Policy Forum 05-92A: The North Korean Criminal State, its Ties to Organized Crime, and the Possibility of WMD Proliferation

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By David L. Asher

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I. Introduction

David L. Asher, Adjunct Scholar, Institute for Defense Analyses, Coordinator, North Korea Working Group and Senior Adviser for East Asian and Pacific Affairs, Department of State, wrote: "The North must cease its dealings with trans-national organized criminals, its illicit export of weapons, its nuclear reprocessing, its threats to engage in nuclear proliferation, etc. Instead it should accept the extremely reasonable terms the US, with the others parties in the talks, have offered for promoting a positive and peaceful transformation of relations in the context of full denuclearization."

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II. Essay by David L. Asher

- The North Korean Criminal State, its Ties to Organized Crime, and the Possibility of WMD Proliferation
by David L. Asher

I am very pleased to be invited back to the Wilson Center to speak today. I enjoyed my time here this summer and want to thank my colleagues for the chance to be affiliated with the Center, which I consider the finest organization of its kind in Washington. I also wish to thank my former boss, Assistant Secretary Jim Kelly and the many members of our inter-agency team for kindly attending today. In particular, I want you to know of the extraordinary work that our friends and colleagues here from the United States Secret Service have done recently to safeguard our nation and our currency from a determined adversary.

I left the State Department in July and I want to be very clear that my remarks today are personal in nature. They in no way should be interpreted as representing the view of the US government, the Department of State or the Department of Defense. They also are drawn strictly from unclassified sources (the vast amount of information now in the public domain is indicative of the scale of the problem of DPRK criminality).

Let me make clear, I am a believer in the Six Party Talks. I applaud the efforts of my former colleagues, Chris Hill, Joe Detrani, and Jim Foster to effect positive diplomatic movement via direct dialog and clearly demonstrate to all the parties seated at the big table within the Diaoyutai State Guesthouse that the US is sincerely willing to join the international community in engaging North Korea to facilitate its denuclearization, its economic development, and its opening to the outside world. At the same time, given this objective, there should be no further room for tolerating the unacceptable and in many ways outrageous criminal and proliferation activities that the North Koreans continue to engage in.

Allow me to begin my remarks by laying out the major aspects of North Korean trans-national criminal activity. I will then look at the specific question of how the DPRK's growing ties to Organized Crime groups and illicit shipping networks could be used to facilitate WMD shipments. I'll propose a possible way to reduce this risk. I will conclude by frankly commenting on the nature of state directed criminality in the DPRK and its implications for international law and the DPRK's status in the international community and the United Nations.

My research topic this summer at the Wilson Center was on the rise and fall of "criminal states" - government's whose leaders had become intimately involved with trans-national criminal activity. I compared North Korea under Kim Jong Il with Serbia under Milosevic, Romania under Ceausescu, and Panama under Noriega. I won't get into the details of this comparative research now but, suffice to say, the scale and scope of the other cases pale in comparison with present-day North Korea.

The rise of the criminal state in North Korea is no secret. It has occurred in full view of foreign governments and with increasing visibility to the world media. Over the last three decades agents, officers, and business affiliates of the DPRK have been implicated in hundreds of public incidents of crime around the globe. Incidences of illicit activity have occurred in every continent and almost every DPRK Embassy in the world has been involved at one time or another. This should be no surprise. North Korea is perhaps the only country in the world whose embassies and overseas personnel are expected to contribute income to the "Party Center," not rely on central government funds for their operations. Such repeated illicit actions from diplomatic premises amount to a serial violation of both articles 31 and 41 of the Vienna conventions on Diplomatic Relations, which respectively convey that A. commercial, and most certainly, criminal activities for profit shall not be conducted by accredited diplomats or via accredited facilities and B. mandate that officials posted abroad must obey the laws of the nation to which they are posted. The DPRK routinely pays no attention to either critical provision of the Vienna conventions.

I am frequently asked "how much is this stuff going on?" Although it is hard to pin down the exact scale of the illicit activity we can make a rough guess. In 2003 the DPRK ran a trade deficit of at least $835 million and that if more broadly measured to exclude concessionary trade with the ROK was more like $1.2 billion. Even making a very bold estimate for informal remittances and under the table payments for that year, the DPRK probably ran a current account deficit of at least $500 million. Moreover, North Korea's accumulated trade deficit with the ROK and China alone since 1990 is over $10 billion. North Korea has not been able to borrow on international markets since the late 1970s and has at least $12 billion in unrepaid debt principal outstanding. Yet, until recently - at least - it has managed to avoid self-induced hyper-inflation (which should have occurred given the need to reconcile internal and external monetary accounts, even in a communist country). Instead, the street stalls in Pyongyang and other North Korean cities seem to be awash in foreign made cloths, food, and TVs and the quality of life of the elite seems to have improved. What's apparently filling the gap and accounting for the apparent improvements to the standard of living for the elite? The short answer as I see it: Crime. And if I am right, then the criminal sector may account for as much as 35-40% of DPRK exports and a much larger percentage of its total cash earnings (conventional trade profit margins are low but the margin on illegal businesses is extremely high, frequently over 500%).

Whatever the precise size of the criminal surplus, all analysts and law enforcement authorities agree that overseas illicit and weapons trading activities have become increasingly important sources of foreign exchange for the DPRK. These earnings have provided support to North Korea's "military-first" economy and contributed to Pyongyang's ability to resist demands from the international community for an end to its nuclear weapons program. They also apparently have persuaded the Kim Jong II regime it can affordably maintain its political isolation and resist the imperative for sweeping economic and social reforms that all other communist states have had to engage in. Given that periodic exposure of illegal dealings by North Korean officials overseas in the past has not resulted in serious or lasting consequences, Pyongyang may believe that an open door for global criminality exists.

Let's review the scale and scope of the North Korean "soprano state." As is well known the North Korean government is involved in a wide range of illicit businesses in partnership with organized

crime groups or unilaterally. These include:

1. Production and overseas distribution of narcotics, in particular heroin and methamphetamines:

DPRK Narco trafficking continues as a major income generator, although less prominently perhaps than before. China continues to be the major market for North Korean drugs and the situation became so bad that in March of last year the Vice Minister of the MPS called a highly unusual "press conference" to announce his determination to cut into DPRK drug rings in Jilin province, on the border with North Korea (which some Chinese law enforcement officials have stated is "out of control"). Japan probably still comes in second. From 1998-2002 Japanese police interdicted nearly 1500 kg of meth that in six separate prosecuted cases was shown to have originated in the DPRK. This amounts to thirty-five percent of all methamphetamine seizures in Japan in that period and had a wholesale value of over $75 million and a street value of as much as $300 million. Given the chemical profile for DPRK produced meth (essentially of extremely high purity) several Japanese authorities I spoke with the week before last believe that a fairly large percentage of the meth coming in from Northern China today is consistent with DPRK origin. As elsewhere, in Japan to mask their fingerprints the North Koreans are going through triads, snakeheads, and other indirect channels. This has been less true with Heroin where North Koreans continue to be observed selling the drugs. The Australian seizure of 125 kg of Heroin worth $150 million off the Pong Su - a Worker's Party linked vessel and with a KWP secretary on board - in my mind was hardly a random or isolated incident (it is not surprising given that the North Koreans had established an Embassy in Canberra the year before that one would assume needed to produce income for the center - it was Pyongyang's way of saying "thanks very much").

2. Production and international distribution of counterfeit currency, in particular the US dollar, as well as counterfeiting or illegally reproducing and selling numerous other items, in particular counterfeit cigarettes and pharmaceuticals.

Under International Law, counterfeiting another nation's currency is an act of causus belli, an act of economic war. No other government has engaged in this act against another government since the Nazis under Hitler. North Korea has been counterfeiting the dollar and other currencies of importance the entire time it has been on the international engagement bandwagon. What does this say about the regime's intentions?

As the recent DOJ indictment of Sean Garland and other members of the Official IRA for their partnership in the criminal distribution of counterfeit US currency reads: "Beginning in or about 1989, and continuing throughout the period of this Indictment, a type of high-quality counterfeit $100 FRNs began to be detected in circulation around the world. Their high quality made it particularly difficult for them to be detected as counterfeit by untrained persons. The United States Secret Service initially designated these counterfeit notes as "C-14342" and they came to be known as "Supernote" or "Superdollar." Quantities of the Supernote were manufactured in, and under auspices of the government of, the Democratic People's Republic of Korea ("North Korea"). Individuals, including North Korean nationals acting as ostensible government officials, engaged in the worldwide transportation, delivery, and sale of quantities of Supernotes."

The Royal Charm and Smoking Dragon investigations that were concluded this summer revealed a willingness to sell millions of dollars in DPRK supernotes into the US by Asian OCs linked to the North Korea government. Whether this was a deliberate act of policy decided in Pyongyang or just business among crooks is hard to tell but it seems unusual that according to the public indictment the cost of the notes was less than 40 cents per dollar, far below the market value associated previously with the counterfeit supernotes, given their ability to be circulated without ready detection by the naked eye. One wonders how such a price could be obtained unless the notes were

coming from a very high source inside the country in question.

The relatively sophisticated shipping methods for transporting supernotes uncovered in the FBI-USSS Royal Charm/Smoking Dragon investigations also needs to be given scrutiny, especially given our topic today. The following slides, reproduced from a Taiwanese newspaper article gives you a sense of how they move the notes around, falsely manifesting the cargo as a non-dutiable item (in this case as "toys"), falsifying port of origin information (to indicate a port in Northern China instead of in the DPRK), and cleverly concealing the contraband.

The production of counterfeit cigarettes also appears to be a very large and profitable business for North Korea and one with global reach. Indeed, Counterfeit cigarettes may well be North Korea's largest containerized export sector with cargoes frequently coming from the ports of Najin and Nampo for shipment via major ports in China and the ROK throughout the world. Phillip Morris International, Lorillard, Japan Tobacco and others have identified numerous factories producing counterfeit cigarettes in North Korea. Affected industry participants have worked assiduously with relevant government authorities around the world to stop this trade. The numbers explain why. A forty foot container of counterfeit cigarettes might cost as little as $70,000 to produce and have a street value of 3-4 million dollars, so it's not surprising that the North has focused on this business line-with its profits increased if tax stamps are forged (something that has been observed repeatedly of late, costing affected states such as California tens of millions in stamp revenue per year). A 1995 Associated Press article reported the seizure by Taiwan authorities of 20 shipping containers of counterfeit cigarette wrappers destined for North Korea. According to officials of the cigarette company whose label and trademark were being violated, the seized materials may have been used to package cigarettes with a retail value of $1 billion. Increasingly DPRK counterfeit cigarettes, counterfeit pharmaceuticals (especially counterfeit Viagra), and counterfeit currency are being moved in parallel. Royal Charm revealed that weapons, too, potentially even manpads might be run through the same channels. What could be next?

3. Smuggling sanctioned items, including conflict diamonds, rhino horn and ivory, and endangered species, utilizing official diplomatic means

I find this to be one of the most outrageous and unacceptable of the DPRK's criminal acts, absolutely contravening international law, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora. There are numerous notorious examples to cite. In the early 1980's, five North Korean diplomats were forced to leave Africa for their attempts to smuggle rhino horns. The horns were transported from Luzaka to Addis Ababa to South Yemen. From there, they traveled to the consulate in Guangzhou, which ran operations in Macau, Zhuhai, and Hong Kong. This kind of activity has apparently not changed. As Stanford researcher, Sheena Chestnut, noted in a recent thesis, in the years since 1996, "at least six North Korean diplomats have been forced to leave Africa after attempts to smuggle elephant tusks and rhinoceros horns." Ivory seizures directly linked to North Korean officials amounted to 689 kg in Kenya in 1999; 537 kg in Moscow in 1999; and 576 kg in France in 1998. I don't have more recent data I can share publicly but I don't think they have given up on the illicit ivory trade.

4. Money laundering for its own account and in partnership with recognized organized crime groups abroad:

The extent to which the DPRK uses banking partners around the world to launder funds has recently gotten a lot of attention in the wake of the Macau based Banco Delta Asia designation under Section 311 of the USA Patriot Act. The Treasury Department's website paints a pretty clear picture: "One well-known North Korean front company that has been a client of BDA for over a decade has conducted numerous illegal activities, including distributing counterfeit currency and smuggling

counterfeit tobacco products. In addition, the front company has also long been suspected of being involved in international drug trafficking. Moreover, Banco Delta Asia facilitated several multi-million dollar wire transfers connected with alleged criminal activity on behalf of another North Korean front company."

5. Weapons smuggling and trading in WMD

Even while its customer base diminishes, North Korea defiantly remains in the business of selling MTCR class missiles and base technologies. It also continues to field more advanced systems domestically that could be exported. Logically speaking, as its stockpile of WMD grows so could its willingness to export technologies, systems, and even materials. Business and ideology conveniently mix in the minds of North Koreans, it seems, as they calculate where, when, and how to sell weapons and weapons systems.

Moreover, in the face of increased surveillance of DPRK flagged vessels, the threat of using conventional shipping means to move cargoes increases as does the incentive to use organized crime channels.

There are several thousand containers each year coming out of North Korea from its two main container cargo ports: Najin on the east coast and Nampo on the west coast. To get into the international maritime transport system, they have to go through friendly ports, typically in China, the ROK, and Japan. Virtually none of these containers in China is subject to inspection and few in the ROK. Japanese customs has made a bigger effort but it remains insufficient in regard to cargoes destined for non Japanese ports.

As we learned from the investigations concluded this summer, containers of counterfeit cigarettes, counterfeit currency, weapons, and other illicit items apparently produced in the DPRK or linked to a distribution chain it has ready access to have managed to make their way into the US. So could North Korean WMD if we don't create a system to better scrutinize cargoes and enhance Maritime Domain Awareness to protect our SLOCs.

Unfortunately, neither the PSI no the CSI are attuned to addressing these threats. The Container Security Initiative is a worthy effort to move US customs outward, inspecting select cargoes destined for US waters overseas before they embark in our direction. I am impressed by the work being done by US Customs and ICE officers overseas to look into suspect cargoes and the dedication of personnel at the National Tracking center to identify ships and cargoes that may have not been covered by the CSI or fallen through the loop. Nonetheless, the CSI has no application to containers destined for non-US ports and, moreover, it is only operating in a small number of foreign venues. What happens to the majority of containers coming here or going elsewhere? Nothing.

Moreover, the hallowed Proliferation Security Initiative unfortunately remains much more talk that action. I support the initiative but it is not sufficient and does not substitute for a dedicated DPRK counter-proliferation policy. It is nice to see countries getting together to agree to intercept shipments but it is another to engage in such interdictions. There has not been one single PSI interdiction of a DPRK flagged vessel that I am aware of. Does this mean they have stopped sailing? A quick look at the "Lloyd's List" database reveals this to not be true with many notorious North Korean vessels like the Sosang, which was interdicted shipping missiles to Yemen in December 2002 (before the PSI existed), still plying the high seas. What are these ships carrying? Moreover, I find the implicit premise that interdiction alone is adequate for stopping proliferation unsettling. Stopping a weapons shipment on the high seas is like stopping a drug shipment under dark of night-easier said than done. The odds are not good, especially when you face an adversary with access to near state of the art communications, excellent denial and deception, diplomatic immunities, and

friendly criminal partners to facilitate its activities.

More decisive action is required, well beyond the PSI's current scope. The AQ Khan network was brought down by a network disruption strategy that utilized all aspects of national power. Such a strategy may need to be mounted soon to stop a determined North Korea engaged in the weapons trading business.

Fortunately, there are some things in the area of peaceful international cooperation we can do to minimize the chance North Korean contraband, missiles, or WMD will get into the international distribution system. I propose that a special Container Security Initiative be created and applied to the DPRK, beginning in China and the ROK. Specifically, all containerized cargo out of North Korea should be mandated for inspection at the first international port of conveyance. Legitimate trade would be allowed to pass but illicit cargoes would be stopped. The US could not accept containers from ports that do not wish to join this special inspection regime. Such a regime would dramatically reduce the risk of weapons proliferation and cut into crime. Were all ships coming from the DPRK, whether bearing containers or not, subject to first order inspection the system would be even more effective. Given that DPRK trade represents a drop in the bucket for even major Chinese and Koreans ports, instituting such a regime should not be particularly onerous.

Down the road a more elegant solution is possible, whereby only smart containers can gain access to the international shipping system. The President recently announced a new policy on Maritime Domain Awareness (MDA). As Vice Admiral John Morgan has recently written, "MDA is the collection, fusion and dissemination of enormous quantities of data - intelligence and information to form a common operating picture (COP) - a web of integrated information which will be fully distributed among users with access to data that is appropriately classified." Through the COP, specialists should eventually be able to monitor vessels, people, cargo and designated missions, areas of interest within the global maritime environment, access all relevant databases, and collect, analyze and disseminate relevant information.

This goal of Maritime Domain Awareness may sound overambitious, if not down right impossible. However, within the next five years, we likely will see the global deployment of such "smart-containers." These sophisticated containers will be equipped with RFID tags that can not only broadcast the precise geo-location of the container but also be linked to relational databases that reveal detailed information on the container's cargo: where it was loaded and by whom, when and where it was produced, and a host of other important information. IBM and Maersk have in fact just announced a pilot project to validate this smart container concept and allow the data to be trackable via an open information architecture.

In effect, driven by industry requirements even more than government regulations, by the end of the decade we can look forward to the development of a "world wide web of things" - the physical data tracking equivalent of the internet. Such a web promises to dramatically enhance supply chain management for multinationals, expedite and safeguard trade, and reduce counterfeiting. This is not science fiction: companies like Walmart have already demanded that their suppliers insert RFID tags into products with the goal of eventually being able to track in near real-time the status of virtually every asset in the company's supply chain domestically and - relatively soon - globally.

Countries, ports, or companies not subscribing to smart container standards would be subject to automatic inspection or simply not be allowed to engage in international trade with countries participating in the initiative.

Conclusions:

North Korea is the only government in the world today that can be identified as being actively involved in directing crime as a central part of its national economic strategy and foreign policy. As a result, Pyongyang is radically - and perhaps even hopelessly - out of synch with international law and international norms. In essence, North Korea has become a "soprano state" - a government guided by a Worker's Party leadership whose actions, attitudes, and affiliations increasingly resemble those of an organized crime family more than a normal nation.

North Korea's serial violation of international laws and agreements begs the question whether it should be allowed normal protections granted to states under the United Nations treaties.

Its reliance on illicit activity for maintaining what my former colleague Bill Newcomb has termed the "palace economy of Kim Jong Il" perhaps makes it very hard for North Korea to abandon such activities and also provides Pyongyang a means to avoid serious engagement with the outside world. Thus, unless and until the North finds itself censured for its involvement in such activities and its illicit finances come under great pressure it may have few incentives to be cooperative and come clean and act normal.

The North must cease its dealings with trans-national organized criminals, its illicit export of weapons, its nuclear reprocessing, its threats to engage in nuclear proliferation, etc. Instead it should accept the extremely reasonable terms the US, with the others parties in the talks, have offered for promoting a positive and peaceful transformation of relations in the context of full denuclearization. If it does then next month's talks should represent a turning point in the history of our relations with the DPRK. If it does not, as I have shown the evidentiary ground exists for the DPRK's comprehensive diplomatic isolation and a systematic denial in diplomatic privilege, if not as a pariah state with nuclear weapons but as a criminal state engaged in causus belli acts against the United Nations, its laws, and its principles. I hope Mr. Kim Jong Il makes the right decision.

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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