages of documents regarding the operation of their reactor and reprocessing facility. This information is key to establishing an accurate count of their plutonium stockpile and estimating accurately the number of North Korean warheads.

On June 26 President Bush walked out to the Rose Garden and announced the decision to lift the TWEA and to rescind North Korea’s designation as a state sponsor of terrorism in 45 days. But the President also stated that “we will work through the six-party talks to develop a comprehensive and rigorous verification protocol,” the first public reference to such a requirement. National Security Advisor Stephen Hadley told reporters that the administration was seeking an agreement on verification principles, a protocol and a monitoring mechanism.

But if the White House was clear in tying the agreement to a separate verification document, the North Koreans were equally clear in drawing a completely different linkage. The DPRK foreign ministry statement

issued on that day treated these recent steps as the fulfillment of the exchange of two actions—the submission of the declaration of its nuclear activities for the U.S. steps.

In August, the U.S. proposed a verification protocol drafted by the State Department’s Bureau of Verification, Compliance, and Implementation. The draft protocol, according to a text leaked to the *Washington Post*, demanded an intrusive inspection regime, allowing full access to all facilities, declared or undeclared, anywhere in North Korea, to verify the correctness of the declaration. It went beyond even the stringent Additional Protocol proposed by the IAEA to its signatories.

### Verification as violation

The verification demand evidently reflected the views—and negotiating strategy—of more hard-line elements in the administration, including the Vice President, who opposed the deal negotiated by Hill with the backing of Secretary Rice. Privately, State Department officials in Hill’s Bureau of East Asia and Pacific Affairs (EAP) depicted this as an “add on” demand. Both the underlying strategy and the leak represented another maneuver in the long-running, intra-administration subterranean warfare over this issue.

The North Koreans treated this demand as “an outright violation of the agreement.” As they argued in an August 26th statement, none of the agreements “contain an article which stipulates the verification of the nuclear declaration of the DPRK as conditionality for delisting it as a ‘state sponsor of terrorism.’” “In a typical counter-thrust, they demanded their own right to inspect U.S. and South Korean military bases to verify the non-presence of U.S. nuclear weapons, citing the six-party agreement to denuclearize the entire Korean peninsula. And they played their usual game of brinkmanship, threatening to reverse the disabling process and taking steps to reopen the nuclear facilities.

The U.S., at the reported insistence of Hill, softened its verification demands and in another round of talks, held in Pyongyang at the beginning of October, reached yet another agreement. The details of this latest version remain secret, as does the content of North Korea’s nuclear declaration, making it difficult to judge.

According to the State Department’s account, the verification measures include

“access to all declared facilities and, based on mutual consent, to undeclared sites.” A dispute over the right to take environmental samples was also evidently settled, again with the precise terms not disclosed. And the agreement applies, at least in principle, to proliferation and uranium enrichment activities, although this is contained, according to Japanese officials, in less binding side agreements. The North Koreans, it should be noted, refer to an agreement on a “fair verification procedure” and to cooperation “in the verification of the disablement of nuclear facilities,” statements that in no way indicate inclusion of sites related to their weapons program, such as the test site.

### What next?

This 19-month saga of negotiation over what may be the easiest step in the process—freezing the status quo—should caution against any expectation that the next administration can easily step in and pick up the negotiating reins. There are three options it can reasonably consider come January.

One would be to try to regain what has been given away in these talks—the inclusion of undeclared sites and proliferation activities—by returning to tactics of international sanctions and Chinese pressure. Japan, which is unhappy with the deal, may be ready for this but there is no evidence that Beijing or even the conservative Lee Myung-Bak government in South Korea is interested in returning to confrontation.

At the other end of the spectrum would be an effort to leapfrog the drawn-out phases by offering Pyongyang most of what they claim to want—normalization of relations, economic aid, security assurances, a formal peace treaty to end the Korean war—in a ‘grand bargain.’

Finally, there is the least attractive but most likely course: to lock in the gains of plutonium containment and to continue the diplomatic slog into the dismantling phase, albeit with a more rigorous approach. The US could also try to encourage regime transformation in the North through both engagement and pressure. Given the uncertainties over the health of North Korean dictator Kim Jong Il, this may be the only viable path to ending the North Korean nuclear threat.

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