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Banco Delta Asia Ruling Complicates North Korean Nuclear Deal

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The U.S. Treasury Department's March 14 ruling against a Macau-based bank for its complicity in North Korea's illegal activities could further the Six-Party Talks if Macau releases Pyongyang's seized accounts. But Pyongyang's expectation that it will overcome its isolation from international financial networks is unrealistic and could lead it to delay compliance with the preliminary agreement. Pyongyang's increasing demands and the collapse of bilateral North Korean–Japanese talks portend difficult follow-on negotiations and potential delays to negotiated timelines. Nonetheless, the U.S. should continue its financial and law enforcement efforts to combat North Korea's illicit activities.

Targeting Illicit Activities. In 2003, the Bush Administration established the Illicit Activities Initiative to target revenue from North Korea's illegal trade in narcotics, counterfeiting, and money laundering. Washington formally named North Korea in October 2005 court documents as the source of counterfeit \$100 "supernotes." The U.S. also announced that it was seeking the extradition of a member of a splinter Irish Republican Army group for conspiring with Pyongyang to circulate millions in counterfeit dollars.

In September 2005, the U.S. Treasury designated Banco Delta Asia (BDA), a Macau-based bank, as a "primary money laundering concern" due to its assisting North Korean companies in laundering money from counterfeiting and drug smuggling. Acting under Section 311 of the Patriot Act, Washington banned all U.S. banks from dealing with BDA.

Macau banking authorities froze 50 North Korean accounts worth \$24 million. Though this amount was small, the seizure had a devastating impact on North Korea's ability to engage with the international financial system. BDA was Pyongyang's principal conduit to the international financial network for both legal and illicit financial transactions. The U.S. action had a chilling effect for foreign businesses and banks, which became unwilling to engage with North Korea even on legal business ventures for fear of being designated complicit in North Korea's illegal activities.

A Dual Message. The conclusion of Treasury's 18-month investigation on March 14 enables the Macau Monetary Authority to release frozen North Korean bank accounts worth \$8 million to \$12 million—the money from legitimate business activities. This would fulfill Washington's promise to "resolve" the Banco Delta Asia issue within 30 days of the February 13 Beijing Agreement. However, it may also be seen as a signal of Washington's waning intention to confront North Korea over its illicit activities and as a precursor to additional sanctions relief.

North Korea's lead nuclear negotiator, Kim Gye-gwan, threatened on March 9 that Pyongyang's agreement to halt operations at the Yongbyon

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nuclear reactor, required under the Beijing Agreement, was contingent on the U.S. lifting its economic restrictions. Kim asserted that the U.S. had promised to scrap the sanctions on BDA and that a failure to comply would force North Korea to take “corresponding steps,” such as only partially freezing operations at Yongbyon if sanctions were only partially lifted.

But the stronger message is that Washington’s suspicions about North Korea’s illicit activities were confirmed. The Treasury Department ruled that U.S. financial institutions are prohibited from “opening or maintaining correspondent accounts for or on behalf of BDA [which] bars BDA from accessing the U.S. financial system.” The ruling cited the bank’s willingness to engage in deceptive financial practices that aided “North Korea’s trade in counterfeit U.S. currency, counterfeit cigarettes, and narcotics.” Washington estimated that the bank may have been responsible for laundering hundreds of millions of dollars from North Korea’s illicit activities.

Unmet Expectations for North Korea. Treasury’s ruling affirms global financial institutions’ assessments that conducting business with North Korean entities presents an unacceptably high risk unless Pyongyang halts its illicit activities. North Korea will also have to take a number of steps before it can expect to be reintegrated into the global financial system. There will be little significant foreign direct investment or business activity until such concerns are addressed.

As a result, the release of BDA accounts will not provide North Korea the economic benefits that it was likely expecting and could lead it to ratchet up its demands, delay fulfilling its Beijing Agreement, or possibly return, over time, to escalatory behavior.

Recommendations for the Administration:

- The U.S. should rebut North Korea’s assertions that financial sanctions have hindered nuclear negotiations. It is Pyongyang’s continued involvement in illegal activity, not U.S. enforcement of protective measures, that has delayed resolution.
- Regulatory and law enforcement actions in response to illicit activities are not negotiable. The U.S. should continue to investigate and take action against any financial entities suspected of complicity in illicit activities.
- The U.S. should insist that North Korea satisfactorily address all concerns about its financial activities prior to being readmitted to the international financial system.
- Washington should continue to target North Korea’s illegal activities using financial, intelligence, and law enforcement methods.

Conclusion. North Korea’s demand for removal of international sanctions, along with its assertion that the U.S. promised to quickly remove Pyongyang from the list of state sponsors of terrorism, may simply represent characteristic “negotiating through headlines” tactics. Alternatively, these moves may foreshadow increasing North Korean conditionality for abandoning its nuclear weapons programs. It remains critical for Washington to insist on detailed treaty text to ensure that North Korea fully complies with denuclearization without being deterred from combating Pyongyang’s illegal activities.

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