

North Korea's Nuclear Issue: Beyond the February 13 Agreement

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Abstract

The six-party nuclear talks which began in August 2003 have produced the September 19, 2005 and the February 13, 2007 agreements for denuclearizing the Korean peninsula. This article analyzes and evaluates the two agreements and proposes a three-phase roadmap for the Korean peninsula denuclearization. Although the 9.19 agreement included only general terms of principles for designing a detailed roadmap for denuclearizing the Korean peninsula, it marked the first specific agreement among the six parties. The Feb. 13 initial actions agreement was a first step toward implementing the 9.19 agreement in a phased manner in line with the principle of 'action for action.' The nuclear deal was made possible primarily because President Bush was willing to take a new flexible approach to reach a deal with North Korea. Based on initial actions, disablement, and dismantlement phases in the Korean peninsula nuclear disarmament process, the author proposes a three-phase roadmap for denuclearizing the Korean peninsula. North Korea's nuclear issue--a serious international issue as the most important obstacle to the Korean peace process--needs to be resolved peacefully through the six-party process. While the six-party process is the best means to resolve North Korea's nuclear issue, US-North Korea bilateral talks are necessary and essential for a peaceful resolution of North Korea's nuclear issue. There are a

number of difficult key issues yet to be resolved at the six-party talks. Both US and North Korea's hard-line policies cannot resolve these issues peacefully and therefore, both sides need to be flexible about their respective positions with political will to make a compromise in order to eventually achieve the denuclearization of the Korean peninsula.

Keywords: September 19 Joint Statement, February 13 nuclear deal, proposed roadmap for denuclearization, HEU, BDA

Introduction

North Korea's alleged admission of a highly enriched uranium program sparked the second nuclear crisis on the Korean peninsula. The Democratic People's Republic of Korea (DPRK or North Korea) officially announced on February 10, 2005 that it had nuclear weapons, and tested its first nuclear weapon on October 9, 2006. It is estimated that North Korea already has six or seven nuclear devices.

The North Korean nuclear issue—a serious international issue as the most important obstacle to the Korean peace process—needs to be resolved peacefully through the six-party process. This paper argues that while the six-party process is the best means to resolve the North Korean nuclear issue, US-DPRK bilateral talks are equally important to a peaceful and diplomatic resolution of North Korea's nuclear issue. Both US and North Korea's hard-line policies cannot resolve the nuclear issue peacefully. Therefore, both sides need to be flexible about their respective positions with political will to make a compromise.

This article analyzes and evaluates international efforts to implement the September 19, 2005 joint statement (hereafter as 9.19 joint statement or agreement) and the February 13, 2007 agreement (hereafter as 2.13 agreement) for resolving the North Korean nuclear issue, and proposes a three-phase roadmap for denuclearizing the Korean peninsula based on the two international agreements.

The September 19 Agreement for Denuclearizing the Korean Peninsula

The six nations at the second session of the fourth round of the Six-Party Talks held in Beijing on September 13-19, 2005 signed a joint statement of principles for designing a detailed roadmap for denuclearizing the Korean peninsula. Although the accord included only general terms of principles, it marked the first specific agreement since the Six-Party Talks began in August 2003. It was designed to serve as the basis for further talks on the timing of North Korea's dismantlement of its nuclear weapons programs and the corresponding provision of economic aid and diplomatic relations and other incentives for the DPRK.¹

The joint statement stated, "the DPRK committed abandoning all nuclear weapons and existing nuclear programs and returning at an early date to the treaty on the non-proliferation of nuclear weapons (NPT) and to International Atomic Energy Agency (IAEA) safeguards." However, the agreement was vague at best, and did not specify anything about when or under what conditions the DPRK would dismantle all of its nuclear programs, reenter the NPT and allow IAEA inspections.

The issue of a light-water nuclear reactor (LWR) was hotly discussed during the September 2005 talks. China as a mediator played a key role in reaching this agreement. The agreement was based on a compromise proposed by China to resolve the LWR issue: the DPRK would be accorded the right to peaceful nuclear energy in principle, but only after dismantling its nuclear weapons programs and rejoining the UN nuclear inspection regime and the NPT.

The Chinese compromise proposal was introduced after it became

¹ See the September 19, 2005 Joint Statement at <http://www.state.gov/r/pa/prs/ps/2005/53490.htm>.

apparent that North Korea would not accept an earlier draft agreement with no mention of its demand for LWR as part of any accord on abandoning its nuclear weapons programs. The agreement said, “the DPRK stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of a light-water reactor to the DPRK.”²

The Bush administration dropped its opposition to the DPRK receiving a LWR in the future, showing a softening of its hard-line position, and President Bush finally approved the 9.19 joint statement. Chief US negotiator Hill said that the administration did not want to see any mention of providing North Korea with LWR in the joint statement. But the Chinese included it. To break the impasse, US Secretary of State Rice suggested that each country would issue separate statements describing their understanding of the deal with a specificity that is not in the agreement itself. The ROK and Japan went along with the idea, but Russia and China remained vague about it.³

There was no mention about the highly enriched uranium (HEU) program, which sparked the second nuclear crisis. The agreement does not explicitly address the issue of the HEU program. The DPRK still denies having one, despite growing evidence that it at least tried to develop HEU-based bomb fuel with Pakistan's assistance. However, the HEU program was covered by the pledge to dismantle “all nuclear weapons and existing nuclear programs” and by a separate reference to the 1992 Inter-Korean Joint Declaration on the Korean Peninsula Denuclearization, which prohibited uranium enrichment. But the accord did not require the DPRK to confess the existence of the HEU

² Ibid.

³ Joseph Kahn and David E. Sanger, “US-Korean Deal on Arms Leaves Key Points Open,” *New York Times*, September 20, 2005; Glenn Kessler and Edward Cody, “N. Korea, US Gave Ground to Make Deal,” *Washington Post*, September 20, 2005, A01.

program. It means that unless Pyongyang admits to the HEU program in a declaration of all nuclear facilities, IAEA inspectors will have to uncover the uranium program in an adversarial way. Moreover, the joint statement did not mention verification procedures either. Regarding the timing of the provision of LWR to North Korea, Secretary of State Rice argued that the wording of the agreement implied that the DPRK would disarm first. “At an appropriate time we are prepared to discuss-discuss” the idea of building a nuclear reactor, she said. She said several times that the discussion would not even begin until North Korea dismantled its weapons programs.⁴

The BDA Issue: Key Obstacle to the Progress of the Six-Party Talks

The first session of the fifth round of the Six-Party Talks was held on November 9-11, 2005, in order to agree on a roadmap for implementing the 9.19 joint agreement, but it ended without any progress. The Banco Delta Asia (BDA) issue was a main reason for a failure of the first session of the fifth round of Six-Party Talks. The BDA issue refers to Washington’s freeze of \$24 million in North Korean accounts at BDA in September 2005. The United States alleged that North Korea’s illegal funds were raised from counterfeiting, gold-smuggling, drug trafficking, and missile exports. The US argued that the BDA was used for the North’s money laundering and distribution.⁵

The stalled Six-Party Talks resumed when the US accepted North Korea’s proposal to discuss the BDA issue in December 2006

⁴David Sanger, “Yes, Parallel Tracks to North, but Parallel Tracks Don’t Meet,” *New York Times*, September 20, 2005.

⁵For detailed analysis of the BDA issue, see Tae-Hwan Kwak and Seung-Ho Joo, “The US Financial Sanctions Against North Korea,” paper presented at the 48th annual convention of the International Studies Association, Chicago, Illinois, Feb. 28-March 3, 2007.

after its 13-months boycott of the talks. From the first day of the second session of the fifth round of six-party talks, however, the US and North Korea showed a big difference in views. North Korea's Trade Bank President Oh Kwang-chul and Deputy Assistant Secretary of Treasury Daniel Glazer had two-day working-level meetings in Beijing to discuss the BDA issue within the six-party framework. In the meantime, The DPRK made an effort to resolve the BDA issue by enacting a law prohibiting money laundering. The ROK National Intelligence Service on February 20, 2007 confirmed that the standing committee of the DPRK's Supreme People's Assembly adopted the legislation in October 2006 to ban financial transactions involving illegal earnings.⁶

North Korea's Ballistic Missile and Nuclear Tests

The DPRK conducted its ballistic missile tests in July 2006 and its first nuclear test in October 2006, perhaps to induce the United States to be flexible about the BDA issue and to come to direct bilateral talks with North Korea. The US, Japan, South Korea, China, and Russia strongly urged the DPRK not to test-fire a long-range ballistic missile. But on July 5, 2006, the DPRK shocked the world by launching seven missiles, including an unsuccessful launch of its Taepodong 2 long-range missile. The short- and medium-range missiles were successfully launched. The DPRK held that the launchings of the seven missiles had been "routine military exercises." It declared that it would continue to test-fire missiles. Thus, the DPRK Foreign Ministry justified the missile tests that were "part of the routine military exercises staged by the KPA to increase the nation's military capacity for self-defence."⁷ Some of American

⁶ Park Song-wu, "North Korea Enacts Law Against Money Laundering," *Korea Times*, February 20, 2007.

⁷ "DPRK Foreign Ministry Spokesman on Its Missile Launches," *KCNA*, July 6,

leaders favored a preemptive strike on the North Korean missile sites if North Korea tested missiles, and others and the Bush administration opposed it.⁸

The North Korea's test launch of a long-range ballistic missile significantly had a negative impact on peace and stability in the Korean peninsula and Northeast Asia, US missile defense system (MD), the long-stalled six-party talks, Japan-DPRK relations, and US-DPRK relations, but it strengthened the US-Japan alliance.⁹ The UN Security Council moved toward a vote on a resolution sanctioning North Korea for its missile launch despite dissent from China and Russia. Both nations resisted US pressure to take a get-tough approach to North Korea because it could fuel instability and jeopardize efforts to restart Six-Party Talks. Neither country, however, has threatened to use its veto power to block UN sanctions. Finally, the UN Security Council voted for its resolution 1695 sanctioning North Korea.¹⁰ South Korea took some punitive measures against North Korea by rejecting the latter's proposal for military talks, made several days before the missile tests, and by holding off sending 500,000 tons of rice and 100,000 tons of fertilizer to North Korea.

The North's nuclear test on October 9, 2006 promptly triggered the adoption of a UN Security Council resolution 1718, aimed at punishing North Korea for its nuclear test by imposing economic

2006, <http://www.kcna.co.jp/index-e.htm> (November 21, 2006).

⁸ For details, see Ashton B. Carter and William J. Perry, "If Necessary, Strike and Destroy," *Washington Post*, June 22, 2006, A29; David E. Sanger, "Don't Shoot. We're Not Ready," *New York Times*, June 25, 2006; Glenn Kessler, "US Rejects Suggestion to Strike N. Korea Before It Fires Missile," *Washington Post*, June 23, 2006, A21; Charles L. "Jack" Pritchard, "No, Don't Blow It Up," *Washington Post*, June 23, 2006, A25.

⁹ Joseph Coleman, "Missile Threat Strengthens US-Japan Ties," *Associate Press*, June 23, 2006.

¹⁰ For details, see "Security Council Condemns Democratic People's Republic of Korea's Missile Launches, Unanimously Adopting Resolution 1695 (2006)," www.un.org/News/Press/docs/2006/sc8853.doc.htm (December 20, 2006).

sanctions on Pyongyang, thereby isolating deeply it from the international community.¹¹ The DPRK that rejected the resolution threatened “physical countermeasures” against any state that tried to enforce the UN sanctions.¹² The North Korean nuclear test failed to change US position on direct bilateral talks and instead put more pressure on Pyongyang through the UN Security Council Resolution.

Why did North Korea want to go nuclear? First, the survival of the Kim Jong Il regime is a top priority. The DPRK has repeatedly emphasized the buildup of its nuclear deterrent force against a US preemptive attack, while the US has again and again stated that it has no intention to attack it. Second, the North Korea's nuclear test is viewed as a bargaining chip to strengthen its negotiation position with Pyongyang conducted a nuclear test to put pressure on Washington to accept direct bilateral talks to find a way to lift financial sanctions against it. Using the brinkmanship tactics as in the past, Pyongyang attempted to force Washington to come to the negotiating table ahead of its midterm elections in November 2006.¹³ Third, the DPRK wanted to enhance its international prestige as a nuclear power and revenge on the US for its malign neglect, just as the 1998 Indian and Pakistani nuclear tests elevated their international prestige as nuclear powers. President Bush's 2002 “axis of evil” speech, the US invasion of and subsequent quagmire in Iraq, the US military doctrine of preemptive attack and the fear of a possible US invasion may have all

¹¹ For details, see “Resolution 1718 (2006) Adopted by the Security Council at its 5551st meeting, on October 14, 2006,” <http://daccessdds.un.org/doc/UNDOC/GEN/NO6?572/07/PDF/N0657207.pdf?OpenElement> (November 21, 2006); John O'Neil and Norimitsu Onishi, “US Confirms Nuclear Claim by North Korea,” *New York Times*, October 16, 2006.

¹² “DPRK Foreign Ministry Spokesman Totally Refutes UNSC ‘Resolution’,” *KCNA*, October 17, 2006, <http://www.kcna.co.jp/index-e.htm> (October 23, 2006).

¹³ Sohn Suk-joo, “N. Korea's nuclear test threat targets US concessions,” *Yonhap News*, October 3, 2006.

contributed to the Chairman Kim's decision to accelerate the nuclear development programs.

Efforts to Implement the 9.19 Agreement through the Six-Party Talks

The DPRK decided to return to the Six-Party Talks after a 13-month hiatus, partly because the US agreed to discuss the BDA issue at bilateral US-DPRK talks. The second session of the fifth round of the Six-Party Talks held in Beijing on December 18-22, 2006 went into recess without any breakthrough. During five days of the talks in Beijing, Pyongyang refused to address its nuclear weapons issue, but instead persistently demanded that US financial restrictions be lifted. As a result, the Six-Party Talks ended without any progress. But Chinese chief negotiator Wu Dawei stated all six participants reaffirmed the 9.19 joint agreement and pledged to "reconvene at the earliest opportunity."

DPRK chief negotiator Kim Kye-gwan said that the DPRK would not abandon its nuclear weapons until the United States gives up its "hostile" policy and drops financial sanctions. He also said, "the problem will be resolved when the hostile policy is changed to a policy of coexistence. I do not yet know whether the US is prepared to do that."¹⁴ Thus, the DPRK refused to engage in negotiations on the nuclear issue until the BDA issue would be resolved.

US envoy Christopher Hill said the US financial curbs issue would be dealt with in discussions carried out in parallel with the Six-Party Talks. He said the Six-Party Talks should focus on dismantling North Korea's nuclear programs, stressing that "it's very important that we not focus on those financial issues but rather on the

¹⁴"Before Talks, North Korea Accuses US of 'Hostile' Policy," *Reuters*, December 17, 2006.

central matter of denuclearizing the Korean peninsula.”¹⁵

Hill made a new breakthrough US proposal to North Korea. The US had outlined a process of the North Korea's nuclear dismantlement plan in which Pyongyang at the initial stage would first freeze its nuclear program and allow IAEA inspections followed by North's voluntary declaration of its nuclear programs, verification measures and eventual dismantlement. In return, the US offered security guarantees, a peace treaty and normalization of relations as well as removal of Pyongyang from Washington's list of states sponsors of terrorism if it dismantles its nuclear weapons program.¹⁶

In short, the DPRK said it would be willing to halt operation of its main nuclear reactor and allow international inspectors “under the right conditions.”¹⁷ The DPRK made it clear that it would only discuss a freeze on nuclear weapon production programs, and that it would not discuss giving up nuclear weapons it has already built.

The First BDA Working-Group Talks in Beijing

The US argued that the financial issue had no direct relationship to the six-party nuclear talks. But North Korea's Trade Bank President Oh Kwang-chul and Deputy Assistant Secretary of Treasury Daniel Glazer had two-day working-group talks in Beijing for the first time to discuss the BDA issue within the six-party framework. Those sessions were useful, but did not resolve the financial standoff. There have been signs that the US might be willing to unlock part of the frozen \$25 million funds.

¹⁵Brian Rhoads, “US presses for real progress in N. Korea nuclear talks,” *Reuters*, December 16, 2006.

¹⁶Kwang-Tae Kim, “South Korea Urges North to Mull US Proposal,” *Associate Press*, January 10, 2007.

¹⁷“North Korea demands US lift financial restrictions before it will dismantle nuclear program,” *Associated Press*, December 20, 2006.

After preliminary contacts in Beijing, the US and the DPRK decided to continue talks in Beijing in January 2007. But North Korean negotiators said the BDA issue must be resolved before they can begin official talks on implementing the September 2005 agreement. The BDA issue was a major interest for North Korea. The US and other participants believed they could go forward while the BDA issue was resolved on a parallel track. US chief negotiator Hill said that the North Korean delegates “did not have the instruction it needed to go forward.”¹⁸ The usefulness of continuing the Six-Party Talks was questioned, given North Korea’s stance on the BDA issue, suggesting the six-party process could be scrapped after more than three years of inconclusive results.¹⁹ Hill said, “we are disappointed that we were unable to reach any agreement,” and “we still believe that diplomacy is the best way to solve this, and we believe in particular that the six-party process is the best way to solve this.”²⁰

Many wondered whether Chairman Kim Jong Il made his strategic decision to abandon nuclear weapons. It appears North Korea will not easily give up nuclear arsenal unless the US and the international community will meet Pyongyang’s demands. DPRK envoy Kim Kye-gwan said that the US was using a carrot-and-stick approach to his government, adding “we are responding with dialogue and a shield, and with the shield we are saying we will further improve our deterrent.”²¹ North Korea’s stand may signal the increased difficulty in persuading Pyongyang to give up its nuclear programs,

¹⁸ Edward Cody, “Nuclear Talks With N. Korea End in Failure, Six-Party Process Thrown Into Doubt,” *Washington Post*, December 23, 2006, A12.

¹⁹ For details of this round of the Six-Party Talks, see Joseph Kahn, “Talks End on North Korea’s Nuclear Weapons,” *New York Times*, December 23, 2006; Mitchell Landsberg, “N. Korea nuclear talks end with no resolution,” *Los Angeles Times*, December 23, 2006.

²⁰ Mitchell Landsberg, “N. Korea nuclear talks end with no resolution,” *Los Angeles Times*, December 23, 2006.

²¹ *Ibid.*

now that it tested a nuclear device and declared itself a nuclear weapons state.

Hill-Kim Accord in Berlin

Hill and Kim held three-day US-DPRK bilateral talks in Berlin on January 16-18, 2007 at the DPRK's request. The bilateral talks in Berlin were significant, long overdue, and the first outside the framework of six-party nuclear talks in Beijing. The talks made mutually satisfying progress for the next round of the Six-Party Talks. Hill said, "it was a substantive discussion."²² He also said on January 20 in Tokyo that the US and the DPRK agreed to hold the next round of the Six-Party Talks and also agreed to the US-DPRK bilateral working-level talks to discuss the financial issue.²³ The agreement would mark a shift in Pyongyang's long-held position: previously, it said it would not discuss nuclear disarmament unless the US first lifted financial restrictions on North Korea. US officials indicated that some of the \$25 million North Korean accounts frozen at BDA would be released.²⁴

A spokesman for the DPRK Foreign Ministry also said, "a certain agreement was reached there." He continued, "we paid attention to the direct dialogue held by the DPRK and the US in a bid to settle knotty problems in resolving the nuclear issue."²⁵ Hill suggested those roadblocks to the Six-Party Talks would be cleared

²² Mark Landler and Thom Shanker, "North Korea and US Envoys Meet in Berlin," *New York Times*, January 18, 2007.

²³ Hans Greimel, "US, N. Korea Agree to Hold Nuke Talks," *Associate Press*, January 20, 2007.

²⁴ Carol Giacomo, "US said considering release of some N. Korea funds," *Reuters*, January 16, 2007; Louis Charbonneau, "US and N. Korea pursue nuclear talks," *Reuters*, January 17, 2007.

²⁵ "Spokesman for DPRK Foreign Ministry on Results of DPRK-US Talks," *KCNA*, January 19, 2007, <http://www.kcna.co.jp/index-e.htm> (January 20, 2007).

after his consultations in Berlin with Kim. Kim said in Beijing on January 23, 2007 that he was satisfied with the Berlin Talks and he had gotten ‘positive impressions’ from Hill that Washington could change its stance toward the North.²⁶

Hill and Kim reached the compromise agreement. First, Hill and Kim agreed in principle to hold “parallel talks” on the next round of the Six-Party Talks and the second round of US-DPRK Financial Working-Group Talks.²⁷ Second, Hill and Kim reached an agreement in which the DPRK would freeze operations at a reactor in Yongbyon, and allow on-site monitoring by the IAEA as the first steps to abandoning its nuclear program in exchange for energy aid, releasing legitimate funds of the frozen \$25 million in North Korean accounts, and economic aid.²⁸ It was reported that the US gave a positive response to North Korea’s demand that Washington consider transforming the Korean armistice into a peace treaty as soon as it would start implementing the initial measures.²⁹

The US and North Korea appeared to make an agreement for resolving the BDA issue. South Korea asked the US to consider unfreezing at least five of North Korea’s 50 accounts with the BDA. The US official said Washington agreed that the five accounts were evidently legitimate. Thus, the US considered unfreezing them to provide North Korea with a chance to start dismantling its nuclear program.³⁰

²⁶“N. Korea Envoy Notes Movement in US Stance on Nuclear Weapons,” *Associated Press*, January 23, 2007.

²⁷*Kyodo News*, January 22, 2007.

²⁸*Chosun Ilbo*, January 22, 2007.

²⁹*Ibid.*

³⁰“Seoul ‘Asked US to Unfreeze N. Korean Accounts’,” *Chosun Ilbo*, January 23, 2007.

The February 13 Initial Actions for the Implementation of the Joint Statement

The third session of the fifth round of the Six-Party Talks held on February 8-13 reached a dramatic breakthrough agreement. The nuclear deal on the February 13, 2007 initial actions was a first step toward implementing the 9.19 joint statement in a phased manner in line with the principle of ‘action for action.’

The Gist of the February 13 Nuclear Deal

The followings are key points of the 2.13 agreement on “Initial Actions for the Implementation of the Joint Statement.”³¹ This action plan has two phases—the initial phase and the disablement phase—to implement the joint statement. First, at the initial phase, the DPRK must shut down and seal its main nuclear facilities at Yongbyon within 60 days. IAEA inspectors should be allowed to monitor and verify the process. In return, Pyongyang will get energy, food, and other aid worth 50,000 tons of heavy fuel oil.

Second, at the disablement phase, the DPRK must provide a complete list of its nuclear programs and disable all existing nuclear facilities. In return, the DPRK will get aid in corresponding steps worth 950,000 tons of heavy fuel oil or the equivalent in the form of economic or humanitarian aid, from China, the United States, ROK, and Russia—details of which will be addressed in working-group discussions.

Third, Washington and Pyongyang will begin bilateral talks to normalize their diplomatic relations and the US will begin the processes of removing North Korea from its designation as a

³¹ See full text of the February 13 Agreement on line at <http://americancorners.or.kr/e-infousa/wwwh5668.html>.

terror-sponsoring state and also ending US trade sanctions against the DPRK, but no deadline was set. Fourth, Tokyo will begin bilateral talks with Pyongyang to normalize their relations in accordance with the Pyongyang Declaration.

Fifth, after 60 days, foreign ministers of six nations will meet to confirm the implementation of the joint agreement and discuss security cooperation in Northeast Asia. The directly related parties (i.e., the US, China, and two Koreas) will hold a separate forum on negotiations for a permanent peace regime. Sixth, five working groups will be established to carry out the initial actions and implement the joint statement: denuclearization of the Korean peninsula chaired by China, normalization of US-DPRK relations, normalization of Japan-DPRK relations, economic and energy cooperation chaired by the ROK and Northeast Asia peace, and security cooperation chaired by Russia. Seventh, the sixth round of the Six-Party Talks will be held on March 19, 2007 to review action taken for 30 days and discuss actions to be taken for the next phase.

In short, at the initial phase, the deal requires the DPRK to shut down its Yongbyon reactor within 60 days, until April 14, 2007, in exchange for 50,000 tons of fuel oil or equivalent aid. After the 60-day period, the DPRK will receive another 950,000 tons of fuel oil, or equivalent aid at the disablement phase, when it takes further steps to disable its nuclear facilities.

Bush Administration's New Flexibility and Its Implications

The nuclear deal was made possible primarily because President Bush was willing to take a new flexible approach to reach a deal with North Korea.³² Ever since the North Korea's second nuclear crisis

³² Glenn Kessler and Edward Cody, "US Flexibility Credited in Nuclear Deal With North Korea," *Washington Post*, February 14, 2007, A11.

took place in 2002, the Bush administration had insisted that the DPRK should not be rewarded for its 'bad behavior.' However, after the 2006 November US congressional elections, hardliners in the Bush administration appeared considerably weakened, and pragmatic realists have prevailed.

The decision-making process in the Bush administration reportedly differed from the usual procedures in the nuclear deal case. Secretary of State Rice bypassed a usual policy review process to get approval of a deal directly from President Bush. Four key members—Secretary Rice, Assistant Secretary Chris Hill, National Security Adviser Stephen J. Hadley and President Bush himself were directly involved in the decision-making process when a deal with North Korea was reviewed after Hill and Kim engaged in negotiations in Berlin in January 2007. The usual procedures in the Bush administration were to review “the details through an interagency process that ordinarily would have brought in Vice President Dick Cheney’s office, the Defense Department and aides at the White House and other agencies who had previously objected to rewarding North Korea before it gives up its weapons.” But “it seemed the usual procedures were cut short.”³³

As a result, an attack on the deal came from neo-conservatives, starting with John R. Bolton who said that it was a “bad deal,” and Under Secretary of State for Arms Control and Disarmament Robert Joseph said that “the new agreement was no better, and perhaps worse, than one signed by President Clinton in 1994.”³⁴ President Bush approved a deal with North Korea in Berlin, and Hill signed it in Berlin, although “a full six-party session was required to formalize the deal because the Bush administration was insisting on a multilateral

³³ David Sanger and Thom Shanker, “Rice Is Said to Have Speeded North Korea Deal,” *New York Times*, February 16, 2007.

³⁴ *Ibid.*

format to better enforce any agreement with the North.”³⁵

The Bush administration’s new flexibility produced a deal with Pyongyang. Bush’s decision was praiseworthy, realistic, and long overdue, and it finally contributed to a significant breakthrough at the Six-Party Talks. If President Bush had made such a decision during the first-term of his presidency, the denuclearization on the Korean peninsula would have been realized by now. The new deal is not open-ended: The DPRK will get no more than the one-time emergency energy supply equivalent to 50,000 tons of heavy fuel oil, unless it takes further action. This accord will be carried out through the six-party process. As the *Washington Post* editorial pointed out, “it is wrong to argue that the administration has simply reverted to the Clinton-era arrangement that it repudiated in 2002, and if it is rewarding North Korea’s misbehavior, the bribe is a small one.”³⁶

The US-China-ROK trilateral cooperation at the third session of the talks was essential to the breakthrough deal. President Bush told Chinese President Hu Jintao that “it was now up to the leader of North Korea to live up to the commitments made in order to create a better life for the North Korean people.”³⁷ President Hu stressed that China was “willing to maintain close communication and cooperation with the United States and other parties concerned ... to play a constructive role” in the denuclearization process. He also said, “a full implementation of the document is not only of great significance for safeguarding peace and stability on the Korean peninsula and in Northeast Asia, but also serves the common interests of all parties concerned.”³⁸

³⁵ Ibid.

³⁶ WP Editorial, “Nuclear Bargaining,” *Washington Post*, February 14, 2007, A18.

³⁷ Steve Holland, “Bush seeks to tamp down revolt on North Korea deal,” *Reuters*, February 15, 2007.

³⁸ “China Intent on Making Nuke Deal Happen,” *Associated Press*, February 16, 2007.

Key Issues yet to be Resolved

The breakthrough agreement left at the next phase dealing with key issues such as the declaration of all North Korea's nuclear programs, including the amount of plutonium and highly enriched uranium (HEU), the disablement of the nuclear facilities, and nuclear weapons. Let us take a brief look at the more difficult issues yet to be resolved hereafter.

First of all, will North Korea and five other participants implement the nuclear deal? As Chief US negotiator Christopher Hill cautioned that difficult work remained to implement the accord with the DPRK,³⁹ there will be the long, afar, and bumpy road ahead. Shutdown, sealing, and disabling of North Korea's nuclear facilities will not necessarily lead to a complete, verifiable, and irreversible dismantlement of all nuclear programs, including the nuclear weapons, which will be a more difficult and long-term issue yet to be negotiated.

The North Korean Central News Agency reported, perhaps intentionally, that the 2.13 agreement requires only a temporary suspension of North Korea's nuclear facilities. It said, "at the talks the parties decided to offer economic and energy aid equivalent to one million tons of heavy fuel oil in connection with the DPRK's temporary suspension of the operation of its nuclear facilities."⁴⁰ This statement deliberately misled the North Korean people. Chris Hill dismissed this report, saying, "they [North Koreans] do it for various domestic reasons." Hill insisted that if the North Koreans cheated on the agreement, "we will know that pretty soon" and "they would be renegeing on a commitment to China and four other countries, not just the United States."⁴¹ In the meantime, Kim Kye-gwan told the

³⁹ Lindsay Beck, "Hard work yet to come on North Korea nuclear deal," *Reuters*, February 13, 2007.

⁴⁰ "Third Phase of Fifth Round of Six-Party Talks Held," *KCNA*, February 13, 2007 online at <http://kcna.co.jp/index-e.htm>.

Russian ambassador to Pyongyang and a senior diplomat at the Chinese embassy at Pyongyang's airport, upon his return to Pyongyang from Beijing on February 15, 2007 that the DPRK was ready to implement the 2.13 agreement on the initial steps toward denuclearization. He expressed, "the talks went well."⁴²

Second, the landmark deal has no mention about North Korea's declared nuclear weapons, estimated to be as many as 10 bombs from a stockpile of perhaps 50 kilograms of plutonium it has produced. This key issue remains unresolved. According to the action plan deal, at the next phase, the DPRK must permanently disable the Yongbyon facilities and provide a "complete declaration of all nuclear programs" in exchange for the equivalent of 950,000 tons of fuel oil. The HEU program the DPRK has denied is a vexing issue yet to be resolved. ROK National Intelligence Service Director Kim Man-bok said that the DPRK "has a clandestine uranium-enriching program."⁴³ The US initially wanted to include North Korea's abandonment of uranium enrichment in a draft agreement China proposed at the Six-Party Talks, but agreed to drop it after North Korea rejected the idea.⁴⁴ The uranium issue is expected to resurface during the second phase. The six-party nuclear talks will eventually address two issues of North Korea's nuclear arsenal and the HEU program.

Third, the DPRK at the initial actions phase must meet the disclosure requirements. The nuclear disarmament deal requires the DPRK to submit a report to the IAEA a list of all its nuclear programs,

⁴¹ Steve Holland, "Bush seeks to tamp down revolt on North Korea deal," *Reuters*, February 15, 2007.

⁴² *Kyodo News*, February 15, 2007; "Report: North Korea Ready to Disarm," *Associated Press*, February 15, 2007.

⁴³ "S. Korea believes N. Korea has uranium-enriching program: intelligence chief," *Yonhap News*, February 20, 2007; Park Song-wu, "North Korea Enacts Law Against Money Laundering," *Korea Times*, February 20, 2007.

⁴⁴ "US gave in to N. Korea over uranium enrichment plan: source," *Kyodo News*, February 19, 2007.

including uranium-based ones. Will it honestly disclose the amount of plutonium it has produced? Will it admit to the HEU program? These are some of many questions, including verification, to be addressed at the working-group meetings. Despite all the weaknesses contained in the breakthrough deal, it is still a good deal and must be a first step toward the North Korea's denuclearization.

Chairman Kim Jong Il appears to have made a strategic, yet bold decision to give up nuclear ambitions considering North Korean domestic and international factors from the long-term perspectives. I do agree with Carlin and Lewis when they argued that "denuclearization, if still achievable, can come only when North Korea sees its strategic problem solved, and that, in its view, can happen only when relations with the United States improve."⁴⁵ The initial action plan in the agreement will be expected to pave the way to the US-DPRK normalization of diplomatic relations and it is the start of the Korean denuclearization process.

The First US-DPRK Working-Group Talks on the Normalization of Relations

The United States and the DPRK had the first working-group meeting on March 5-6, 2007 in New York to discuss steps toward establishing diplomatic relations. Nobody expected any breakthrough, but the talks marked the beginning of a long and bumpy road to establishing diplomatic relations between the two. A US-DPRK working group on the normalization of relations was set up within 30 days under the 2.13 agreement. The US and North Korea expressed an optimistic view about their two-day meetings that lasted more than eight hours. Assistant Secretary of State Hill said, "these were very

⁴⁵ Robert Carlin and John W. Lewis, "What North Korea Really Want," *Washington Post*, January 27, 2007, A19.

good, very businesslike, very comprehensive discussions,” and “for now, I think we feel we’re on the right track.” Hill also said “there was a sense of optimism on both sides that we will get through this 60-day period and we will achieve all of our objectives.” Vice Foreign Minister Kim Kye Gwan, was also upbeat, saying “the atmosphere was very good, constructive, and serious.”⁴⁶

Hill and Kim discussed the political and legal obstacles to the normalization of bilateral relations, including the BDA and HEU issues. The US wanted the DPRK to eliminate all nuclear weapons and any uranium enrichment programs before normalizing relations. Hill said North Korea spent a lot of money buying centrifuges, manuals, aluminum tubes, and other equipment for what appears to be a Pakistani-designed program to enrich uranium, and “they need to come clean on it” and ultimately abandon it. He made it clear that North Korea cannot denuclearize if highly enriched uranium “is still out there.” Hill said he and Kim agreed to resolve the matter before North Korea makes its final nuclear declaration and decided that US and North Korean experts will meet in order “to get to the bottom of this matter.”⁴⁷

The United States expected North Korea to fully account for its program to enrich uranium for nuclear weapons as a part of the February 13 deal. US Deputy Secretary of State John Negroponte said during a visit to Seoul, “I have no doubt that North Korea has had a highly enriched uranium program,” and “we would expect that when North Korea makes its declaration of nuclear facilities that would be one of the issues addressed in North Korea’s declaration.”⁴⁸ Hill also said, “they [North Koreans] need to come clean on it, explain what

⁴⁶ Paul Eckert, “US, North Korea deal on track: official,” *Reuters*, March 6, 2007.

⁴⁷ Edith M. Lederer, “US, N. Korea Optimistic After Talks,” *Associate Press*, March 7, 2007.

⁴⁸ Jon Herskovitz, “US calls on North Korea to account for uranium,” *Reuters*, March 6, 2007.

they have been doing, why they have been doing it, and ultimately they would need to abandon it.”⁴⁹ Thus, the DPRK has no choice but to declare the existence of the HEU program.

The US told North Korea that Washington had its doubts about how much progress North Korea had made in enriching uranium. Joseph DeTrani, North Korea Coordinator for the Director of National Intelligence, told Congress that there was only moderate confidence that the equipment North Korea bought had been used. This suggestion may save North Korean face to turn over its equipment with an explanation that an effort to produce energy, rather than a nuclear bomb, did not work out.⁵⁰

Hill and Kim also had in-depth talks on two key issues—US's designation of North Korea as a state sponsor of terrorism and US trade sanctions against it under the Trading with the Enemy Act, which would open the way for a normal trading relationship with the US for the first time. They also discussed a Korean peninsula peace regime issue to end the Korean War. The first meeting of the Japan-DPRK working group on the normalization of relations held on March 7-8 in Hanoi failed because of the Japan's demand that the DPRK resolve the issue of its abductions of Japanese citizens.

Delayed Transfer of the BDA Funds and Its Implications for the 2.13 Deal

The first session of the sixth round of the six-party talks was held on March 19-22, 2007 in Beijing to implement the February 13, 2007 agreement, but it ended abruptly with no progress after four days of

⁴⁹ Warren Hoge, “US Presses North Korea Over Uranium,” *New York Times*, March 7, 2007.

⁵⁰ David E. Sanger, “US to Offer North Korea Face-Saving Nuclear Plan,” *New York Times*, March 5, 2007.

negotiations. The session failed because the \$25 million frozen at BDA had not transferred to a North Korean account at the Bank of China. Throughout the session, the DPRK avoided discussing the 2.13 agreement to shut down its main nuclear reactor by April 14. Chinese Vice Minister Wu Dawei, Chairman of the Six-Party Talks, issued a brief statement saying “parties agreed to recess and will resume the talks at the earliest opportunity to continue to discuss and formulate an action plan for the next phase.”⁵¹ Thus, the sixth round of the Six-Party Talks stalled because North Korea insisted that it would not take part in talks unless it confirmed the transfer of the \$25 million to its account in China.

Problems with the BDA Transfer

The BDA transfer issue was a key obstacle to the Six-Party Talks to discuss the “disablement” phase in the 2.13 agreement. Why was the funds transfer delayed? There were technical and procedural issues with the funds transfer. There was a problem in getting all the account holders to fill out forms and sign on the dotted line. There was confusion about how North Korea would get it and how much of the \$25 million the North was entitled to have. The Macao monetary authority said it would handle all money according to instructions from the account holders. However, banking analysts said it was unlikely that all account holders would agree to have their money transferred to an account they could not control at the Bank of China.⁵² For instance, one account holder, Daedong Credit Bank, North Korea’s only foreign-managed bank, which reportedly holds \$7

⁵¹ Bo-Mi Lim, “Nuclear Talks Breakdown, No Restart Date Set,” *Associated Press*, March 22, 2007; Anna Fifield, Andrew Yeh, and Robin Kwong, “North Korea halts arms talks over frozen funds,” *Financial Times*, March 22, 2007.

⁵² David Lague, “China Ends North Korea Talks Amid Delay in Return of Funds,” *New York Times*, March 23, 2007.

million of \$25 million frozen at BDA, reportedly threatened to sue the Chinese and the Macao authorities if the funds were transferred to an account. Further, the Bank of China was reluctant to receive a transfer of the illegal funds from BDA.

On March 25, Deputy Assistant Treasury Secretary Daniel Glaser flew back to Beijing to guarantee the Chinese bank and any banks in a third country that there would be no problem if they received the North Korean funds. The US delegation assured Chinese banking authorities that Washington would not punish them for handling the North Korean funds.⁵³ The US delegation also met the North Korean officials to work out the transfer of funds to a North Korean account at the Bank of China.⁵⁴

The Six-Party Talks remained stalled as the DPRK refused to participate in discussions on implementing initial steps of a Feb. 13 agreement until the transfer of \$25 million from BDA was completed. When to hold the second session of the sixth round of the Six-Party Talks would be up to DPRK's reaction to the settlement of its frozen funds transfer issue. The Six-Party Talks could only move forward after the technical problems of the frozen funds were completely resolved. As of this writing on April 2, it appears that the timeline of implementing the initial actions of the 2.13 agreement may be delayed, and the next Six-Party Talks will be expected to resume soon after the DPRK confirms the funds in its account. With the BDA transfer issue resolved, the next Six-Party Talks will inch closer toward setting a timetable for implementing the 2.13 deal.

⁵³ Scott McDonald, "US, China Discuss North Korea Frozen Funds," *Associated Press*, March 26, 2007.

⁵⁴ "US official meets North Koreans over funds Reuters," *Reuters*, March 27, 2007.

What is to be Done Beyond the February 13 Initial Actions Agreement?

The DPRK and other five participants at the next round of the Six-Party Talks will discuss detailed plans for implementing the 9.19 joint agreement and the 2.13 deal. Based on initial actions, disablement, and dismantlement phases in the 2.13 agreement, the author would like to propose a three-phase roadmap for denuclearizing the Korean peninsula.⁵⁵

Phase 1: Preparation for Shutdown and Seal of North Korea's Nuclear Programs

As discussed above, the DPRK should make a complete declaration of all its nuclear programs and freeze all nuclear activities in order to make preparations for shutdown, disabling, and eventually dismantling of all nuclear weapons and existing nuclear programs in accordance with the initial action plan in the 2.13 deal. The DPRK must rejoin the NPT and allow the IAEA's special inspections of its declared nuclear facilities.

The HEU program will be a very hot issue. There are allegations that the DPRK has its own HEU program, but there is no hard evidence supporting the allegation.⁵⁶ The DPRK is responsible for first giving an account for what has happened to some twenty centrifuges reportedly provided by Dr. A. Q. Khan. And it is desirable that the

⁵⁵ For an earlier version of the roadmap, see Tae-Hwan Kwak, "The Six-Party Nuclear Talks and the Korean Peninsula Peace Regime Initiative: A Framework for Implementation," (Chapter 2) in Tae-Hwan Kwak and Seung-Ho Joo (eds.), *The United States and the Korean Peninsula in the 21st Century* (Hampshire, England: Ashgate, 2006), pp.17-19, pp. 26-28.

⁵⁶ For a review of HEU program, see Bruce E. Bechtol, Jr., "Assessing the Present and Charting the Future of US-DPRK Relations: The Political Diplomatic Dimension of the Nuclear Confrontation," (Chapter 6) in Kwak and Joo (eds.), *op. cit.*, pp.119-123.

DPRK must renounce its HEU program since it has denied the existence of the HEU program. Thus, North Korea must declare that it will not have it in the future. If the DPRK renounces its enriched uranium in a verifiable manner, the five other nations should discuss their economic assistance to the DPRK and the LWR issue with North Korea. The ROK should also discuss its promised supply of electricity to the DPRK. The five other nations should provide written security guarantees to the DPRK. All six nations should also discuss and agree to verification procedures. These measures should be simultaneously taken without preconditions.

A peace regime forum among the four parties (the US, China, and two Koreas) should be held at this stage to prepare for a declaration of the Korean War termination in the short-term and a peace treaty among the four in the long term in order to replace the 1953 Korean armistice agreement. President Bush stated at the US-ROK summit meeting in Hanoi in November 2006 that he would sign a declaration ending the Korean War with Chairman Kim Jong Il. This document will differ from a Korean peninsula peace treaty.⁵⁷ These two documents should be promoted in sequence, first a declaration of war termination and later a peace treaty. It is desirable that a declaration be signed by the four leaders at the four-nation summit meeting.

Phase 2: Disablement of Nuclear Facilities

The DPRK should implement the February 13 initial actions agreement on eventual dismantlement of nuclear weapons and nuclear facilities in a phased manner. The IAEA should inspect and verify disabled nuclear programs and North Korea's past nuclear

⁵⁷ For a Korean peninsula peace regime building, see Tae-Hwan Kwak, "The Six-Party Nuclear Talks and the Korean Peninsula Peace Regime Initiative: A Framework for Implementation," (Chapter 2) in Kwak and Joo (eds.), *op. cit.*

activities. The five other nations and the DPRK should agree on a new construction of LWR or resumption of the defunct KEDO (Korean Peninsula Energy Development Organization) project at Sinpo in North Korea under new arrangements. At the same time, US-DPRK normalization and DPRK-Japan normalization talks should proceed. It is desirable that a six-party summit meeting be held at this phase. The four-party peace regime forum should continue discussing a peace treaty ending the Korean War.

Phase 3: Dismantlement of Nuclear Facilities and Conclusion of the “Six-Party’s Korean Peninsula Denuclearization Guarantee Agreement”

Nuclear dismantlement will be at the third phase, during which the six parties should conclude a denuclearization guarantee agreement in which, institutional and legal arrangements for enforcement measures for the denuclearization on the Korean peninsula should be contained. The six participants should sign a multilateral agreement in which North Korea would completely dismantle its nuclear programs in exchange for multilateral security guarantees and economic cooperation. This agreement should be registered with the United Nations Secretariat. The construction of LWR should be under way, and massive economic assistance to North Korea will be provided, and US-DPRK and Japan-DPRK normalization agreements will be signed at this phase (see Table 1.).

In the final analysis, there will be a long and bumpy road ahead to a peaceful resolution of North Korea’s nuclear issue. The US and the DPRK should continue cooperating through mutual cooperation and concessions to achieve the verifiable denuclearization of the Korean peninsula.

Concluding Remarks

The US and the DPRK need to make all efforts to implement the 2.13 nuclear agreement soon after the stalled BDA issue would be resolved through a political will. The BDA issue was a key obstacle to the Korean peninsula denuclearization process, and President Bush needs to make a “political decision” to resolve the BDA issue as he made a bold decision to release all the frozen \$25 million North Korean accounts at BDA. Without making mutual concessions between the US and the DPRK, the BDA issue would not be resolved. If the DPRK will take the initiative in implementing the initial actions plan in the 2.13 agreement, then Washington will reciprocate it. With the resolution of the BDA issue, the Six-Party Talks will be able to move rapidly in the direction of implementing the denuclearization of the Korean peninsula. Thus, Chairman Kim must make a bold decision to commit again to dismantlement of all nuclear weapons programs.

The DPRK and five other nations need to sincerely take the initial steps for building mutual confidence between the US and the DPRK that will be a firm foundation of peace and stability on the Korean peninsula and in Northeast Asia.

Table 1. Author’s Roadmap for Denuclearization of Korean Peninsula

Concerned Parties Objectives and Goals of Different Stages		North Korea (NK)	International Community (5 Parties +)
Three-phase roadmap for verifiable denucleariza- tion of Korean peninsula	1 st Phase: Preparation phase (Disclosure of all nuclear programs, including HEU)	<ul style="list-style-type: none"> • Shutdown of all nuclear facilities • Abandoning of all nuclear weapons/existing nuclear programs • Return to NPT/ IAEA’s monitoring/inspections • Renunciation of HEU • Verification procedures agreed • Inter-Korean summit meeting • Four-party peace regime forum held 	<ul style="list-style-type: none"> • Fuel oil supply to NK (5 parties) discussed • Economic aid to NK discussed • Written security guarantees by five parties • Verification procedures agreed • ROK’s supply of electricity discussed • LWR provision discussed • Four-party peace regime forum held
	2 nd Phase: Disablement of nuclear facilities	<ul style="list-style-type: none"> • Disablement began • IAEA inspections of all nuclear facilities • IAEA’s inspections on past nuclear activities • Six-nation summit meeting • Declaration of Korean War termination at the four-nation summit 	<ul style="list-style-type: none"> • Resumption of suspended LWR or new construction of LWR • NK-US, NK-Japan normalization talks began • Six-nation summit meeting • Declaration of Korean War termination at the four-nation summit
	3 rd Phase: Dismantlement/ Conclusion of Korean peninsula denuclearization guarantee agreement	<ul style="list-style-type: none"> • End of nuclear dismantlement • LWR nuclear reactor construction under way • Korean peninsula denuclearization guarantee agreement registered with UN Secretariat • A Korean peninsula peace treaty signed 	<ul style="list-style-type: none"> • LWR nuclear reactor construction under way • Grand economic assistance program to NK • US-NK, Japan-NK normalization agreement signed • Korean peninsula denuclearization agreement registered with UN Secretariat • A Korean peninsula peace treaty signed