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NO HUGGING, NO LEARNING: TAKING STOCK OF 2008

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I. Introduction

According to its writers, the hit 1990s television show *Seinfeld* was guided by the notion that, unlike other sitcoms, it was going to be a show about nothing and where there would be “no hugging and no learning.”

To that end, episodes of *Seinfeld* would not end with any false sentimental reconciliation improbably tying up that week’s show’s loose ends (no hugging), and the show’s main characters were who they were, show after show, episode after episode (no learning). In fact, the main characters on the show found themselves in situation after situation precisely because they were who they were, behaving as they behaved, learning nothing from their previous experiences and thus repeating, over and over again, the same patterns that got them into trouble, often with comic effect, to begin with.

Take away the comic effect and “no hugging and no learning” is likely as good a summation as any of the diplomacy surrounding North Korea’s nuclear programs, including not just 2008 but the past 15 years as well, ever since the DPRK’s refusal in February 1993 to permit International Atomic Energy Agency (IAEA) special inspections set off the crisis that has been unfolding ever since.

But, given the events of 2008, at least where we are as this is written, some three-quarters of the way through the year, where does the situation stand today?

- The diplomacy of the six-party process appears stalled because of disputes about verification issues, sequencing, and different interpretations of performance and payoffs for “action for action”;
- There are signs of stress and disagreement among and between the other five nations engaged with the DPRK in the six-party diplomacy, with different concerns, interests, and goals creating misalignments and miscommunication;
- There are reports that the DPRK has engaged in a static test of a new long-range missile engine and is nearing completion of another missile base;
- There are reports that the DPRK is apparently reversing Yongbyon disablement and signaling moves to restart its nuclear program; and
- There are new uncertainties and questions about the sustainability and stability of North Korea’s regime.

Sound familiar? Although the details may differ, it's an eerily familiar litany of issues, concerns, and challenges that could have served as a situation report and summary at any number of times in the past decade or so—the latest episode of a long-running and never changing Northeast Asian peace and security television show.

A critical difference between *Seinfeld* and North Korean nuclear diplomacy, of course, is that *Seinfeld* was a television show famously about nothing, whereas the DPRK's nuclear programs, and the diplomacy on the Korean peninsula, is about the peace and stability of Northeast Asia and the viability of global nuclear nonproliferation efforts. It is very much, in other words, about something. And a something where learning, if not hugs, will be useful if the international community is to arrive successfully at denuclearization and a peace regime on the Korean peninsula.

Before a brief enumeration of how some of the challenges and issues surrounding the six-party talks have played out over the past year, it's important to keep in mind four quick caveats that provide some additional useful context for the *Seinfeld* analogy—and its limits in thinking about the current state of play with DPRK diplomacy.

First, the *Seinfeld* frame—no learning, no hugging, no progress—is offered as a somewhat dramatic overstatement intended as much for effect and for purposes of sparking, one hopes, a more worthwhile (and perhaps more entertaining) discussion here today about the issues at play. More to the point, it is offered in the hopes that it can point toward some of the areas in which it is necessary to gain traction in future rounds of diplomacy.

Second, learning, for purposes of this paper, is not a category that should be applied to the many and able individual diplomats, policymakers, analysts, and foreign policy professionals who have studied and grappled with the dilemmas of North Korea's nuclear programs. In other words, “no learning” is not intended to denigrate the abilities of either those who have engaged in negotiations with North Korea or other analysts and policymakers who, as individuals, have been able to develop and refine ideas and develop alternatives and approaches and proposals based on past experience. Rather, it is intended to be applied to state and governmental behavior, where learning—policy change—is sometimes harder to discern. Indeed, for a variety of domestic, political culture, bureaucratic, and even strategic reasons, state behavior—on all sides—has thus far proved remarkably closed to learning and impervious to change.

Finally, offering the observation that there has been all too little of either learning or hugging does not mean that there has not been any activity, and even motion, during the past nine months. Indeed, 2008 has seen the New York Philharmonic visit Pyongyang, disablement activities at Yongbyon, the Singapore meeting between Assistant Secretary of State Christopher Hill and Vice Foreign Minister Kim Gye-gwan, the June declaration, ongoing negotiations over the verification protocol for the declaration, and more. However else it may be characterized, 2008 has not seen a lack of activity.

But in thinking about all the activity, drawing out the distinction between the concepts of speed and velocity may be useful. Speed tells you how fast an object is moving. Speed is very useful—indeed necessary—if you are trying to keep a bicycle up and moving, for example. Without speed it falls over. Speed is most distinctly activity. Velocity, on the other hand, is direction aware. Velocity is not just activity or motion, even very fast motion, but motion that is going someplace. One can pedal a bicycle furiously, for example, going back and forth, back and forth, and end up staying in the same place, with plenty of speed but with no velocity.

Last, this paper is written from the perspective of U.S. policy, and many of the observations and critiques contained herein are intended primarily in reference to the conduct and course of U.S. diplomacy. Although some of the analysis may also be applicable to the behavior and actions of other states, the perspective offered is most relevant for taking stock of U.S. policy and diplomacy, not necessarily so much that of the other participants in the six-party process.

II. Complexities of Diplomatic Engagement with North Korea

So, with the above as a thoroughly caveated introduction, what were the issues and challenges that played out during the first three-quarters of 2008? And, perhaps more to the point, are there any lessons we can try to learn from this stock-taking exercise that suggest areas where learning and changed patterns of behavior will be necessary for the diplomatic process in the region to lead to denuclearization, normalization, and, ultimately, a peace regime.

Tempo

A first lesson from events during the course of 2008 is that we have not yet figured out how to get past crisis-driven brinksmanship as the primary mode of diplomatic operation on the peninsula and to arrive at a sustainable process of “normal diplomacy” where all the parties involved can reap the benefits of

iterative game playing, including increased trust and confidence. Instead, the diplomatic process lurches from one crisis, and its resolution, to the next, with nothing but a crisis and the prospect of disaster seemingly able to create the necessary dynamic that allows for diplomatic engagement.

The 2006 nuclear test, which jolted diplomacy back to life, serves, of course, as exhibit A of this dynamic, but a similar dynamic could be seen in 2008. Following the October 2007 six-party agreement whereby the DPRK was to provide a “full and correct declaration” of all its nuclear programs, diplomacy appeared to all but break down in early 2008 until it could be punctuated by the April Singapore talks and agreement, which, in turn, led to the June White House announcement on a declaration agreement capped by the late summer “crisis” over whether the DPRK was reversing its disablement activities to increase pressure in the negotiations over the verification protocol.

This dynamic is a function, by and large, of the fact that the timing and tempo of diplomacy remain largely controlled by the DPRK. Even beyond the immediate challenges that this creates, it also has the by-product of seeming to create an odd sort of anti-momentum surrounding so-called diplomatic breakthroughs that in a more normal process might be expected to provide traction, allowing the parties to build on past progress.

This anti-momentum was clearly reflected in the pattern above, with, for example, the declaration agreement not leading to ever-gathering momentum to close out phase 2 of the process but rather creating instead an equal and opposite reaction. The June declaration was followed by wrangling over the terrorism list; U.S. action to lift the terrorism list and Trading with the Enemy Act sanctions segued into a fight over the verification protocols, with a constant digging out just to stay even. Not surprisingly, this combination of the DPRK controlling the pace of negotiations and the resulting anti-momentum accompanying so-called diplomatic breakthroughs made it exceedingly difficult to get traction in the diplomatic process during the course of 2008.

Ambiguities

A second lesson—that diplomacy on the peninsula seemed to constantly be learning and relearning in 2008—relates to the uses and limits of ambiguity in the diplomatic process. Put another way, while there are clearly times when creative language bridging differences, oral agreements, side deals, and the like is needed to make and maintain progress—sometimes, in other words, speed by itself is in fact enough—at other points in the diplomatic process it

seems likewise equally clear that specific language and specific sequencing and commitments also matter. And, in fact, at these points ambiguity risks becoming not just unproductive, but counterproductive.

Although there is a strong argument to be made that ambiguity was a necessary ingredient in getting the six-party process back on track—with the September 2005 joint statement by necessity papering over specific commitments in favor of laying out the broad framework for an agreement and process as well as similar ambiguity in the February 2007 agreement that, for all its other virtues, did not provide clear requirements for what the DPRK was to shut down at its nuclear complex and how verification was to ensue—the net effect of too much, and too much poorly placed, ambiguity has been that 2008 witnessed multiple instances of phase-2 aspects getting renegotiated, multiple times.

Thus, leaving open to interpretation what, exactly, was meant by “in parallel” when it came to DPRK actions necessary for the United States to lift terrorism-list and Trading with the Enemy Act sanctions was not initially seen as problematic on the assumption that a meeting of the minds would transpire and the process moved forward—and that the ambiguity was a necessary predicate for getting to the place where the specifics could be hammered out. But, once agreed on, leaving open and indeterminate such questions as whether U.S. sanctions would be lifted either “now,” at some mid-point lashed up with DPRK activities, or only after and contingent on the fulfillment of certain DPRK commitments—and the persistence of different expectations of the different parties—proved to be deeply problematic.

Likewise, the lack of agreement on the exact meaning of the statement that the DPRK’s declaration would be “complete and correct” reemerged as one of the main stumbling blocks of the negotiating process in 2008, with critics pointing out that it is hard under even the most expansive of readings to consider the June declaration to be either complete or correct in any credible sense of the words.

Thus, although the belief that, as negotiators moved forward and got deeper into the specific mechanics of the diplomacy, the ambiguity would be squeezed out in subsequent rounds of negotiations (to be replaced by a high degree of specificity) might have been a lesson learned and applied from other diplomatic experiences, that logic seems to have had limited utility in the context of diplomacy with the DPRK. This dynamic is compounded because of the array of agreements—side, oral versus written, and so forth. The ability to be able to convert from a problem bridged with oral ambiguity to the hard precision required for a genuine agreement was a recurring coda in 2008, a year whose

first three-quarters was bedeviled repeatedly by the shortcomings and failures of earlier rounds in this regard.

Indeed, given the DPRK's penchant for seeking to exploit ambiguities, there is a strong countervailing argument to be made that an ability to balance the need for ambiguity but also to be able to lock in with concrete specificity is one of the most critical, if not the most critical, aspects of getting DPRK diplomacy right.

This extends down to the level of care to specific words and terminology, with the negotiating track record of 2008 proving, once again, that the use of different dictionaries where even the same words are concerned can create a plethora of problems. There does not seem to be agreement on even such basic terms as what is entailed in a "peace regime" or "denuclearization," let alone what, exactly, is "disablement" or "scientific procedures" for verification. In fact, neither the September 2005 nor the October 2007 agreements even contains the word "verification," providing an initial hurdle for negotiators in insisting, in 2008, that a verification protocol was and is a necessary part of the deal. If it was not well understood before, 2008 has proved beyond a shadow of a doubt that when there is verbiage used by all sides without any clear sense of a shared understanding of what the terms mean, let alone what they mean in an operational sense, only problems can result.

Inconsistencies

This leads to a third lesson that can be taken away from the events of 2008 (as it could have from earlier experiences, too): Laying out red lines and conditions and deadlines works only if you actually are willing and able to follow through. Although the Bush administration made a pledge in 2003 to Japan on conditions for removing the DPRK from the terrorism list and in 2008 it set verification protocol requirements that the DPRK had to meet for the sanctions to be waived, it then turned around and proceeded with removing the DPRK from the list with neither condition met. This Bush administration action poses grave ongoing problems for the stability and credibility of the U.S. negotiating position.

Likewise, resolution of the outstanding questions about allegations of a North Korean proliferation relationship with Syria was a constant coda in 2008, but never resolved. Considering that the United States had laid out proliferation of nuclear technology as a final red line that must not be crossed following the DPRK's violation of an earlier red line when it tested a nuclear device, the failure to more effectively fold Syria-related questions into the diplomatic process during the course of 2008 was, for some, inexplicable.

The promiscuous laying out of red lines that are then shrugged off when violated has been especially problematic given what is known about North Korea's propensity to constantly push—given the open door of ambiguity—to redefine agreements and to seek to get the others in the six-party process to meet ever escalating demands. The record is both clear and consistent. But the lack of nailed-down and concrete verbiage, the ambiguity and space created by side agreements, and the moral hazard created by shortcomings in enforcing red lines, let alone other negotiating positions, have combined to create an ongoing cycle in which negotiations seek to define steps to be taken, set up a time line, and specify rewards to be meted out in exchange—and then the DPRK seeks to renegotiate and get more payment for the same action and relying, as Victor Cha has pointed out, on the United States to be “reasonable” and not wanting to risk seeing the negotiations fail. Perhaps the best example of this in 2008 was the declaration going from something that was to cover “all” of the DPRK's nuclear programs to an “all” that appears to mean Yongbyon only.

Moreover, this has set in place a process in which, in 2008 as in years before, no deal is ever seen as complete and final and closed, and agreements are seen as ripe to be constantly divided and redefined, with a renegotiation accompanying each redivision. At the outset of 2008, for example, expectations were still primed for a “complete and correct” declaration that would verifiably capture all North Korean nuclear programs and activities. Like Gaul, however, the declaration was quickly subdivided into three parts: with plutonium, uranium, and proliferation activities no longer being treated by the DPRK as a package and with a declaration that covered all three being exchanged for lifting of actions and energy assistance. Instead, only plutonium was offered up and only activities at Yongbyon, with another subdivision splitting apart different aspects of the verification deal (principles and protocol and implementation) to follow. And, with North Korea in the driver's seat, the United States went along rather than risk losing the whole deal. Although it may be necessary to allow renegotiations rather than risk souring a deal at certain stages of the game, given what had appeared to have been (and had been sold as) rather clear measures that constituted phases 1–3, the process as it subsequently played out during the course of the year appeared to be both inherently hazardous and not likely to lead to ultimate success.

In the more immediate, the effect is to corrode the entire concept and utility of action for action, given that there remains, at the end, no consistency or clarity when it comes to the meting out of rewards and no agreed-on understanding of what an escalation ladder and punitive treatment for crossing red lines might look like. Thus North Korea is turning up and down the speed of disablement depending on the speed of energy delivery.

Technicalities

A fourth area is a lingering failure to recognize that for the diplomacy surrounding North Korea's nuclear programs the technical is the political. That is, there are profound diplomatic implications for the negotiations of the technical aspects of the agreements; what is achievable, doable, and necessary in a technical and scientific sense; and on what time line to make the diplomacy work.

Yet, time and time again, the diplomatic process seems to get ahead of the technical realities that might otherwise constrain negotiations, creating unrealistic expectations and unrealistic agreements that are doomed to fall short, even when the political will exists, because of the technical hurdles. Two quick examples—disablement and verification—from the first nine months of 2008 are sufficient to illustrate the point.

Much of the action-for-action payment schedule embedded in the six-party process was premised on the notion of disablement and that, once the DPRK reached a certain tipping point in the disablement process, it might be possible for the United States and others in the six-party talks to take greater diplomatic risk because of the decreased threat presented by a disabled DPRK. The questions surrounding what, exactly, was entailed with DPRK efforts to reverse disablement and restart Yongbyon in the summer and fall of 2008 fall well within this category, and the confusion over whether this was a matter of weeks or months spoke directly to what a disablement agreement actually entailed. The political shock that thus resulted when the DPRK indicated that it might reverse disablement and that the estimates that it would take at least a year for the DPRK to reconstitute its programs were unfounded—it could in fact reactivate on short order—proved to be profound. Likewise, the still ongoing discussions and negotiations about what constitutes a reasonable and acceptable verification protocol, including international standards and sampling, are an area where different technical as well as political factors appear to be coming into play, with differing judgments about what is technically required and what is politically necessary on a possible collision course.

Incentives

A fifth area that once again played out in 2008 relates to the ongoing disequilibrium in the current set of incentives laid out for the DPRK and the structural impediments that this poses to the chance that diplomacy with the North can meet with success.

Although it may be unlikely the DPRK will never give up its nuclear weapons, the conventional wisdom about the conditions under which the DPRK might requires a transformation of the political and security relationship between the United States and the DPRK. The pattern of bilateral U.S.-DPRK discussions as a predicate for broader breakthrough has held in 2008 as it has in the past—witnessed by the declaration following a Singapore bilateral in April and the verification agreement in October following Assistant Secretary Hill’s visit to Pyongyang—and speaks to the apparent premium the DPRK places on a relationship with United States. Thus, although it may well be true that the North in fact intends never to relinquish its weapons (or weapons programs), the proposition that under these conditions it might has yet to be truly and systematically tested over time.

If indeed the value that the DPRK might respond to is the possibility of establishing a transformed relationship with the United States, the larger diplomatic process ought to then reflect an incentive structure that lashes up effectively bilateral and multilateral efforts to which the DPRK is more, not less, likely to respond. For a number of years the basic structure of the six-party process included the United States and Japan hewing to hard-line positions, while South Korea and China were thought of as soft. Given what the DPRK appears to want, however, that alignment is in many significant respects backwards. And, although the jury is still very much out, it is interesting to note that, with the change in direction in the U.S. diplomatic approach and the election of President Lee Myung-bak in 2008 leading to South Korea taking a harder-edged stance, incentives started to align in a slightly different way, resulting in some respects in different set of responses from the North. The reality the peninsula captures is a complex web of issues, with a shifting set of directly related parties, depending on the issue at play, connecting it all to fully lash up and take advantage of the iterative leverage linking bilateral U.S.-DPRK and the multilateral six-party diplomacy—and assuring sufficient coordination among the United States, Japan, and South Korea as negotiations unfold. It is critical to create a diplomatic process that can continue to work through phase 2 and phase 3 and achieve a stable and enduring end-state.

Goals

A final area that merits attention and that remained as uncertain in 2008 as in previous years is one that might at first appear paradoxical: It is still not clear exactly what the nature of the negotiations in fact are. Some 15 years on, this may seem like an odd question to remain unsettled, but in tracking the course of diplomacy it appears that still unresolved is the core question of whether

the goal is a nonproliferation deal or, rather, a broader diplomatic process hinged on normalization and a peace regime. Given what we know—or think we know—about what the DPRK might ultimately value in a deal, this is a not unimportant issue to settle.

If one accepts that there is in fact an essential and underlying logic to the DPRK decision to seek nuclear weapons (relating to its anxieties about external powers, including the United States, China and Japan; a desire to check South Korea; and the legitimating role these programs play in strengthening regime legitimacy at home), negotiations that fail to take that logic into account and deal with it (one way or another) are not likely to be successful.

For the United States and other participants in the six-party process the question ultimately boils down to whether denuclearization is to be a predicate for or a hoped-for outcome of a larger process.

III. Unconsidered Strategy, Unmet Objectives

That this unresolved tension still exists can best be seen in the domestic U.S. debate and discussion in the spring and summer surrounding the question of how, whether, and when to remove the DPRK from the terrorism list. Removal of the DPRK from the list was less about the material benefits that would accrue than about the larger political signal entailed in removal from the list as a step toward normalization.

The political epistemology of the verification negotiations during the course of the year likewise reflected, precisely, this dilemma, with the conditionality of lifting the DPRK from the terrorism list—if it met requirements for a verification protocol—reinforcing the question of where as a political and diplomatic question the balance between trust and verification should fall. If the negotiations are intended to create the larger set of diplomatic and political conditions that might then lead to denuclearization later, then softening on the specifics of the verification protocol now, with the intent that additional measures will be introduced at a later (and more acceptable) point, matters less than if the ultimate nature of negotiations is denuclearization alone, in which case robust verification now is crucial. The immediate salience over concerns about cheating and verification, while critical to address in either case, is clearly elevated in the context of a straight nonproliferation deal.

Different conceptual categories about the ultimate purpose of negotiations, moreover, have significant implications for structuring the sequencing,

conditions, and rewards built into the diplomatic process and, without clarity, invariably create a set of negotiations where different parties may be working at cross-purposes.

This uncertainty is further complicated by the still-lingering effects of legacies of negotiations past. Whatever changes there have been in Bush administration policy since 2006, the DPRK simply does not trust the Bush administration and its intentions. Likewise, whatever the changes in DPRK policy since 2006, Bush and the United States simply do not trust the DPRK. Throughout the course of negotiations, moreover, it has been far from clear that the United States has a good understanding of “what North Korean really wants” or has gotten to the bottom of the DPRK’s negotiating bottom lines. Without this clarity in either our own goals or those of the DPRK, episodes of convergence and divergence in the diplomacy are all but inevitable, an unstable basis for a sustainable agreement.

Thus, in the final analysis it appears that we spent much of 2008 caught up in largely repetitive cycles, with some significant activity, but with little decidedly forward motion.

Moreover, in many significant ways we stand today having essentially done little more than simply recreated both the essentials and the substance of the structure and understanding that were in place when President Bush took office in 2001—even to the point of a debate earlier this year about whether the secretary of state should travel to Pyongyang.

Only now, unlike eight years ago, North Korea has left the Nuclear Non-Proliferation Treaty and the IAEA, has reprocessed plutonium, and has tested a nuclear device (and, by all indications, is conducting intensive research and development work to figure out how to weaponize a device). In any objective sense, then, it’s hard to make the case that we stand closer to either denuclearization or normalization than a decade ago.

Looking back at 2008 and the years that preceded it, we have tried engagement without containment and found that wanting, as is likewise containment without engagement. A strictly bilateral approach has fallen short, as have multilateral efforts that fail to properly lash up to a multilateral framework.

So the silver lining of the current situation might be that, despite all the problems in the six-party talks, the framework itself has proved to be remarkably durable. The logic of structuring the diplomatic process along the lines that have

evolved—with a multilateral approach and context for a sustained and direct bilateral effort and with separate tracks for different baskets of issues and the like—seems to suggest that, if implemented right and with a little learning, the process may yet prove value as the right vehicle for genuine progress down the line.

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