

Policy Forum 07-041: Lessons from the BDA Issue

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By Keun-sik Kim

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I. Introduction

Keun-sik Kim, Professor at the Institute for Far Eastern Studies at Kyungnam University, writes, "Considering that the role of third parties has been severely limited in breaking the stalemate, one lesson to be learned from the BDA issue is that bilateral frameworks must be in sync with the multilateral framework. Not only DPRK-U.S. negotiations but also simultaneous, active discussion between the U.S. and China, North Korea and China, and the two Koreas can serve as a buffer to

help resolve issues."

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II. Article by Keun-sik Kim

- "Lessons from the BDA Issue"

By Keun-sik Kim

Evaluating the BDA Issue

Relations between the U.S. and North Korea advanced steadily after the participant countries in the six-party forum made progress on the nuclear issue through the February 13th Agreement, however the schedule as outlined by the agreement has been delayed by unforeseen difficulties in the process of resolving the Banco Delta Asia (BDA) issue. It was agreed that North Korea would shut down its nuclear facilities at Yongbyon and allow inspections within 60 days if the U.S. lifted the BDA financial sanctions. Yet despite the progress made within the first month, the entire schedule has floundered, as the BDA issue was not fully resolved.

By all appearances, the BDA issue, which has become the primary point of contention, is in the peculiar situation of having been politically settled but technically unresolved. Although North Korea and the U.S. have reached a political agreement, practicalities have delayed implementation of the agreement. Given that the refusal of transit banks to accept North Korean funds for deposit is fundamentally due to the logic of the market and the financial system's concept of credit, there is not much left that the U.S. can do in pressuring the market, even though it is primarily responsible for the DPRK's inability to freely send remittances and transfer funds with other banks. As it stands, Washington has shown its good faith. But good faith can only go so far, as both Washington and Pyongyang have come up against the logic of the financial market. It is generally agreed that, at this point, both countries must find common ground on this issue.

North Korea seeks a restoration of normal transactions with the international financial community, which naturally became stricter after financial sanctions were imposed against the BDA. The DPRK insists that the more important issue is not the release of the \$25 million but rather the normalization of unfettered financial transactions with third-party banks. In spite of this insistence, through the process Pyongyang may have come to terms with the reality that it is difficult for Washington to formally guarantee any such normalization. Although the U.S. has in good faith endeavored to accommodate North Korea's demands, the government cannot intervene to resolve the issue of remittances and transfers.

Of course, it is not as if there is nothing to be regretted. As pointed out by some, the reason that other banks refuse to accept the remittance or transfer of North Korean funds is based on America's "conviction" of the BDA as a money-laundering institution. Only when this designation is revoked can the DPRK's demands be accommodated.

However, in order to accomplish this, the U.S. would have to take the rather self-contradictory step of repudiating the findings of its own 18-month investigation. It is also regrettable that North Korea has not adopted a softer stance in its confrontation with the United States. Although the United States, having identified the BDA as a money-laundering bank, is somewhat responsible for the DPRK's curtailed transactions, it is fair to say that the U.S. has done all that it can. As for North Korea -- to which the restoration of normal financial transactions is a higher priority than the

retrieval of its money -- all it can do is vociferate. In order for North Korea to reenter the international financial community, it must allay any suspicions of illegal activity, which is of more importance than an American political decision.

The continuing stalemate of the BDA affair is a direct result of the gap between North Korea's maximal demands and the United States' maximal action. The North believed a political approach would solve everything; the U.S. cannot renege on its judgment of the BDA. Now reality is teaching both a lesson.

The Trap of Bilateral Negotiations between the U.S. and North Korea

What we can gather from the recent BDA predicament is DRPK-U.S. bilateral negotiations are somewhat of a trap. It is well known that the leading impetus for the February 13th process was the negotiations between Washington and Pyongyang, and direct talks between these two principal parties can help resolve the situation.

Indeed, the nuclear issue remained at a standstill until 2006 due to the Bush administration's refusal to engage in bilateral talks. As such, the other participant countries in the Six-Party Talks all requested and counseled the U.S. to talk directly with the North. Finally, in January 2007 direct negotiations took place in Berlin, which led to the issuance of the February 13th agreement. This was followed by the meeting in New York between Vice Foreign Minister of the DPRK Kim Gye-gwan and U.S. Assistant Secretary Christopher Hill, which in turn rapidly spawned talk of a peace regime on the Korean peninsula and normalization of DPRK-U.S. relations. However, after the two countries agreed on the resolution of the BDA issue, the actual process of implementation stagnated. Nearly a month and a half have wasted by, with no movement on the Six-Party Talks or the nuclear problem.

In reality, neither the multilateral talks nor other actors involved have figured prominently in resolving the BDA issue. Although direct talks between the U.S. and DPRK do have a positive facet, negative consequences can arise if all matters are left solely in their hands. For one, the role of outside parties as a mediator or driving force -- a critical consideration in light of the mutual mistrust and discord between North Korea and the U.S. -- could be limited. The resolution of the BDA issue is not clearly stated in the February 13th document signed by all six parties; rather the U.S. and North Korea came to an understanding at the Berlin meeting and then agreed to implement the bilateral agreement within 30 days of the February 13th agreement. This would seem to restrict China and South Korea from taking an active role to break the current stalemate.

Considering that the role of third parties has been severely limited in breaking the stalemate, one lesson to be learned from the BDA issue is that bilateral frameworks must be in sync with the multilateral framework. Not only DPRK-U.S. negotiations but also simultaneous, active discussion between the U.S. and China, North Korea and China, and the two Koreas can serve as a buffer to help resolve issues. China has curtailed its role as an active intermediary due to its unvoiced discontent regarding the BDA affair, while South Korea, having linked inter-Korean relations with the nuclear issue, has been limited in its role by a passive policy towards the North, proverbially dragging one foot behind. Several obstacles remain in the path of resolving the nuclear issue, and thus a more balanced and multilateral system -- one that includes, in addition to DPRK-U.S. negotiations, productive discussions in the six-party forum as well as talks between the U.S. and China, North and South Korea, and North Korea and China -- must be put in place in order to ensure smooth progress ahead.

III. Nautilus invites your responses

The Northeast Asia Peace and Security Network invites your responses to this essay. Please send

responses to: napsnet-reply@nautilus.org . Responses will be considered for redistribution to the network only if they include the author's name, affiliation, and explicit consent.

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