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The Impact of U.S. Policy on North Korean Illicit Activities

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I am honored to testify before this important joint hearing today. From 2001 to 2005, I served as the Senior Advisor for East Asian and Pacific Affairs at the Department of State and Coordinator of the North Korea Working Group, the task force on North Korea under the Office of the Secretary. I also co-chaired a special principals' coordinating committee for the National Security Council, the North Korea Activities Group.

In early 2002, I was tasked by Assistant Secretary James Kelly and Deputy Secretary Richard Armitage to put together a State Department-led effort to analyze, investigate, and counter North Korean illicit activities. The effort eventually became known as the Illicit Activities Initiative (IAI).

The Illicit Activities Initiative

The IAI was never designed as a substitute for diplomacy. Instead, we saw the IAI as an initiative that should be pursued for its own merits, as well as potentially serving as an adjunct element to our diplomatic efforts. Our objectives were threefold:

- **Apply law enforcement for its own sake.** Our laws were being broken and our currency counterfeited; a vigorous response was needed.
- **Cut off illicit support for the regime.** We hoped this would steer them toward cleaner sources of support in cooperation with the members of the Six-Party Talks.
- **Contain the threat of proliferation.** We hoped to accomplish this by restricting the access of weap-

Talking Points

- During its first term, the Bush Administration developed and implemented an innovative and highly effective strategy to combat North Korea's weapons businesses and criminal activities around the world: the Illicit Activities Initiative (IAI).
- The IAI remains an important effort that should be continued, regardless of the direction of the Six-Party Talks.
- The case of Banco Delta Asia in Macau demonstrated the impact that the use of U.S. law enforcement can have against rogue states and their financial facilitators globally.
- Regardless of the apparent resolution of the BDA issue, North Korea will remain largely frozen out of the international financial system unless and until it abandons its illicit activities and begins to respect and uphold international laws and agreements.

This paper, in its entirety, can be found at:
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ons-trading companies to the international financial system, as well as disrupting their business operations and support networks globally.

The IAI eventually came to involve 14 different U.S. government departments and agencies and around 200 officials, analysts, and law enforcement officers. Between 2003 and 2005, we briefed and enlisted the cooperation of over 15 different governments and international organizations. We also worked closely with private industry participants, drawing on their independent investigations into high-income-producing areas for the military and Pyongyang elite, such as the counterfeit cigarette and counterfeit pharmaceutical businesses.

Counterproliferation and Illicit Funds

In the area of counterproliferation, our mandate was to pursue the disruption of weapons-trading networks via law enforcement methods. For example, we worked with partner countries, such as Japan and Taiwan, to help them identify and investigate trading companies involved in North Korean proliferation, arrest their senior management, freeze their assets, and put them out of business once and for all.

The IAI also prominently involved the use of several important legal provisions that this hearing is reviewing, including the use of Section 311 of the USA Patriot Act. The decision to use Section 311 of the Patriot Act against Banco Delta (BDA) in Macau remains controversial. Some question its timing, believing it disrupted the Six-Party Talks, while others credit the action with getting the Democratic People's Republic of Korea (DPRK, or North Korea) to sign on to the September 19, 2005, denuclearization plan to begin with and now bringing them back to the table after a long boycott.

Whatever one's perspective on BDA, I believe the use of Section 311 was extremely effective, both in containing North Korea's weapons proliferation and illicit trading networks and in demonstrating to the regime that such activities are not a sustainable or acceptable means of supporting the DPRK state.

Banco Delta

Today, many of us are concerned with the way that illicit funds that had been frozen at Banco Delta

have been returned to the North Korean perpetrators (or the financial beneficiaries of these activities) as a means of getting the DPRK back to the negotiating table in the Six-Party Talks. Even as a diplomatic act of expediency, this strains one's litmus test of what is reasonable and contradicts the spirit, and possibly the letter, of laws we have invoked and international agreements we have vociferously supported, such as U.N. Resolution 1718.

North Korea, a nation whose profits from illicit trade in some years may exceed what it earns in legal exports, must learn that if it wants to eventually enjoy normalized relations with the United States—something it says is its top priority—it must *act normal* and abandon government-directed criminality and proliferation to state sponsors of terrorism, as well as give up its nuclear weapons and programs.

The frozen funds in Macau served to reinforce this message, which is at the core of a potential improved relationship with North Korea, not at its periphery. We could have offered North Korea \$250 million in development assistance to help improve some aspects of its bankrupt economy or help its impoverished and oppressed population, but we never should have allowed \$25 million in dirty money to be handed back. This action played to North Korea's few remaining strengths as a nuclear armed dictatorship, not the many we enjoy as a nation of freedom and law.

Some wonder how freezing \$25 million at a small bank could cause such a disruption. There are at least two reasons, both of which we had clearly conceptualized in planning the action.

The first is that the Section 311 imposition served to drive a wedge between North Korea and Macau. Until September 15, 2005, the DPRK had a protected relationship with Macau's government and many of its business leaders that reached far, far beyond BDA and its management.

Not only was Macau a global crime center for North Korea (something that has been thoroughly documented by U.S. law enforcement investigations), but it served as a central hub for the DPRK's weapons proliferation. It also was a critical node for the management and investment of Kim Jong-Il's huge kleptocratic fortune, which reportedly reaches

into the billions of dollars. Losing ready access to Macau imposed a huge cost on North Korea.

The other reason is that it was far more than the \$25 million at BDA that was frozen in September 2005. North Korea was, in effect, frozen out of the international financial system as banks around the world suspended business relations with it. Moreover, one can only assume that much more than \$25 million is likely to have been frozen, immobilized, or impeded in Macau and elsewhere.

Certainly in discussions with Chinese authorities, as with all other foreign governments, we had repeatedly asked them to investigate and, where appropriate under criminal statutes or anti-money laundering rules, freeze funds tied to North Korean illicit activity. Perhaps, fearing that the U.S. Treasury Department would expand the 311 designation to cover other much more important banks in Macau, or even to the domicile itself, they took broader action. One would hope so.

Conclusion

In closing, the BDA issue is said to have been “settled” by the recent reversal in policy. However, the reality is that its effect will linger until North Korea demonstrates that it can and will operate as a normal, transparent, rule-abiding member of the international financial system, and indeed of the international community writ large.

Thus, while I am dismayed that the BDA funds decision has been reversed, I am much more dismayed by the way North Korea continues to be able to use crime and nuclear coercion for profit, unfortunately including in the Six-Party Talks.

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