

## Notes From KEDO's Experience

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*Note: These are the author's personal ruminations and do not necessarily reflect official views of either KEDO or its member governments.*

Judging from KEDO's experience over the past ten years, there are two areas of concern in implementing a broader diplomatic agreement that deserve closer scrutiny than they usually receive. The first has to do with process—specifically, the impact of phasing on the actual (as opposed to theoretical) implementation of the agreement. The second has to do with organization—that is, the relationship between the structure of the institution charged with implementation and its ability to do the job. Both of these are nuts-and-bolts, rather than philosophical or political, issues.

Phasing is probably inevitable in any settlement of the North Korean nuclear issue. Performance on the obligations of the parties to any future agreement will be linked, and the element of linkage will necessarily lead to a step-by-step approach to implementation. Experience suggests that both sides will fall behind in performance at some point, with negative effects rippling through the entire process. Each side will constantly evaluate, and reevaluate, the other's performance. Political decisions will have to be made regularly on whether to forge ahead, stop completely, or modulate action in one area to demonstrate concern when a particular problem is being addressed.

In the textbook world, that process of phased implementation, with pauses for evaluating performance, is easy enough to describe. In the operational world, it can be hell. It is especially so if the obligations of one side have taken the form of commercial projects, bound by legal contracts. Such was the case with KEDO's project for providing two light water reactors (LWRs) to the DPRK.

In the real world, implementation cannot be a faucet—turned on, then off, then on again. Although the governments concerned will want it to be so, those in charge of actually running the show on the ground cannot operate in such a way. Implementation cannot be carried out according to abstract theory. It occurs in the intersection of political, commercial, and technical realities. And if you stop in the middle of a busy three-way intersection, you are liable to be run over.

Phasing is a very human proposition; it is born of caution and mistrust. In general, the impulse will be for carefully hedged agreement, moving from easier to harder, less valuable to more valuable. In return, of course, the demand will be for politically more difficult, and technically more complex, steps from the other side early in the process.

This mismatch spells trouble right from the start. Difficult, complicated steps are both hard to accomplish and hard to monitor. The results lend themselves to devilish differences of interpretation and ultimately to a jerkiness in implementation.

Phasing in the diplomatic and economic sense will often be at odds. What is politically most desirable may not always seem rational economically, and vice versa. To the extent that the two worlds—diplomatic and economic—can be put into synch, the results may (may!) end up better and more durable in the long run. For example, for the DPRK, there will be short-term, mid-term, and long-term energy needs. These should be met in a sequence that is economically and technically feasible. But economic planning and construction timelines must, to a large extent, also be driven by diplomatic and political imperatives. There has to be a demonstration of tangible (and politically acceptable) progress at each step; every layer of work has to support the next. Perfectly meshing all of these considerations is not only a challenge, it is probably impossible.

Although construction of the LWRs was the most complex and costly element of KEDO's activities, delivery of heavy fuel oil (HFO) ended up being almost as severe a lightning rod for political criticism and thus a hurdle for smooth implementation. Early in the process, stories in the press about HFO diversions sparked accusations in the Congress of North Korean cheating, necessitating new arrangements for monitoring which were never really satisfactory. The need to put in place a monitoring system took time and resources that were not built into KEDO from the start (either conceptually or operationally). It was ultimately not a fatal problem, but did become an unnecessary drag on the diplomacy and, in the long run, on U.S. performance of its obligations.

The complexity of the LWR project itself provides a cautionary tale about phasing. In the start-up period, KEDO had to negotiate an overall Supply Agreement (mandated by the Agreed Framework) and then a number of follow-up protocols covering such subjects as privileges and immunities for KEDO staff and workers in the DPRK; communications; transportation; services; site access and site takeover; training. The entire set was not finished until 2001. Completion of the early ones by 1996 at least allowed work to begin on preliminary preparation of the site.

Before any real construction work could begin on the reactors, however, infrastructure had to be put in place to support the work force—roads built, power lines and water pipes installed, housing and other support facilities put in, and contracts let by the prime contractor. Moreover, preparing the site to take advantage of geological features took several years.

It is possible that the next time this process of making preparations—legal, technical, and logistical—for large construction projects in the DPRK is attempted, there will be enough experience that the timelines will be shorter. Certainly, the Kumgangsan and Kaesong projects have provided further experience to draw on. Neither is an exact parallel of what we might expect in a diplomatic agreement, although both contain elements of the sorts of complicated understandings that will have to be reached with the DPRK (in terms of assured access and safety of the work force) before implementation of such an agreement can begin.

Even in the best of circumstances, these administrative and logistic details take time to work out. And—here is the point—while they are being negotiated, everything is vulnerable to extraneous, entirely unrelated political events. Until the *i*'s are dotted and the *t*'s are crossed, it is difficult to begin the implementation phase. It may be possible to do a better job of building breathing room into the overall agreement to take account of these sorts of procedural delays. In the very opening stages, however, when skins are thin and suspicions are high, any delays in implementation are liable to over-interpretation and gloomy conclusions. To the extent there are linkages in implementation, the delays at this early stage become magnified. They prevent the buildup of a momentum that is crucial to getting any agreement of this sort launched.

One of the lessons from the Agreed Framework and KEDO's experience, therefore, is that as much as possible of the planning (and, even the negotiating) for these administrative and logistical details should be accomplished even before the overall diplomatic agreement is finalized. This is not beyond reach. In fact, putting to work various expert groups from the two sides can reinforce confidence that each is "serious" about the larger agreement and prepared to move cooperatively.

Crucially, this may also cut the time necessary for the working levels on each side responsible for implementation to become familiar with each other. It can only help in the long run for them to establish as soon as possible the links necessary between political and operational implementation in the respective political and administrative bureaucracies. Again, this is not simply a text book concern. Operational implementation will not work until individuals on the two sides size each other up and become confident enough to move ahead cooperatively. This always takes time, a luxury the overall process is not going to have.

No matter the particulars of phasing, implementation will almost certainly be multinational. No one country is going to have the resources to handle the costs alone, and no one country is going to want the political exposure of handling this sort of political hot potato.

An early, fundamental problem that will need to be addressed is the actual form of the multinational effort. It could be composed of a series of bilateral programs coordinated by a multilateral political oversight group. The drawbacks of this approach are legion. Any single bilateral effort will be completely hostage to domestic political pressures, with the result that overall implementation could (almost certainly will) be slowed by forces and events that have nothing at all to do with the basic agreement itself.

Moreover, coordinating this sort of agglutination of bilateral projects will be a nightmare, and result in unevenness in local relationships and circumstances that will work against overall progress.

A much better approach is to make local implementation an integral arm of a multilateral organization—for the sake of convenience in this discussion, call it KEDO 2. Individual national contractors might dominate particular sites (one Korean, one Japanese, one European, one Chinese, and so forth), but they would all work for and represent KEDO 2, which would deal directly and in a unified way with the DPRK, while supervising implementation at each point along the way.

There are great challenges in such an approach, make no mistake. National styles, different bureaucratic procedures, and inevitable domestic political pressures all put strains on smooth functioning of such a creature, unless it is created, funded (see below), and run as a truly international organization. To take a small example, if a majority of the employees are seconded from the national governments and return home after relatively brief rotations, the forces that divide the organization will be persistent and, in some cases, nearly paralyzing.

The key will be in serious planning of the composition and functioning of the organization itself. One of the most important questions will concern funding. Projects need to be funded in their entirety, with no gaps caused by political differences. In addition, there need to be provisions for expeditiously funding changes in construction schedules—delays cost money. A larger problem is obtaining long-term, reliable funding for the organization. Annual contributions by national governments will be the norm, but that will make the organization hostage to the participating governments—something that serves their political interests but often works against smooth and effective performance.

KEDO worked closely with Pyongyang, but the DPRK was not part of the organization. It could be useful to rethink that approach. Although it may be impractical to give Pyongyang a vote in final decisions, it could benefit the overall process of planning and implementation if the DPRK has the status of an “associate” or “cooperating” member. That would both give the other governments better understanding of Pyongyang’s views and permit the DPRK to be more involved, gaining a sense of fuller participation rather than seeing itself passively, as simply the eventual recipient.

To restate some key considerations:

- **Configuration of the Mission/Makeup and Structure of the Organization.** In KEDO’s case, the focus on a single project in one location produced an organization that was similarly focused, influencing all aspects of the work—everything from planning travel to purchasing equipment. The KEDO Secretariat headquartered in New York was the link between the instructions from KEDO’s Executive Board and the project’s prime contractor (in this case, the Korea Electric Power Co.) At the construction site itself, KEDO was represented by a field office (KEDO Office in Kumho), which acted as a local liaison with both contractors working at the site and DPRK officials. Overall relations with the DPRK were handled by KEDO Headquarters in New York.
- Will a single operational headquarters in North Korea be practical or efficient if there are multiple construction sites? Will KEDO 2 still need a central headquarters site outside of the DPRK? It seems likely that multiple projects in multiple locations will require not only more resources (more money and more people) but also a different organizational structure. For example, will there be a need for a central field office in Pyongyang to handle operational matters for the various construction sites as well as political relations with the DPRK?

- **Headquarters Structure.** Having fewer members in KEDO 2 will not pose a serious problem (apart from funding). An expanded membership may be politically desirable but will also bring complicated issues—e.g., composition of the executive; makeup of the Secretariat; relations among a larger number of cultures and working styles.
- **Financial Arrangements.** KEDO’s current financial arrangements do not appear suitable to a new, expanded organization dealing with multiple projects, possibly multiple prime contractors, and potentially more contributors. Could a revamped KEDO receive money from international lending institutions? If so, how could that be integrated with the political conditionality that will probably come attached to additional energy projects?
- The melding of the commercial and technical worlds with the diplomatic is tricky. The KEDO member governments needed considerable education into the financial complexities of what they had undertaken, with layers of subcontractors, commercial law and practice, engineering, and mechanical priorities.
- **“Neutrality.”** KEDO sought to gain and keep a relatively neutral status vis-à-vis the DPRK. That is, KEDO was not a direct participant in the broader diplomacy and thus not directly linked to ups and downs in bilateral relations between each of the Executive Board governments and Pyongyang. KEDO was designed to be part of the overall solution; it was not supposed to act as a cop or a monitor. Its performance, however, was directly linked to the obligations spelled out in the Agreed Framework. From that flowed, in an awkward manner, the job of inspecting power plants for HFO diversions. This was an exception to KEDO’s basic relationship with the DPRK. Whether it was a useful precedent needs to be carefully considered.

Will KEDO 2 retain a politically neutral stance and operating relationship with the DPRK? Should it have more “muscle” in the form of an ability to enforce its rights and requirements vis-à-vis the DPRK? Should there be a requirement that all the protocols and agreements for operations in-country be negotiated before any actual work begins? What are the most effective ways of buffering relations between the DPRK and KEDO 2 from downturns in bilateral relations between the DPRK and individual governments?

For a variety of reasons, a KEDO-type organization cannot operate like other NGOs or international aid organizations. It must be kept connected with central actors in Pyongyang in order to retain the links between the overall framework of the diplomacy and concrete work on implementation. That means, at a minimum, sustaining regular contacts and good working relations with the Foreign Ministry as well as other elements in the DPRK Government.