

Policy Forum 07-034: Gold Digging: Getting to the Bottom of the Treasury Department's Economic Campaign Against North Korea

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By China Matters

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I. Introduction

China Matters, a blog online at: <http://chinamatters.blogspot.com/> , writes, "Every time the North Korean dog sticks its head out of its Chinese kennel, we beat it on the snout with a stick-and force it back to the heel of its Chinese master. And we persist with the policy even when it runs counter to our current diplomatic efforts and security strategy for the region. It's a policy that's blind, self-defeating, and futile. And now that the U.S. has abandoned a policy of confrontation with North Korea, it's also become ridiculous."

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II. Article by China Matters

- "Gold Digging: Getting to the Bottom of the Treasury Department's Economic Campaign Against North Korea"

By China Matters

Reality-based reporting is making a comeback on the matter of Banco Delta Asia-the little Macau bank with the frozen North Korean accounts that has held up execution of the Six Party Agreement for almost two months.

McClatchy's Kevin Hall is one of the few journalists who has followed this issue closely and critically. He recently posted two important articles on BDA.

As a result, a clearer picture is emerging of a concerted U.S. effort to exceed the scope and intent of U.N. sanctions by exploiting the domestic exigencies of the Patriot Act Section 311 anti-money laundering powers as a pretext for pursuing a worldwide economic blockade against North Korea.

Now the imperatives of the Patriot Act have collided with the demands of U.S. diplomacy over the issue of Banco Delta Asia. Diplomacy dictates that the BDA decision be overruled, but elements within the Bush administration are unwilling to surrender or curtail the investigatory and sanctioning power they enjoy under the Patriot Act for the sake of the Six Party Agreement.

The Bush administration's head might understand the superiority of the State Department's diplomatic approach to the North Korean (and Iranian) problems, but its heart is with the coercive anti-diplomacy of a faction within the Treasury Department.

Apparently unwilling to choose between one or another, the Bush administration has awkwardly attempted to split the difference and as a result its diplomacy in North Asia is thrown into confusion.

Now an unwelcome light is being cast both upon the use of Patriot Act Section 311 as a policy-as opposed to a national security-tool, and on the role of the Treasury Department in exploiting, misrepresenting, and, quite possibly abusing the Act in turf struggles with realists in the State Department.

At the heart of the BDA matter is the Bush administration's fundamental conundrum in Asia-whether it should confront or conciliate China.

Hall's first article, "*Money laundering allegations by U.S. false, report says*" describes the (relatively) clean bill of health Ernst & Young gave to BDA in its audit, characterizing it as a legitimate bank doing legal business, albeit with weak internal controls, and debunks the counterfeit supernote moneylaundering canard.

The second article, "*Gold sales may have spurred Macau bank's blacklisting*," posits that the real motive for the crackdown on BDA was to cut off North Korea's (legitimate) gold bullion sales, noting that BDA purchased and resold about \$110 million of North Korean gold.

The significance of McClatchy's reporting is that it further undercuts the U.S. assertion that the BDA sanctions executed under Section 311 of the Patriot Act were independent Treasury efforts to protect U.S. currency from compromise by counterfeit currency and prevent terrorists from exploiting the world financial system--and should not, indeed can not, be subordinated to the exigencies of U.S. diplomacy.

However, cutting off bullion sales by the North Korean government was not part of the U.N.-approved international sanctions regime against Pyongyang's WMD industries; and it could not be construed as a legitimate pretext for sanctioning BDA under the Patriot Act.

Cutting off North Korean government sales of bullion looks like part of a campaign of economic blockade and financial warfare that goes beyond the targeted sanctions regime endorsed by the United Nations.

And using Patriot Act Section 311 as the means to shut down BDA's bullion purchases from North Korea looks less like a legitimate use of the Act to protect U.S. national security and more like an element in a campaign of coercion on behalf of a unilateral United States foreign policy--a secret policy that had regime change at its heart.

As to the question of how important BDA was to North Korea's gold bullion sales, I will admit to being an agnostic.

Gold is as good as...gold. People like it, especially when desperate sellers provide a discount, as North Korea probably does.

North Korean gold is probably not that hard to sell, even in the context of North Korea's rumored production of six tons per annum and in the face of a U.S. campaign to cut North Korea off from the world financial community.

What the United States has probably accomplished is simply to make it very difficult for North Korea to trade gold on the established international markets, and force it to dispose of the gold at a less desirable price.

As the Christian Science Monitor reported in January:

'One indication of North Korea's need to sell gold was its decision to provide information needed by the London Bullion Market Association (LBMA) to list the North's central bank as a "good deliverer" of gold and silver. Listing with the LBMA is essential for refiners who want to sell their products in London. The bank's listing was suspended 2-1/2 years ago when it failed to respond to LBMA requests for "proactive monitoring."

The LBMA said it does not "take into account any political criteria," and will keep the bank on its rolls for another three years without monitoring.

Despite the listing, market experts say the big banks that are major buyers of gold - and form the LBMA's core membership - are not likely to flout the spirit of the US Treasury order against Banco Delta Asia, through which North Korea exported gold prior to the ban.

"The fact that they're on the list does not mean they can deliver to the London market," says Stewart Murray, the LBMA's chief executive. "When we have sanctions, none of the facilities will accept delivery from a company or a country that is subject to these sanctions."

Of course, North Korean gold exports haven't been officially banned, so Murray's statement that, despite being listed as a "good deliverer", North Korea was not allowed to sell gold on the London market makes little sense except in the context of a U.S. campaign to discourage trade in North Korean gold on the London exchange, using either diplomatic pressure or the threat of some Treasury enforcement action.

Colin McAskill-who purchased Daedong Credit Bank, the bank which has \$6 million in funds tied up in BDA-has been campaigning to make it possible for North Korean gold bullion and other metals to be sold freely on the international market, thereby making foreign investment in North Korea's gold and other metals and raw materials industries more feasible and attractive.

I wonder if McAskill's enthusiasm for bringing North Korea in from the cold on gold sales is a reason why the obviously legitimate and private character of his bank's account at BDA has been ignored by the champions of the free market and capitalism at the Treasury Department and, instead of being repatriated separately, his monies will disappear into Kim Jung Il's suitcase as part of the funds "resolution".

As befits its anonymous, fungible character, North Korean gold has found its way into the world market through other channels.

An interesting article by Bertil Lintner in Asia Times describes the growth of North Korean gold and silver sales to Thailand. Precious metal exports from North Korea to Thailand grew from virtually zero to \$40 million in 2006.

Along the way, Lintner also documents the financial harassment of North Korea in Europe:

The action against Banco Delta Asia, a privately owned bank that the Macau government later had to prop up to prevent it from collapsing, was the second move against North Korea's assets abroad. In a much less publicized action, North Korea's only bank located in a foreign country - the Golden Star Bank in Vienna - was forced to suspend its operations in June 2004.

The Golden Star was 100% owned by the Korea Daesong Bank, a state enterprise headquartered in Pyongyang, and was allowed to set up a branch in the Austrian capital in 1982. For more than two decades, Austrian police kept a close eye on the bank, but there was no law that forbade the North Koreans from operating a bank in the country.

Nevertheless, Austria's police intelligence department stated in a 1997 report: "This bank [Golden Star] has been mentioned repeatedly in connection with everything from money-laundering and distribution of fake currency notes to involvement in the illegal

trade in radioactive material."

Eventually the international pressure to close the bank became too strong. Sources in Vienna believe the US played an important behind-the-scenes role in finally shuttering Golden Star's modest office on 12 Kaiserstrasse in the Austrian capital. Until then, Vienna had been North Korea's center for financial transactions in Europe and the Middle East. Visitors to North Korea have noted that euro coins in circulation in the country - the US dollar is not welcome in Pyongyang - invariably came from Austria. (Euro notes are the same in all European Union countries, but coins designate individual member countries.)

Here's another data point, courtesy of Daily NK:

Singaporean newspaper "Singapore Lianhe Zaobao" reported, "Though the recent BDA issue ended in shambles, Macao and BDA did face some trials" and "With the U.S. able to strangle any county with international financial sanctions, the BDA issue rang alarm bells for illegal acts occurring throughout the world."

The Zaobao's online site reported on the 24th, "7~8 small scale family run banks in Macau banks are faced with the threat of closing down as BDA concluded that these banks were acting as North Korea's 'laundering black money.'

Macao has been caught in this political issue after being targeted as a place dealing North Korea's money laundering." The newspaper also analyzed that the international community had questioned China's morals [emphasis added].

China's morals are probably not the issue here.

China's insistence on following the letter of the UN sanctions and not the broad interpretation favored by the United States is probably at the nub of it all.

China is North Korea's largest trading partner. It can purchase exportable North Korean outputs for its own use or even repackage and re-export them.

It can pay for North Korean exports using foreign exchange, let North Korea hold the funds in a Chinese bank, and permit North Korean companies to use those funds to open letters of credits for imports.

Its jewelry industry can easily absorb North Korea's bullion-or, if desirable, resmelt it into clean, pretty bars-without reference to any de facto sanctions by the London exchange.

Therefore, China is the weak link in any U.S. led financial blockade of China.

And we all know, a chain is only as strong as its weakest link.

Which means that an effective financial blockade of North Korea had to include an effective China component-something which is apparently lacking.

Unfortunately, diplomacy was apparently not part of the Bush administration skill set, and the big stick was trundled out to threaten China with dire consequences if it didn't participate in the

unilateral U.S. sanctions regime.

As David Asher-the State Department's previous pointman for the North Korean effort at State-acknowledged in a recent interview, the ultimate target of Treasury's investigations in Macau was China.

In comparison with Banco Delta Asia, the information that had been collected on evidence of money laundering by the Macao branch of the Bank of China was "voluminous," Asher said.

Asher insists that the move against Banco Delta Asia was the direct consequence of law enforcement efforts and was not designed as political leverage in talks that were taking place simultaneously with North Korea on nuclear disarmament.

He advocates that efforts to curtail North Korea's links to criminal activity, and to ensure that China joins the enforcement effort, should not be suspended for the sake of expediency in the disarmament talks in Beijing.

"Banco Delta may be a sacrificial lamb in some people's minds, but it is not about Banco Delta," he said. "It's about Macao, Macao's government, China, the Chinese government and their complicity and their accommodative behavior toward North Korea's illegal activities, proliferation activities and leadership financial activities." (Donald Greenlees and David Lague, How a U.S. inquiry held up the N. Korea peace talks, International Heritage Tribune, April 11, 2007)

It looks like Treasury took the provocative step of threatening Bank of China with a money laundering tag in a failed attempt to get Macau and its patron Beijing to fall into line on America's unilateral sanctions initiative against North Korea.

The threats apparently persisted even after the so-called March 14 resolution of the BDA funds-the Treasury Department's scorched-earth final decision denouncing BDA. After the decision was announced, Daniel Glaser went to Macau and presented the results of the Treasury investigation to the Macau authorities in an effort to persuade them not to release some of the BDA funds.

Reading between the lines, Glaser probably declared that Treasury's campaign against purported laundering of North Korean funds by Macau banks would not be suspended unless Macau obeyed Treasury's diktat concerning the BDA funds.

My hypothesis is when Macau didn't respond with appropriate enthusiasm, Glaser injudiciously escalated the confrontation by promising further investigation of mom-and-pop banks in Macau, possibly an indictment of BDA's directors for being knowing conspirators (something that was bruited about in the Macau press) and, most unwisely, threatened to make it known that Treasury considered Bank of China Macau to be implicated in the North Korean money laundering web.

This kind of threat against the reputation and viability of Bank of China Macau is the best explanation I can come up with for China's remarkably harsh and pointed subsequent summons to Treasury.

On March 21, the Chinese Ministry of Foreign Affairs stated:

"In an effort to safeguard the financial stability in the Macao Special Administrative Region (MSAR), China yesterday demanded the US consult and negotiate with the MSAR government to address the latter's concerns over the issue of Banco Delta Asia (BDA), a Macao-based bank.

Foreign Ministry spokesman Liu Jianchao made the remarks at a regular press conference commenting on the frozen capital of North Korea at BDA. ... He urged the US to negotiate with the MSAR government on the issue to maintain Macao's financial and social stability."

Nothing here about greasing the wheels for the Six Party Agreement. Or doing the right thing by a little bank that got caught in the middle of superpower diplomacy.

China's talking about the "financial and social stability" of Macau.

That probably means Bank of China Macau.

So Daniel Glaser was called back for what appears to have been ten days of stonewalling during which he refused to lift the threats against Bank of China Macau and other banks handling North Korean money or gold.

His line of defense-in his discussions with perhaps his most determined opponent, the State Department-probably hinged on the fact that Patriot Act 311 enforcement had been sold as an independent U.S. enforcement initiative unrelated to whatever U.N. sanction or Six Party diplomatic process involving North Korea.

If the sanctions against BDA were removed explicitly to facilitate the Six Party Agreement, then the legitimacy of Patriot Act Section 311 investigations-and their intimidating aura of implacable, inexorable malice-would be lost.

And Daniel Glaser and his boss, Stuart Levey, would look like jerks who had been using the pretext of supposed U.S. law enforcement obligations to promote a secret, unilateral, destabilizing North Korea policy under false pretenses.

Which, in my opinion, is exactly what they did.

And now I think the world-and Beijing--knows it.

Which means the credibility of Patriot Act Section 311 investigations is shot. European banks (and governments) leery of the U.S. approach on North Korea and Iran will find it easier to opt out of an explicitly politicized Section 311 investigation and sanctions regime.

And obtaining explicit waiver from Section 311 investigations will emerge as a central theme in trade negotiations between China and the United States (whose team will be led by Levey and Glaser's boss, Treasury Secretary Paulson).

Nevertheless, Levey and Glaser probably insisted to President Bush that the club of Section 311, exploiting the central position of the United States in the world financial system and shielded from international and U.S. law under the national security aegis, was too powerful a weapon to repudiate for the sake of the Six Party Agreement (indeed, this is an assertion that Glaser and Asher and their advocates have been making with suspicious frequency in public fora).

And perhaps President Bush, himself a big fan of coercive middle-finger unilateralism, backed them, in effect splitting the baby, letting State pursue engagement and Treasury continue with confrontation.

Maybe it was the Chinese and the State Department who blinked, in effect throwing up their hands, ginning up a workaround, proceeding with the Six Party Agreement, and leaving the question of what to do about Patriot Act initiatives against Chinese banks--and the issue of the Treasury Department's refractory attitude--for Secretary Paulson's upcoming China trade talks.

Given the general contempt for North Korea and the credulity and sloppiness of most Western reporting on this subject, the only reason that we know or care that the Treasury Department is out to screw the North Koreans no matter what is the embarrassment and chaos its intransigence has brought to American diplomacy.

But now, thanks to the saga of the \$25 million that somehow could not make it out of Macau, the narrative emerging from the BDA mess is not of the threat from North Korean supernotes, contraband, or WMDs.

It's a picture of a U.S. campaign of economic warfare against North Korea, a campaign which may have registered successes in cutting off access to U.S. financial institutions, intimidating European banks, ostracizing North Korea from the London gold exchange, and twisting the arm of the Macau monetary authority to stop BDA and possibly other Macau banks from selling Kim Jung Il's gold.

And it's the disturbing picture of a campaign that went too far, stalled and become meaningless except as an unnecessary irritant to China, a crucial world power, because the United States lacked the political will and international support to initiate a high-stakes confrontation with North Korea's powerful protector over a little country with a little bomb.

Even more disturbing, it's a picture of a campaign that has been so extensive, so prolonged, so demanding of our allies, so insistent and coercive upon international financial institutions, and so central to American prestige and credibility that we are unable to abandon it and move beyond a campaign of harassment against a tiny bank in Macau--and provocation directed against a country that is central to the United States' economic and fiscal well-being.

But the true story is not one of confusion, contradiction, and mixed messages in U.S. policy.

The story is one of American shortsightedness.

If North Korea wants to be insulated from the international financial community, all it needs to do is hide behind China's coattails.

But that's not what it wants.

North Korea wants to achieve international legitimacy and access to world financial markets. It wants to export directly, attract foreign investment, raise capital on the international financial markets, and sell its gold on the world exchanges.

North Korea doesn't want to grovel to the Chinese and sell energy, resources, and gold to Beijing at below-market prices.

Quite the opposite.

Returning from North Korea, Bill Richardson noted:

"Interestingly, North Korea sees themselves eventually as an ally of the United States; in other words, as an ally against China. They see themselves as playing a strategic role as a buffer between the United States and China."

Every American comes back from North Korea with the same message.

North Korea wants to break free of Chinese domination and align itself with the United States.

And what do we do?

Every time the North Korean dog sticks its head out of its Chinese kennel, we beat it on the snout with a stick-and force it back to the heel of its Chinese master.

And we persist with the policy even when it runs counter to our current diplomatic efforts and security strategy for the region.

It's a policy that's blind, self-defeating, and futile.

And now that the U.S. has abandoned a policy of confrontation with North Korea, it's also become ridiculous.

III. 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.

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