Policy Forum 07-044: Behind the Blacklisting of Banco Delta Asia

The NAPSNet Policy Forum provides expert analysis of contemporary peace and security issues in Northeast Asia. As always, we invite your responses to this report and hope you will take the opportunity to participate in discussion of the analysis.

Recommended Citation

"Policy Forum 07-044: Behind the Blacklisting of Banco Delta Asia", NAPSNet Policy Forum, June 05, 2007, https://nautilus.org/napsnet/napsnet-policy-forum/behind-the-blacklisting-of-banco-delta-asia/

Behind the Blacklisting of Banco Delta Asia

Behind the Blacklisting of Banco Delta Asia

Policy Forum Online 07-044A: June 5th, 2007
Behind the Blacklisting of Banco Delta Asia

By Ronda Hauben

CONTENTS

I. Introduction

II. Article by Ronda Hauben

III. Citations

IV. Nautilus invites your responses

I. Introduction

Ronda Hauben, researcher, writer and freelance journalist, who has spent the past 14 years studying, writing and participating in online media, writes, "The purpose of the action against the BDA appears not only to have been to target North Korea and its access to the international banking

system, but also to send a message to China."

This article was originally published by OhMyNews International:
http://english.ohmynews.com/index.asp

The views expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Nautilus Institute. Readers should note that Nautilus seeks a diversity of views and opinions on contentious topics in order to identify common ground.

II. Article by Ronda Hauben

- "Behind the Blacklisting of Banco Delta Asia"
By Ronda Hauben

U.S. Assistant Secretary of State Christopher Hill, speaking at the Korea Society's 50th Anniversary dinner in New York City on May 15, said that he was determined not to "allow $26 million or $25 million get between us and a deal that will finally do something about nuclear weapons on the Korean peninsula." He promised that Kathy Stevens at the Korea desk at the State Department was working on the problem and that "we are going to keep after this problem till we solve it." His statement didn't give further details about how this problem was to be solved, a problem that had interrupted the progress that seemed at last possible in the Feb. 13 six-party agreement.(1)

Just two days later, on May 17, the U.S. Wachovia Bank announced that it is exploring a request from the State Department to transfer the funds from the BDA (Banco Delta Asia) to North Korea. Wachovia Bank reported that it would require the necessary approvals from bank regulators to do the transfer.

Until this latest announcement, banks have been unwilling to do the transfer because of the legal action that the U.S. government took against the BDA, by ruling that it was involved in criminal activity under Section 311 of the U.S. Patriot Act. Banks which deal with a bank that has been found guilty of such illegal acts risk losing their access to the international financial system. North Korea has said that the denuclearization and other aspects of the six-party agreement that it has been part of can only go forward when the BDA situation is resolved. "To make the money transfer possible freely just like before has been our demand...from the beginning," a spokesperson from North Korea said.(2)

In his daily press briefing on May 17, Scott McCormack at the U.S. State Department said, "We all want to see the BDA issue resolved, obviously resolved within the laws and regulations of the United States as well as the international financial system, and we'd like to move on and get back to the business of the six-party talks, which is really focused on the issue of denuclearizing the Korean Peninsula."(3)

Whether this latest development with Wachovia Bank will provide the needed breakthrough, it is too soon to tell. But there are other developments which may provide the needed pressures on the U.S. government to decriminalize the $25 million it has frozen of North Korean funds and restore North Korea's access to the international banking system. Their access was severely impeded by the action that the U.S. Treasury Department took against the BDA.

The developments I am referring to are the release in the public domain of several documents related to the U. S. Treasury Department's actions against BDA. One of the documents is a sworn statement by the owner of the BDA, Mr. Stanley Au, in support of his petition to revoke the rule imposing the special measures taken by the U.S. Treasury Department against his bank. Another

document is the petition in support of his case. Also the Treasury Department finding against the bank has been put online. These documents have been made available on the blog "China Matters."(4)

In his statement, Au explains the history of his bank's relations with North Korea and how there was only one experience, which occurred in June 1994, when there was a problem with counterfeit U.S. dollars. At the time, the bank reported this incident to the U.S. government. Agents from the U.S. government came to the bank and questioned Au. He answered their questions and asked if the agents recommended that the bank "desist from doing business with North Korean entities." The agents said "they would like us to continue to deal with them as it was better that we conducted this business than another financial entity that may not be so cooperative with the United States government."

Au explains that there was no further experience with counterfeit money showing up in the transactions of the bank. All "large value deposits of US dollar bills from North Korean sources" were sent to the Hong Kong branch of the Republic National Bank of New York (which became HSBC) to be certified that they were authentic via advanced technology possessed by that bank. Smaller quantities of bills were examined in accord with common banking practices by the bank itself.

Au also explains that he had not been approached by U.S. government agents alerting him to any problem or illegal activity. The first he learned that his bank was being charged as a bank engaged in "illicit activities" came when saw a report in the Asian Wall Street Journal in September 2005 that his bank was a candidate for a U.S. money laundering blacklist. He tells how "this news came as a bolt out of the blue -- the Bank had never been informed by the United States that its practices were a cause of any money laundering concern, and the counterfeiting event that the media reported as the basis for the designation had occurred more than ten years earlier and had been promptly reported to the authorities by Banco Delta Asia."(5)

Stanley Au's statement is in sharp contrast with the account in the U.S. government's Federal Register of the finding against the bank by the U.S. Treasury Department.(6)

The Federal Register finding states that the bank had provided financial services for more than 20 years to multiple North Korean-related individuals and entities that were engaged in illicit activities. It provides no specific details of what such illicit activities were. It claims that the entities paid a fee to Banco Delta Asia for their access to the bank. The finding claims that the bank facilitated wire transfers and helped a front company.

In his statement, Stanley Au maintained that the BDA did not charge a fee for its services nor did it conduct illicit services for North Korea or any other customer. The bank was only one of the banks in Macau that did business with North Korea. The business his bank had with North Korea began in the mid 1970s and was to assist North Korea with its foreign trade transactions. Also Au described North Korea as a gold producing country and that in the late 1990s the bank had acted as a "gold bullion trader on behalf of the North Koreans". Also the BDA bought or sold foreign currency notes for North Korea, including U.S. dollars, because North Korea had a limited banking system and so it couldn't do such transactions itself (see Statement, pp. 3-4).

The petition submitted to the U.S. Dept of the Treasury to challenge the finding against BDA proposes that BDA was targeted not because of any "voluminous" evidence of money laundering but "because it was an easy target in the sense that it was not so large that its failure would bring down the financial system."(7)

In the substantial and prolific analysis of the BDA problem that has been developed on the blog "China Matters", there is the assessment that North Korea has legitimate financial activity and that the BDA was legitimately serving as one of the banks for that activity. Even with the U.N.'s sanctions, it was not appropriate to target for blacklisting the legitimate financial activities of North Korea. The sanctions that the U.N.-imposed against North Korea were to be aimed at its activity that was related to nuclear weapon development, not to normal financial transactions.

The author of China Matters blog writes(8):

"The alternative view...is that legitimate North Korean financial activity does exist, BDA had a right to solicit North Korean accounts and handle North Korean transactions, and Stanley Au should be allowed to run his bank as long as he conforms to the laws of his jurisdiction--and (the bank) not be used as a political football in Washington's dealings with Pyongyang."

To put it more succinctly, the blog China Matters quotes David Ascher, who had been the coordinator for the Bush Administration working group on North Korea and a senior adviser in East Asian affairs in the State Department, in testimony to the U.S. House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade on April 18, 2007, explaining why Banco Delta was chosen to be blacklisted from the international banking system (9):

"Banco Delta was a symbolic target. We were trying to kill the chicken to scare the monkeys. And the monkeys were big Chinese banks doing business in North Korea...and we're not talking about tens of millions, we're talking hundreds of millions."

The purpose of the action against the BDA appears not only to have been to target North Korea and its access to the international banking system, but also to send a message to China.

Therefore it would appear that the action against BDA is a carefully crafted political action and that it will be necessary that there be public understanding, discussion and debate about what is behind this action in order to find a way to have the policy that gave rise to the BDA action changed.

Instead of the U.S. mainstream press carrying out the needed investigation about why BDA has been targeted and what is behind this action, there have been continual condemnations of North Korea. Fortunately there are journalists like those who work with the McClatchy News Service who have made an effort to probe what is happening behind-the-scenes in the BDA affair and blogs like China Matters which have taken the time and care to begin uncovering what the BDA affair is really all about. This is but one of the stories of what is really going on behind the scenes within the U.S. government that has been hidden from the public. This is one of the stories yet to be unraveled by bloggers, and citizen journalists.(10)

III. Citations

(1) See earlier article " North Korea's $25 Million and Banco Delta Asia ."
(2) " North Korea says work to transfer bank funds under way ," AFP, May 15, 2007
(3) Scott McCormack, Daily Press Briefing , Washington DC, May 17, 2007
(4) " Bank owner disputes money-laundering allegations ."
(5) Statement of Mr. Stanley Au in Support of Petition to Revoke Rule Imposing Special Measures Against Banco Delta Asia, p. 7.
See also Kevin G. Hall, " Bank owner disputes money-laundering allegations ," McClatchy Newspapers, May 16, 2007.
(6) Department of the Treasury, 31 CFR Part 103/ RIN 1506-AA83, Federal Register/ Vol 72, No. 52/ Monday, March 19, 2007/ Rules and Regulations .

(7) Petition of Mr. Stanley Au and Delta Asia Group (Holdings) Ltd. to Rescind Final Rule, p. 12.
(8) " Stanley Au Makes His Case for Banco Delta Asia ," Tuesday, May 15, 2007
(9) " David Asher's Dead End ," Saturday, April 28, 2007
See also " China's Proliferation to North Korea and Iran, and its role in addressing the nuclear and missile situations in both nations ," Hearing, Sept 14, 2006, Nov. 2006, p. 115-116.
(10) Ronda Hauben, " Bill Moyers and the Emergence of U.S. Citizen Journalism: Power of government creates need for investigative news ."

IV. 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.

Produced by The Nautilus Institute for Security and Sustainable Development
Northeast Asia Peace and Security Project (napsnet-reply@nautilus.org)
Return to top
back to top

View this online at: https://nautilus.org/napsnet/napsnet-policy-forum/behind-the-blacklisti-g-of-banco-delta-asia/

Nautilus Institute
608 San Miguel Ave., Berkeley, CA 94707-1535 | Phone: (510) 423-0372 | Email: nautilus@nautilus.org