

## After the North Korea Nuclear Breakthrough: Compliance or Confrontation?

### I. OVERVIEW

The North Korea nuclear talks finally achieved a breakthrough on 13 February 2007, when the six parties struck a general denuclearisation deal. Pyongyang agreed to dismantle its nuclear facility at Yongbyon and admit International Atomic Energy Agency (IAEA) inspectors within 60 days in exchange for energy aid and security assurances. Many vital details must be settled by further talks, and that first deadline has passed without the North yet admitting the inspectors. Although it has said it will within 30 days, the fear has been raised that the deal may prove another failed attempt to bring Pyongyang into the international mainstream. However, the U.S. and other members of the six-party talks should continue to push forward by adopting and putting forward a serious, phased negotiation strategy that offers specific economic rewards and security assurances for specific actions taken by the North to achieve denuclearisation.

While the 13 February deal was very much a step in the right direction, it nevertheless offers more questions than answers. Critical details, such as a timetable for denuclearisation, remain to be worked out. It will take time to overcome six decades of enmity and mistrust between the U.S. and North Korea. Convincing Pyongyang to give up its nuclear card, which it may see as the ultimate guarantee for regime survival, will certainly be difficult. The stalling of implementation due to delay in freeing up the North Korean funds at Macao's Banco Delta Asia (BDA) illustrates how seemingly simple steps can become obstacles that tie up the whole process. Despite the challenges and uncertainties, however, resolving the nuclear issue is vital for regional peace and stability.

The 13 February deal has been criticised in the U.S. Conservatives accused President George W. Bush of rewarding North Korea for conducting a nuclear test on 9 October 2006, while Democrats said the deal was little different from the Agreed Framework his predecessor negotiated in 1994 and which collapsed in 2002. Many expressed scepticism about whether the North intends to give up its nuclear program. Despite the ambiguities and uncertainties, the agreement is a preliminary step toward resolving the North Korean nuclear problem. A

comprehensive, phased, negotiated settlement is still the best way of convincing the North to give up its nuclear weapons.

The "Actions for Actions" format of the 13 February deal is the right strategy but the follow-on phases are conspicuously vague, with only the general statement that the North will receive 950,000 tons of fuel oil upon full denuclearisation. The U.S., South Korea, China and Japan now need to put forth a detailed, comprehensive offer for the second and subsequent phases – and back that offer with a credible threat of coercive measures should Pyongyang renege on the deal.

In November 2004, Crisis Group proposed an eight-step, phased negotiations process that specified the rewards the North would receive in exchange for dismantling its nuclear program. With only slight modifications, it remains the best strategy for achieving denuclearisation. Now that the process is in motion, it is time to continue on to the more difficult steps. The roadmap should look like this:

1. Verified freeze of Yongbyon in exchange for the funds which have now been unfrozen and 50,000 tons of fuel oil.
2. Energy planning in exchange for declaration of nuclear programs.
3. Energy provision in exchange for signatures and access.
4. Rehabilitation and relief in exchange for agreed dismantlement.
5. Aid and lifting of UN sanctions in exchange for dismantlement.
6. Security assurances in exchange for weapons and highly-enriched-uranium (HEU) declarations.
7. International financial institution (IFI) preparations in exchange for HEU commitments.
8. Liaison offices and normalisation in exchange for conclusive verification.

Given North Korea's history of breaking international agreements and the value it places on its nuclear program, any offer should incorporate stringent verification processes. It should also identify appropriate coercive measures as the

price of default on promises – normally sanctions, but not excluding, in an extreme case like an attempt to transfer nuclear material to another country or non-state actor, the use of military force. Resolving the nuclear issue must remain the top priority, with other important issues such as human rights violations, economic openings and conventional arms, set aside until denuclearisation is achieved. Negotiations with North Korea are invariably difficult; nevertheless, a comprehensive, phased negotiation strategy offers the best chance of achieving denuclearisation.

## II. FROM NUCLEAR BREAKOUT TO BREAKTHROUGH

### A. THE BUSH ADMINISTRATION DISCOVERS FLEXIBILITY

After three years of talks during which North Korea tested both long-range missiles (July 2006)<sup>1</sup> and a nuclear device (October 2006),<sup>2</sup> the six-party talks finally produced a breakthrough on 13 February 2007. According to that day's Joint Statement, North Korea agreed to shut down its Yongbyon nuclear reactor and reprocessing plant and allow IAEA inspectors to monitor and verify this process within 60 days.<sup>3</sup>

In return, the North would receive energy aid equivalent to 50,000 tons of heavy fuel oil.<sup>4</sup> The U.S. also agreed to resolve the issue of \$25 million in North Korean frozen assets at Macao's Banco Delta Asia within 30 days. The statement created five working groups, each of which was to meet within 30 days, to discuss a range of issues: denuclearisation of the Korean Peninsula, normalisation of U.S.-North Korea relations, normalisation of Japan-North Korea relations, economic and energy cooperation and establishment of a North East Asia peace and security mechanism. After these initial steps were implemented, the sixth round of the six-party talks was to start on 19 March 2007, with a ministerial meeting to follow. Much remains not only to be implemented but also to be negotiated. The second phase calls for North Korea to make a "declaration of all nuclear programs and disablement of all existing nuclear facilities" in return for 950,000 tons of fuel oil. However, the Joint Statement does not specifically mention the North's suspected

uranium enrichment program or call on the North to account for its existing nuclear weapons.

The 13 February deal represented a reversal of policy by the Bush administration, which until October 2006 had refused to engage in bilateral talks or make a concrete offer to the North. The change first became apparent when the U.S. contacted the North Korean embassy in Beijing in December 2006 regarding a bilateral meeting, with the two sides holding discussions in the Chinese capital at the end of that month. In January 2007, the envoys again met outside the six-party framework, this time in Berlin, to discuss the outlines of what became the foundation for the 13 February accord.

The deal was reached because Pyongyang and Washington found themselves facing a situation of mutual need. Feeling the pinch of the financial crackdown undertaken by Washington in September 2005, the North steadfastly insisted that unfreezing its bank accounts in Macao was a precondition for resuming the nuclear talks. Meanwhile, the U.S. found itself mired in a deepening bloodbath in Iraq and facing a series of setbacks in the Middle East and Afghanistan. In the wake also of the Republican Party losses in the November 2006 midterm elections, the Bush administration desperately needed a diplomatic victory.<sup>5</sup> As an observer put it, the 13 February deal was "one small step for diplomacy, one giant leap for Bush".<sup>6</sup>

Despite the breakthrough, critics have accused Bush of giving in to "nuclear blackmail",<sup>7</sup> and many remain sceptical as to whether North Korea will uphold its end of the deal.<sup>8</sup> Its policy reversal, particularly its retreat regarding the Macao money laundering and counterfeiting investigation and consent to allow Ethiopia to purchase arms from North Korea in January 2007,<sup>9</sup> suggest how eager Washington was for a denuclearisation deal and the extent it was willing to go to accommodate the North to make one happen.

<sup>1</sup> See Crisis Group Asia Briefing N°52, *After North Korea's Missile Launch: Are the Nuclear Talks Dead?*, 9 August 2006.

<sup>2</sup> See Crisis Group Asia Briefing N°56, *North Korea's Nuclear Test: The Fallout*, 13 November 2006.

<sup>3</sup> "Initial Actions for the Implementation of the Joint Statement", U.S. State Department, [www.state.gov/r/pa/prs/ps/2007/February/80479.htm](http://www.state.gov/r/pa/prs/ps/2007/February/80479.htm).

<sup>4</sup> Ibid.

<sup>5</sup> Glenn Kessler and Edward Cody, "U.S. flexibility credited in nuclear deal with N. Korea", *The Washington Post*, 14 February 2007; David E. Sanger, "Outside pressures snapped Korean deadlock", *The New York Times*, 14 February 2007.

<sup>6</sup> Jack Pritchard, "North Korea Update", *Korea Insight*, Korea Economic Institute, March 2007.

<sup>7</sup> "Faith-based nonproliferation", *The Wall Street Journal*, 14 February 2007.

<sup>8</sup> "Nuclear bargaining", *The Washington Post*, 14 February 2007.

<sup>9</sup> Michael R. Gordon and Mark Mazzetti, "North Koreans arm Ethiopians as U.S. assents", *The New York Times*, 8 April 2007.

## B. THE NEW DEAL: (VAGUE) ACTIONS FOR ACTIONS

At first glance, the 13 February agreement appears little different from the 1994 Agreed Framework which collapsed in 2002: Both demand a “freeze” of North Korea’s Yongbyon reactor in return for economic aid. However, the new deal differs in three significant ways.

- It takes a multilateral approach and was signed by six parties, including China and South Korea, rather than two. Walking away from a deal would compromise Pyongyang’s relations with its two most important benefactors: Beijing and Seoul.
- It is a step-by-step plan – “Actions for Actions” – in which North Korea is to be rewarded with specific aid packages for specific actions, rather than receive large rewards for merely the promise to take action. Under the Agreed Framework, the North received 2,000,000 tons of fuel oil for freezing its Yongbyon facility. Under the new deal, it will receive only 50,000. Further payoffs will require further actions.
- It makes no provision for a peaceful North Korean nuclear program. While the reactors being built under the Agreed Framework were proliferation-resistant, no civilian nuclear program is proliferation-proof. Moreover, conventional power is a much more efficient way of addressing North Korea’s energy needs.

## C. THE FIRST 60 DAYS: A STOCKTAKE

### 1. Initial steps and working groups

During the opening 30 days, all parties cooperated to implement the initial actions of the 13 February accord, with stillborn Japan-North Korea relations the sole black cloud. North and South Korea held ministerial meetings from 27 February to 2 March 2007 in Pyongyang, where they discussed the resumption of aid and agreed to resume family reunions and the testing of railway lines that run between them. Contrary to expectations, South Korean Unification Minister Lee Jae-joung did not give away the farm and only pledged to provide fertiliser until the North meets its initial nuclear obligations. On 5-6 March, the U.S.-North Korea normalisation working group met in New York, with both envoys all smiles. They agreed to get to the bottom of the U.S. allegation that the North has a highly-enriched-uranium (HEU) program through expert-level discussions and steps toward normalisation.

In contrast, the North Korea-Japan normalisation working group, which met in Hanoi, Vietnam on 7-8 March, virtually collapsed on the first day after Japan angered

North Korea by insisting that the issue of kidnapped Japanese citizens be resolved before normalisation, and North Korea demanded an apology for Japanese colonisation of the Korean peninsula. Talks ended after a mere 45 minutes on the second day with no date set for future meetings. Upon Pyongyang’s invitation, IAEA chief Mohamed ElBaradei visited North Korea on 13-14 March and reported the organisation would have “no problem with working in North Korea to verify the shutdown of nuclear facilities”.<sup>10</sup> The remaining three working groups met, with all six parties attending from 15-17 March in Beijing, to discuss among other issues the coordination of aid provision.

### 2. Macao banking freeze: show me the money!

The \$25 million of frozen North Korean funds at Macao’s Banco Delta Asia (BDA) became the first stumbling block following the sometimes giddy optimism of the first 30 days. The North’s chief envoy Kim Kye-gwan demanded an immediate resolution, claiming that “if the United States does not remove all of its restrictions on our funds at Banco Delta Asia, we cannot shut down our nuclear facilities at Yongbyon”.<sup>11</sup> The U.S. Treasury Department’s Daniel Glaser responded by agreeing to release all \$25 million to a North Korean account at the Bank of China prior to the 30-day deadline. On 19 March he issued a statement that “the United States and North Korean governments have reached an understanding on the disposition of North Korean-related funds frozen at Banco Delta Asia” and added somewhat improbably that the North had pledged to use the funds for “humanitarian and educational purposes”.<sup>12</sup>

Nonetheless, Pyongyang boycotted the six-party talks the next day, refusing to participate until the funds were transferred.<sup>13</sup> The delay reflected Washington’s miscalculation of the difficulties in freeing up the funds: no bank wanted to take receipt of what Washington had clearly labelled tainted money. There were also unforeseen technical issues: the 52 holders of the accounts had to be verified and their assent received before the funds could be transferred. The state-run Bank of China refused to receive the funds, and the largest BDA account holder, Daedong Credit Bank, refused to allow them to be released to Pyongyang. Washington maintained that this was only

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<sup>10</sup> “Envoys confident on shutdown of North nuke facility”, *JoongAng Ilbo*, 17 March 2007 (in Korean).

<sup>11</sup> Byun Duk-kun, “Nuclear shutdown ‘impossible’ without complete lifting of sanctions: N.K. envoy”, *Yonhap News*, 17 March 2007.

<sup>12</sup> “Statement by DAS Glaser on the Disposition of DPRK-Related Funds Frozen at Banco Delta Asia”, U.S. Department of the Treasury, 19 March 2007. Glaser is deputy assistant secretary for terrorist financing and financial crimes.

<sup>13</sup> “6-party talks on North Korea are stalled”, *International Herald Tribune*, 20 March 2007.

a temporary setback and that the North was still committed to the 13 February accord; however some observers were sceptical that the issue was resolved.<sup>14</sup>

On 11 April the U.S. allowed the Macao Monetary Authority to release the \$25 million to the 52 account holders, although North Korea has not yet withdrawn any funds.<sup>15</sup> During U.S. Governor Bill Richardson's visit to Pyongyang, 8-11 April, Kim Kye-gwan stated that the North would begin shutting down the Yongbyon reactor and allow IAEA inspectors into the country once it received the money.<sup>16</sup> Five days before the 60 days were up, the main U.S. negotiator, Assistant Secretary of State Christopher Hill, acknowledged that it was "becoming difficult" to meet that deadline,<sup>17</sup> and indeed 14 April came and went without any apparent indication of the North's compliance.

Despite repeated statements that it "remained unchanged" in its commitment to the 13 February deal and would begin implementing once it verified the release of the BDA funds, the North has yet to take any action.<sup>18</sup> While U.S. satellite images showed increased activity of vehicles and people around the Yongbyon reactor on 18 April, there is no definitive proof that Pyongyang has begun shutting down the reactor.<sup>19</sup> Some analysts worry that Washington's eagerness to accommodate Pyongyang in the BDA case set a dangerous precedent and may encourage Pyongyang to "overplay its hand".<sup>20</sup>

### III. THE NEXT STAGES: WHAT COULD GO WRONG

Although all six parties agreed to the 13 February denuclearisation deal, mistrust and wariness still exist; the complexity and sensitivity of the issue, as well as the many

aspects that still must be worked out, mean the deal remains tenuous. The parties must proceed with caution, as any of the factors discussed below could easily lead to a breakdown.

#### A. THE NORTH BALKS

In light of North Korea's history of breaking international agreements, even supporters of the 13 February accord are sceptical whether it will fulfil its commitments.<sup>21</sup> With the subsequent phases so vaguely defined, it would be easy to stall and "renegotiate...along the way for better terms".<sup>22</sup> Some analysts believe that Pyongyang is not willing to give up its nuclear program – its "crown jewels" – at any cost,<sup>23</sup> because the weapons are its "only real leverage".<sup>24</sup> The agreement may only be an attempt to "play the [Bush] Administration for time" until a new American president takes office in 2009.<sup>25</sup>

The BDA imbroglio, even after the U.S. bent over backwards to uphold its end of the deal, illustrated the North's fickleness and foreshadowed the difficulties ahead. Pyongyang appears to have had some legitimate concerns given that it took almost a month to free up the funds, but its boycott reflected lingering mistrust of the U.S. and may also foreshadow an attempt to stall the denuclearisation talks and pressure Washington for more concessions.<sup>26</sup> The U.S. State Department says it does not believe the North was stalling,<sup>27</sup> and Chinese observers increasingly believe the BDA incident indicates the North's desperation for funds and is further proof the nuclear program has more economic than security value.<sup>28</sup> Nonetheless, the North's quick threat to derail denuclearisation talks, even when it was receiving full cooperation, suggests it may use any number of other issues, such as the presence of U.S. troops in South Korea, as excuses to back out of the deal.

<sup>14</sup> For example, Crisis Group interview, Chinese academic, Beijing, March 2007.

<sup>15</sup> Glenn Kessler, "To prod N. Korea, U.S. relents in counterfeiting case", *The Washington Post*, 11 April 2007; "U.S. says latest P'yang statement positive but calls for immediate action", *Yonhap News*, 20 April 2007.

<sup>16</sup> Choe Sang-hun, "North Korea offers to admit nuclear inspectors", *The New York Times*, 11 April 2007.

<sup>17</sup> "Saturday shutdown not likely: Hill", *Joongang Ilbo*, 10 April 2007 (in Korean).

<sup>18</sup> "N.K. to implement nuke accord after confirming BDA fund release", *Hankyoreh*, 13 April 2007; Edward Cody, "N. Korea holds off on reactor pledge", *The Washington Post*, 21 April 2007.

<sup>19</sup> "Increased activities detected around N. Korean nuclear complex: S. Korean lawmaker", *Yonhap News*, 18 April 2007.

<sup>20</sup> Ralph A. Cossa, "North Korea Nuclear Deal: Better Late than Never", Pacific Forum, Center for Strategic and International Studies, 23 April 2007.

<sup>21</sup> Glenn Kessler and Edward Cody, "U.S. flexibility credited in nuclear deal with N. Korea", *The Washington Post*, 14 February 2007.

<sup>22</sup> "Faith-based nonproliferation", *The Wall Street Journal*, 14 February 2007.

<sup>23</sup> For example, Alan D. Romberg, "Negotiating with North Korea: Bridging the Differences among the Key Parties", Henry L. Stimson Center, February 2007.

<sup>24</sup> B. C. Koh, "A Breakthrough or an Illusion?: An Assessment of the New Six-Party Agreement", Institute for Far-Eastern Studies (IFES) Forum, 16 February 2007.

<sup>25</sup> David E. Sanger, "Outside pressures snapped Korean deadlock", *The New York Times*, 14 February 2007.

<sup>26</sup> "Faith-based nonproliferation", *The Wall Street Journal*, 14 February 2007.

<sup>27</sup> "N.K. concerns about BDA money not likely to be stalling tactic: McCormack", *Yonhap News*, 21 March 2007.

<sup>28</sup> Crisis Group interview, Chinese researcher, Beijing, 13 April 2007.

Some South Koreans argue that North Korea is willing to go through with the deal, as it offers the best assurance for regime survival, and will meet the U.S. halfway.<sup>29</sup> Compared to when the Agreed Framework collapsed in 2002, they say, the need for economic, energy and humanitarian assistance is “more pressing than ever before” but Pyongyang will still only give up its nuclear program with “utmost reluctance”, making a phased denuclearisation with clear steps and benefits all the more important.<sup>30</sup>

## B. MONITORING DENUCLEARISATION

North Korea’s shaky history with IAEA inspections and unwillingness to disclose its nuclear programs indicate that even if it agrees to the terms of the denuclearisation deal, monitoring and verifying the process will be problematic. If North Korea allows IAEA inspectors in to monitor the freeze of its Yongbyon facility, “it is far from clear how freely North Korea will let the inspectors operate”.<sup>31</sup> Before being thrown out, IAEA inspectors faced many difficulties in monitoring nuclear facilities under the 1994 Agreed Framework. Ignoring repeated requests, North Korea denied the IAEA critical information about the number and location of its nuclear programs. It also did not allow monitoring of liquid nuclear waste tanks – a measure necessary to prevent tampering with or removal of nuclear waste to destroy evidence about the history of the program.<sup>32</sup>

Moreover, the IAEA and North Korea were unable to agree on measures to obtain the necessary information for verification and ways to preserve this information to verify future compliance.<sup>33</sup> None of the problems IAEA inspections faced under the Agreed Framework have been resolved, so it is likely similar issues will resurface. Pyongyang may again restrict access and information and prevent the inspectors from comprehensively monitoring the nuclear program.

Even if Pyongyang agrees to the IAEA’s protocols for inspections, the second phase of the 13 February accord, the “complete declaration of all nuclear programs and disablement of all existing nuclear facilities” in exchange for 950,000 tons of fuel oil, poses another potential

problem.<sup>34</sup> Since the language is ambiguous, also with respect to actual nuclear weapons, it will be the deal’s first real test. While Washington seeks a “minutely specific” declaration “down to the gram”,<sup>35</sup> there is no agreed precision on how to accomplish this.

The Institute for Science and International Security (ISIS) estimates that North Korea had enough plutonium in 2006 for four to thirteen weapons depending on the configuration.<sup>36</sup> Nuclear weapons are its trump card, and it may try to cheat and hide one in one of its countless tunnels. Even if the North allows full IAEA inspections, the world will likely suspect hidden facilities.<sup>37</sup> Failure to disclose the entire nuclear program, or even doubt about the North’s candour, could lead to a collapse of the deal. Getting Pyongyang actually to dispose of its weapons and the associated nuclear material will certainly be a struggle, one that Chinese officials, for example, believe may prove to be the most difficult part of the entire exercise.<sup>38</sup>

On the other hand, some analysts argue that the deal may have never gone through in the first place if the second phase had been better defined. The important thing was to get IAEA inspectors on the ground so that the North’s five negotiating partners could proceed on the basis of first-hand knowledge.<sup>39</sup> Given North Korea’s history, the key to successfully implementing the denuclearisation deal will be strict verification.

Different interpretations of the 13 February accord may also be an obstacle. There have been concerns from the day of signature about whether Washington and Pyongyang see eye-to-eye on what the North is required to relinquish. While the U.S. demands complete disablement and abandonment of all nuclear facilities, the official North Korean news agency reported that the agreement calls for a “temporary suspension of the operation of its nuclear facilities”.<sup>40</sup> Already during working group discussions, there has been disagreement on how denuclearisation will proceed. The U.S. and South Korea want North Korea to disable its program for the long term by removing core parts from the atomic reactors and nuclear reprocessing

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<sup>29</sup> Brian Lee, “For Pyongyang talks are a way to make friends”, *JoongAng Ilbo*, 13 March 2007.

<sup>30</sup> B. C. Koh, “A Breakthrough or an Illusion?”, *op. cit.*

<sup>31</sup> “Faces saved all round,” *The Economist*, 17 February 2007.

<sup>32</sup> “Nuclear Nonproliferation: Difficulties in Accomplishing IAEA’s Activities in North Korea”, Report to the Chairman, Committee on Energy and Natural Resources, U.S. Senate, United States General Accounting Office, July 1998, [www.nautilus.org/archives/library/security/gaoreports/rc98210.pdf](http://www.nautilus.org/archives/library/security/gaoreports/rc98210.pdf).

<sup>33</sup> *Ibid.*

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<sup>34</sup> “Initial Actions for the Implementation of the Joint Statement”, *op. cit.*

<sup>35</sup> Lee Dong-min, “Envoy says N.K. must address human rights for better relations with U.S.”, *Yonhap News*, 27 March 2007.

<sup>36</sup> David Albright and Paul Brannan, “The North Korean Plutonium Stock Mid-2006”, Institute for Science and International Security, 26 June 2006.

<sup>37</sup> Crisis Group interview, Beijing, March 2007.

<sup>38</sup> Crisis Group contacts, April 2007.

<sup>39</sup> Crisis Group interview, Chinese researcher, Beijing, 13 April 2007.

<sup>40</sup> Glenn Kessler and Edward Cody, “U.S. flexibility credited in nuclear deal with N. Korea”, *The Washington Post*, 14 February 2007.

facilities “but North Korea has not agreed to this”.<sup>41</sup> During the six-party talks, Washington and Seoul also proposed that the North’s weapons-grade plutonium be disposed of overseas but Pyongyang boycotted the talks before responding.<sup>42</sup>

### C. NORMALISATION WITH THE U.S.

Most analysts believe normalisation with the U.S. is one of North Korea’s most valued goals<sup>43</sup> and that the only circumstance under which it would relinquish its nuclear negotiating card would be full normalisation, complete with security guarantees. However, the deep animosity and distrust between the two countries means the process is likely to be lengthy and complicated and test Pyongyang’s patience and commitment to the 13 February deal.

One of North Korea’s demands is removal from the U.S. list of state sponsors of terrorism. However, given its history of brinkmanship and violations of human rights, as well as Washington’s general dislike of the regime, the process of removal from the list “is bound to meet opposition in Congress”.<sup>44</sup> The minimum time for Congress to approve de-listing of a nation is 45 days; it took two and a half years after it gave up development of weapons of mass destruction for Libya to be de-listed.<sup>45</sup> For North Korea, the State Department has said, the process will “require a lot of time and careful reviews” and can only occur after denuclearisation.<sup>46</sup> North Korea will certainly still be on the list when the State Department submits its annual terrorism report in late April 2007, as the denuclearisation and normalisation processes are still in their early stages.<sup>47</sup> In addition, until the kidnapping issue is resolved to its satisfaction, Tokyo is likely to strongly oppose de-listing

and as one of Washington’s closest allies to hold a virtual veto.<sup>48</sup>

Pyongyang also demands that the U.S. lift economic sanctions applied under the Trading with the Enemy Act; however, the timing and process of this is likely to be another cause for disagreement. Moreover, although Washington unfroze all \$25 million of North Korean assets at BDA, the Treasury Department’s final ruling banned U.S. financial institutions from transactions with the bank,<sup>49</sup> which it accused of money laundering and dealing with proceeds from illegal North Korean activities; many institutions voluntarily terminated transactions and customers withdrew their money from the bank even before that ruling.<sup>50</sup> The chief Russian envoy has publicly criticised Washington’s handling of the BDA issue.<sup>51</sup> The refusal of banks to receive the \$25 million after it was unfrozen shows that North Korea’s access to and ability to participate in the international financial world has been severely restricted by previous U.S. actions. Although the U.S. may attempt to lift sanctions as part of the denuclearisation deal, this ripple effect may be harder to deal with and could yet lead to delay or breakdown of the denuclearisation deal.<sup>52</sup>

Despite Washington’s retreat on the BDA funds, the issue of North Korea’s illegal activities remains. According to the State Department, there has not been massive circulation of counterfeit U.S. dollars made by North Korea recently.<sup>53</sup> However, the U.S. Congressional Research Service reported in February 2007 that the North is still heavily involved in criminal activities, including counterfeiting of cigarettes and pharmaceuticals as well as currencies, drug production and trafficking and insurance fraud.<sup>54</sup> Pyongyang continues to deny the charges, and neither side has provided much supporting evidence for their positions. Although the issue was not included in the 13 February agreement, Washington may address

<sup>41</sup> “Nuclear stand-down can be completed in months says North”, *Dong-A Ilbo*, 21 March 2007 (in Korean).

<sup>42</sup> “Send your nukes for disposal abroad, North told”, *JoongAng Ilbo*, 21 March 2007 (in Korean).

<sup>43</sup> “Faces saved all round”, *The Economist*, 17 February 2007; Jae-Jean Suh, “North Korea’s Strategic Decisions After the February 13 Agreement”, Policy Forum Online, Nautilus Institute, 10 April 2007.

<sup>44</sup> Helene Cooper and Jim Yardley, “Pact with North Korea draws fire from a wide range of critics in U.S.”, *The New York Times*, 14 February 2007.

<sup>45</sup> “N. Korea stuck on terror list as doubts linger”, *Chosun Ilbo*, 29 March 2007 (in Korean).

<sup>46</sup> “No quick removal from U.S. terror list for N. Korea”, *Chosun Ilbo*, 14 March 2007 (in Korean).

<sup>47</sup> “N. Korea stuck on terror list as doubts linger”, *Chosun Ilbo*, 29 March 2007 (in Korean); “U.S. to keep N. Korea on list of terrorism-sponsoring countries: sources”, *Yonhap News*, 24 April 2007.

<sup>48</sup> “Japan may block N. Korea’s terror list removal”, *Chosun Ilbo*, 15 March 2007 (in Korean).

<sup>49</sup> Demetri Sevastopulo and Andrew Yeh, “Rice helped unfreeze N Korean funds”, *Financial Times*, 21 March 2007.

<sup>50</sup> Steven R. Weisman, “Treasury to formally bar U.S. banks from dealing with Macao bank”, *International Herald Tribune*, 14 March 2007.

<sup>51</sup> “Reports: Russian diplomat blames U.S. for stalemate on North Korea’s nuclear bid”, *International Herald Tribune*, 16 April 2007.

<sup>52</sup> David Straub, “It’s hard to expect North Korea’s compete disarmament”, *Chosun Ilbo*, 30 March 2007 (in Korean).

<sup>53</sup> “No massive discovery of N.K. counterfeit dollars recently, U.S. says”, *Yonhap News*, 29 March 2007.

<sup>54</sup> Raphael Perl and Dick K. Nanto, “North Korean Crime-For-Profit Activities”, Congressional Research Service (CRS) Report for Congress, 16 February 2007, <http://fpc.state.gov/documents/organization/81342.pdf>.

it during the normalisation process, creating yet another potential source of contention.

Distrust and animosity toward North Korea run deep in the Bush administration. Many officials, including Deputy National Security Adviser Elliot Abrams, are openly unhappy with the 13 February deal. Some believe that the only way to solve the North Korea problem is through regime change. It is likely that “the neoconservative base of the Bush regime will resist meeting U.S. obligations” so as to express disapproval of an agreement with a regime previously dubbed by the president part of the “axis of evil”.<sup>55</sup> As a Chinese analyst said to Crisis Group, the U.S. may have made progress with the North by not calling publicly for regime change, but “who knows what they talk about behind closed doors”.<sup>56</sup>

Despite Washington’s attempt to de-link denuclearisation and human rights, the latter will likely be another normalisation issue. Christopher Hill has called meeting international human rights standards “a price of admission to the international community”, and thus, implicitly part of the normalisation process.<sup>57</sup> The issue was not mentioned in the 13 February accord, and the North will fiercely oppose its inclusion but as the 2008 U.S. presidential election heats up, human rights can be expected to assume even greater importance for both Democrats and Republicans.

## D. HIGHLY ENRICHED URANIUM

The Bush administration’s accusation in November 2002 that North Korea possessed a covert highly-enriched-uranium (HEU) program triggered the collapse of the 1994 Agreed Framework. When the U.S. halted heavy fuel oil shipments, North Korea expelled IAEA inspectors, built its plutonium stockpile from a one- or two-weapons level during the freeze to four to thirteen by mid-2006 and tested its first nuclear device.<sup>58</sup> According to a CIA fact sheet distributed to Congress on 19 November 2002, there was “clear evidence indicating the North has begun constructing a centrifuge facility”.<sup>59</sup> The U.S. claim was based on North Korea’s purchase of twenty centrifuges

from Pakistan and 150 tons of aluminium tubes from Russia. According to a nuclear expert, however, “the aluminium tubes sought or procured by North Korea are easy to obtain internationally and by themselves, are not a reliable indicator of the existence, status, or construction schedule of a gas centrifuge plant”. He considered the analysis “flawed”, comparable to the mistaken evidence about weapons of mass destruction in Iraq.<sup>60</sup>

In contrast to its 2002 confidence about an HEU program, U.S. government officials began expressing doubts following the 13 February accord, adjusting their assessment to “mid confidence level”,<sup>61</sup> thus casting doubt on the basis for the administration’s earlier actions against North Korea. China has long argued that uranium was not a priority for the North. It is expensive and difficult to produce and, more importantly, hide.<sup>62</sup> The North has consistently denied having a uranium program. During the bilateral normalisation talks in March 2007, chief U.S. negotiator Hill maintained that Pyongyang needed to come clean on its uranium program, and it was agreed officials would meet to “get to the bottom of this matter”.<sup>63</sup> During the second phase of the 13 February agreement, North Korea is required to provide a complete list of all its nuclear programs. Whether it lists an HEU program, and if it does not whether Washington continues to insist that one exists, could become an obstacle to denuclearisation and normalisation of relations.

## E. JAPAN’S ABDUCTION OBSESSION

“Unless there is progress on the abduction issue, we have no intention of paying even one yen”, Japanese Foreign Minister Aso Taro has stated, highlighting Tokyo’s obsession with North Korea’s kidnapping of its citizens during the 1970s and 1980s.<sup>64</sup> Japan insisted on being exempted from providing energy aid under the 13 February agreement until the issue is resolved, meaning the cost is to be split by the remaining four parties. Prime Minister Abe Shinzo made the issue the top priority at the normalisation meetings in Hanoi on 7-8 March 2007. The chief Japanese delegate, Haraguchi Koichi, stated that “normalisation cannot be achieved without resolving

<sup>55</sup> Gavan McCormack, “A Denuclearisation Deal in Beijing: The Prospect of Ending the 20<sup>th</sup> Century in East Asia”, *Japan Focus*, 14 February 2007.

<sup>56</sup> Crisis Group interview, Beijing, March 2007.

<sup>57</sup> Lee Dong-min, “Envoy says N.K. must address human rights for better relations with U.S.”, *Yonhap News*, 27 March 2007.

<sup>58</sup> David Albright and Paul Brannan, “The North Korean Plutonium Stock Mid-2006”, op. cit.

<sup>59</sup> David Albright, “North Korea’s Alleged Large-Scale Enrichment Plant: Yet another Questionable Extrapolation Based on Aluminium Tubes”, Institute for Science and International Security, 23 February 2007.

<sup>60</sup> Ibid.

<sup>61</sup> David E. Sanger and William J. Broad, “U.S. had doubts on North Korean uranium drive”, *The New York Times*, 1 March 2007.

<sup>62</sup> Crisis Group interview, Chinese researcher, Beijing, 13 April 2007.

<sup>63</sup> “U.S. wants North Korea to go beyond agreement to shut reactor”, *International Herald Tribune*, 6 March 2007.

<sup>64</sup> “Aso: Unless there is progress on abductions, we will not pay even one yen”, *Yomiuri Shimbun*, 3 March 2007 (in Japanese); for details on the issue, see Crisis Group Asia Report N°100, *Japan and North Korea: Bones of Contention*, 27 June 2005.



the abduction issue”.<sup>65</sup> With Pyongyang claiming the issue has already been settled and Tokyo seeking more, the meeting failed before it really got underway, and no date was set for resumption.

Tokyo’s stubborn insistence has been criticised by other participants, suggesting it could be left with no meaningful role in the six-party talks. A Korean editorial questioned whether “Japan is a responsible enough partner in Northeast Asia to participate in the six-party process”;<sup>66</sup> another claimed “there is no guarantee that Japan’s voice will not be weakened by this and...its position as a member of the six-way talks will suffer”.<sup>67</sup> Analysts have linked the preoccupation to domestic political needs: Abe owes his rise to power and “what little popularity he has left to his tough stance on the abduction issue”.<sup>68</sup> With his ratings slipping below 40 per cent and Upper House elections in July 2007, he seems to have allowed “domestic political considerations to prevail over international ones”,<sup>69</sup> even though “putting the North Korean nuclear problem first at the six-way talks was the right thing to do...not only for the peace of Northeast Asia, but also for the national interests of Japan”.<sup>70</sup> Not surprisingly, North Korea has followed suit, “question[ing Japan’s] qualifications to remain a participant” in the six-party talks.<sup>71</sup>

North Korea committed serious crimes against Japanese citizens, which understandably has outraged the Japanese public. A genuine grievance clearly underlies the government’s insistence on resolving this issue. It would be an unfortunate order of priorities, however, if this were to prevent Japan from putting its full weight behind efforts to achieve North Korean denuclearisation.

While Japan’s abduction obsession may delay the denuclearisation process, much hinges on whether the U.S. and North Korea achieve normalisation. Thus far, Washington has supported Tokyo’s stance, with Christopher Hill urging North Korea to “do more to square

up its relationship with Japan” and calling Japan an “important country to us all”.<sup>72</sup> Some believe that Japan’s reliance on the U.S. for security makes it possible that “if Washington establishes official ties with Pyongyang, officials from Tokyo will be on the plane to Pyongyang in a New York minute”.<sup>73</sup> However, given how important the issue has become for the Liberal Democratic Party and the general public, it is highly doubtful Japan will drop it unless it is fully resolved.

## F. AID COMPLICATIONS

The 13 February deal gives North Korea incentives to cooperate in the form of energy assistance. Given the “Actions for Actions” nature of the deal and the mutual lack of trust, it is imperative that the five parties uphold their end. The coordinated and timely provision of fuel oil is critical.

### 1. The U.S. Congress balks

The 13 February agreement generated criticism in Washington from both sides of the Congressional aisle. Democrats claimed Bush had accepted the same deal as Clinton did in 1994 after having allowed North Korea to obtain nuclear weapons; conservatives accused the administration of negotiating with evil and called the agreement “a betrayal”.<sup>74</sup> Disillusioned with the president’s handling of North Korea, several important hawks have left the government.<sup>75</sup> In view of the broad opposition, it may be difficult for the U.S. to give full support to the deal, which requires the U.S. and its four partners to provide up to one million tons of fuel oil to the North. Getting the necessary support in Congress to fund the aid package could be problematic.<sup>76</sup>

### 2. Japan refuses to participate

Tokyo maintained its hard line on North Korea even while the other parties appeared willing to negotiate. As noted,

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<sup>65</sup> “Japanese delegate Haraguchi: Return of abductees is objective”, *Asahi Shimbun*, 3 March 2007 (in Japanese).

<sup>66</sup> “Is Japan worthy of a place at the six-party talks?”, *Hankyoreh*, 5 March 2007 (in Korean).

<sup>67</sup> Yeh Young-june, “Nuclear issue should be Japan’s priority”, *JoongAng Ilbo*, 22 February 2007 (in Korean).

<sup>68</sup> “Faces saved all round”, *The Economist*, 17 February 2007.

<sup>69</sup> Gavan McCormack, “A Denuclearisation Deal in Beijing?”, *op. cit.*

<sup>70</sup> Yeh Young-june, “Nuclear issue should be Japan’s priority”, *JoongAng Ilbo*, 22 February 2007 (in Korean).

<sup>71</sup> “Japan’s envoy says North Korea questioned Tokyo’s role in 6-nation nuclear talks”, *International Herald Tribune*, 19 March 2007; see also “North Korea urges Japan to implement nuclear disarmament accord”, *Yonhap News*, 20 March 2007, and “North Korea criticises Japan, aims to isolate Japan?”, *Asahi Shimbun*, 20 March 2007 (in Japanese).

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<sup>72</sup> “Japan’s envoy says North Korea questioned Tokyo’s role in 6-nation nuclear talks”, *International Herald Tribune*, 19 March 2007.

<sup>73</sup> Kim Young-hie, “Moral hazards in New York”, *JoongAng Ilbo*, 9 March 2007.

<sup>74</sup> Helene Cooper and Jim Yardley, “Pact with North Korea draws fire”, *op. cit.*; Glenn Kessler and Edward Cody, “U.S. flexibility credited in nuclear deal with N. Korea”, *op. cit.*

<sup>75</sup> David E. Sanger, “Top hawks are leaving Bush’s team”, *International Herald Tribune*, 22 March 2007. Those who have recently resigned include Defence Secretary Donald Rumsfeld, UN ambassador John Bolton and Under Secretary of State for Arms Control and International Security Robert Joseph.

<sup>76</sup> John Feffer, “Promising Start with North Korea”, *Foreign Policy in Focus*, 16 February 2007.



it has refused to compromise on its demand that the abduction issue be resolved before economic sanctions are removed and normalisation begins. Prime Minister Abe called this issue “not one where any concession is possible”,<sup>77</sup> and Tokyo refused to help fund the initial 50,000 tons of fuel oil without satisfactory progress. On 5 April, it extended for six months the unilateral sanctions it levied after the North’s October 2006 nuclear test.<sup>78</sup>

Japan’s refusal to prioritise denuclearisation and regional security over the old kidnappings has attracted wide criticism. But with an election in July 2007 and Abe’s political future dependent on maintaining a hard line against the North, Tokyo is unlikely to alter its stance. Progress towards normalisation does not appear in the cards, and Tokyo’s refusal to cooperate fully in funding the denuclearisation agreement may slow down overall progress.

### 3. South Korea moves too fast

The Roh administration wants to continue Kim Dae-jung’s “Sunshine Policy” toward the North and appears eager to use the 13 February agreement as justification for resuming aid. This is not surprising given domestic sentiment and fears of what a collapse of the North would mean for the South. The December 2007 presidential election is also a factor, as improved ties or at least perception of a decreased threat could help secure votes.

Unification Minister Lee Jae-joung’s statement following inter-Korean ministerial talks in early March 2007 – “we agreed in principle to provide the North with 400,000 tons of rice and 300,000 tons of fertilizer” – sparked speculation that South Korea had secretly pledged additional aid,<sup>79</sup> though the government denied it. The two sides agreed to discuss specific aid packages at the next round of economic talks, in Pyongyang in April, after the 60-day deadline set by the 13 February agreement. Despite speculation after Pyongyang missed that deadline that Seoul would make food aid contingent upon implementation of the denuclearisation deal, South Korea pledged 400,000 tons of rice on 22 April, with transport to begin in late May. No preconditions were mentioned in the text but Lee Jae-joung insisted Seoul had verbally emphasised that rice aid is dependent upon progress on the 13 February deal.<sup>80</sup>

<sup>77</sup> Takashi Hirokawa, “Japan won’t compromise on North Korea abduction issue”, *Bloomberg News*, 6 March 2007.

<sup>78</sup> “6 month extension of North Korea sanctions, decided just before the 13 April deadline”, *Yomiuri Shimbun*, 6 April 2007 (in Japanese).

<sup>79</sup> “Was there a backroom deal with North Korea?”, *Chosun Ilbo*, 5 March 2007 (in Korean).

<sup>80</sup> “Seoul agrees no-strings rice aid to North”, *Chosun Ilbo*, 23 April 2007; “Aid to North conditional on disarmament moves”, CNN, 23 April 2007.

South Korea has already agreed to be the sole provider of the initial 50,000 tons of fuel aid, once Pyongyang allows IAEA inspectors in for confirmation. It also sent the first batch of fertiliser on 27 March and resumed emergency aid the next day with 10,500 tons of rice, 70,415 tons of cement, 50 eight-ton trucks, 60,000 blankets and 1,800 tons of iron bars.<sup>81</sup> Presidential candidate Park Geun-hye and both Korean and Japanese newspaper editorials have criticised these actions, claiming the eagerness could decrease incentives for the North to comply with the denuclearisation deal.<sup>82</sup>

## G. LIGHT WATER REACTORS

During the U.S.-North Korea normalisation talks in New York in March, Kim Kye-gwan said Pyongyang wants a light water reactor in return for denuclearisation.<sup>83</sup> Christopher Hill responded that the U.S. would not even consider this until the North’s nuclear programs are completely dismantled. Experts are divided on whether this is a deal breaker.<sup>84</sup> At the least it will be a point of contention in the ongoing talks.<sup>85</sup>

## IV. THE NEXT STAGES: FILLING IN THE DETAILS

### A. IF NORTH KOREA CLOSES YONGBYON

In November 2004, Crisis Group proposed an eight-point, interlocking schedule for denuclearisation of the Korean Peninsula.<sup>86</sup> Such a clearly delineated, phased negotiation strategy is still the best way forward, though slight

<sup>81</sup> “Seoul to resume emergency aid to N. Korea next week”, *Yonhap News*, 22 March 2007.

<sup>82</sup> “SKorean presidential contender criticizes restored aid to North before nukes dismantled”, *International Herald Tribune*, 9 April 2007; “Is denuclearisation possible with the sunshine policy?”, *Yomiuri Shimbun*, 3 March 2007 (in Japanese); “If there is no progress on denuclearisation, we should delay rice aid”, *JoongAng Ilbo*, 19 April 2007 (in Korean).

<sup>83</sup> Takashi Sakamoto, “N. Korea to demand light water reactor”, *Yomiuri Shimbun*, 5 March 2007 (in Japanese).

<sup>84</sup> For example, the Korea Institute for National Unification’s Suh Jae-jean believes an eventual compromise is possible. “North Korea’s Strategic Decisions After the February 13 Agreement”, Policy Forum Online, Nautilus Institute, 10 April 2007. North Korean expert Park Han-sik believes the North will only denuclearise if it receives light water reactors in exchange. “Give Pyongyang 10 years to fulfil promises: N.K. expert”, *Hankyoreh*, 28 March 2007 (in Korean).

<sup>85</sup> Takashi Sakamoto, “N. Korea to demand light water reactor”, *Yomiuri Shimbun*, 5 March 2007 (in Japanese).

<sup>86</sup> See Crisis Group Asia Report N°87, *North Korea: Where Next for the Nuclear Talks?*, 15 November 2004.

modifications are made below to address the changes in circumstance, most notably Japan's diminished role. Based on the Abe administration's hardline stance, the deadlock over abductions and the low probability of early change, Tokyo is likely to hinder rather than aid the denuclearisation process and has been removed, therefore, from the process, which otherwise is fundamentally unchanged. The basic premise is that only a combination of pressure and the prospect of rewards will get North Korea to carry out denuclearisation. There are no time limits for each phase, and many details will need further discussion and clarification by the six parties and may change according to developments.

### **1. Verified freeze of Yongbyon in exchange for unfrozen funds and fuel oil**

*The U.S.* unfreezes and returns the \$25 million of frozen North Korean assets held at Macao's Banco Delta Asia (in process).

*North Korea*, upon receipt of the funds, shuts down its Yongbyon nuclear reactor and reprocessing plant and allows IAEA inspectors in to verify the freeze, upon which it receives 50,000 tons of heavy fuel oil.

### **2. Energy planning in exchange for declaration of nuclear programs**

*North Korea* declares all its nuclear programs, including activities at Yongbyon pre-1994 and post-2002, and places all remaining spent fuel and plutonium under inspection. It also announces its intent to re-sign the Nuclear Non-Proliferation Treaty (NPT), ratify the Additional Protocol<sup>87</sup> and sign a new Comprehensive Safeguards Agreement.

*The U.S., South Korea, China and Russia* begin a multilateral energy survey of North Korea and reveal the energy packages they intend to offer for the North's compliance; decide how to divide funding of the energy aid; begin preparations for the delivery of 950,000 tons of heavy fuel oil; and discuss how to fully rehabilitate the North's energy system.

### **3. Energy provision in exchange for signatures and access**

*North Korea* re-signs the NPT and ratifies the Additional Protocol; gives the IAEA the information, unlimited access and sampling necessary to confirm the integrity of its disclosure of all sites; and signs the Comprehensive Safeguards Agreement.

*The U.S., South Korea, China and Russia* arrange for funding the dismantlement program and for fissile and dual-use material to be removed from North Korea and provide a written, conditional security guarantee based on the principles of non-interference in internal affairs and respect for sovereign states, as outlined in the UN Charter.

*South Korea* begins supplying energy aid to North Korea, but only after Pyongyang signs the NPT and Comprehensive Safeguards Agreement and ratifies the Additional Protocol, and IAEA inspections begin.

### **4. Rehabilitation and relief in exchange for agreed dismantlement**

*North Korea* agrees to dismantle all nuclear facilities disclosed thus far under the close watch of the verification team and provides detailed nuclear weapon design information and documentation and procurement information.

*The U.S.* begins preparations for rehabilitation of North Korea's existing power plants and approves negotiations between North Korea and the international financial institutions (IFIs) on the North's membership.

*The Six Parties* hold a new round of talks to agree on the structure, composition and operating procedures of the next phase of verification.

### **5. Aid and lifting UN sanctions in exchange for dismantlement**

*North Korea* begins dismantling its plutonium program in the presence of the verification team, and plutonium starts to be shipped out of the country. It hosts meetings on the process, schedule and procedures for dismantlement and allows a tour of weaponisation facilities. It also provides access to key ministries so IFIs can determine the accuracy of its statistics/data reporting and identify counterparts to work with.

*The U.S., South Korea, China and Russia* take steps towards lifting UN sanctions and facilitating North Korea's return to the international financial system and begin working towards rehabilitation of power plants and other energy infrastructures in the North.

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<sup>87</sup> The Additional Protocol is a voluntary amendment to the Nuclear Non-Proliferation Treaty, designed to close some of the loopholes in the treaty regarding peaceful nuclear use. States signing the protocol are required to give the IAEA additional information about their peaceful nuclear activities and allow expanded monitoring. See <http://www.iaea.org/Publications/Documents/Infcircs/1998/infcirc540corrected.pdf>.

## **6. Security guarantees in exchange for nuclear weapons and HEU declarations**

*North Korea* allows removal of plutonium and verification inspections to continue; makes a comprehensive declaration of its nuclear weaponisation program; begins expert-level technical discussions with the IAEA on the schedule and procedures for inspecting its HEU program, including discussions of U.S. intelligence on the subject; and facilitates initial inspections of HEU-related facilities, laboratories, testing facilities and equipment.

*The U.S.* extends the terms of the conditional security guarantee.

*The U.S., China, North Korea and South Korea* begin discussions at summit level on a Peace Treaty.

## **7. IFI preparations in exchange for HEU commitments**

*North Korea* provides a comprehensive declaration of its gas centrifuge program, including details of centrifuge design, development, procurement, production and operation; forms a senior experts committee to investigate methods of dismantlement and inspection; and allows complete dismantlement of its HEU program without impediment. It also allows the first IFI offices to open in Pyongyang.

*The U.S.* helps coordinate the opening of IFI offices in Pyongyang.

## **8. Liaison offices and normalisation in exchange for conclusive verification**

*North Korea* opens a liaison office in Washington; allows dismantlement of the HEU and plutonium efforts to continue; gives verification teams unimpeded access to facilities and information; and facilitates ongoing monitoring of denuclearisation.

*The U.S.* opens a liaison office in Pyongyang; removes North Korea from its state sponsors of terrorism list once it meets the requirements;<sup>88</sup> and begins working in Congress to lift the Trading with the Enemy Act and

other sanctions. It also coordinates with South Korea for a major energy project in North Korea.

The end goal of denuclearisation is achieved when the verification team concludes that all plutonium, HEU and weapons programs have been permanently dismantled and ongoing monitoring is in place. Successful implementation of this eight-step process would mean North Korea no longer possessed nuclear weapons or the means to produce them. Before the North can become a fully responsible member of the international community, there remain a host of issues that need to be resolved but it is important to remember that all these issues are secondary to denuclearisation.

## **B. IF THE 13 FEBRUARY AGREEMENT COLLAPSES**

It is essential that the U.S., South Korea, China and Russia uphold their end of the 13 February agreement and any subsequent accords in order to foster a working relationship and persuade North Korea to comply. Default by either side would halt progress towards denuclearisation. If the North balks, at any stage, a return to six-party talks to firm up the denuclearisation deal should be the first step. However, as Crisis Group has maintained and the recent round of six-party talks has illustrated, bilateral discussions between the U.S. and North Korea are the most important and effective means for negotiating a denuclearisation deal.<sup>89</sup> The six-party forum is useful as a framework but it must be accompanied by bilateral talks in which the U.S. can describe detailed, phased strategy and outline the benefits the North can only receive in exchange for steps towards denuclearisation.

Should the North blatantly breach the 13 February agreement or any related future deal by testing another nuclear device or resuming production of plutonium or HEU, economic sanctions should be reapplied, and new UN sanctions should be passed by the Security Council. Military action in such a case would be unlikely, as China and South Korea fear the instability, security risk and potential cataclysm that would result.<sup>90</sup> However, should the North attempt to sell nuclear material to a third country or non-state actor, it would cross the red line agreed upon by the U.S., Japan, South Korea and Russia and could provoke these countries to respond with force. Whatever responses are made to North Korean defaults, the U.S. and the other four parties should also continue to try to engage North Korea and convince it to return to the six-

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<sup>88</sup> The inclusion of a country on the U.S. list of state sponsors of terrorism or its removal is a somewhat subjective process, without specific criteria. The State Department acknowledges that North Korea is not known to have sponsored a terrorist act since the bombing of a Korean Airlines flight in 1987. To be removed from the list, North Korea might take a number of steps, including apologising for past acts, renouncing any future support for terrorism and pledging to abide by the six anti-terrorism international conventions and protocols to which it is a signatory.

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<sup>89</sup> See Crisis Group Briefings, *After North Korea's Missile Launch and North Korea's Nuclear Test*, op. cit.

<sup>90</sup> Crisis Group interview, Chinese researcher, Beijing, 13 April 2007.

party talks, recommit to a denuclearisation deal and implement it, as this remains the highest priority.

## **V. CONCLUSION**

It remains unclear how serious North Korea is about giving up its nuclear weapons. A healthy dose of scepticism is necessary, as there are legitimate grounds for suspecting that Pyongyang may never submit to complete denuclearisation. Nevertheless, a phased negotiation process remains the only strategy with any chance of success. Any hope of achieving denuclearisation means accepting the risk that North Korea may default, but going forward, seriously committing to negotiating such a deal anyway and then working hard to ensure its implementation. Given North Korea's history of breaking international agreements, stringent monitoring and verification are essential.

The 13 February breakthrough was a long-awaited step in the right direction. The initial phase, though delayed, proved largely successful because it clearly delineated the rewards North Korea would receive for specific actions. However, the remaining phases have yet to be clearly delineated. The U.S. and others must present a serious, detailed proposal that retains the "Actions for Actions" format. North Korea must be offered sufficient incentives and guarantees of regime survival to agree to and carry out a denuclearisation deal. However, to ensure that the North cannot reap the rewards without complying, the deal must be carefully sequenced and constantly monitored.

Denuclearisation of North Korea is essential for peace and reconciliation on the Korean peninsula. While other critical problems such as human rights violations and conventional arms should continue to be addressed, they should not be linked to denuclearisation, and disputes over them should not be permitted to impede progress on resolving the nuclear crisis. The phased negotiation strategy long advocated by Crisis Group remains the best option, indeed the only real way forward, for peaceful resolution of the issue.

**Seoul/Brussels, 30 April 2007**

## APPENDIX A

### MAP OF NORTH KOREA



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

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**April 2007**

## APPENDIX C

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