

# Who missed the deadline on the North Korean nuclear deal?

John Chan  
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The April 14 deadline for North Korea to shut down its nuclear reactor at Yongbyon and allow International Atomic Energy Agency (IAEA) inspectors back into the country came and went. Washington has highlighted Pyongyang's "failure" to keep its promises and pressed it to do so soon. The international media has dutifully echoed US concerns and paid scant attention to the Bush administration's failure to keep its side of the bargain.

The agreement on North Korea's nuclear programs was the outcome of six-party talks—involving the US, China, Japan, Russia and the two Koreas—in Beijing in February. Although not officially part of the deal, the US agreed, within 30 days of signing, to release \$US25 million in North Korean funds frozen in the Macau-based Banco Delta Asia (BDA). Within 60 days of signing, North Korea agreed to shut down its nuclear facilities at Yongbyon and allow IAEA inspections in return for 50,000 tonnes of heavy fuel oil or the energy equivalent.

This first phase was meant to usher in a second, in which North Korea would dismantle its nuclear programs in return for another 950,000 tonnes of fuel oil. From Pyongyang's standpoint, the most important element of the agreement was the normalisation of relations with Washington for the first time since the end of the Korean War in 1953. This would end the half-century US economic blockade of the country and end its crippling economic isolation.

While it has not made a great hue and cry about North Korea's failure to meet the deadline, the US has nevertheless put the onus on Pyongyang to prove its good faith. US chief envoy Christopher Hill declared: "We have reached our 60-day deadline and needless to say, this presents a concern that the deadline has not been met." He noted that China had urged the US to be more patient, then added: "I hate to predict the day it's going to be resolved, except to say it should be resolved now."

Others demanded a tougher approach. Former Bush

National Security Council official Michael Green criticised Hill's handling of the Banco Delta Asia issue as having "knocked us off the rails". He told South Korea's Yonhap newsagency that the existing pattern had been "getting into discussion about what the US has to do next for North Korea, rather than what North Korea has to do live up to its obligation". Green predicted that a harsher line would be adopted when Japanese Prime Minister Shinzo Abe visited the US this week. "When Abe comes, if North Korea hasn't moved on Yongbyon ... I think the dialogue is going to shift back to pressure, as it should."

The North Korean position is not difficult to understand. It has insisted all along that it will keep its side of the deal, as soon as the US does the same. Pyongyang interpreted Washington's decision to freeze the North Korean funds as a sign of bad faith, coming immediately after a framework agreement had been agreed in six-party talks in September 2005. It refused to return to negotiations until the money was released. Last July North Korea tested a long-range missile, then in October detonated its first primitive nuclear device. The key step in restarting talks late last year was a US promise to unfreeze the funds in the BDA, which was one of Pyongyang's few financial lifelines to the world.

The more significant question is why the US failed to meet its 30-day "deadline" on March 14. Instead of its money, North Korea received the news that the US Treasury Department had formally blacklisted the BDA for money laundering under Section 311 of US Patriot Act—a punitive move that prevents the bank from conducting transactions with US banks and financial institutions. The decision greatly complicated the process of unfreezing North Korea's funds—problems that Hill tried to brush aside as "technical" difficulties.

In part, the complications arose from US attempts at face saving. It originally claimed the North Korean funds were from "illicit" activities and insisted that Pyongyang

use the unfrozen money for “humanitarian purposes”. At least part of the money belonged to foreign investors, however, who raised objections to it being simply handed over to the North Korean government. Nevertheless the \$25 million was to be transferred to a North Korean state bank’s account in the Bank of China.

The US Treasury decision stymied the transfer. The Chinese state bank apparently had rejected the BDA money, fearing it would also become a potential target of the US Patriot Act. After weeks of negotiations in Beijing, the US Treasury Department formally stated that North Korea could recover its funds on April 10, but the \$25 million apparently stayed in the BDA. BDA owner Stanley Au confirmed the North Korean money had been unblocked by Macau authorities, but North Korea still could not transfer the money as no bank was willing to accept funds regarded by the US as illicit. “The only thing they can do at the moment is to take the money in banknotes out of the bank,” he said.

On April 16, the BDA filed a legal challenge to the US Treasury Department’s decision, arguing its blacklisting was “politically motivated”. It pointed out that the US formally imposed the sanction on the BDA on March 14, while agreeing to return “illicit” money to North Korea. “At the very least, Treasury’s nearly simultaneous condemnation and approval of the release of funds proves (if any more proof was necessary) that the issuance of the final rule was arbitrary and capricious,” the bank stated.

On April 20, Pyongyang’s state-run Korean Central News agency reported a message to the IAEA which declared North Korea “still remains unchanged in its will to implement the February 13 agreement, but what matters is that it cannot move as the issue of frozen funds has not yet been completely settled”. Pyongyang pledged to invite the IAEA inspectors back to monitor its Yongbyon facility as soon as the money was returned. Neither the US or China has explained why Pyongyang still has been unable to get its \$25 million.

More than “technical difficulties” must be involved. At least one media report indicated at the time that the initial Treasury Department decision to freeze the money in 2005 came from the office of Vice President Dick Cheney, who was determined to scuttle the six-party framework agreement. An article in *McClatchy* newspapers on January 26 indicated that the factional struggle in the Bush administration was still continuing.

The article explained that while Hill “pushed for flexibility in the US position to advance the larger goal of ending the North’s nuclear weapons program ... officials

at the Treasury Department and in the office of Vice President Dick Cheney were said to favour maintaining maximum pressure on the North”. Former National Security Council official Green told the newspaper that Hill had been given a mandate to pursue a “partial” deal with North Korea—a policy known as “Early Harvest”.

Why the Bush administration would accept a partial resolution in relation to North Korea—a move that would open it up to bitter criticism from right-wing supporters—was not explained. It is only understandable when viewed against the broader framework of US policy, which involved escalating US troop numbers in Iraq and a sharp intensification of the confrontation with Iran. While making what would have been regarded, even a year ago, as impermissible concessions to Pyongyang, the White House is giving no quarter to Tehran. The obvious conclusion is that the deal with North Korea is simply a temporary expedient designed to allow Washington to focus its full attention on the Middle East. The behind-the-scenes wrangling of the release of the \$25 million tends to indicate that even this tactical device is opposed by the most militarist elements in the Bush administration.

Three days after the April 14 deadline, South Korea’s *Dong-A Ilbo* newspaper reported that US satellite images showed “unusual” movements of personnel and vehicles at the Yongbyon site. Speculation that North Korea might be shutting down its nuclear reactor has not been confirmed. If it is the case, then South Korea, rather than the US, is responsible for inducing Pyongyang to do so. Seoul has agreed to resume rice shipments to North Korea that were suspended last year and send \$80 million in aid to North Korea’s light industry in return for reestablishing a rail link between the two countries. The first train in more than 50 years is due to cross the heavily fortified border on May 17.

See Also:

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