

Confidential Report on  
United Nations Development  
Programme Activities in the  
Democratic People's Republic of  
Korea

1999–2007

External Independent Investigative  
Review Panel

May 31, 2008

## External Independent Investigative Review Panel

**CONFIDENTIAL**

May 31, 2008

Kemal Dervis  
Administrator  
United Nations Development Programme  
Office of the Administrator  
One United Nations Plaza, DC1-2128  
New York, N.Y. 10017

Dear Mr. Dervis:

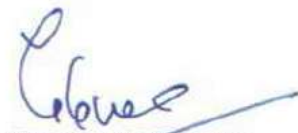
We are pleased to forward herewith our confidential report (which will be delivered to you on the 1<sup>st</sup> of June) on the Terms of Reference spelled out for the Panel's work. We have carried out our task to the best of our ability with full objectivity and independence and have arrived at our findings after a comprehensive investigative review and careful deliberation of the evidence that we could gather. We are grateful to you and your staff for the help and cooperation provided for facilitating our work.

During the course of our work, we have reviewed a large number of documents including financial records, and conducted over 70 interviews with current and former staff members of UNDP, the UN, and others. We have also benefitted from information provided by the Permanent Mission of the United States to the United Nations.

The completion of our work took longer than originally expected. This was on account of factors beyond our control, including the time needed to transport documents from the UNDP-DPRK Country Office in Pyongyang to New York City via Beijing, thorough review of these documents, and the procedures that needed to be followed for procurement of expert services of firms that the Panel needed to hire for its work.

In line with the Terms of Reference, we request that copies of this report may be forwarded to the members of the UNDP Executive Board and also to the Director of the UN Ethics Office.

Sincerely,

  
Chander M. Vasudev

  
Miklós Németh

  
Mary Ann Wyrsh

With copy to: Ambassador Ehouzou, Chair, UNDP Executive Board  
Members of the UNDP Executive Board  
Robert Benson, Director, UN Ethics Office

## Table of Contents

### FOREWORD

I. MANDATE .....	7
A. Preface.....	7
B. Timeline .....	9
II. DISCOVERY PROCESS.....	10
III. ORGANIZATION OF THE REPORT .....	12

### CHAPTER 1 BACKGROUND

I. GENERAL CHARACTERISTICS IN TIME FRAME: 1999–2007 .....	19
A. The Democratic People’s Republic of Korea .....	19
B. UNDP Programs in the DPRK.....	23
C. Role of the DPRK Government in UNDP Programs .....	26
II. UNDP’S DPRK COUNTRY OFFICE PROFILE .....	28
A. UNDP Coordination Role in the DPRK Overall .....	29
B. Program Management .....	30
C. Staffing Arrangements .....	33
D. Procurement .....	38

### CHAPTER 2 PAYMENTS AND FINANCIAL TRANSACTIONS

I. TERMS OF REFERENCE.....	48
II. EXECUTIVE SUMMARY.....	48
III. BACKGROUND .....	50
A. Distinction Between Two Payment Categories .....	50
B. Defining “Hard Currency” .....	51
C. Review by the UN Board of Auditors re: UNDP-DPRK Financial Transactions ....	52
D. Review by the U.S. Senate’s Permanent Subcommittee on Investigations .....	53
E. Panel Approach .....	54
F. Document and Data Review .....	56
G. Comparison of Deposit Transactions to Data in UNDP Financial Systems.....	59
H. Challenges and Limitations on Analysis.....	60
IV. FINDINGS OF FACTS .....	61
A. Overall Budget for UNDP-DPRK.....	61
B. Amount and Nature of Disbursements .....	62
C. Bank Accounts and Banking Environment .....	66
D. Inflow of Funds .....	72
V. ANALYSIS OF PAYMENTS MADE .....	79
A. Nature of Payments Made and Payees and Potential for Diversion of Funds .....	79
B. Identification of Bank Accounts and Signatories.....	95
C. Purported Cash Transactions.....	95
D. Hard Currency Payments to DPRK Government Entities, Including NCCs .....	100
E. International Finance Trade Joint Company and Banco Delta Asia .....	103
F. Payments to Zang Lok.....	105
VI. CONCLUSIONS .....	107
VII. RECOMMENDATIONS .....	109

A. General Recommendations .....	109
B. Banking Statements and Banking Arrangements.....	109
C. Financial Systems.....	110

### **CHAPTER 3 UNDP-DPRK PROJECT IMPLEMENTATION**

I. TERMS OF REFERENCE.....	123
II. EXECUTIVE SUMMARY.....	123
III. REVIEW SCOPE AND OBJECTIVES .....	125
A. The Review Approach and the Review Sample.....	125
B. Projects Subject to Implementation Review .....	133
IV. THE REVIEW FINDINGS .....	144
A. Perez-Guerrero Trust Fund Projects .....	145
B. Projects Review Sample.....	147
V. OVERALL CONCLUSIONS.....	165
VI. RECOMMENDATIONS.....	167

### **CHAPTER 4 REPORT ON DUAL USE EQUIPMENT**

I. TERMS OF REFERENCE.....	190
II. APPLICABLE INTERNATIONAL EXPORT LICENSING REQUIRMENTS .....	190
A. Executive Summary .....	190
B. UN Privileges and Immunities .....	191
C. UNDP’s Role.....	193
D. Complexities Associated with Application of Export Control Systems.....	194
E. UNDP’s Compliance Efforts re: DPRK .....	196
F. Conclusions.....	199
G. Recommendations.....	199
III. CLASSIFICATION AND ANALYSIS UNDER U.S. LAW .....	203
A. Introduction.....	203
B. U.S. Export Control Regimes.....	204
C. Relationship between U.S. Export Controls and International Law .....	206
D. Examination of Equipment Purchased by UNDP for DRPK Programs .....	206
E. Dual Use Classifications and Analysis under U.S. Law .....	210
F. Transfer of Items to the DPRK Government upon Suspension of Program.....	215
G. Analysis of Compliance Obligations of Relevant Parties.....	216
H. End-users.....	218
I. Specific Cases Examined by the Panel.....	219
J. Disposition/Retransfer of Imported Items to DPRK Government.....	220
K. Current Location of Equipment .....	221

### **CHAPTER 5 COUNTERFEIT CURRENCY ISSUES**

I. TERMS OF REFERENCE.....	247
II. EXECUTIVE SUMMARY.....	247
III. REVIEW SCOPE AND OBJECTIVES .....	249
IV. FINDINGS OF FACTS.....	250
A. Provenance .....	250
B. Treatment of Notes: Handling by UNDP-DPRK Country Office.....	251

C. Treatment of Notes: Handling by UNDP .....	254
V. ANALYSIS OF RELEVANT FACTS .....	255
A. Chain of Custody and Provenance of Defaced Counterfeit Notes .....	255
B. UNDP's Treatment of the Defaced Counterfeit Currency .....	259
VI. CONCLUSIONS .....	270
VII. RECOMMENDATIONS .....	271

## **CHAPTER 6 ALLEGATIONS OF RETALIATION**

I. TERMS OF REFERENCE .....	273
II. EXECUTIVE SUMMARY .....	273
III. FINDINGS OF FACTS .....	276
A. Summary of Shkurtaĵ's Service for United Nations and Related Agencies .....	276
B. Shkurtaĵ's Service with DESA and His Complaint of Retaliation (2004) .....	277
C. Shkurtaĵ's Initial Service as Operations Manager in DPRK (2005) .....	278
D. Shkurtaĵ's Application for ALD-Based Assignment in DPRK .....	
(September 2005 through April 2006) .....	284
E. Shkurtaĵ's Complaints to UNDP and Non-UNDP Officials and Responses .....	
Received (May 2006) .....	288
F. Shkurtaĵ Returns to UNDP-DPRK (June 2006 through September 2006) .....	290
G. Shkurtaĵ's Consultancy Position with CBS .....	
(September 27, 2006 through March 26, 2007) .....	293
H. Shkurtaĵ's Search for Another UNDP Position .....	
(August 2006 through January 2007) .....	295
I. External Inquiries and Reports re: UNDP-DPRK .....	
(August 2006 through February 2007) .....	296
J. Further Efforts to Address Financial Management and Currency Issues .....	
and the Discontinuation of UNDP Operations in DPRK .....	298
K. Shkurtaĵ's Claims & UNDP's Responses (February 2007 through May 2007) .....	302
L. Report from the UN Board of Auditors (May 31, 2007) .....	309
M. Review by the UN Ethics Office .....	310
N. Appointment of External Independent Investigative Review Panel .....	311
IV. ANALYSIS .....	312
A. Analysis of Shkurtaĵ's Allegations and Reports of Wrongdoing .....	312
B. Analysis of UNDP's Response to Shkurtaĵ's Allegations .....	315
C. Did Shkurtaĵ in Good Faith Notify Authorities Outside UNDP? .....	317
D. Did UNDP Retaliate Against Shkurtaĵ for Reporting Concerns? .....	318
E. Factors Bearing on Credibility .....	325
F. Credibility of Shkurtaĵ's Recent Allegations of Counterfeit Currency .....	335
G. Applicable Policies and Legal Principles .....	339
V. CONCLUSION .....	343
VI. RECOMMENDATIONS .....	343

## **CHAPTER 7 PANEL RECOMMENDATIONS**

I. TERMS OF REFERENCE .....	346
II. GENERAL RECOMMENDATIONS .....	346

<b>CHAPTER 8 RESOURCES AND STAFFING</b> .....	348
Acknowledgments.....	349
Name Index.....	350
Acronyms.....	352

## Foreword

### I. MANDATE

#### A. Preface

The External Independent Investigative Review Panel (EIIRP) was formed by the United Nations Development Programme (UNDP) in September 2007 in order to conduct a “comprehensive and detailed investigative review of the UNDP Democratic People’s Republic of Korea (DPRK) country office operations during the period 1 January 1999 to 1 March 2007.”<sup>1</sup> The Terms of Reference of the Panel are attached as Appendix 1.

The issues addressed by the Panel were initially raised through a number of communications from some Member States, including the Permanent Mission of the United States to the United Nations (U.S. Mission) in the summer of 2006. These communications contained inquiries about the UNDP’s DPRK programs. In addition, a gradually expanding list of specific allegations played out in the media through the end of 2007.

In response to this, in January 2007 the UN Secretary-General asked the Advisory Committee on Administrative and Budget Questions (ACABQ) to request the UN Board of Auditors to undertake an examination of the operations of the United Nations Funds and Programmes in the DPRK. The UN Board of Auditors agreed to ACABQ’s request and undertook a review of UNDP, UNFPA, UNOPS, and UNICEF operations in the DPRK in March 2007.

The results of this audit as they pertained to UNDP, and the management response from UNDP, which were issued in May and June of 2007 respectively, met some of the goals for examination that were originally contemplated. However, the UN Board of Auditors’ review was limited in its scope to audit issues, and also did not undertake issues requiring investigation. In addition, the UN Board of Auditors was not able to gain access to UNDP-DPRK’s office or staff to perform its work, and ultimately suspended plans for further work on the matter.<sup>2</sup>

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<sup>1</sup> External Independent Investigative Review Panel Terms of Reference (Sept. 25, 2007).

<sup>2</sup> Letter from Philippe Séguin, Chairman, UN Board of Auditors to Rajat Saha, Chairman, Advisory Committee on Administrative and Budgetary Question (Sept. 26, 2007).

Moreover, the UN Board of Auditors did not review certain allegations regarding retaliation raised by a former UNDP-DPRK Operations Manager.<sup>3</sup> In addition, this Operations Manager filed a request for protection from alleged retaliation. In August 2007, though the UN Ethics Office admittedly did not have jurisdiction in the matter, it nonetheless went on to say that if it had jurisdiction, it would have determined that there was a prima facie case that UNDP had retaliated against this individual.<sup>4</sup> After conveying this in a letter to the Administrator of UNDP, the Ethics Office did not further pursue the matter.

In the spring of 2007, the United States Senate Permanent Subcommittee on Investigations (PSI) launched an investigation into UNDP's programs in DPRK. In January 2008, the PSI released a Staff Report in conjunction with the Subcommittee's hearings on the same subject.<sup>5</sup>

On September 11, 2007, UNDP Administrator Kemal Dervis, in consultation with the Chairman of the UNDP Executive Board, announced the formation of the Panel to review the allegations of retaliation and the issues that had arisen about UNDP's programs in DPRK. The members of this panel include:

**Miklós Németh, Chair**

Miklós Németh served as Prime Minister of Hungary from November 1988 to May 1990. After leaving office, Németh served as Vice President for Personnel and Administration of the London-based European Bank for Reconstruction and Development.

**Chander Mohan Vasudev**

Chander Mohan Vasudev was Executive Director for India, Bangladesh, Bhutan, and Sri Lanka at the World Bank and Chairman of the Board's Committee on Development Effectiveness. Prior to this posting he served as Permanent Secretary in the Government of India's Ministry of Finance.

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<sup>3</sup> The Board of Auditors did meet with Artjon Shkurtaj in March 2007 to discuss operations in the DPRK.

<sup>4</sup> Letter from Robert Benson, Director, UN Ethics Office, to Kemal Dervis. (Copied to UN Secretary-General Ban Ki-Moon; Mr. Nambiar, Chef de Cabinet, Executive Office of the Secretary General; Mr. Melkert, Associate Administrator, UNDP; Mr. Shkurtaj, former Operations Manager, UNDP-DPRK; and, Mr. Samaras, Chair, Staff Council) (Aug. 17, 2007).

<sup>5</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).



## **Mary Ann Wyrsh**

Mary Ann Wyrsh is the former President and Executive Director of the Bush-Clinton Katrina Fund, the former United Nations Deputy High Commissioner for Refugees, and a former senior executive in the U.S. federal government, her most recent position being as Deputy Commissioner of the Immigration and Naturalization Service. (See Appendix 2 for complete bios of the Panel members.)

## **B. Timeline**

Following the announcement of the formation of the Panel, the Terms of Reference for the Panel were finalized and released on September 25, 2007. The Panel then convened in Budapest for an initial organizational meeting to outline its needs on October 9<sup>th</sup> and 10<sup>th</sup>, 2007.

Subsequent to the Budapest meeting, the Panel convened its first meeting in New York City on October 29, 2007, and during this time met with persons and entities having particular interest in the process, including the Secretary-General of the United Nations, the Chair of the UNDP Executive Board, the Chair and members of the UN Board of Auditors, the Director of the UN Ethics Office, and Ambassadors of the U.S. Mission. The Panel also attempted to meet with the Permanent Mission of the DPRK to the UN.<sup>6</sup> During this first series of meeting, the Panel decided to convene in New York City for intermittent periods while also working from their respective home locations. Throughout the course of its review, the Panel convened in New York City on six occasions for periods of ten days to two weeks at a time.

In its first week in New York, the Panel discussed the timing of the report with the UNDP Administrator, the Chair of the Executive Board, and the U.S. Mission; after initially assessing the complexity of the tasks, the group concluded that the end date of December 31, 2007 was unrealistic. However, no new date was set pending the Panel's full assessment of the scope of its work.

The Panel was charged with covering the following items in its report:

- 1) Identify all payments made by UNDP for itself and on behalf of other UN entities;

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<sup>6</sup> Panel member Wyrsh subsequently met with the First Secretary of the Permanent Mission of the DPRK to the UN on April 11, 2008.

- 2) Determine if the projects implemented under the country program were managed and implemented in accordance with UNDP regulations, guidelines and practices;
- 3) Identify all equipment that may qualify as having “dual use” procured by or for UNDP projects or procured by UNDP for other UN entities;
- 4) Identify the facts relating to any counterfeit or suspected counterfeit currency that came into the custody of the UNDP country office; and
- 5) Review the complaint lodged against UNDP that it retaliated against an individual for “blowing the whistle” on irregularities in its operations in DPRK.<sup>7</sup>

In early December 2007, after the Panel’s initial work, the Panel decided it needed to review the source documents from UNDP-DPRK’s files which were located in Pyongyang, DPRK and requested to have these files moved to New York City. As access to the files in Pyongyang was not possible and given the iterative nature of the Panel’s work, since review in Beijing would not have been feasible, the optimal course was to have the files available in New York City. Based on this decision, the Panel set March 31, 2008 as a new end date. This date was revisited in mid-February because of a number of factors. Given the complexity of the issues, the volume of evidence the Panel obtained, and the need for greater scrutiny of the issues overall, the Panel determined in mid-February to endeavor to complete its work by May 31, 2008 and to deliver a report in accordance with its Terms of Reference.

## **II. DISCOVERY PROCESS**

From its first meeting, the Panel’s objective approach to the investigative process was defined by independence, confidentiality, and security. In response to the Panel’s needs, UNDP provided a private office space outfitted to serve the Panel and administered by the Panel and Panel staff. The Panel engaged its own services; acquired and has made use of an isolated server located in its office; organized a secure sending and receiving email service through the UN International Computing Centre supported by their offices in Geneva; established external phone lines and Internet access; controlled access to the office space; and hired its own staff with a reliance on content experts and professional services.

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<sup>7</sup> External Independent Investigative Review Panel Terms of Reference, (Sept. 25, 2007).

As the Panel was geographically dispersed, it was important to have project management staff in its central office. The Panel hired a mix of staff including a project manager, experts, and professional services firms to assist it in its work. Each of the work streams defined in the Terms of Reference was a distinct and complex project in its own right, requiring its own analysis and focus. Through the Panel's iterative process, it was therefore determined that professional services firms should offer support in specific areas, such as payments and dual use equipment, and should provide the Panel with detailed technical advice.

The selected firms include Arnold and Porter, LLP (dual use), Levett Rockwood, PC (editorial, and legal), and PricewaterhouseCoopers, LLP (audit services with forensic capacity). Complete information on staffing can be found in Chapter 8 of this Report, "Resources, Staffing, and Acknowledgements."

In an effort to fully address the five items outlined in the Panel's Terms of Reference, the Panel entered into a comprehensive discovery process through which it sought and obtained documentation (including from sources external to the UNDP, e.g. the U.S. Mission), files from UNDP's DPRK office, and documentation (both in hard copy and electronic files including certain email archives) made available by UNDP upon the Panel's request. The Panel worked alongside its expert advisors and professional services firms, corroborating information across multiple sources, and triangulating all sources of data to establish a fact pattern that would allow the Panel to draw clear conclusions.

The Panel's review is the only review that has had access to the source documents from UNDP's DPRK office. Once the source documents were requested by the Panel, UNDP dispatched the files which were in the World Food Programme's (WFP) custody in Pyongyang, to the UNDP office in Beijing. From Beijing, the files were sent to the UN Pouch Unit. The Panel was provided documentation on the number of boxes which were provided to WFP for safekeeping in March 2007, as well as documentation on the subsequent movement of the files from Beijing to New York City. Upon arrival at the UN Pouch Unit, in agreement with UNDP, Panel staff and UNDP staff witnessed and video recorded the transfer of all documents contained in 116 boxes into a secure space on UNDP's premises. (The Panel and UNDP had agreed upon a security and access

protocol prior to the arrival of the documents.) Since the documents arrived, the Panel has maintained control of access to the documents via a two-person access initiative; UNDP was in possession of one key to the room while the Panel was in possession of the other key, both of which were needed to access the room. In addition, the Panel enlisted twenty-four hour video recording of the documents storage room and has copies of all such recordings from the time of transfer of the documents to the end of the Panel's work. Through these and other measures, the Panel has satisfied itself as to the integrity and security of the documents examined and relied upon by the Panel.

The information acquired from this documentation was robustly supplemented by individual accounts as the Panel also undertook to conduct interviews with key personnel. Although there were no means or opportunities to interview Korean nationals who were serving UNDP-DPRK as local personnel, the Panel had unfettered access to UNDP staff, current and retired (who could be located), and as such, the full Panel or one or more of its members conducted more than 70 interviews; the data collected from these sources formed a significant portion of the inquiry.

### **III. ORGANIZATION OF THE REPORT**

The Report that follows begins with a chapter on background. Specifically, Chapter 1 reviews the historical and geopolitical context in which the UNDP conducted its operations and activities in the DPRK. Chapter 1 also explains the role that the DPRK government played in connection with UNDP's programs and the structure and operations of UNDP's Country Office. It is against this background that the Panel undertook its review in accordance with the Terms of Reference. Following the background chapter, the next five chapters of the Report, Chapters 2 through 6, address the five items set forth in the Panel's Terms of Reference. Each of these five chapters contains an executive summary of the Panel's analysis and viewpoints.

Specifically, Chapter 2 addresses payments and financial matters associated with the UNDP-DPRK program. Chapter 3 sets forth a review and analysis of the projects of the UNDP-DPRK program and the manner in which UNDP implemented them. Chapter 4 turns to the implications of applicable international laws concerning the export of "dual use" items to the DPRK and includes a discussion of UN privileges and immunities.

Chapter 5 discusses the facts surrounding thirty-five defaced counterfeit \$100 U.S. Dollar bills, which were held in the safe of UNDP's Country Office in the DPRK for more than eleven years, and the manner in which various responsible UNDP officials responded to the matter. Chapter 6 addresses the claims of a former UNDP Operations Manager in the DPRK who asserts that UNDP retaliated against him for reporting alleged wrongdoing in connection with UNDP's operations in the DPRK.

The Panel has also included recommendations to the UNDP and its Executive Board, which are set forth as the final sections of Chapters 2 through 6. Additional general recommendations appear in Chapter 7. Acknowledgements are provided in Chapter 8, followed by a glossary which sets forth relevant acronyms, and names and titles.

## APPENDIX 1: TERMS OF REFERENCE

25 September 2007

### Terms of Reference

The Independent Investigative Review shall consist of a comprehensive and detailed investigative review of the UNDP Democratic People's Republic of Korea (DPRK) country office operations during the period 1 January 1999 to 1 March 2007, and shall result in the submission of a report to the Administrator and the UNDP Executive Board. The report shall determine what funds were paid arising out of and/or relating in any way to the UNDP DPRK country programme. It shall also include payments made by UNDP on behalf of other UN entities, other entities and/or other countries. The report shall make every effort to determine whether such funds were used for their authorized or intended purposes, or were diverted for other purposes. If there is evidence that any such funds may have been diverted, the report shall indicate the manner of such diversion or possible diversion.

The report shall specifically:

- 1). Identify all payments made by UNDP for itself and by UNDP on behalf of other UN entities, other entities and/or other countries to suppliers of goods and services, including payments made through intermediaries, and determine to the extent possible whether such payments were received by the ultimate beneficiaries. The Report shall identify the bank accounts utilized by or for the benefit of the UNDP Administered activities, including the persons that had signature authority in regard to such accounts.
- 2). Determine if the projects implemented under the country programme were managed and implemented in accordance with UNDP regulations, rules, guidelines and practices, and with UNDP's Standard Basic Assistance Agreement with the DPRK Government, including whether such projects were effectively monitored and evaluated regularly in accordance with such regulations, rules, guidelines and practices. The report shall identify, enumerate and

confirm all project site visits, whether more visits should have been made in accordance with UNDP policies and procedures and whether UNDP international personnel participated in such visits.

3). Identify all equipment that may qualify as having “dual use” procured by or for UNDP projects or procured by UNDP for other UN entities, other entities and/or other countries, and make every effort to determine whether, within the parameters of the rules and regulations that existed at the time, including legal interpretation of such rules and regulations, such equipment was exported by the concerned vendors in compliance with applicable international export licensing requirements, the nature of the equipment, the names of the vendors who supplied such equipment, and the current disposition and location of such equipment.

4). Identify the facts relating to any counterfeit or suspected counterfeit currency that came into the custody of the UNDP Administered country office or of which the country office became aware, including any applicable UNDP policies regarding the reporting of such counterfeit currency to the relevant issuing country and the actions taken by UNDP in regard to such currency.

5). A complaint has been lodged that UNDP retaliated against an individual for “blowing the whistle” on irregularities in its operations in DPRK. In this respect, review the complainant’s allegations related to these operations and the alleged retaliation, make every effort to establish the facts, including about the specific events in DPRK and regarding application of relevant protection policies. After completing the review, the Independent Review Team shall share its findings on this aspect of the Independent Investigative Review with the Director, UN Ethics Office. The Director, UN Ethics Office, could then provide an opinion and formulate recommendations, as may be appropriate, on the retaliation allegations in light of these findings. If the UN Ethics Office requires further investigation of this specific issue, after having reviewed the findings of the investigative review, it can arrange for such follow-up before providing its recommendations, with the full cooperation of UNDP.

6). The Independent Investigative Review may make any recommendations as its sees fit based on conclusions drawn from this Independent Investigative Review, including regarding UNDP's protection policies and any lessons-learned.

In performing its work, the Independent Review Team shall:

A). Take into account the work already carried out and to be carried out by the UN Board of Auditors, and not impair the work of the UN Board of Auditors.

B). Have complete and unrestricted access in New York or wherever they are available and accessible for review to all records in whatever form or media wherever located as is necessary to complete its review and report including but not limited to: UNDP's complete manual checkbook, records of all electronic funds transfers, all other related bank account documents, contracts, receipts, MOUs, all documents related to project site visits and monitoring, all documents related to "dual use" equipment including applications, grants or denials of export licenses, and other relevant documents that are made available to the Independent Review Team from sources other than UNDP, including private individuals or governmental entities. UNDP shall make all records in its custody or subject to its authority available to the Independent Review Team.

C). Endeavor to interview in New York or wherever available and accessible all parties with knowledge of UNDP operations in the DPRK as the Independent Review Team deems necessary. The Team shall have complete and unrestricted access to all current and former UNDP employees, contractors, and UN Volunteers (collectively "UNDP Personnel") that worked in UNDP, including the DPRK country office, or in relation to the DPRK country program during the relevant time period. UNDP shall use best efforts to make such persons available to the Independent Review Team. Neither UNDP management nor their representatives may be present during any interviews conducted by the Independent Review Team of current or former UNDP Personnel, unless otherwise requested by the Independent Review Team. The statements made in such interviews shall be kept confidential by the Independent Review Team except to the extent such information is cited in the final report.



In the case of the final report submitted, the names and identities of such individuals shall be appropriately protected. All information and documents obtained by the Independent Review Team in the course of performing their work shall be treated with utmost confidentiality and shall be used solely for the purposes of the Investigative Review.

D). The Independent Investigative Review will not seek nor accept supervision or guidance from the Administrator, the Associate Administrator or any other officials or staff of UNDP or of the UN in the conduct of the Independent Investigative Review, or from members of the UNDP Executive Board or from any other Government, and will at all times avoid any conflict of interest or appearance of conflict with UNDP or its officials or personnel. Nothing in this paragraph shall preclude any person from providing relevant information in any form to the Independent Review Team.

E). The Independent Review Team shall be remunerated in accordance with standard UNDP remuneration rates, including travel. The Independent Review Team shall determine its own support staff/Secretariat (logistical support) arrangements, taking into account the need for confidentiality. Where support services are contracted, the services shall be on the basis of standard UNDP remuneration rates and contract terms, in accordance with UNDP procurement rules. Where services of experts and outside consultants (firms/individuals) are required, the Team shall apply UNDP procurement rules, ensuring competency, best value for money, and taking into account any real or perceived conflict of interest.

F). The work of the Independent Review Team shall commence as soon as feasible and the final report should be submitted if at all possible before the end of 2007.

G). The working papers of the Independent Review Team will be packaged and sealed and provided to the Secretary-General for safe-keeping for a period of seven (7) years, consistent with UNDP's document retention policy. Access to the working papers shall be limited to such circumstances as may be agreed by the Secretary-General.

## **APPENDIX 2: BIOGRAPHIES OF PANEL MEMBERS**

### **Miklós Németh**

Miklós Németh was born in 1948. He served as Prime Minister of Hungary from 23 November 1988 to 23 May 1990. After leaving office in 1990, Németh served as Vice President of the London-based European Bank for Reconstruction and Development, the financial institution established by the international community to assist the countries of eastern and central Europe and the former Soviet Union in their transition to democratic market economies. He left the EBRD in 2000 to return to Hungary. Németh holds various advisory positions at international development organizations and is currently a member of the Advisory Council of Transparency International, the International Advisory Board of Oxford Analytica and the Advisory Board of International Crisis Group.

### **Chander Mohan Vasudev**

From 1995 to 2002, Chander Mohan Vasudev worked in the Ministry of Finance, Government of India at positions of Permanent Secretary of Banking, Secretary of Public Expenditure Department and Secretary of Economic Affairs Department. Later, he worked as Executive Director for India, Bangladesh, Bhutan, and Sri Lanka at the World Bank and Chairman of the Board's Committee on Development Effectiveness until November 2005.

### **Mary Ann Wyrsh**

Mary Ann Wyrsh has over 24 years experience as a Chief Operating Officer and Executive in the public and non-profit sectors, serving at the national and international level. She is the former President and the Executive Director of the Bush-Clinton Katrina Fund and the former United Nations Deputy High Commissioner for Refugees. Prior to her U.N. appointment, she was a career US government employee, which culminated with her service as the acting commissioner of the U.S. Immigration and Naturalization Service.

# Chapter 1

## Background

### **I. GENERAL CHARACTERISTICS IN TIME FRAME: 1999–2007**

In the course of its work, the Panel came to understand the contextual setting of the United Nations Development Programme's (UNDP) activities in the Democratic People's Republic of Korea (DPRK) and was informed by the historical and geopolitical backdrop in which these programs operated.

#### **A. The Democratic People's Republic of Korea**

After the Korean War, the DPRK government pursued an ideology of reconstruction with a spirit of self-reliance known as "Juche." During this period, compared to other developing nations, the DPRK reached a high standard of living within 20 years, building its economy on heavy industry including iron, steel, chemicals, mining, and agriculture.<sup>8</sup>

In the early 1990s, following the collapse of the communist states of the Eastern Bloc, the DPRK lost its privileged access to capital goods, petroleum, spare parts, and machinery. Import prices of its vital inputs rose dramatically, driving an equally dramatic reduction in industrial production and export earnings. The DPRK's economy started to shrink in 1990, and over the four-year period from 1990 to 1993, it declined an average of four percent a year. In the mid-1990s the DPRK then endured a series of natural disasters: hails in 1994, flooding in 1995 and 1996, and droughts in 1997. These events eroded the agricultural base of the country, and the economy continued to decline at about three percent a year from 1994–1998, its GNP decreasing by roughly 35 percent from \$23.2 billion USD in 1990 to \$12.6 billion USD in 1998. Per capita GNP fell by 50 percent from \$1,146 USD to \$573 USD in the same period, and UNDP (2001) figures for this period estimate that GDP dropped by 50 percent from 1992 to 1998.<sup>9</sup>

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<sup>8</sup> <http://news.bbc.co.uk/2/hi/asia-pacific/783966.stm>; <http://www.iexplore.com/dmap/North+Korea/History>; and Timo Pakkala, Information Note on UNDP's Programme in DPRK 1979–2007, Draft 2 (Oct. 5, 2007).

<sup>9</sup> Korea Development Institute (1996) and Bank of Korea, "The North Korean Economy: Current Issues and Prospects", Soo-Bin Park, Carleton University, Ottawa, Ontario, Canada, (Apr. 2005) (appearing at, <http://www.carleton.ca/economics/cep/cep04-05.pdf>).

In 1995, the DPRK made a request for humanitarian assistance to the international community. The World Food Programme (WFP), the United Nations Children’s Fund (UNICEF), and many other UN and nongovernmental organizations responded with food and other humanitarian assistance.<sup>10</sup> Since the crises of the mid–1990s, the humanitarian situation in the DPRK has remained fragile. A large part of the population has survived primarily through transfers of food and other economic assistance from abroad. Humanitarian assistance from 1995–2002 amounted to \$2.6 billion USD<sup>11</sup> and provided more than two million tons of food aid.<sup>12</sup>

Concerns about access to energy intensified when the DPRK lost access to oil and other inputs from its Eastern Bloc trading partners, resulting in an increased interest in nuclear programming. This interest became a major issue for Japan, the Republic of Korea (ROK), and the United States. In 1993, the DPRK expressed its intent to withdraw from the nuclear Non-proliferation Treaty (NPT), to which it had acceded in 1985. During the next two years, the U.S. held direct talks with the DPRK that resulted in among other things, the 1994 Agreed Framework and the Korean Peninsula Energy Development Organization (KEDO). In 1998, ROK’s “sunshine policy” laid the basis for greater political and economic contact on the peninsula, which continues today.<sup>13</sup>

In 2002, the Agreed Framework<sup>14</sup> started to unravel in a disagreement with the U.S. about uranium enrichment. In late 2002 and early 2003, the DPRK announced its withdrawal from the NPT, terminated its freeze on its existing plutonium-based nuclear facilities in Yongbyon, and expelled International Atomic Energy Agency (IAEA) inspectors. The re-

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<sup>10</sup> Ministry of Unification (2002), North South Trade and Cooperation in 2002, Seoul, “The North Korean Economy: Current Issues and Prospects,” Soo-Bin Park, Carleton University, Ottawa, Ontario, Canada, (Apr. 2005).

<sup>11</sup> Ministry of Unification (2002), North South Trade and Cooperation in 2002, Seoul, “The North Korean Economy: Current Issues and Prospects.” Soo-Bin Park, Carleton University, Ottawa, Ontario, Canada, (Apr. 2005).

<sup>12</sup> Freedom House, Country Report North Korea, 2006 (appearing at <http://freedomhouse.org/template.cfm?page=22&year=2006&country=6993>).

<sup>13</sup> “Engagement of North Korea: Support for the ‘Sunshine Policy,’” Jeffrey B. Kendall, National Defense University, Washington, DC, U.S. (Sept. 2001); “South Korea’s Sunshine Policy,” Remarks by Yang Sung Chul, ROK Ambassador to the U.S. to Asia Society, (Dec. 4, 2000); and Timo Pakkala, Information Note on UNDP’s Programme in DPRK 1979–2007, Draft 2 (Oct. 5, 2007).

<sup>14</sup> <http://www.armscontrol.org/factsheets/agreedframework.asp>.

emergence of the nuclear issue led to the steady deterioration of relations between the DPRK, ROK, Japan, and the U.S.<sup>15</sup>

During this same period, geopolitical tensions between the U.S., the DPRK, and other countries increased. After U.S. President George Bush's 2002 State of the Union address in which he labeled the DPRK as a member of an "axis of evil," DPRK officials felt certain that sanctions against their country would be tightened, leading to aggressive actions on the part of the DPRK government in response. The DPRK also decided to stop using U.S. Dollars in the DPRK in late 2002, and most of its external monetary transactions<sup>16</sup> were handled in Euros.<sup>17</sup> Finally, the unresolved issue of abductions of Japanese citizens by the DPRK led to further trade restrictions on the DPRK by Japan.<sup>18</sup> This deterioration in the external political environment resulted in reduced aid to the DPRK.

The provision of multilateral aid to the DPRK is substantially limited to the United Nations. The bulk of aid comes through WFP's food aid programs, though significant support also comes through other agencies, including UNICEF. The DPRK, along with Cuba, is one of only two nations in the world that is not a member of the World Bank.<sup>19</sup> The

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<sup>15</sup> Freedom House, Country Report North Korea, 2006; and Timo Pakkala, Information Note on UNDP's Programme in the DPRK 1979–2007, Draft 2 (Oct. 5, 2007).

<sup>9</sup> Prior to 2002, North Korean Won were for use exclusively by North Korean citizens; the Bank of Trade issued a separate currency - foreign exchange certificates - for visitors. That currency, termed "convertible Won" was different depending on the recipient. Visitors from "socialist countries" received red certificates, and those for non-socialist received blue/green certificates. The "convertible Won" was used for transactions in the place of hard currency, but could not be used on the world market. After 2002, the government abolished the version of the currency used exclusively by foreigners, though in the absolute sense the currency remains unconvertible on world markets and tightly controlled by the government. See <http://news.bbc.co.uk/2/low/business/2192570.stm>; <http://www.answers.com/topic/north-korean-won-1?cat=biz-fin>; and *UNDP Living Conditions in the Democratic People's Republic of Korea* (Jan. 2002) (compiled by the UNDP Programme, Pyongyang, DPRK).

<sup>17</sup> *Note Verbale* from the Foreign Trade Bank DPR Korea to all diplomatic missions and all international organizations (Nov. 22, 2002); Memo response from Richard W. Corsino, Resident UN Coordinator a.i. Humanitarian Coordinator to Director FDRC, Secretary-General NCC, Chief of Protocol, Ministry of Foreign Affairs (Nov. 22, 2002); <http://news.bbc.co.uk/2/hi/asia-pacific/2531833.stm>; Masood Hyder interview (Nov. 2, 2007); and Paul Brewah interview (Dec. 17, 2007).

<sup>18</sup> "North Korea Targeted: Bill to bar ships from ports goes to Diet" (Apr. 7, 2004), <http://search.japantimes.co.jp/cgi-bin/nn20040407a2.html>; and "Japan Rightists Fan Fury Over North Korea Abductions" (Dec. 17, 2006), [http://www.nytimes.com/2006/12/17/world/asia/17japan.html?\\_r=1&ref=asia&oref=slogin](http://www.nytimes.com/2006/12/17/world/asia/17japan.html?_r=1&ref=asia&oref=slogin); and David Lockwood interview (Mar. 26, 2008).

<sup>19</sup> Asian Perspective v. 30, no. 3, *Possible World Bank Assistance to North Korea: Issues and Challenges*, Daniel Morrow (2006).

DPRK is also not a member of the Asian Development Bank, though the government recently expressed interest in membership in both (World Bank/IMF and the ADB).<sup>20</sup>

In addition to multilateral aid through the UN system, the DPRK receives significant bilateral aid from individual countries, including a new agreement to receive 500,000 metric tons of food aid from the U.S., announced recently.<sup>21</sup> Nonetheless, China and the ROK remain the largest donors to the DPRK. China supplies 70 percent of the DPRK's energy and 40 percent of its food,<sup>22</sup> for a total of \$2 billion USD in aid overall.<sup>23</sup> The CIA World Factbook states that in 2001 nearly \$300 million in food aid alone was delivered from the U.S., the ROK, Japan, and the EU, plus additional aid from the UN and other non-governmental organizations; and in 2005, the ROK delivered 500,000 tons of grain, matching WFP commitments.<sup>24</sup>

In July 2006, the DPRK launched seven ballistic missiles.<sup>25</sup> This led to UN Security Council resolution 1695 condemning the action.<sup>26</sup> In October 2006, the DPRK announced the successful test of a nuclear device.<sup>27</sup> The UN then passed resolution 1718 condemning the DPRK and imposing sanctions on certain goods and equipment.<sup>28</sup> The nuclear test and UN response resulted in a further deterioration of the political climate between the DPRK and the international community.

In February 2007, the six party talks reached an agreement on a "Joint Statement" in which the DPRK agreed to shut down and seal its nuclear facilities and invite back IAEA inspectors.<sup>29</sup> The other five parties agreed to provide emergency energy assistance to the

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<sup>20</sup> "Asian Development Bank Avoids DPRK," Korea Herald (May 4, 2006), <http://www.nkeconwatch.com/2006/05/04/asian-development-bank-avoids-dprk/>; "NK wants to join IMF, World Bank," Korea Times (May 6, 2007), <http://www.nkeconwatch.com/category/organizaitons/asian-development-bank/>.

<sup>21</sup> <http://www.cnn.com/2008/WORLD/asiapcf/05/16/nkorea.aid.ap/index.html> (May 16, 2008).

<sup>22</sup> Korea Times, June/July 2003 (assembled by Randall Parker and appearing at <http://www.parapundit.com/archives/001464.html>).

<sup>23</sup> Christian Science Monitor (July 10, 2006).

<sup>24</sup> Asia Times Online Ltd, Jeffrey Robertson (2005) (appearing at <http://www.atimes.com/atimes/Korea/GJ01Dg03.html>).

<sup>25</sup> See e.g., "North Korea test fires 7<sup>th</sup> missile," <http://www.cnn.com/2006/WORLD/asiapcf/07/05/korea.missile/index.html>.

<sup>26</sup> "Security Council Condemns Democratic People's Republic of Korea's Missile Launches, Unanimously Adopting Resolution 1695 (2006)," <http://www.un.org/News/Press/docs/2006/sc8778.doc.htm>.

<sup>27</sup> See e.g., "North Korea announces Nuclear Test," <http://www.washingtonpost.com/wp-dyn/content/discussion/2006/10/09/DI2006100900470.html>.

<sup>28</sup> "Security Council Condemns Nuclear Test by Democratic People's Republic of Korea, Unanimously Adopting Resolution 1718 (2006)," <http://www.un.org/News/Press/docs/2006/sc8853.doc.htm>.

<sup>29</sup> The six party talks included the DPRK, the ROK, Japan, China, the U.S., and Russia.

DPRK. There were indications of tangible progress on the nuclear issue and reports of developing relations with key regional players renewing some aid and investment to the DPRK.

These geopolitical circumstances and relationships led to increased interest in the DPRK, a heightened interest in all humanitarian and development activities that were taking place in the country, and heightened scrutiny of the organizations that were carrying out this work. News media has referred to the UN feeling that its work in the DPRK was “under siege”<sup>30</sup> and to the sensitivity of the Bush Administration to the DPRK because of, among other things, its own work in the country to resolve open financial questions.<sup>31</sup> This heightened interest, other concurrent issues and agendas discussed above, and the timing of the appearance of allegations made against UNDP created a “perfect storm” of concern centered on UNDP’s DPRK programs and formed the backdrop for the Panel’s appointment and the details of its Terms of Reference.

## **B. UNDP Programs in the DPRK**

From 1979 until its suspension in 2007, UNDP maintained programs in the DPRK primarily focused on development and economic growth. The programs from 1997 forward were fully articulated Country Cooperation Frameworks (CCF). From 1982–1997, the frameworks were called *Country Programmes 1–3*, while the period from 1979–1982 was considered a preparatory phase, such that none of the programs operated under the usual development assistance framework for the United Nations, given the special circumstances in the country. During the 1990s the focus was humanitarian in response to the crises that the country faced. After 2000, the program focus was on meeting the Millennium Development Goals (MDGs).<sup>32</sup> The program goals for each time period were drafted jointly with the

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<sup>30</sup> “UN: Behind the Scandal in Pyongyang,” George Russell, Executive Editor of Fox News (Mar. 23, 2007).

<sup>31</sup> “U.S. Alleges North Korea Is Misusing Aid for the Poor,” Glenn Kessler and Colum Lynch, Washington Post (June 9, 2007) (“The revelations come at a sensitive moment, as the Bush administration has been working closely with other countries, particularly Russia, to arrange a transfer of \$24 million in tainted North Korean money to facilitate an agreement to shut down North Korea’s nuclear reactor.”); “U.S., Critic on N. Korea payments, Also Sends Millions”, Colum Lynch, Washington Post (June 24, 2007) (“But the United States also has funneled dollars to Kim Jong Il’s regime over the past decade, financing travel for North Korean diplomats and paying more than \$20 million in cash for the remains of 229 U.S. soldiers from the Korean War.”).

<sup>32</sup> “The eight Millennium Development Goals (MDGs) – which range from halving extreme poverty to halting the spread of HIV/AIDS and providing universal primary education, all by the target date of 2015 – form a

DPRK government and UNDP to assure local ownership. Programs were then approved by UNDP's Executive Board. The DPRK government worked closely with UNDP to prepare, on the basis of this progression and their joint strategic framework, the document titled *Country Programme for the Democratic People's Republic of Korea 2007–2009*.

COUNTRY PROGRAMS				
DATES	EXECUTIVE BOARD APPROVAL	PROGRAM NAME	AREAS OF CONCENTRATION	COMMENTS
1997-2000	Approved Sept 97	UNDP Country Cooperation Framework for DPRK 1997-1999	1) Agriculture rehabilitation and sustainable food security; 2) Economic cooperation and foreign trade; 3) Environment.	Extended until 2000. Thematic roundtable on Agriculture Recovery and Environmental Protection (AREP) launched in Geneva. Participants from 21 countries. Launched in DPRK 1999.
2001-2003	Approved Sept 01	UNDP Country Cooperation Framework for DPRK 2001-2003	Built on experience from AREP, but includes 1) energy; and 2) transport sector.	Extended through 2004 (Jan 04).
2005-2006	Approved Jan 05	UNDP Country Programme for DPRK for 2005-2006	Planned as a transition to a harmonized program cycle, using MDGs as organizing framework.	
2007-2009	DRAFT (reviewed Sept 06, Jan 07)	UNDP Country Programme for DPRK for 2007-2009	1) National economic policy and external sector management for sustainable growth; 2) Environment, energy and sustainable livelihoods; 3) Social sector management for improved quality of life.	New conditionalities imposed by Executive Board, January 2007. Not accepted by DPRK. UNDP programs suspended, March 2007.

However, in January 2007 in the face of allegations that had surfaced against UNDP-DPRK, the UNDP Executive Board imposed a number of conditions on UNDP's programs in the DPRK. These conditions were as follows:

- a) Local personnel were to be removed from core staff duties, effective immediately, and in lieu of the current agreement between the government and UNDP for local personnel, individual service agreements between Korean nationals and UNDP were to be created, to then be converted into regular UNDP contracts, with salaries paid directly to the local personnel;
- b) All payments of local costs by UNDP were to be paid in Korean Won rather than foreign currency. This includes payment to local personnel;
- c) An external audit of all UN operations in the DPRK was to be conducted; and,
- d) Adjustments to the UNDP Country Programme documents and programs were to now focus on sustainable human development (termination of all economic management and trade projects), and all NEX projects were to be converted into DEX or UN Agency-executed projects.<sup>33</sup>

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blueprint agreed to by all the world's countries and the entire world's leading development institutions" See <http://www.un.org/millenniumgoals/>.

<sup>33</sup> Ri Hung Sik, Secretary General, NCC for UNDP, Ministry of Foreign Affairs letter to Timo Pakkala (Feb. 15, 2007) (follow-up to UNDP Executive Board Decision on DPRK Country Programme).



These conditions came about following the emergence of the initial allegations of wrongdoing against UNDP's DPRK program.

The DPRK government expressed strong displeasure with these conditions, transmitted through a letter to UNDP and repeated at a meeting between the Ambassador of the DPRK Mission to the UN and the Associate Administrator of UNDP. The DPRK government's primary complaint was that "the UNDP 'has eradicated all the development projects' under political pressure."<sup>34</sup> As the UNDP felt there was no room for interpretation of the precise conditions outlined above, the organization took the "unprecedented step" (as observed by the U.S. Senate Permanent Subcommittee on Investigations) of suspending its program in March 2007.<sup>35</sup>

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The content of the aforementioned program documents include an approved number of focus areas which highlighted key benchmarks for each UNDP-DPRK program. The CCFs provided the context for the development of projects for the Country Office and the government to build on those benchmarks. UNDP-DPRK, working with the associated line ministries, then developed appropriate projects for execution. Complete information on these projects can be found in Chapter 3 of this report, "Projects." Briefly stated, shared characteristics of the projects over the period 1999–2007 consisted of the following:

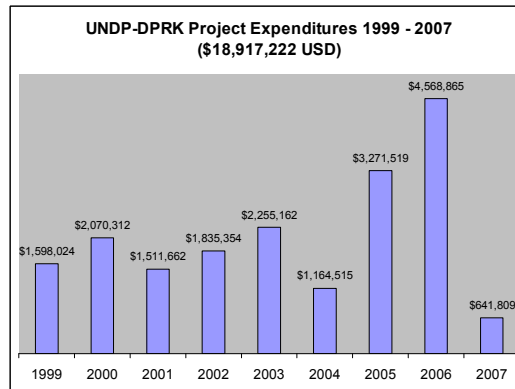
- 26 Agriculture projects (including 14 within the Agricultural Recovery and Environment Protection umbrella);
- 38 Policy and Planning projects, focused on development issues;
- 9 Energy projects;
- 15 Environmental projects;
- 6 Trade and Development projects;

The table below describes the overarching trends in expenditures for these projects.

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<sup>34</sup> Note to File, Meeting of the Associate Administrator with Ambassador Pak Yon Gil, Permanent Representative of the DPRK Mission to the United Nations (Mar. 1, 2007).

<sup>35</sup> United States Senate Permanent Subcommittee on Investigations, "United Nations Development Program: A Case Study of North Korea," Staff Report (Jan. 24, 2008).



Over the course of its work in the DPRK, UNDP worked with other UN Agencies to provide ongoing humanitarian assistance during the series of natural disasters the country faced, building capacity for vulnerable populations.<sup>36</sup> Since 2000 the focus of UNDP's work in the DPRK has increasingly been on activities that build human and institutional capacities. One success has been the Agricultural Recovery and Environment Protection program (AREP) which has demonstrated how to effectively frame a development program, exploiting synergies between projects to achieve tangible, sustainable results.<sup>37</sup> One challenge, however, has been that the projects are still too isolated and too narrow in scope to bring about much long-term impact.<sup>38</sup>

### **C. Role of the DPRK Government in UNDP Programs**

The Standard Basic Assistance Agreement (SBAA) is the legal framework for UNDP's operations in a country and lays out the parameters of the relationship between the two parties. UNDP has a clear programmatic philosophy that governs its partnerships with developing nations, and which contains high expectations for both parties: "We are on the ground in 166 countries, working with them on *their own solutions to global and national development challenges*. As they develop *local* capacity, they draw on the people of UNDP and our wide range of partners. UNDP helps developing countries attract and use aid effectively."<sup>39</sup> The SBAA is meant to be a tool to apply this programmatic intent in a way

<sup>36</sup> UNDP Mission Report, Review of the Country Programme (2005–2006) for the Democratic People's Republic of Korea (DPRK) (Mar. 2006).

<sup>37</sup> Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000).

<sup>38</sup> UNDP Mission Report, Review of the Country Programme (2005–2006) for the Democratic People's Republic of Korea (DPRK) (Mar. 2006).

<sup>39</sup> <http://www.undp.org/about/> (emphasis added).

that addresses specific concerns and adapts to individual variations in practice in each country in which UNDP operates.

The SBAA, signed in 1979 by the DPRK, addressed in broad terms the obligations of the parties on issues related to project monitoring, staffing, and UNDP personnel's living and working arrangements in the DPRK. The SBAA used in the DPRK was the standard UNDP document, similar to the agreements used by other UN Agencies in the DPRK and elsewhere. The SBAA signed in 1979 did not address how local UNDP staff were to be selected or what currency should be used in UNDP operations; it did, however, make reference to the fact that the DPRK government was responsible for various in-kind and direct expenditures.<sup>40</sup> As UNDP began its operations in the DPRK, ad hoc arrangements which recognized the realities of the DPRK environment evolved for program structure.<sup>41</sup> Among these were the government's provision of resources to address requirements such as Ministry counterparts to UNDP staff in the various agencies, the mode of payment of staff, office, and project expenses, and the mode of managing the monitoring of ongoing projects around the country.

The government structure included a number of Ministries, bureaus, commissions, and institutes which interfaced with UNDP on many fronts including in project implementation. In their capacity as implementing agencies or government partners, these myriad entities received financial support from UNDP for their work with UNDP projects. (See Appendix 1, illustrating some of the Ministry relationships within the DPRK government.

The relationships between the Ministries and UNDP were varied, but the broad partnership objectives throughout the CCFs from 1997–2009 are as follows:

- Create an enabling environment for improving the quality of life;
  - Aid coordination and management
  - Capacity-building for economic efficiency
- Protect the vulnerable;
  - Agricultural development and food security

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<sup>40</sup> Standard Basic Assistance Agreement between the Government of the Democratic People's Republic of Korea and the United Nations Development Programme (Nov. 8, 1979).

<sup>41</sup> According to the Board of Auditors report dated May 31, 2007, the formal practice and procedures for employing local staff were contained in a draft, unsigned and incomplete Service Agreement between UNDP and the DPRK, dated February 10, 1981. Also according to the BOA report, the draft remained unsigned due to reluctance on behalf of the government of the DPRK to consider such a Service Agreement.

- Expanded and protected asset base (human, physical, financial) of the poor
- Environment;
  - Sustainable environmental management and energy development to improve the livelihoods and security of the vulnerable
- Gender;
  - Advancement of women through implementation of global commitments
- Accelerated progress on the global agenda for development;
  - Follow up to global conferences.<sup>42</sup>

The results of past cooperation included:

- Agricultural rehabilitation and food security;
- Economic cooperation and foreign trade; and,
- Environment and natural resources management.<sup>43</sup>

These partnership objectives defined the programmatic and project-based work of UNDP's DPRK Country Office.

## **II. UNDP'S DPRK COUNTRY OFFICE PROFILE**

The Panel understands that the DPRK government's role in UNDP programming endeavored to be, as in all countries, an equal partner in strategy creation and goal-setting. Working together, the government and UNDP codified key results which the government expected to achieve with UNDP support in the current Country Cooperation Framework, indicating how these strategies would be met, what results would be achieved, how they would be assessed, and what processes and indicators would be used.<sup>44</sup> The CCF was based on national plans and priorities, country-specific circumstances, lessons learned from previous cooperation, and the goals, sub-goals, and strategic areas of support from UNDP.<sup>45</sup> In most cases, resources for preparing the CCF were provided by the government.<sup>46</sup> However, for the DPRK program, UNDP provided resources for the preparation of the CCF,

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<sup>42</sup> UNDP Country Cooperation Framework for DPRK 1997–1999, 2001–2004, 2005–2006, 2007–2009.

<sup>43</sup> UNDP Country Cooperation Framework for DPRK 1997–1999, 2001–2004, 2005–2006, 2007–2009.

<sup>44</sup> UNDP Programming Manual (1999–2006).

<sup>45</sup> UNDP Programming Manual (1999–2006).

<sup>46</sup> UNDP Programming Manual (1999–2006).

working in partnership with the government to prepare the DPRK's CCF, while maintaining consultative control of the process.<sup>47</sup>

UNDP-DPRK's office then worked with the government on the implementation of the programs and projects defined in the CCF and in subsequent joint planning. One role held by the UNDP-DPRK Country Office was approving projects put forth by the government for implementation. Given the unique situation in the DPRK, there were many discussions across the UNDP's Regional Bureau for Asia and the Pacific (RBAP) about how best to do this. RBAP expressed the need for particular care in considering which the DPRK projects were approved and which were denied.

Because of the sensitivity of the geopolitical situation and the donor countries, in 2003, the RBAP withdrew project approval authority from the Resident Representative and retained such authority for itself. This was done in part to allow for higher level decision-making on projects, which were subject to scrutiny by donor countries, and to assist the Resident Representative in his relationship with the government. Thus, while the role of UNDP-DPRK included project oversight, a significant amount of project oversight and decision-making authority rested with the RBAP.<sup>48</sup>

Day-to-day oversight of the DPRK program at the RBAP level was managed by a Desk Officer for the DPRK, a Division Chief for the NE Asia and Mekong Division, a Deputy Regional Director, and a Regional Director of the Asia and the Pacific Bureau. This structure provided oversight throughout the Regional Bureau to complement in-country leadership and staffing. Additional oversight, project review, and approval happened through the Bureau Programme Appraisal Committee (BPAC).<sup>49</sup>

### **A. UNDP Coordination Role in the DPRK Overall**

The Resident Representative is the UNDP Administrator's designated representative at the country level. In the DPRK, the Resident Representative also served as the UN

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<sup>47</sup> UNDP Programming Manual (1999–2006).

<sup>48</sup> See, e.g., Notes from meeting of UNDP RBAP Programme Appraisal Committee for Support to Capacity-Building for Pilot Statistical Database for Sustainable Human Development (Mar. 8, 2004); Note to File, Comments of Executive Board Delegates on the draft Country Programme for DPR Korea (Sept. 24, 2004); and, Hafiz Pasha interview (Nov. 5, 2007). The Panel has reviewed further documentation including emails, interviews, and memos not listed here.

<sup>49</sup> See e.g., Note to File, UNDP RBAP Programme Appraisal Committee for Support to Capacity-Building for Pilot Statistical Database for Sustainable Human Development (Mar. 8, 2004).

Resident Coordinator, reporting to the Secretary-General through the UNDP Administrator and was responsible for coordinating United Nations system's operational activities at the country level. In addition, the Resident Representative also represented certain United Nations organs, funds, agencies, and departments.<sup>50</sup>

In addition to his or her representational status, the Resident Representative also had a range of administrative responsibilities. In UNDP's DPRK office, these included security oversight responsibilities, health and medical oversight responsibilities, representation of other agencies that were non-resident but performing work in the country, and coordination and harmonization of all the UN's work in the DPRK.

The Panel refers as an example to information provided in an interview by Masood Hyder, Resident Representative and UN Resident Coordinator from August 2002–August 2004, in which he provided the Panel with examples of the wide range of activities and responsibilities that were held by his position. Hyder served in five capacities in the DPRK: Resident Representative, UN Resident Coordinator, UN Humanitarian Coordinator reporting to the Office of Coordination for Humanitarian Affairs, World Food Programme Representative, and Designated Official for Security.<sup>51</sup> Hyder's typical experience shows the overall role that UNDP played in coordinating UN activities in the DPRK.

## **B. Program Management**

Program management in the DPRK fell to a range of program and project officials, both national and international, with oversight from the Resident Representative. In the execution of programs, National Execution (NEX) is the norm across the UN system, in order to use and strengthen national capacities.<sup>52</sup> In the DPRK however, NEX projects were very closely monitored, and UNDP partnered with the government in a hybrid arrangement where the government was designated as the executing partner, but the UNDP Country Office or another UN Agency often supported the execution. The National Execution model is not unique to UNDP. It is recognized by all multilateral organizations as the correct way to implement programs in partner countries all over the world because of the way it blends project support with capacity-building. For example, the World Bank states,

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<sup>50</sup> UNDP Programming Manual (1999–2006).

<sup>51</sup> Masood Hyder interview (Nov. 2, 2007).

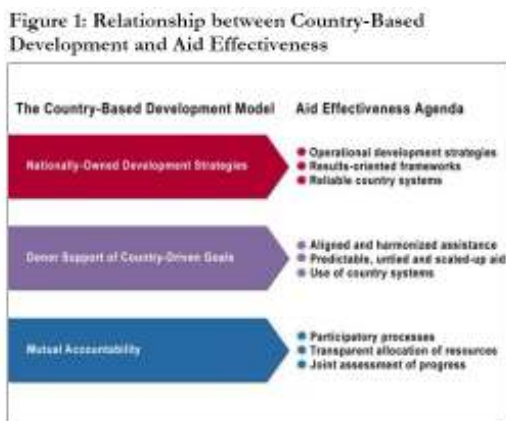
<sup>52</sup> UNDP Programming Manual (1999–2006).

There is a broad consensus that the country-based development model presents the best prospect for sustained growth and poverty reduction in developing countries... The first strand of the country-based development model rests on the design of nationally driven development strategies that are closely linked to key domestic institutions, such as budget, planning and monitoring systems. Poverty-focused, comprehensive and results-oriented strategies place countries at the helm of their own development...

It goes on to say,

Developing countries and donors have actively endorsed the country-based development model as a vehicle for scaling up assistance and achieving results. The partnership between low and high income countries inaugurated in Monterrey in 2002 was reaffirmed in the Paris Declaration on Aid Effectiveness in March 2005.<sup>53</sup>

The following graph from the World Bank’s Poverty Reduction Group country-based development model illustrates why NEX is seen to be the most effective approach for development assistance.<sup>54</sup>



Since the DPRK did not have the necessary capacity to execute development projects on its own, the NEX hybrid model was used and seemed to be accepted without complaint by the DPRK government.<sup>55</sup> One of the ways in which the government participated in the NEX modality was by assuming responsibility for some project components based on the standard breakout of the budget — personnel, training, equipment, subcontracts, and miscellaneous —

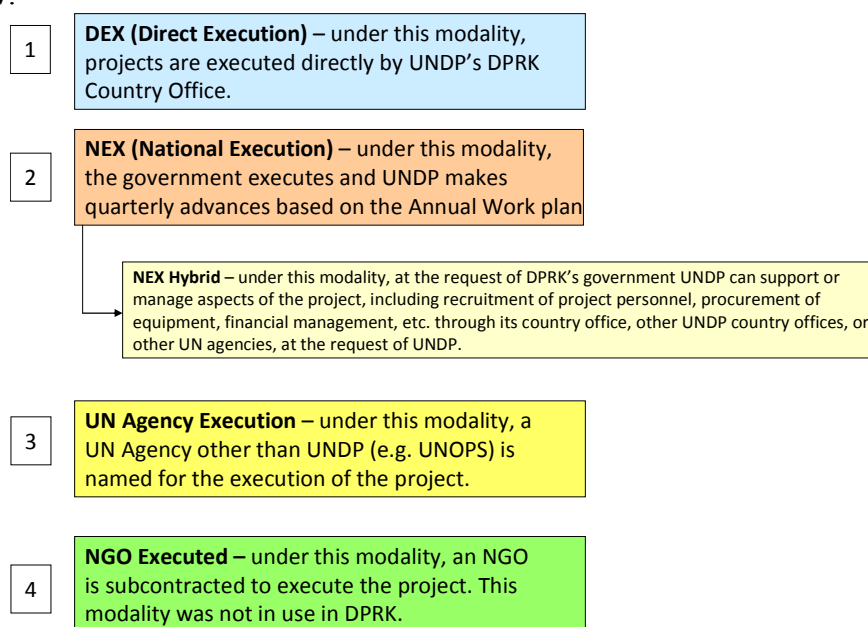
<sup>53</sup> “The Country-Based Development Model and Scaling Up,” PREM Poverty Reduction Group, Number 2. World Bank (April 2007).

<sup>54</sup> “The Country-Based Development Model and Scaling Up,” PREM Poverty Reduction Group, Number 2. World Bank (April 2007).

<sup>55</sup> See e.g., David Lockwood interview (Mar. 23, 2008).

for examples, providing technical specifications of equipment needs, or signing off on choices of consultants.<sup>56</sup>

UNDP employed a project formulation process to decide which execution modality, executing agency, and implementing agency, or agencies would be used. These decisions were included in the project document. The project formulation process involved putting country programs into action through individual projects via discussions with the DPRK government, donors, and other UN Agencies. There were four ways in which UNDP supported projects. These were called the *Execution Modalities* and involved designating an entity to take responsibility for execution. For many projects in which a UN Agency was the executing agency, the project was conducted in conjunction with a line ministry of the DPRK government. In other instances, UN Agency projects were supported by UNDP-DPRK. In the DPRK, no projects were pure NEX projects. As a result of this, in most cases projects did not have funds advanced directly to them, but were in fact operated on a cost-reimbursement basis so that funds were expended only with supporting documentation. Consequently, UNDP-DPRK and its partner agencies provided significant ongoing executional support and oversight. UNDP’s partner agencies that were responsible for implementation were called *Implementing Agency(ies)* and oversaw the implementation of the program “on the ground.” This is further discussed in Chapter 3, Projects, and is also illustrated below.



<sup>56</sup> Masood Hyder interview (Nov. 2, 2007).



As the NEX modality often operated as a UNDP-assisted projects in the DRPK, UNDP support was administered in three ways: (1) use of internal management and resources; (2) assistance by UNOPS (or by other UN Agencies); and (3) some aspect of the project executed by the executing agency, such as training. However, even in the case of training for example, UNDP would often assist by preparing the terms of reference for the training program.

### **C. Staffing Arrangements**

#### ***International Staff***

The Country Office was staffed with “core” staff, project staff, and national (Korean) staff. Core staff positions were those funded from UNDP’s primary track of funding and were also called 100 series positions. Core funding in the DPRK was very light, meaning that there were fewer core positions than in other Country Offices, despite repeated requests from the field, a detailed expression of short staffing in the hand-over notes of earlier Resident Representatives, and an explicit recommendation for an increase in core-funded positions in the UNDP audits. A Country Programme review also noted that the “unfortunate human resources situation has had a negative impact on programme implementation.”<sup>57</sup> The light core funding was in great part due to the geopolitical environment in which the UNDP-DPRK office existed and tension between UNDP Headquarters management at the Regional Bureau and the Country Office over increasing funding and core staff for the DPRK.<sup>58</sup> From the early 2000s, and especially after the missile testing in 2006, the development environment deteriorated as the geopolitical environment did. Donors were unwilling to provide aid to DPRK programs, and staff reported that the air of suspicion was overwhelming.<sup>59</sup> The overall feeling was that any increase in programming or funding in the DPRK would negatively impact global giving to UN programs overall.<sup>60</sup>

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<sup>57</sup> UNDP Mission Report, Review of the Country Programme (2005–2006) for the Democratic People’s Republic of Korea (DPRK) (Mar. 2006).

<sup>58</sup>“Hand-over Report,” G. Faruq Achikzad (Aug. 1996); “RC/RR Hand-over DPRK,” Christian Lemaire (Aug. 1999); Office of Audit and Performance Review, UNDP, Limited Scope Audit: UNDP Office in DPRK (Sept. 2004). (“In OAPR’s opinion, RBAP assistance is urgently needed in terms of a long-term strategy and action plan to increase the capacity of the Office.”); Romulo Garcia interview (Jan. 8, 2008); and Abu Selim interview (Apr. 11, 2008).

<sup>59</sup> Masood Hyder interview (Nov. 2, 2007).

<sup>60</sup> Masood Hyder interview (Nov. 2, 2007).

The number of international staff during the time in question varied. As of 2006 (see organizational chart in Appendix 2) there were six international staff, though only three were core staff: a Resident Representative, a Deputy Resident Representative, and an Assistant Resident Representative. Project staff, also called 200 series positions, filled project-funded positions.

The other international staff included an Operations Manager, a Procurement Officer, and a Project Finance Officer. The modes of employment for the international staff were as UNDP-funded core staff (as mentioned above) and project-funded international staff, who were either on SSA contracts (Special Service Agreements – independent contractor), ALDs (activities [staff positions] of limited duration), or were UN Volunteers (UNV). UNVs were qualified specialists who volunteered for a position, receiving only living expenses and a stipend for their work. The UN used UNVs to backstop programs when they did not have financing for core or project-funded staff.

In addition, the UNDP-DPRK office included a number of Chief Technical Advisors (CTAs) whose duties broadly included project design, technical studies, concept papers, work plan preparation, and monitoring and evaluation as well as other duties. There is evidence that during the review period there were 15 CTAs who worked for eight UNDP-DPRK projects.<sup>61</sup> These CTAs were supported through project funding and were bound by requirements of the projects to which they were assigned, including duration. When called for in the projects, CTAs served for long periods of time in the office. (See Appendix 2, UNDP DPRK – Organigram September 2006)

### *National Staff*

The Panel understands that the lack of a functioning labor market in the DPRK meant that the government assigned local personnel required by UNDP for its program operations. UNDP had only limited opportunity to interview government-referred candidates and determine their appropriateness for the role. There were no mechanisms in place for staff performance reviews and appraisals to evaluate the work of national staff. Furthermore, the DPRK was unable to guarantee the length of time that local personnel were posted to a position, diminishing the effect of UNDP's investment in training and capacity-building for

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<sup>61</sup> RBAP Statement to Panel (Mar. 24, 2008).

staff. In recognition of these and other unique circumstances in the DPRK, UNDP and other UN Agencies adapted their operating procedures to the country.

The number of Korean national staff (local personnel) over this period ranged from 18–25 people. Their postings included Project Officers on the program side and finance staff, administrative assistants, cleaners, drivers, and gardeners on the operations and administration side. As evidenced in the many UNDP-DPRK organigrams reviewed by the Panel, core functions were performed by local personnel (Finance Officer, Finance Assistant, IT Support). Of the local personnel, the largest number were assigned to administrative and operations duties, with only 6–10 program staff. The number of staff engaged in programmatic work changed depending on the stage of a given project.

Local personnel were compensated by a salary (negotiated annually) that UNDP-DPRK paid directly to the DPRK government.<sup>62</sup> In addition to the salary, a monthly meal allowance was paid directly to all local personnel in the form of a check<sup>63</sup> made payable to one designated member of the group who would then distribute the allowance amongst the staff.<sup>64</sup> The Panel understands that from as early as 1980, this was the usual practice of foreign missions and international NGOs in the DPRK, who tended to harmonize their interactions with the DPRK government.<sup>65</sup>

While UNDP-DPRK had expressed a desire to increase the length of national staff rotations from the government, among local personnel there were a few officers who had been with the Country Office for a long time and who had developed robust skills. For example, the Finance Officer was a Korean national who had been at UNDP-DPRK since

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<sup>62</sup> See, e.g., Memo from Ri Hung Sik, NCC for UNDP to Masood Hyder (Apr. 21, 2003).

<sup>63</sup> Paul Brewah interview (Dec. 17, 2007). (Convertible won were used for local payments, becoming common again after instructions came from HQ to no longer pay local expenses in Euros. Non-convertible won became increasingly unusable, even locally, though the purpose of non-convertible won, held in UNDP's GLOC account (refreshed by the DPRK Government with their GLOC payments), was to pay rent, salaries and utilities back to the DPRK Government. Despite this, from February 2007 no local suppliers would accept this form of payment, so convertible won became the prevalent form of payment.)

<sup>64</sup> See, e.g., Memo from National Staff to Vineet Bhatia (Feb. 8, 2006). (Memo is signed by 12 local personnel nominating Mr. Song Jong Chol, as the designated payee for the monthly meal allowance. The national staff cite that "...it will lessen the heavy workload of the finance unit to raise the vendor and to issue check in a lump sum rather than individually."); Paul Brewah interview (Dec. 17, 2007).

<sup>65</sup> Timo Pakkala interview (Nov. 1, 2007); Telefax Message from the Embassy of Finland to the British, German, Swedish Embassies in Pyonyang; the Italian Development Co-op; EU Europe Air; UN Agencies; and, IFRC (Jan. 27, 2003); Masood Hyder's Note for the Record, "Rent, Salary and Utility Increases: Discussions with the General Service Bureau" (Jan. 28, 2003); and, Invitation to Masood Hyder from the Ambassador of the Federal Republic of Germany in Pyongyang to discuss rent, services and salary increases with Embassies and Representative Offices of the International Organizations (Jan. 20, 2003).

1995, an unusually long government assignment.<sup>66</sup> This, however, was not the norm.

The Panel came to understand that there was no standard period of assignment for Korean national staff. From the period 1996–1999, the Resident Representative recalled that staff were assigned on an annual rotational basis and that the government used the UNDP rotation as a training office. It was during this period that UNDP-DPRK requested that local personnel be assigned to the UNDP office for a longer period of time, and there was some evidence that this request was granted.<sup>67</sup> The hiring of national staff for the UNDP office was not a practice unique to the DPRK, but rather was one used by all international agencies and embassies in the DPRK and abroad,<sup>68</sup> and said to be modeled after the U.S. Embassy in China.<sup>69</sup> What was unique to the DPRK was the level of choice that the Country Office had in selecting its local personnel. This system operated with the UNDP-DPRK office and all UN Agency offices and international organizations, receiving assigned local personnel from the DPRK government. Periodically, the DPRK government would reassign staff. When reassignments occurred, the government would inform UNDP-DPRK of the reassignment and send replacement candidates. It seems that the government usually only sent one such candidate, limiting the Country Office's choice, but by 2006, UNDP-DPRK had persuaded the DPRK to send two candidates from which to choose.

The evolution in employment relationships was discussed in UN Country Team meetings, as other UN Agencies, such as UNICEF and WFP experienced the same issues and worked toward solutions jointly. Once the candidates were identified, they were then interviewed and given a written test.<sup>70</sup> Because, as noted before, the DPRK is a classical command economy (versus a market economy) no individual employment relationships were possible without some aspect of government involvement. Therefore, all candidates were government referrals. In this hiring process, the UNDP-DPRK office set the staff levels and asked for local personnel from the government to fit the positions at those levels.

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<sup>66</sup> Timo Pakkala interview (Nov. 1, 2007).

<sup>67</sup> Christian Lemaire interview (Jan. 24, 2008).

<sup>68</sup> Invitation to Masood Hyder from the Ambassador of the Federal Republic of Germany in Pyongyang to discuss rent, services and salary increases with Embassies and Representative Offices of the International Organizations (Jan. 20, 2003); and Notes from Meeting at British Embassy, Pyongyang (Mar. 14, 2003); (attended by the UK, Germany, Sweden, Poland, Mongolia, Bulgaria, Romania, Vietnam, Nigeria, Indonesia, Representatives from the UN, WFP and UNDP; absent, Iran and Pakistan).

<sup>69</sup> Christian Lemaire interview (Jan. 24, 2008).

<sup>70</sup> UNDP-DPRK HR-Minutes: 001–05, Recommendation of the Recruitment Panel for Selection of Candidate: National Professional Personnel (Mar. 29, 2005); and Timo Pakkala interview (Nov. 1, 2007).

According to the UNDP policy on staffing, identifying and hiring local staff was meant to occur in a competitive way in all countries, which therefore included executing a contract with the seconding government agency, and making payments to them on the agreement that they would then pay the seconded staff person. However, because of the special conditions described above—the lack of a labor market, the centralized labor system—all UN Agencies had to work with the government to access assigned personnel, making their quasi-hiring decisions based on limited choice. Given these special conditions and the lack of contracts, UNDP did not consider these local personnel to be seconded staff or UNDP staff.<sup>71</sup>

According to written statements from UNICEF and WFP, as of early 2008 all national staff for both agencies continue to be assigned by the government. As of January 2008, UNICEF also implemented a new recruitment process that included a nomination process, a probation period, and a performance evaluation, expanding the options for management beyond what existed previously.<sup>72</sup>

It is worth noting that the UN Board of Auditors in their 2007 review determined that the UNDP-DPRK office was non-compliant on the issue of staffing. According to the Report of the UNBOA, the SBAA in the DPRK, signed on November 8, 1979:

...has no specific provision for employment of local staff. However, local personnel assistance is mentioned in Article VI, (Assessed programme costs and other items payable in local currency):

*'3. The Government shall also contribute towards the expense of maintaining the UNDP mission in the country by paying annually to the UNDP a lump sum mutually agreed between the parties to cover the following expenditures: [...] (b) Appropriate local secretariat and clerical help, interpreters, translators and related assistance'.*

The audit report goes on to say that,

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<sup>71</sup> The Management Response of UNDP to the Special Audit of the United Nations Operations in the Democratic People's Republic of Korea (June 1, 2007). The status of local personnel in DPRK has always been of an exceptional nature. The Country Office has been functioning under the same basic rules in DPRK since the establishment of the office in 1980. [Since the service arrangement was never concluded] the Country Office continued to use the ad hoc practice already in place...the Government provided services to the office through the provisions of personnel...[though] "staff" do not have contracts and...UNDP has few options in its "staff" selection...No DPRK local personnel were ever employed by UNDP or the UN system in DPRK.

<sup>72</sup> Deborah Saidy (WFP) email to Panel (Jan. 23, 2008); and Prom Chopra (UNICEF) email to Panel (Feb. 1, 2008).

The 1979 SBAA did not provide any detail of the practice and procedures for the employment of local staff and so ad-hoc practices developed. The formal practice and procedures for employing local staff were contained in a draft, unsigned and incomplete service agreement dated 10 February 1981.<sup>73</sup>

According to the UNDP Management Response to the audit, the second service agreement was not signed because the DPRK authorities sought to introduce additional terms which were not acceptable to UNDP, thus on the advice of the UN Office of Legal Affairs, the Country Office continued to use the ad hoc practice already in place.<sup>74</sup>

Another important feature of the office included staff dynamics and mission. One role of the UN staff, as stated in the mission of the organization, was to build capacity; as such, coaching and training was provided. In this environment, local personnel worked long hours, appeared to learn a lot, and were thought by international staff to be appreciative. Resident Representatives noted that local personnel were quiet, polite, and reserved especially with foreigners. They also noted that a few people had worked in the office for 10 years or more and were quite proficient at their jobs. Since one of the weaknesses of getting staff from the DPRK was the lack of capacity, long-term personnel added value to the office; the Country Office mostly received language degree graduates since English was required, but the technical capacity of many local personnel was limited and many nationals lacked a professional skill set.<sup>75</sup>

Finally, in terms of location and overall functioning of the UNDP-DPRK office, all international organizations and offices, including embassies, were physically isolated in a diplomats' compound called the Munsudong Complex. All local personnel arrived and left together by transportation that UNDP arranged, working from 8:00 a.m. to 5:00 p.m. Because local personnel left at 5:00 p.m., the international staff were usually the ones to close the office.<sup>76</sup>

#### **D. Procurement**

The Panel has reviewed relevant rules and regulations and was informed by a variety

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<sup>73</sup> Report of the Board of Auditors (May 31, 2007).

<sup>74</sup> United Nations Development Programme's Management Response to the Special Audit of the United Nations Operations in the Democratic People's Republic of Korea (June 1, 2007).

<sup>75</sup> Timo Pakkala interview (Nov. 1, 2007).

<sup>76</sup> Timo Pakkala interview (Nov. 1, 2007); Christian Lemaire interview (Jan. 24, 2008).

of sources regarding procurement, including UNDP documents and UNDP-DPRK staff interviews.<sup>77</sup> The procurement function was a key element of projects. As discussed above, country programs were accomplished via individual projects, and each project required the procurement of a variety of inputs. These included consultant staff to design projects, equipment, and services from training institutions and other UN Agencies. The procurement process began with a signed project document which referenced equipment and services in general terms in a Statement of Objectives. More specificity was to be achieved through the institutionalization of the Results and Resources Framework (RRF) in 2006.<sup>78</sup> Prior to the RRF, detailed specifications for equipment, or terms of reference in the case of services, were either provided as annexes to the project document, or were determined through a hired project consultant.

Procurement processes varied to some degree according to execution modality, executing agency, and implementing agency. The executing agency had oversight of a project, while the implementing agency implemented the project on the ground. DEX and Country Office-supported NEX undertook procurement according to UNDP rules and regulations.

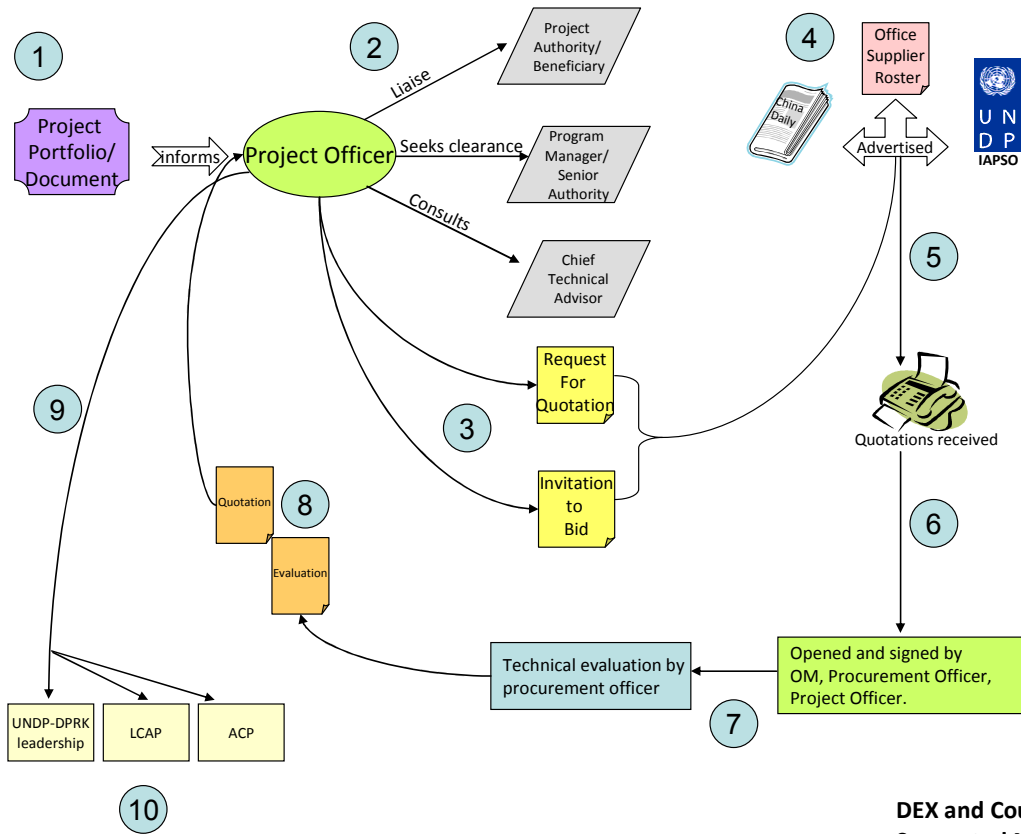
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<sup>77</sup> UNDP Financial Regulations and Rules (1995–2000, 2000–2005, 2005–Present); UNDP’s User Guide: Contract, Asset, and Procurement Management (2006–Present); UNDP Programming Manual (1999–2006); and Internal Control Framework for UNDP Offices (version issued May 2007).

<sup>78</sup> UNDP Results Management Guide: Programme Management and Projects Management (2006–Present); and UNDP Mission Report, Review of the Country Programme (2005–2006) for the Democratic People’s Republic of Korea (DPRK) (Mar. 2006).

### *DEX and Country-Office Supported NEX Execution*



**DEX and Country-Office Supported NEX**

### *Expenditure Review and Approval Processes*

For the DEX and Country Office-supported NEX modality, once the bidding process for procurement was complete, the results (quotation and evaluation) were sent for review, approval, and verification as follows:

- a. Internal leadership authorized procurements of less than \$15,000 (previously, less than \$2,500);<sup>79</sup>
- b. Local Contracts, Assets and Procurement Committee (LCAP) authorized procurements between \$15,000 and \$100,000;<sup>80</sup> and
- c. Advisory Committee on Procurement (ACP) at UNDP Headquarters authorized procurements greater than \$100,000.<sup>81</sup>

It should be noted that corporate policy stated that LCAP review and approval was only

<sup>79</sup> Minutes of Programme Meeting (DPRK) (Apr. 18, 2006); Muluaem Zeleke interview (Dec. 5, 2007); and Muluaem Zeleke, “Procurement Practices in DPRK Country Office” (Dec. 19, 2007).

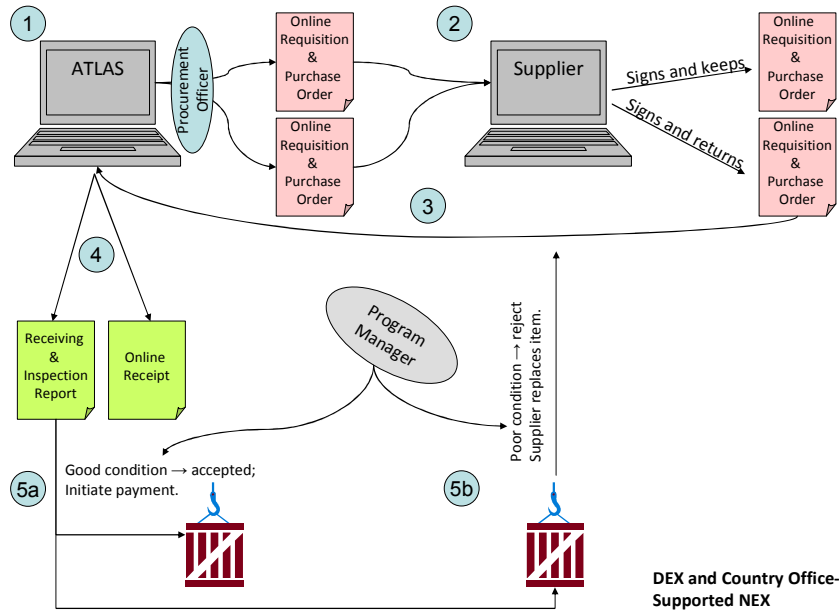
<sup>80</sup> UNDP User Guide: Contracts, Asset, and Procurement Management (2006–Present).

<sup>81</sup> UNDP User Guide: Contracts, Asset, and Procurement Management (2006–Present).

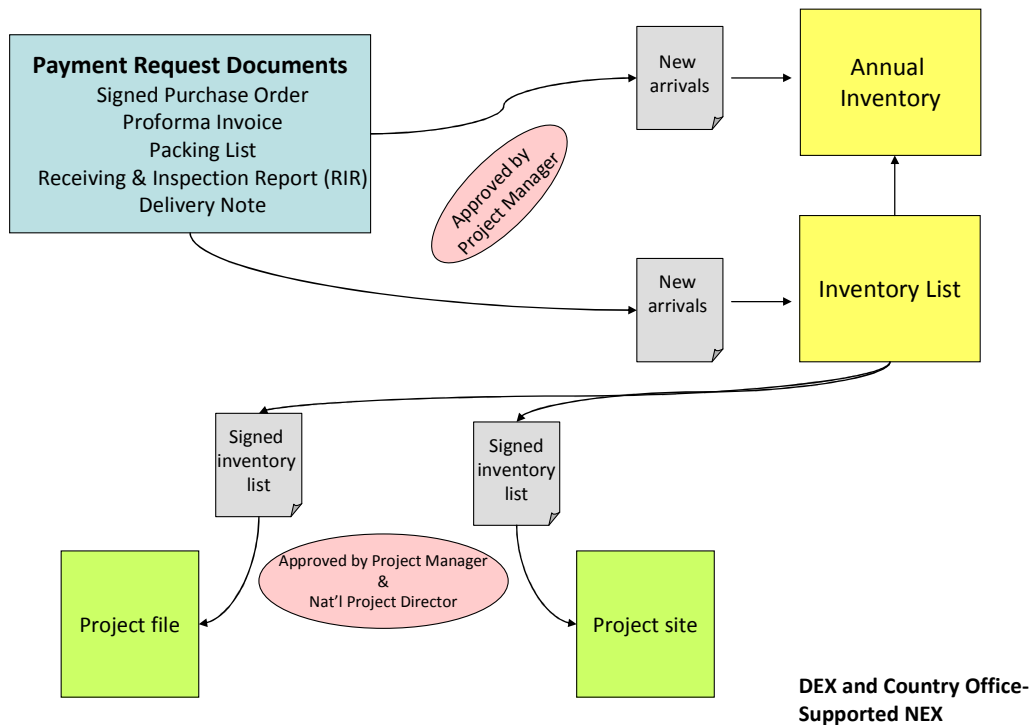


required for amounts higher than \$30,000;<sup>82</sup> however, in the DPRK due to extra precautions those levels were lower. (See Appendix 3, Procurement Approval Threshold Levels)

The following illustration shows the next steps of the DEX and Country Office-supported NEX procurement process.



As final steps in the process, UNDP-DPRK logged inventory and updated inventory files.



<sup>82</sup> UNDP User Guide: Contracts, Asset, and Procurement Management (2006–Present).

As the process described above illustrates, for DEX and Country Office-supported NEX projects, a clear set of standard procedures existed. These included developing requests for bids, requesting and receiving bids, ranking and review, and final submission to a Local Contracts, Assets and Procurement Committee (LCAP). Having reviewed the procurement process, the Panel observes that in practice, no procurement process was initiated without a defined program statement indicating that competition was a fundamental part of the bidding process and that required reviews (LCAP, ACP) took place.

### ***UN Agency Execution***

UN Agency-executed projects followed their own procurement regulations. For example, when a UN Agency such as UNOPS was the executing agency, UNOPS' own procurement systems applied. UNOPS followed a parallel process to UNDP's, including online requisitions and purchase orders, shipping documents, receiving and inspection reports, online receipts, and systems to evaluate the condition of the procured items upon delivery. UNDP made extensive use of its sister agency UNOPS, particularly when there was a need for project development or for the procurement of large amounts of equipment. During the review period, UNOPS was the Executing Agency in 26 projects, representing 45% of program expenditures in the DPRK. The LCAP and ACP reviews were not required for these projects. As a result, UNDP Headquarters did not see some of the larger procurement projects. Nonetheless, a system of review and sign off was in place at UNOPS, which followed its own regulations. (*See Appendix 4, UN Agency Execution Modality*)

The Panel emphasizes two points. First, whether a project was executed by UNDP, UNOPS, or another UN Agency, it did not change the ownership of the equipment. Ownership and responsibility were determined by the source of the funds. If purchases were made with UNDP funds, UNDP owned the equipment until the time that it was transferred or discarded. According to a Memorandum of Understanding between UNDP and UNOPS, "All goods procured by UNOPS under UNDP funded projects shall belong to UNDP..."<sup>83</sup> Second, all vendors, regardless of execution modality or implementing agency, were required

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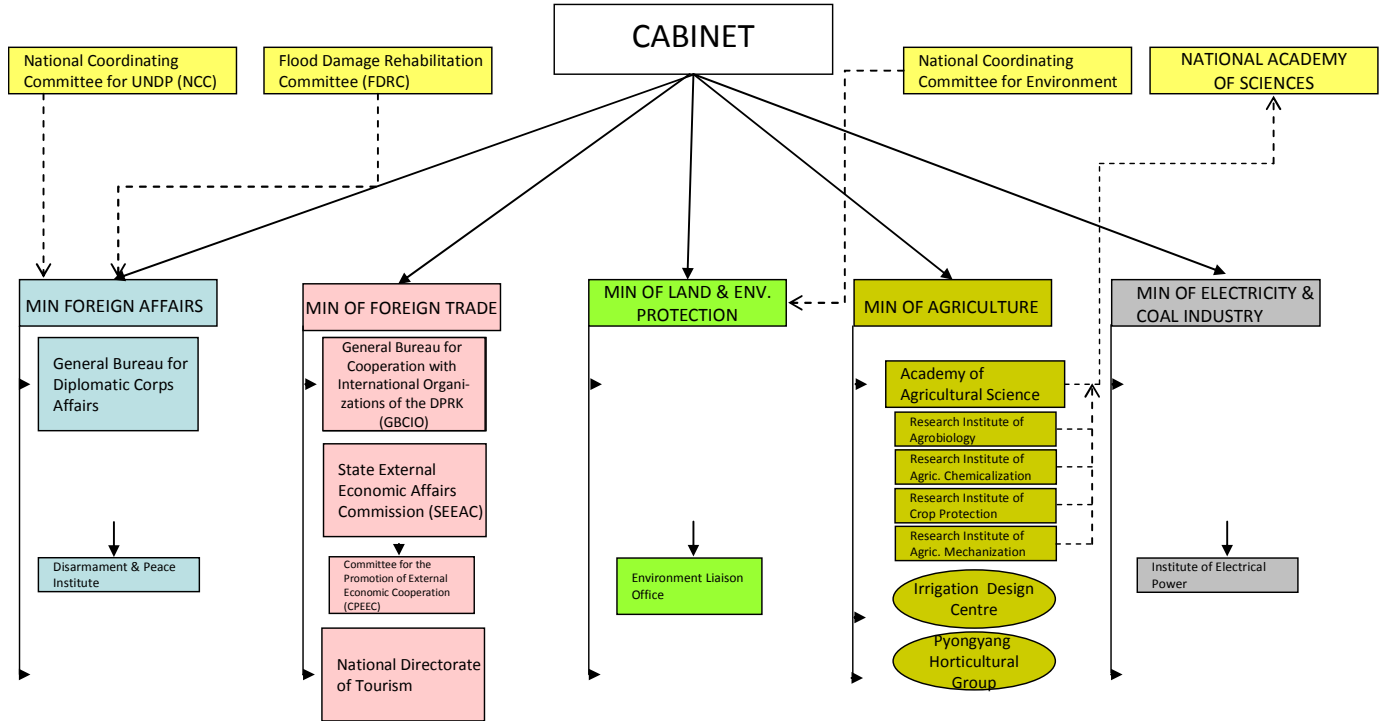
<sup>83</sup> UNDP Programming Manual (1999 – 2006); UNDP Results Management Guide: Programme Management and Projects Management (2006 – present); Memorandum of Understanding, United Nations Development Programme and United Nations Office for Project Services (Apr. 3, 1997); and UNDP statement to the Panel (Mar. 27, 2008) (response to questions related to procurement and ownership of equipment of the UNDP DPRK Program).

to abide by the rules and regulations that governed their procurement contracts, including licenses, tax exemption, etc.<sup>84</sup>

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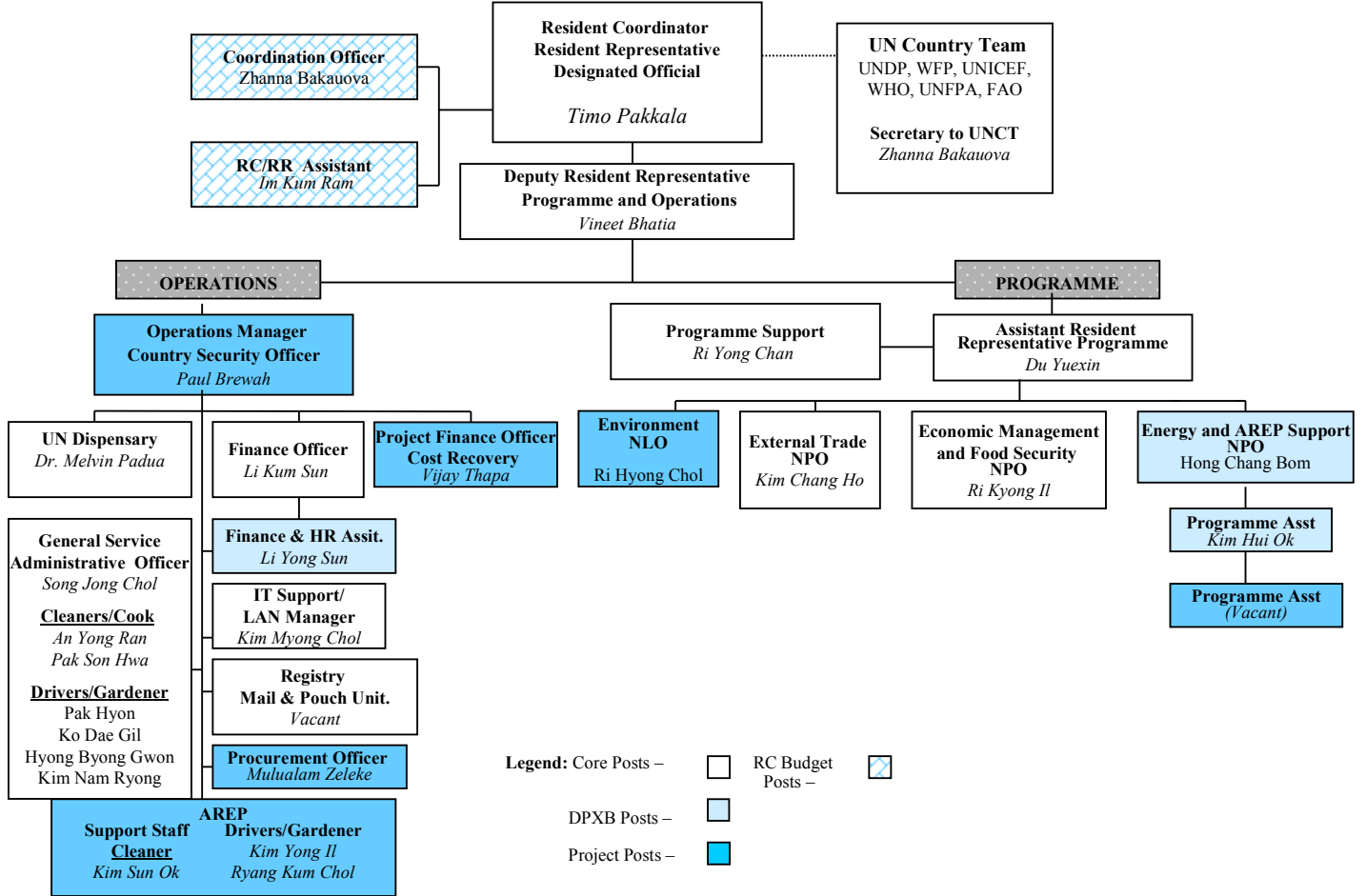
<sup>84</sup> UNDP Field Purchase Order – General Conditions of Contract. *See also* UNOPS General Conditions for Goods.

# APPENDIX 1: ILLUSTRATIVE ORGANIGRAM OF SELECTED MINISTRIES



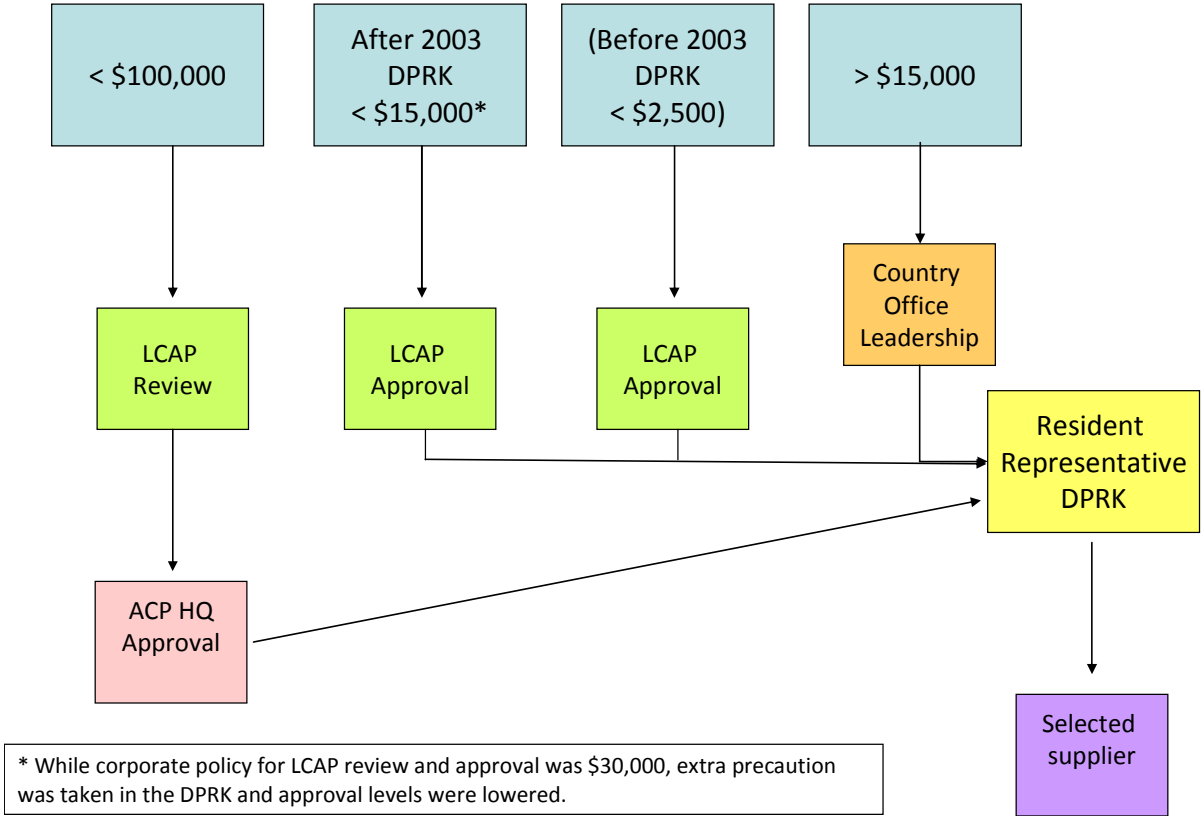
APPENDIX 2: UNDP DPRK – ORGANIGRAM SEPTEMBER 2006

UNDP DPRK – ORGANIGRAM SEPTEMBER 2006

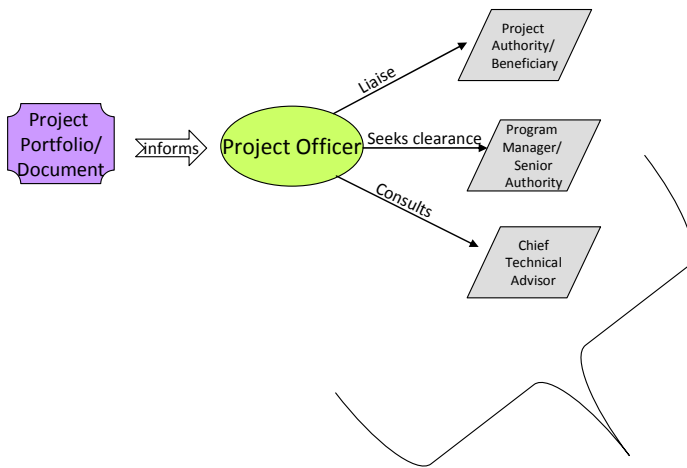


### APPENDIX 3: PROCUREMENT APPROVAL THRESHOLD LEVELS

#### PROCUREMENT APPROVAL THRESHOLD LEVELS



## APPENDIX 4: UN AGENCY EXECUTION MODALITY



UNOPS  United Nations Office for Project Services

**UN Agency**

## **Chapter 2**

### **Payments and Financial Transactions**

#### **(Terms of Reference Item 1)**

##### **I. TERMS OF REFERENCE**

Identify all payments made by UNDP for itself and by UNDP on behalf of other UN entities, other entities and/or other countries to suppliers of goods and services, including payments made through intermediaries, and determine to the extent possible whether such payments were received by the ultimate beneficiaries. The Report shall identify the bank accounts utilized by or for the benefit of the UNDP Administered activities, including the persons that had signature authority in regard to such accounts.

##### **II. EXECUTIVE SUMMARY**

The Panel has reviewed UNDP-DPRK financial transactions during the period from 1999–2007 (Review Period), relying on source documents, relevant bank statements, UNDP’s current and legacy financial systems, account reconciliation procedures, payment vouchers, and other documents and data. The Panel sought assistance of audit services with forensic capacity; the Panel engaged PricewaterhouseCoopers LLP (PwC). The Panel has drawn on PwC’s analysis and conclusions in order to address the Panel’s Terms of Reference.

Data analysis of UNDP-DPRK financial systems enabled a comparison of total amounts of deposits in the financial systems with third party evidence from the respective bank statements. The analysis provided confidence that the amounts detailed in UNDP-DPRK financial systems data are reliable and the scope of the cash inflows is reasonably quantified. It was evident to the Panel that data in UNDP-DPRK financial systems was consistent with transaction amounts stated in bank statements, and hence the Panel could perform detailed analyses based on this data.

One of the primary components of the Panel’s review was to understand the payments that UNDP-DPRK made during the Review Period. In this regard, UNDP disbursed \$23.8 million during the Review Period in connection with the DPRK—\$16.9 million on behalf of



itself and \$6.9 million on behalf of other UN agencies. (Additional funds of approximately \$14.6 million were disbursed on behalf of UNDP by others.) Regarding the \$23.8 million in disbursements made by the UNDP, the Panel notes the following key points:

- Payments to all payees identified as government-related totaled \$9,127,361 or 38% of all payments made by UNDP-DPRK, further segregated between UNDP-DPRK for itself and for others. Payments to the DPRK's National Coordinating Committees (NCCs) totaled \$1,140,923 and represent 5% of total payments made by UNDP-DPRK.
- Payment tests and other work performed by the Panel establish that UNDP made the referenced \$9.1 million in payments to DPRK government agencies in UNDP's capacity as an executing or implementing partner for projects. Payments to the DPRK government in other words were related to the UNDP-DPRK program.
- UNDP-DPRK maintained seven accounts at various points during the Review Period, including an account in non-convertible Won. For this account, the source of replenishment was the DPRK government, and the funds are referred to as Government Local Office Contributions (GLOC). During the Review Period, GLOC-based funds were deposited into the non-convertible Won account in the total amount of \$460,789, from which UNDP disbursed a total \$360,070.

The Panel was asked to identify the bank accounts that UNDP used in connection with the DPRK Program, which the Panel has completed and the results of which are set forth below in Section IV. The Panel was also asked to identify all persons having signature authority for each of the accounts. The Panel has identified such persons and sets forth the signatories and corresponding bank accounts in Appendix 2 of this Chapter.

Apart from performing a straight review of payments and banking procedures associated with the UNDP-DPRK program, the Panel has considered a range of questions raised about the manner in which UNDP-DPRK handled its financial matters. For example, some have questioned the extent to which UNDP paid national staff in cash. The Panel notes that UNDP discouraged the use of cash, and its financial systems in fact are not designed to allow cash payments. Indeed, the UNDP did not make direct cash payments to the national staff, but instead issued cash-checks, which could be exchanged at the Foreign Trade Bank for cash. This practice was designed in part because most DPRK nationals do not possess

bank accounts. Payments were made to national staff for items such as daily subsistence allowance, bonuses, overtime, travel, and meal allowances in the amounts of \$18,582 during the period from 1999 to 2003 and \$127,801 during the period from 2004 to 2007.

Concerns have been raised about the extent to which UNDP made hard currency payments to DPRK government agencies, including the NCCs which served as liaisons between the DPRK's ministries and the UNDP. Among these liaison agencies was the NCC for the UNDP (NCC-UNDP). The Panel notes that whereas some estimates suggested that UNDP-DPRK paid approximately \$7 million to NCC-UNDP alone, the actual amount paid by UNDP-DPRK to NCC-UNDP was \$381,017 for the entire Review Period.

The Panel has addressed in this Chapter other concerns about payments that the DPRK made from accounts that it used in connection with the UNDP-DPRK program. In this regard, it is clear that UNDP officials were not aware of payments that the DPRK made to such entities as the International Finance Trade Joint Co., a Macau-based entity with close ties to the DPRK and to which the DPRK purportedly transferred \$2.72 million. UNDP provided funding to the DPRK government in connection with UNDP-administered projects. However, UNDP had no means by which to control the extent to which the DPRK commingled other funds from its own resources in its accounts for purposes of making payments beyond the scope of the development program.

In Section III of this Chapter, the Panel explains the background to its review with reference to other audits and inquiries into UNDP-DPRK financial matters and summarizes its approach to addressing item 1 of the Terms of Reference. Section IV sets forth key factual findings such as amounts that UNDP paid, relevant bank accounts, payment methods, and sources by which UNDP-DPRK accounts were replenished. Section V sets forth the Panel's analysis of payments made and concerns raised in relation to UNDP-DPRK financial matters. Sections VI and VII set forth the Panel's conclusions and recommendations, respectively.

### **III. BACKGROUND**

#### **A. Distinction Between Two Payment Categories**

United Nations Development Programme's (UNDP) operations in the Democratic People's Republic of Korea (DPRK) necessarily required it to engage in financial

transactions relative to its operations and the implementation of projects. UNDP's financial transactions fall into two principle categories. First, UNDP made payments for itself in connection with its own objectives and activities. Second, UNDP made payments on behalf of other UN agencies operating in the DPRK. Consistent with its Terms Reference, the Panel is mindful of the clear distinction between these two categories in its discussion below. Additionally, the Panel attempted to identify and enumerate a third category of payments: payments made on behalf of UNDP by other UN Agencies and other UNDP Country Offices. While this third category of payments was not explicit to the Panel's Terms of Reference, for completeness and in order to understand the full scale and scope of the UNDP's program in the DPRK especially in relation to other aspects of the Panel's work, specifically its review of Projects, the Panel included this third category in its review.

Regarding the two key payment categories that the Panel was asked to review, i.e., payments by UNDP on behalf of itself and payments by UNDP on behalf of others, the Panel has made precise calculations as set forth below. With respect to the third category, i.e., payments made on behalf of UNDP-DPRK by other UN Agencies and other UNDP Country Offices, the Panel is able to calculate a precise figure on the basis of Atlas records for the period from 2004–2007. Data from the Winfoas period, however, was much more extensive and a validated figure for the period from 1999–2003 was not determined. (*See Appendix 1 for an additional discussion of payments made by other UN Agencies on behalf of UNDP-DPRK.*)

### **B. Defining “Hard Currency”**

In this report, and in alignment with common usage, the Panel refers to foreign currency transactions and hard currency (globally traded currency) transactions interchangeably. Consistent with UNDP's references during the Review Period, the Panel uses the term hard currency with greater frequency. The reference to these interchangeable terms is not intended to convey the impression that each such transaction was a *cash* transaction. As discussed below, transactions in hard currency typically were conducted by writing checks drawn on UNDP's convertible Won (KPW) account and Euro accounts (and before 2003 its U.S. Dollar accounts). The transactions in tradable currencies, Euros and

U.S. Dollars should not be inferred to mean transactions conducted in cash with these currencies.

**C. Review by the UN Board of Auditors re: UNDP-DPRK Financial Transactions**

The Panel's review of financial transactions in connection with UNDP-DPRK is not the first. On May 31, 2007, the UN Board of Auditors issued a report on the activities of the UNDP and other UN agencies, specifically UNFPA, UNOPS, and UNICEF<sup>85</sup> in the DPRK over the period January 1, 2002–December 31, 2006. The Board of Auditors undertook an analysis of several matters including UNDP's financial transactions. The Board of Auditors identified three bank accounts that UNDP operated in the DPRK through the DPRK-controlled Foreign Trade Bank (FTB), i.e., non-convertible Won, convertible Won, and Euro accounts.

The Board of Auditors reviewed UNDP's payment procedures and the manner in which it engaged in foreign (or hard) currency transactions. With respect to hard currency transactions, the Board of Auditors found that some payments to local suppliers and local staff in hard currency were contrary to the Standard Basic Agreement (SBAA) between UNDP and the DPRK. The Board of Auditors further determined that UNDP did not seek any exemption from compliance with relevant policies and agreements. The Board of Auditors further stated that rules and regulations were not sufficiently clear with respect to payments in local versus hard currency.<sup>86</sup> UNDP contested the Board of Auditors conclusions stating that the provisions of the SBAA on which the Board of Auditors rendered a finding did not govern local or foreign currency transactions, particularly with respect to the national staff that served as local personnel in the UNDP Country Office.

The Panel notes that the Board of Auditors did not have access to source documents from UNDP's Country Office in the DPRK. Moreover, the scope of the Board of Auditor's review was limited. Thus, the Panel's review covers the following additional matters concerning UNDP payments and financial transactions:

- Calculation of overall expenditures that UNDP made on behalf of itself;
- Calculation of overall expenditures that UNDP made on behalf of other UN agencies;

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<sup>85</sup> United Nations Population Fund, United Nations Office for Project Services, and United Nations Children's Fund.

<sup>86</sup> Report of the Board of Auditors (May 31, 2007).

- Calculations concerning payments that UNDP made to the DPRK government, including the DPRK's National Coordinating Committees;
- Reconciliation of bank statements with respect to relevant UNDP accounts;
- The nature of persons and entities receiving payment from UNDP (although the UN Board of Auditors did address payments to national staff);
- Sampling of payments to determine the likelihood that such payments were received by intended beneficiaries;<sup>87</sup>
- The extent to which UNDP made payments in cash;
- The extent to which the UNDP was involved directly or indirectly in transactions with entities that the Permanent Mission of the United States to the UN (U.S. Mission) identified as problematic, i.e., Zang Lok Trading Co., International Finance and Trade Joint Company (IFTJ), and Banco Delta Asia.

#### **D. Review by the U.S. Senate's Permanent Subcommittee on Investigations**

In response to allegations raised by the U.S. Mission, the U.S. Senate's Permanent Subcommittee on Investigations (PSI) undertook a review of UNDP's operations and activities in the DPRK as well. On January 24, 2008, the PSI released a Staff Report (Staff Report) setting forth a case study of the matter. The concerns raised in the Staff Report are discussed below in Section V of this Chapter. It bears mention here that the PSI Staff Report raised several questions regarding the implications of the UNDP's financial transactions relative to the DPRK. Like the UN Board of Auditors, the PSI focused on UNDP's three accounts with the DPRK-operated Foreign Trade Bank for convertible Won, non-convertible Won, and Euros. The PSI questioned the following:

- The extent of UNDP's cross-over (if any) with IFTJ, a Macau-based entity believed to be controlled by the DPRK, and Banco Delta Asia, a Macau-based financial institution.

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<sup>87</sup> The Board of Auditors noted in their May 31, 2007 Report that in regard to intended beneficiaries and payments made in cash, "No cheques were held in New York, therefore, in this phase, the Board did not have access to the paid cheques. The Board was thus unable to determine whether the cheques were made out in the name of the vendor or for cash and therefore unable to determine what actual cash payments may have been made to local suppliers or staff." The Panel notes here the same limitation in that cancelled or endorsed checks were not available. See Section III E. for further discussion of challenges to the Panel's review.

- UNDP payments made on behalf of other UN agencies to Zang Lok, a Macau-based entity believed to have ties to a DPRK entity serving as a financial agent for the DPRK's sale of weapons, including ballistic missiles.
- The degree to which UNDP paid the national staff in cash.<sup>88</sup>

The PSI noted that UNDP had asked the Panel to conduct an independent review of the nature of UNDP's financial transactions. As with the Board of Auditors, the PSI did not have access to source documents. Specific findings regarding total expenditures, the nature of payments made, and detailed analysis of the nature and extent of cash transactions and transactions with the DPRK government were not addressed in the PSI Staff Report.<sup>89</sup>

In connection with its efforts to address the Terms of Reference, the Panel addresses related issues raised by the U.S. Mission and by the PSI's Staff Report concerning UNDP's financial transactions in connection with operations in the DPRK.

#### **E. Panel Approach**

Consistent with its Terms of Reference, the Panel has conducted a review of financial transactions that the UNDP conducted in connection with its activities in the DPRK. The Panel sought assistance of audit services with forensic capacity; the Panel engaged PricewaterhouseCoopers LLP (PwC). The Panel has drawn on PwC's analysis and conclusions in order to address the Panel's Terms of Reference. The Panel conducted its review in relation to payments in two stages.

##### **1. Stage I - Assessment and Analysis**

The objective of Stage I was to assess the completeness and adequacy of the source financial data provided to the Panel to enable the comparison of source financial data provided to third party information (e.g. bank statements) and to UN employee representations; and prepare high level data statistics.

Key activities in Stage I included the following:

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<sup>88</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

<sup>89</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

- Obtained an understanding of programs associated with UNDP-DPRK, program data that is expected in the source data, and types of expenditures;
- Obtained an understanding of UNDP's current and legacy financial systems, and transaction detail available, including ATLAS, WINFOAS, and other systems, as necessary;
- Determined the universe of bank accounts and disbursement methods;
- Gained an understanding of bank account reconciliation procedures, including the availability of hard copy or electronic statements and cancelled checks;
- Formalized a process to validate source data from financial systems, by
  - Interviewing program personnel; and
  - Comparing source data to third party sources (i.e., bank statements);
- Reviewed other UNDP-DPRK program data, including expenditures, bank accounts, and related transactions;
- Assessed the results of data validation and prepared data summaries, highlighting any gaps identified during source data validation;
- Established the criteria and methodology for selecting vendors and transactions to be sample tested in Stage II.

## **2. Stage II – Examination and Analysis**

In Stage II, the Panel undertook the following key activities:

- Assessed completeness, adequacy, and reasonableness of UNDP transactional data, including payment data, project data, general ledger data, and related documentation;
- Assessed completeness and adequacy of UNDP source documentation provided, including invoices, payment vouchers, and documentation evidencing approvals;
- Requested and acquired electronic data from the UNDP's ATLAS, WINFOAS, and IMIS systems. Loaded these data in excess of 229 million “records” into an Oracle-based data analysis environment;
- Worked with UNDP personnel to interpret system data, developed query and reporting methodology for the analysis of the financial data, and confirmed query results and reached agreement on the methodology;

- Identified transactions applicable to the scope of this assignment and quantified the scope of transactions associated with UNDP-DPRK;
- Assessed banking records, including bank statements, bank reconciliations, and bank signing authority;
- Assessed select transactions, including review of available documentation and approvals;
- Conducted Project Walk-throughs;<sup>90</sup>
- Interviewed select UNDP personnel; and
- Examined source files (supporting documentation) from UNDP-DPRK Country Office.

## **F. Document and Data Review**

### **1. Data Identification, Collection, and Analysis**

A key factor in the Panel’s review of payments and banking matters included obtaining UNDP transactional data such as payment data, project data, general ledger data and related documentation. The following is a summary of procedures performed, challenges experienced, and related observations regarding data identification, collection, and analysis.

UNDP was asked to detail transactional data for the time period 1999–2007. UNDP utilized several financial systems during this period. As such, pertinent data was provided to the Panel in multiple files which were segregated by timeframe and financial system, as described below:

<b>Financial System</b>	<b>Time Period</b>	<b>No of Tables<sup>91</sup></b>	<b>No. of Records</b>
ATLAS	2003-2008 <sup>92</sup>	59	208,602,614
WINFOAS-DPRK	1999-2003	83	72,785
IMIS (General Ledger System)	1999-2003	15	20,575,678

<sup>90</sup> Walk-throughs are a standard process and controls assessment procedure, whereby a transaction is traced from origination to completion through the entity’s process and information system in order to confirm that process flow and controls are functioning as designed. Project walk-throughs are discussed in Chapter 3 of the Report.

<sup>91</sup> A table is a database storage element potentially consisting of multiple rows and columns.

<sup>92</sup> Although the UNDP-DPRK program was suspended post March 2007, deposits and payments activity of approximately \$44,773 and \$890,520 respectively was identified for this period. This activity was not evaluated further per the Review Period (Jan. 1, 1999–March 1, 2007).



Two key enhancements that ATLAS contains but WINFOAS did not are:

- ATLAS requires useful input information to be populated, including fund, project, and business unit; and
- ATLAS contains general ledger account information for each transaction.

## **2. Data Related to Payments Made by Other UN Agencies and Other UNDP Country Offices**

Data related to payments made by other UN Agencies and other UNDP Country Offices on behalf of UNDP-DPRK were not analyzed. While this third category of payments was not part of the Panel's Terms of Reference, as noted above, for completeness and in relation to the Panel's review of Projects, the Panel attempted to retrieve and analyze this information although these payments were not made from UNDP-DPRK. The Panel was able to confirm that the payment amounts for this category from 2004–2007 totaled \$7.395 million (USD). For the Winfoas period, 1999–2003, UNDP asserts this amount to be \$7.249 million (USD).<sup>93</sup>

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<sup>93</sup> UNDP-OFA statement to the Panel (May 20, 2008).

### 3. Determination of In-Scope Transactions

The Panel clustered the following categories of transactions and corresponding data sources:

Payment Category	Data Sources
1. UNDP-DPRK Payments: - From UNDP-DPRK Bank Accounts on Behalf of UNDP-DPRK  - From non UNDP-DPRK Bank Accounts on Behalf of UNDP-DPRK  - From UNDP Headquarters on Behalf of UNDP-DPRK	UNDP-DPRK Payment Data (ATLAS, WINFOAS-DPRK)     UNDP Payment data (ATLAS GL, IMIS)
2. UNDP-DPRK Payments for Other UN Agencies: <sup>94</sup> - From UNDP-DPRK Bank Accounts on Behalf of Other UN Agencies  - From non UNDP-DPRK Bank Accounts on Behalf of Other UN Agencies	UNDP-DPRK Payment Data (ATLAS, WINFOAS-DPRK)
3. Other UN Agencies and UNDP Country Offices Payments on Behalf of UNDP-DPRK	GL Data, other country UNDP payment data, and PFMS (ATLAS, IMIS, PFMS)

For the first two categories of payments, the data received from WINFOAS and ATLAS was sufficient to complete the analyses and subsequent detail reports shown throughout this Report. Moreover, the concerns that the Panel has been asked to address pertain to the UNDP's program in the DPRK falling under the umbrella of these two

<sup>94</sup> Per the UNDP's Internal Control Framework (May 2005): for Atlas offices, the requesting office creates/approves the payment voucher and vendor within its own business unit. The requesting office selects the bank account of the disbursing office and the disbursing office makes the payment as long as it has sufficient funds in its bank account. For non-Atlas offices, the disbursing office creates and approves the non-PO payment voucher. The only responsibility of the approving manager is to ensure that the request is authorized. Further, the disbursing office creates and approves the vendor. The only responsibility of the staff member who approves the vendor is to ensure that the request was properly authorized.

categories. It follows that the Panel is able to address the issues raised on the basis of these definitive calculations.

For the third and less relevant category regarding “Other UN Agency and UNDP Country Offices Payments on Behalf of UNDP-DPRK,” a more complex series of databases was required. As noted above, because the third category is relevant to understanding the full value of the UNDP-DPRK program, the Panel has considered it but was unable to come to a full determination with respect to the 1999 to 2003 time period.

### **G. Comparison of Deposit Transactions to Data in UNDP Financial Systems**

Data analysis of UNDP-DPRK financial systems enabled a comparison of total amounts of deposits in the financial systems to third party evidence from the respective bank statements. The objective of this procedure was to gain further comfort regarding the amounts stated in UNDP-DPRK financial systems.

The Cash Flow Summary below includes the result of the comparison between total deposits (converted to USD) per the financial systems data and the bank statements. The difference between these two independent sources is \$115,558, or approximately 0.5%.

<b>Source</b>	<b>Total Deposits</b>
Financial Systems Data	\$ 23,933,391
Bank Statements	23,817,833
Variance	\$ 115,558

A similar comparison of net deposit activity from the financial systems data to the UNDP-DPRK High-Level Financial Review (prepared by UNDP),<sup>95</sup> results in a difference of only \$8,066, or approximately 0.04%.

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<sup>95</sup> UNDP-OFA “UNDP-DPRK High-Level Financial Review” (received Nov. 2, 2007).

Source	Net Deposits
Financial Systems Data	\$ 21,896,710
DPRK High-Level Financial Review	21,888,644
Variance	\$ 8,066

These variances are minor. These analyses provide further confidence that the amounts detailed in UNDP-DPRK financial systems data are reliable and the scope of the cash inflows is reasonably quantified. As a result of these procedures, it was evident that data in UNDP-DPRK financial systems was consistent with transaction amounts stated in bank statements and hence the Panel could perform detailed analyses based on this data.

#### **H. Challenges and Limitations on Analysis**

As noted above, the Panel has had access to source documents and databases that have enabled it to conduct a detailed review of UNDP's financial transactions regarding the DPRK in keeping with the Terms of Reference. Consistency between sources, moreover, indicates the reliability of the information on which the Panel has relied. Nevertheless, efforts to fully and completely analyze payments associated with UNDP's program in the DPRK were affected by many challenges which had a significant impact on this forensic exercise, including:

- The multi-year period subject to this review (1999 - 2007) (Review Period);
- The suspension of UNDP-DPRK operations which limits first-hand evaluation and assessment of the operations and the control environment;
- The inability to interview DPRK government employees who were key UNDP-DPRK personnel with knowledge of payment processes and related controls (in particular the Finance Officer, Li Kum Sun);
- During the Review Period, UNDP used two distinct financial systems for sub-ledger accounting, WINFOAS and ATLAS, as well as IMIS for their general ledger.
- The unique nature of the DPRK's economy and the relative lack of sophistication in its banking system (i.e., some of the bank statements appear to have been prepared

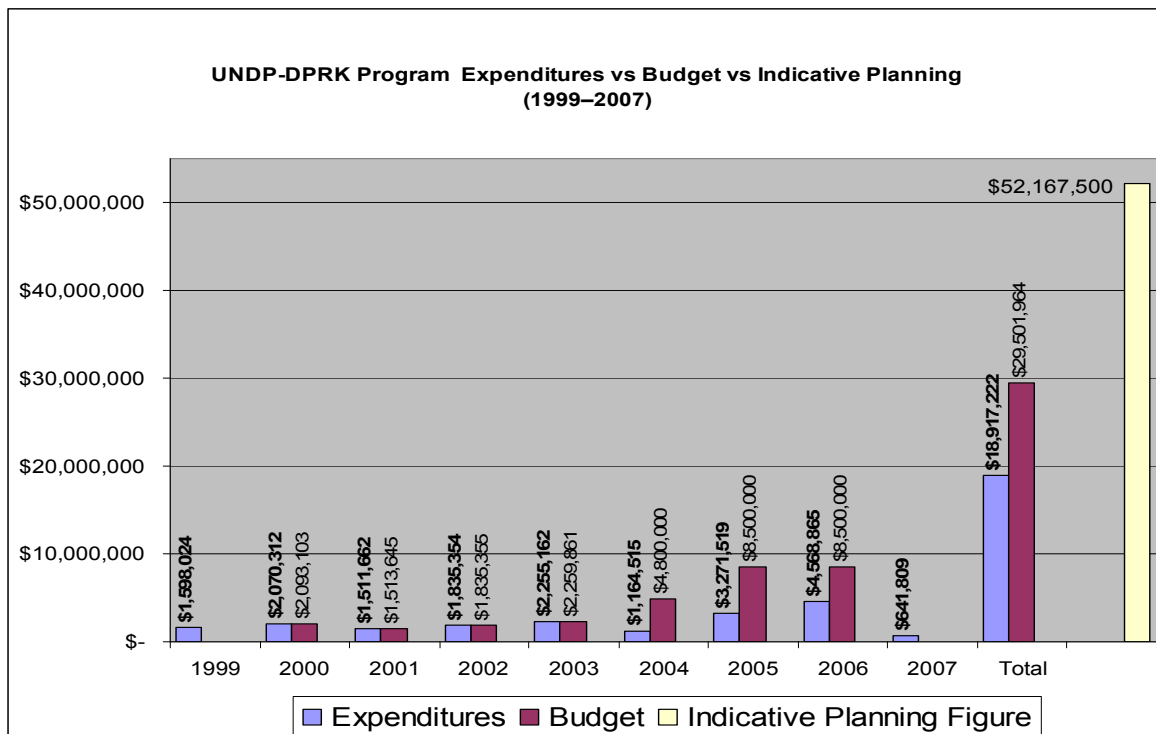
manually; bank statement information was not always presented in a consistent fashion; bank statement descriptions when available did not always agree to actual transactional details (such as check numbers)); and

- FTB did not provide customers with cancelled checks.

#### IV. FINDINGS OF FACTS

##### A. Overall Budget for UNDP-DPRK

As noted above, in the absence of financial transaction information related to payments made by other UN Agencies and other UNDP Country Offices for part of the Review Period, 1999–2003, the Panel is unable to confirm the total size of the UNDP-DPRK program from 1999–2007.<sup>96</sup> However, for the purposes of a general scale of scope and size, it is the Panel’s understanding based on budgeted figures provided by UNDP and expended amounts as recorded in Combined Delivery Reports and Project Delivery Reports, that the size of UNDP’s program in relation to Projects is approximated as follows.



<sup>96</sup> See Chapter 3 for a further discussion of UNDP-DPRK projects.

The indicative planning figure of \$52,167,500 was derived from the proportional amounts for the Review Period (1999–2007) based on the Country Programme 1997–1999 and extended in 2000; Country Program 2001–2003; Country Program 2005–2006; and the Draft Country Program 2007 – 2009. The budget figures are based on project budget figures provided by UNDP, and the expenditures are based on project expenditures. The expenditure figures for example, do not include IMIS figures. For the purposes of this review, it was useful to see the scale of possible diversions.

**B. Amount and Nature of Disbursements**

**1. General Findings**

On the basis of extensive data analysis of UNDP-DPRK financial systems, including ATLAS, WINFOAS, and IMIS, supplemented by input from UNDP, the Panel has determined that the total amount of disbursements associated with UNDP-DPRK in the Review Period is \$23.8 million (USD).<sup>97</sup>

Data analysis reflects that disbursements made by UNDP-DPRK include the following:<sup>98</sup>

Disbursements made by UNDP-DPRK on behalf of itself	\$16.9 million
Disbursements made by UNDP-DPRK on behalf of Other Country Offices and other UN agencies <sup>99</sup>	\$6.9 million
<b>Total</b>	<b>\$23.8 million</b>

<sup>97</sup> There may be immaterial differences in amounts and sums following due to rounding.

<sup>98</sup> An individual payment in ATLAS may cover multiple vouchers and multiple invoices, some of which may be on behalf of UNDP-DPRK and others of which may be on behalf of others. For the sake of consistency and conservatism, the Panel has classified the entire payment as being “on behalf of UNDP-DPRK” if any part of the payment was made for UNDP-DPRK. Had an alternative approach been used (i.e., classifying the entire payment as being “on behalf of others” if at least one invoice contained in the voucher was recorded to Fund Code 12000 or 17000) a net change approximating \$653,000 would result (i.e., payments on behalf of UNDP-DPRK would be \$16,258,568 and payments on behalf of others would be \$7,524,228).

<sup>99</sup> Including, but not limited to, UNFPA, UNOPS, and other UNDP Country Offices.

And data analysis reflects that disbursements made for UNDP-DPRK by Other UN Agencies and UNDP Country Offices include the following:

Disbursements made by Other UN Agencies, UN-HQ, and UNDP Country Offices Payments on Behalf of UNDP-DPRK (1999 – 2003)	\$7.2 million (per UNDP stated figure)
Disbursements made by Other UN Agencies, UN-HQ, and UNDP Country Offices Payments on Behalf of UNDP-DPRK (2004 – 2007)	\$7.4 million (per data analysis)
<b>Total</b>	<b>\$14.6 million</b> <sup>100</sup>

Total Disbursements by UNDP-DPRK, on behalf of others, and others on behalf of UNDP-DPRK	<b>\$38.4 million</b> <sup>101</sup> (not a verified figure)
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## 2. Additional Analysis

Additional analysis focuses on payments and transactions that comprise the above-referenced \$23.8 million figure, because the assertions under review each fall within the scope of this amount. Regarding the \$23.8 million figure, in addition to the quantification of UNDP-DPRK operations based on bank statements as described above, the Panel attempted to quantify the amount associated with UNDP-DPRK operations using alternative methods of analysis including analysis of funds received and funds disbursed arising out of and/or relating to the UNDP-DPRK program, and including payments made by UNDP for UNDP-DPRK, on behalf of other UN programs, and other entities.

In light of the challenges associated with the nature of the DPRK economy, operations and banking practices, and documentation available, the analysis includes a review of several different sources of information, as follows:

- Financial Systems (WINFOAS, IMIS, and ATLAS);
- Bank Statements; and
- DPRK High Level Financial Review 1999-2007 (UNDP prepared).

<sup>100</sup> See Appendix 1 for a detailed discussion regarding this figure.

<sup>101</sup> The Panel notes this figure could be in a range of \$33.3 million to \$48.5 million as discussed in Appendix 1.

For each of the sources listed above, the following verification procedures were performed:

- As stated in the section “Data Identification, Collection, and Analysis” the Panel worked closely with UNDP in order to produce meaningful summaries and relevant queries of financial systems data.
- In order to assess the reliability of UNDP financial systems data, WINFOAS and ATLAS financial data were compared to monthly bank statement transactions for the Controlled Accounts during the period from January 1, 1999 to March 31, 2007.<sup>102</sup> This process was performed by matching like information from financial data to bank statement information, including check number, amount, and date where possible, to gain assurance that the transaction could be considered a match.

The Panel notes the following observations based on the payment matching process:

- For all UNDP-DPRK Controlled Accounts active during the Atlas accounting period (January 1, 2004 through March 31, 2007), approximately 97% (by USD value) of the Atlas accounting data transactions could be matched to bank statement transactions (based on matching process described above);
- For the remaining 3% of transactions, the reasons that the two independent sources could not be matched are as follows:
  - Bank statements are missing or contain incomplete information, such as missing pages or cut-off information;
  - Amounts on bank statements could not be matched to financial data;
  - Bank statements are manually altered by handwriting or include typographical errors, related to check number or other information; and
  - Bank statements contain only basic information, such as transaction date, amount, and limited description of transaction, if any.
- Approximately 90% (by USD value) of the WINFOAS accounting data transactions could be matched to bank statement transactions for the Controlled Accounts reviewed that were active during the Winfoas accounting period (January 1, 1999 through December 31, 2003); and

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<sup>102</sup> Payment matching was completed for all active bank accounts for Atlas accounting period (debit transactions only), and a sample of bank statements for the Winfoas period, covering at least one year per bank account.



- The remaining 10% could not be definitively matched due to reasons similar to those stated above for Atlas. In particular for the Winfoas period, statements varied in format, period, and currency, over the Review Period.

### **3. Cash Inflows and Cash Outflows to UNDP-DPRK**<sup>103</sup>

In order to quantify the cash inflows and outflows associated with the UNDP-DPRK operations, the Panel developed an understanding of the underlying financial accounting systems and queried the data based on representations made by UNDP, including system logic assumptions. The Cash Flow Summary for UNDP-DPRK distinguishes between Winfoas and Atlas accounting periods, as follows:

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<sup>103</sup> As mentioned in this Chapter, from April 2007 through March 2008, post UNDP-DPRK program suspension, UNDP-DPRK deposits and payments activity of approximately \$44,773 and \$890,520 respectively were identified. This has not been evaluated further per the Panel's Review Period.

(All Figures in USD)

Period Covered

	Data		
	(Jan 1999 through Dec 2003)	(Jan 2004 to Mar 2008)	
	WINFOAS	ATLAS	TOTAL
<b>DEPOSITS</b>			
Deposits into UNDP-DPRK Controlled Bank Accounts	\$ 12,978,890	\$ 10,954,501	\$ 23,933,391
Less: UNDP-DPRK Controlled Intra-Account Transfers	1,729,437	307,244	2,036,681
<b>Net Deposit Activity:</b>	<b>11,249,453</b>	<b>10,647,257</b>	<b>21,896,710</b>
Add: Opening Balance per Accounts <sup>1</sup>	176,556		176,556
<b>Total Funds Available</b>	<b>\$ 11,426,009</b>	<b>\$ 10,647,257</b>	<b>\$ 22,073,266</b>

#### **PAYMENTS**

UNDP-DPRK Payments from UNDP-DPRK Bank Accounts on behalf of UNDP-DPRK	\$ 6,939,312	\$ 8,345,408	\$ 15,284,721
UNDP-DPRK Payments from non UNDP-DPRK Bank Accounts on behalf of UNDP-DPRK	-	1,626,984	1,626,984
UNDP-DPRK Payments from UNDP-DPRK Bank Accounts on behalf of Other UN Agencies	4,219,980	1,814,909	6,034,889
UNDP-DPRK Payments from non UNDP-DPRK Bank Accounts on behalf of Other UN Agencies	-	836,202	836,202
<b>Subtotal - UNDP-DPRK Payments</b>	<b>\$ 11,159,293</b>	<b>\$ 12,623,503</b>	<b>\$ 23,782,796<sup>3</sup></b>
Others on behalf of UNDP-DPRK			
a) Project Delivery External (PDE) - Other Non-Atlas Agencies		2,849,478	2,849,478
b) IMIS Payroll (International Staff Salaries, Management Projects)		1,658,825	1,658,825
c) Project Delivery Report (PDR) - Other Atlas Agencies		1,070,409	1,070,409
d) Global Payroll (GP) - Includes Local Staff Salaries		605,971	605,971
e) On-Line Journal Entry - Reclass between Chartfields		419,314	419,314
f) Other Non-Atlas		81,495	81,495
g) Other Atlas Agencies		710,025	710,025
<b>Subtotal - Non-UNDP-DPRK Payments <sup>2</sup></b>	<b>\$ 7,249,340</b>	<b>\$ 7,395,517</b>	<b>\$ 14,644,857</b>
<b>Total Payments:</b>	<b>\$ 18,408,633</b>	<b>\$ 20,019,020</b>	<b>\$ 38,427,653</b>

1 Opening balance converted to USD on Jan. 1, 1999 for active accounts as of this date

2 The WINFOAS Total of \$7.25M was provided by UNDP.

3 The \$23.8 million figure is the relevant amount for purposes of the Panel's analysis and Terms of Reference. Any uncertainty as to the \$7.25 million figure is not relevant to this Chapter.

### **C. Bank Accounts and Banking Environment**

One of the primary questions that contributed to the establishment of the Panel was the need to quantify the amount associated with UNDP-DPRK operations, in executing its own projects and on behalf of other UN Agencies. A crucial element of the analysis was the

evaluation of the number, nature, and use of bank accounts used by UNDP-DPRK, with the understanding that bank statements are generally considered third party evidence.<sup>104</sup>

The Panel thus reviewed all available bank statements for the Controlled Accounts<sup>105</sup> (i.e., Foreign Trade Bank: 08825102, 08825112, 08825101 and 076250; UBS: 240-C0250861.0, NEAB: 0521; and ING-NEAB: 0555-01) and a sample of bank reconciliations performed by UNDP-DPRK staff during the Review Period. The objective of the review included the following:

- Confirm the population of UNDP-DPRK controlled bank accounts utilized and time period of usage for each bank account;
- Assess the completeness of banking records;
- Summarize monthly, yearly, and total deposit and withdrawal activity in the accounts during the Review Period;
- Verify the beginning and ending balances in the accounts; and
- Conduct a detailed review of the statements for general content, including description of debit and credit amounts, check numbers, and timing of transactions to identify risk factors.

The Panel encountered several difficulties in this review, including:

- FTB bank statements contain only basic information, such as transaction date, amount, and limited description of transaction, if any;
- Several bank statements were manually altered by handwriting, including changes to check number, amount, or other information (i.e., the altered information is generally what agreed with the financial systems);
- Approximately 4% of the bank statements are missing or contain incomplete information, such as missing pages or cut-off information. For these statements, the Panel has had to supplement deposit and withdrawal information by reviewing financial data to identify activity in the period; and

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<sup>104</sup> Research of publicly available information reflects that FTB is supervised by the DPRK Central Bank and is controlled by the DPRK government through the Ministry of Finance and the Ministry of Trade.

<sup>105</sup> UNDP-DPRK Controlled Accounts are those utilized by the UNDP-DPRK operation to receive funds and make disbursements on behalf of its own programs, on behalf of other UN agencies, and on behalf of other entities where appropriate.

- Statements vary in format, period, and currency, over the Review Period and sometimes within the same account.

### 1. Number and Nature of Bank Accounts

In the course of the Panel’s investigative review, seven UNDP-DPRK Controlled Accounts in use during the Review Period were identified, as follows:

Bank Name	Currency	Account Number	Acct. Open Date	Acct. Close Date
1. Foreign Trade Bank	USD	8825102	3/3/1999	2/5/2003
2. Foreign Trade Bank	EURO	8825112	12/10/2002	Active <sup>106</sup>
3. Foreign Trade Bank	KPW (Convertible)	8825101	9/11/1984	Active
4. Foreign Trade Bank	KPW (Non-Convertible)	76250	3/9/1983	Active
5. Swiss Bank Corporation (UBS)	USD	240-C0250861.0	Pre-1984	8/22/2006
6. ING North East Asia Bank	USD	0555-01	8/12/1997	7/22/1999
7. North East Asia Bank	USD	0521	6/15/2000	8/1/2002

Furthermore, the following 12 non-DPRK controlled accounts (“non-DPRK Controlled Accounts”) were identified as being used for making payments during the Review Period:

Bank Name	Currency	Account Number	Bank Account Description
1. Bank of America US	USD	3752207394	UNDP REP IN THAILAND (USD)
2. Bank of America US	USD	3752191536	UNFPA DISBURSEMENT ACCOUNT
3. Bank of America US	USD	3752191523	UNDP DISBURSEMENT ACCT
4. Bank of America US	USD	3752184200	UNDP REP PAPUA N GUINEA US AC
5. Bank of America US	USD	3752190391	UNDP PHILIPPINES USD ACCT
6. Bank of America UK	EUR	62722022	UNDP CONT. EUR ACCT.
7. JP Morgan Chase Bank	USD	323138276	UNDP REP CHINA USD ACCT
8. SCB Malaysia Berhad	MYR	142312515	UNDP REP IN MALAYSIA MYR ACCT
9. The Bank of Tokyo Mitsubishi	JPY	0041572	UNDP CONTRIBUTION ACCOUNT
10. Bank of China	USD	00247008093014	UNDP REP CHINA USD ACCT
11. Bank of China	CNY	00247008093001	UNDP REP CHINA RENMINBI ACCT
12. BP Le Commerce Exterieur LAO	USD	0100110100578	UNDP REP IN LAO PR USD ACCT

<sup>106</sup> Based on a review of bank statements through April 2007 and correspondence from Julie Anne Mejia, UNDP Treasurer, dated April 3, 2008, these accounts have not been closed.

Bank statements for the non-DPRK Controlled Accounts were not available to the Panel and were not analyzed beyond that described above.

## **2. Bank Signatories Analysis**

On the basis of available information, the Panel has attached as Appendix 2 a summary of the Bank Account Signatories.<sup>107</sup> The following are key observations:

- During the course of the Review Period, the number of signatories on each bank account ranged from three to eight. For example, the North East Asia Bank - USD account appears to have had eight signatories during the period April 2001 to November 2001.
- Signatories generally included UNDP-DPRK Management personnel. Li Kum Sun, Finance Officer (National Staff member) was a signatory for the four accounts held at the Foreign Trade Bank (USD, Euro, convertible Won and non-convertible Won) and the UBS USD account starting in March 2001.
- Disbursements from the UNDP-DPRK accounts require two signatures.

## **3. Bank Statement Activity**

The Panel analyzed all available bank statements for the seven Controlled Accounts and supplemented missing statement information<sup>108</sup> with financial data to summarize total activity for the period January 1, 1999, to March 31, 2007 (“Bank Statement Review Period”). To enable the comparative analysis of account activity, transactions in non-USD accounts (Euro and KPW) were converted to USD using exchange rates that are stored in UNDP's financial system, WINFOAS, for the period January 1, 1999 through December 31, 2003; and UN Operational Exchange Rates for the period January 1, 2004 to March 31, 2007. See “Foreign Exchange Rates” section below for further commentary on exchange rates.

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<sup>107</sup> Compiled based on UNDP Treasury Memos acknowledging or authorizing signatories, and correspondence with individual banks authorizing signatories.

<sup>108</sup> Approximately 4% or 15 bank statements were missing or contained incomplete information.

#### 4. Bank Charges

The Panel evaluated bank charges by performing searches on the financial systems data fields, with different limitations associated with the search of WINFOAS versus ATLAS data. The population of transactions associated with Bank charges from the data was identified as follows:

WINFOAS:

- Expenditure type is “Bank Charges” (per data field and description “Obj Code”)
- The purpose and transaction description fields for “Bank Charge” or variations of these words (e.g. ‘Bank ch’, ‘Bk ch’)
- Population identified in WINFOAS Bank Charges Table

ATLAS:

- General Ledger Account 74510 - Bank Charges
- The invoice description contains “Bank Charge” or variations of these words

Results of the data queries for bank charges are as follows:

(USD)	WINFOAS	ATLAS	Total
<b>Account/Expenditure Description (1)</b>	<b>\$ 9,147</b>	<b>\$ 11,691</b>	<b>\$ 20,838</b>
Other Key Word Searches (2)	\$ 51,001	\$ 818	\$ 51,819
	\$ 60,147	\$ 12,509	\$ 72,657

Observations on the results of the data queries and underlying data include:

- For expenditures coded to “Bank Charges” accounts or expenditure type (1) above, the payee name is generally not the name of a bank, but rather an individual or company;
- For the Winfoas period related to (2) above, the \$51,001 identified included well over 100 different vendor names listed, and they generally appear to be names of individuals or secondarily, companies. Thus, it is not clear why payments to these payees would have any reference to “bank charges,” in the transaction purpose or description fields, as it appears that these payments are generally unrelated. It is not possible to conclude from the data whether these are related to bank charges.

- For the Atlas period related to (2) above, an immaterial amount of \$818 was identified through key word searches that were not already captured in the Bank charges general ledger account number 74510.
- Bank accounts associated with payments to vendors that appear to be banks total \$11,014 for the Winfoas period. Banks identified include Ashikaga Bank, FTB, Banco Delta Asia, BOCHK, UOB Bank, Bank of China, NEAB, and other banks not specifically named.

### **5. Foreign Exchange Rates**

For comparative and other purposes, it was necessary to convert all non-USD accounts (Euro and KPW) to USD. The Panel evaluated UN Operational Rates of Exchange provided by UNDP and also from the UN website (“published rates”) and the WINFOAS accounting rates utilized by UNDP, and concluded that the appropriate rates to use for this report on the UNDP-DPRK program and all related analyses should be based on the following sources for exchange rates:

- January 1, 1999 through December 31, 2003 - WINFOAS accounting tables; and
- January 1, 2004 through March 31, 2007 - published UN Operational Rates of Exchange.

### **6. Bank Reconciliation Review**

Per discussion with UNDP Headquarters management, during the Atlas period (2004 to present), bank reconciliations were performed monthly. The Deputy Resident Representative (“DRR”) was responsible for reviewing the bank reconciliations locally, with Regional Support Teams providing oversight of this process. On an annual basis, UNDP Headquarters reviewed a sample of bank reconciliations by country.

UNDP Headquarters management indicated that there were no known issues with UNDP-DPRK financial management. Further, another UNDP Headquarters management member indicated that UNDP-DPRK was one of the first country operations to comply with the bank reconciliation requirement during the Atlas period.

The Panel selected a sample of several months of bank reconciliations performed in UNDP-DPRK for review. Observations based on the sample are as follows:

- It appears that the reconciliations were performed on a monthly basis;
- Reconciliations were generally signed by a preparer and a reviewer to evidence review and approval;
- It appears the reconciliations were done within several months of month-end; and
- Evidence of explanations documented by UNDP-DPRK management for the reconciling items appeared reasonable.

#### **D. Inflow of Funds**

Transactions during the Review Period, for the seven Controlled Accounts converted into USD, total \$23,817,833 in deposits and \$23,875,191 in withdrawals. Transfers between UNDP-DPRK accounts were not easily identified in the bank statements. Analysis performed on data available in the financial systems indicates that \$2,036,681 of this activity is related to inter-account transfers. Below is a high-level summary of bank account activity from the Bank Statement Review Period, stated in USD:

Bank Name	Currency	Account Number	Total Activity (USD) <sup>109</sup>		
			Deposit	Withdrawal	Net
1. Foreign Trade Bank	USD	8825102	\$ 6,502,022	\$ 6,502,022	\$ -
2. Foreign Trade Bank	EURO	8825112	\$ 10,671,651	\$ 10,656,028	\$ 15,623
3. Foreign Trade Bank	KPW-C	8825101	\$ 2,371,880	\$ 2,411,158	\$ (39,278)
4. Foreign Trade Bank	KPW-NC	76250	\$ 460,843	\$ 360,070	\$ 100,773
5. Swiss Bank Corporation (UBS)	USD	240-C0250861.0	\$ 2,895,841	\$ 2,982,610	\$ (86,769)
6. North East Asia Bank	USD	0521	\$ 812,879	\$ 812,879	\$ -
7. ING North East Asia Bank	USD	0555-01	\$ 102,716	\$ 150,425	\$ (47,709)
<b>Total Activity</b>			<b>\$ 23,817,833</b>	<b>\$ 23,875,191</b>	<b>\$ (57,360)</b>
Beg. Bal. at Jan. 1, 1999					\$ 176,556
					<b>\$ 119,196</b> <sup>110</sup>

<sup>109</sup> UN Operational Rates of Exchange are generally only updated monthly while bank rates may be updated more frequently, especially as bank rates are applied to month-end balances, which may result in the appearance of account activity when in fact there were no transactions.



The FTB-Euro account (No. 8825112) had the greatest activity in volume of transactions and total amount during the Review period, followed by the FTB-USD account. Both of these accounts are generally replenished by UNDP Headquarters (HQ). In particular, the Controlled Accounts appear to function similar to zero balance accounts as the amounts of deposits and withdrawals are closely aligned. (See Appendix 3 for a graphical depiction of the total account deposit and withdrawal activity by year over the Bank Statement Review Period<sup>111</sup> for the Controlled Accounts.)

### 1. Flow of Funds

The Panel analyzed the initial sources of funding for the UNDP-DPRK Controlled Accounts over the Review Period. On a sample basis, it reviewed the direct replenishments to UNDP-DPRK based on hardcopy documentation available and identified minor differences between the financial systems and the documentation. Based on the financial systems data, the Panel identified the following bank accounts and entities as sources of funding for the UNDP-DPRK operations:

<b>From Bank Name (Account No.)</b>	<b>Currency</b>	<b>Amount (USD)</b>	<b>% to Total</b>
HQ - BBL BRUSEL (0186139)	EURO	\$ 1,099,445	5%
HQ - Bank of America UK (62722022)	EURO	\$ 9,383,865	43%
HQ - UBS - USD (240C02400361)	USD	\$ 8,539,000	39%
HQ (Unknown) <sup>112</sup>	Various	\$ 1,501,540	7%
GLOC	KPW	\$ 460,789	2%
Other (Unknown)	Various	\$ 912,071	4%
		<b>\$ 21,896,710</b>	

<sup>110</sup> The ending bank balance per the UNDP-DPRK Controlled Accounts active as of March 31, 2007, is \$113,894 USD; the variance of \$5,302 is due to exchange rate differences during the Bank Statement Review Period and presumed negligible.

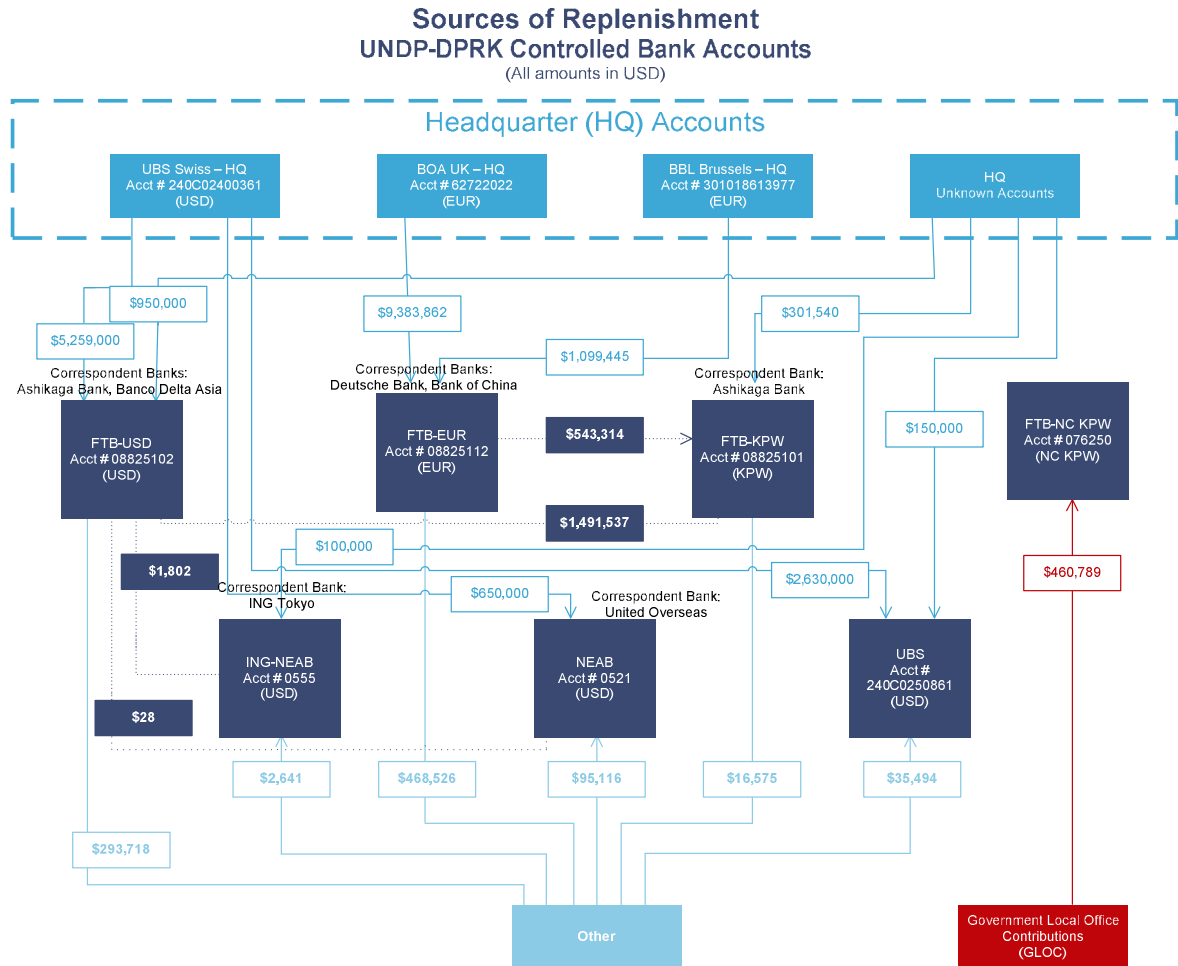
<sup>111</sup> Bank statement activity subsequent to March 31, 2007 was noted but not evaluated further per the Review Period.

<sup>112</sup> UNDP could not provide account level information for this amount of funding, but did indicate the amount was funded from a combination of HQ accounts (presumably those listed above.)

The following is a summary by receiving Controlled Account of amount of funds deposited and transferred from 1999 through 2007 (this includes \$2,036,681 of inter-account activity):

	Source Bank Name (Account No.)	Target Bank Name (Account No.)	Amount (USD)
<b>T</b>	ING North East Asia Bank (05055)	FTB - USD (08825102)	\$ 1,802
<b>T</b>	North East Asia Bank (0521-01)	FTB - USD (08825102)	\$ 29
	HQ - UBS - USD (240C02400361)	FTB - USD (08825102)	\$ 5,259,000
	HQ (Unknown)	FTB - USD (08825102)	\$ 950,000
	Other (Unknown)	FTB - USD (08825102)	\$ 293,718
			<b>\$ 6,504,549</b>
	HQ - BBL BRUSEL (0186139)	FTB - EURO (08825112)	\$ 1,099,445
	HQ - Bank of America UK (62722022)	FTB - EURO (08825112)	\$ 9,383,865
	Other (Unknown)	FTB - EURO (08825112)	\$ 468,526
			<b>\$ 10,951,836</b>
<b>T</b>	FTB - USD (08825102)	FTB - KPW Convertible (08825101)	\$ 1,491,537
<b>T</b>	FTB - EURO (08825112)	FTB - KPW Convertible (08825101)	\$ 543,314
	HQ (Unknown)	FTB - KPW Convertible (08825101)	\$ 301,540
	Other (Unknown)	FTB - KPW Convertible (08825101)	\$ 16,575
			<b>\$ 2,352,966</b>
	GLOC	FTB - KPW Non-Convertible (076250)	\$ 460,789
			<b>\$ 460,789</b>
	HQ - UBS - USD (240C02400361)	UBS - USD (240C02508610)	\$ 2,630,000
	HQ (Unknown)	UBS - USD (240C02508610)	\$ 150,000
	Other	UBS - USD (240C02508610)	\$ 35,494
			<b>\$ 2,815,494</b>
	HQ - UBS - USD (240C02400361)	North East Asia Bank (0521-01)	\$ 650,000
	Other	North East Asia Bank (0521-01)	\$ 95,116
			<b>\$ 745,116</b>
	HQ (Unknown)	ING North East Asia Bank (05055)	\$ 100,000
	Other (Unknown)	ING North East Asia Bank (05055)	\$ 2,641
			<b>\$ 102,641</b>
		<b>Total Funding (Deposits &amp; Transfers)</b>	<b>\$ 23,933,391</b>
<b>T</b>	Intra-Account Transfer		

The following diagram titled Sources of Replenishment illustrates the flow of funds from HQ and other funding sources to UNDP-DPRK Controlled Accounts, and the transfer of funds<sup>113</sup> between Controlled Accounts:



## **2. Government Local Office Contributions FTB - Non-Convertible Won Account**

Government local office contributions (GLOC) were only deposited into the FTB non-convertible Won Account. This understanding was confirmed by data analyses and a review of bank statements. Further analysis indicates that the only deposits into this account

<sup>113</sup> Total intra-account funds transfers between UNDP-DPRK Controlled Accounts totaled \$2,036,681 USD per the financial systems data.

were in fact GLOC-related. Descriptions contained within the financial data indicate that these contributions related to UNDP and/or UNFPA.

Deposits by year were as follows:

<b>Year</b>	<b>No. of GLOC Deposits</b>	<b>Amount of GLOC Deposits (KPW)</b>	<b>Amount of GLOC Deposits (USD)</b>
1999	1	KPW 100,000	\$ 56,559
2000	2	100,000	37,559
2001	5	100,000	46,512
2002	4	2,823,000	41,454
2003	9	11,719,250	80,087
2004	9	9,630,000	69,386
2005	5	15,171,674	107,956
2006	1	3,000,000	21,276
2007	0	0	0
	<b>36</b>	<b>KPW 42,643,924</b>	<b>\$ 460,789</b>

Initial deposits are recorded in a deposits sub-ledger table. A high level review of the general ledger indicated no activity in account 51015 “Gov contr locl ofc cost (gloc)” for the period 2004 through 2007. As such, GLOC activity was identified by the source or purpose description within WINFOAS and ATLAS.

#### ***General Observations re GLOC***

- Until September 2000, the balance in the non-convertible Won account was less than the balance in the convertible Won account.
- The average month-end balance in the non-convertible Won account during the period January 1999 through September 2000 was KPW 49,146 or \$23,110.
- The average month-end balance in the non-convertible Won account during the period October 2000 through March 2007 was KPW 6,430,203 or \$53,160.
- September 2005 saw the largest increase in month-end balance in the non-convertible Won account (i.e., from \$49,792 in August 2005 to \$86,189 in September 2005).

- At \$152,324, November 2005 saw the largest month-end balance in the non-convertible Won account. As of December 2005, month-end balances continued to decline to a low of \$69,341 as of March 2007.

### ***Replenishment***

The annual GLOC replenishment appears to have nearly doubled from 2002 to 2003 (in USD) as compared to an approximate increase of 20% in UNDP-DPRK Programme and Office Support Budget Disbursements.<sup>114</sup>

### ***Month-End Balance***

From August 2002 through August 2005, the increase in month-end account balance appears to be related to the foreign exchange rate fluctuation between the KPW and USD (i.e., from 2.15:1 to 153:1) as well as an increase in amount of annual replenishment.

From September 2005 to November 2005, the balance in the non-convertible Won account increased due to the receipt of numerous (and increasing larger) GLOC contributions during the period, coupled with a decrease in amounts disbursed from this account.

In 2005, all replenishments occurred in the third and fourth quarters. In contrast, replenishments were received throughout the year during 2003 and 2004.

The below table represents timing of the receipt of GLOC contributions:

Date	Quarter	Amount	
		KPW	USD
24-Jan-03	1Q	KPW 1,300,000	\$ 8,552
20-Mar-03	1Q	1,400,000	9,413
20-Mar-03	1Q	500,000	3,362
13-Jun-03	2Q	2,500,000	17,202
13-Jun-03	2Q	1,240,000	8,532
24-Jul-03	3Q	700,000	4,816
24-Jul-03	3Q	1,900,000	13,073

<sup>114</sup> UNDP correspondence dated January 22, 2007 from Kemal Dervis to the UNDP Executive Board.

Date	Quarter	Amount	
		KPW	USD
3-Sep-03	3Q	1,900,000	13,167
4-Nov-03	4Q	279,250	1,966
<b>2003 Total</b>		<b>11,719,250</b>	<b>80,083</b>
29-Jan-04	1Q	750,000	5,358
29-Jan-04	1Q	1,000,000	7,144
14-May-04	2Q	1,000,000	7,112
14-May-04	2Q	700,000	4,978
21-Jun-04	2Q	780,000	5,520
21-Jun-04	2Q	700,000	5,010
20-Jul-04	3Q	1,000,000	7,158
20-Jul-04	3Q	700,000	5,010
29-Dec-04	4Q	3,000,000	22,091
<b>2004 Total</b>		<b>9,630,000</b>	<b>69,381</b>
2-Sep-05	3Q	2,000,000	14,336
8-Sep-05	3Q	2,000,000	14,336
21-Sep-05	3Q	1,171,674	8,399
20-Oct-05	4Q	3,000,000	21,413
16-Nov-05	4Q	7,000,000	49,469
<b>2005 Total</b>		<b>15,171,674</b>	<b>107,953</b>
13-Mar-06		3,000,000	21,277
<b>2006 Total</b>		<b>3,000,000</b>	<b>21,277</b>
<b>Grand Total*</b>		<b>KPW 39,520,924</b>	<b>USD \$ 278,694</b>

\* GLOC contributions for 2007 not received.

### **3. Conclusions re: Sources of Funds**

In short, with respect to sources of funds, the Panel notes the following:

- From 1999 to late 2002, the FTB-USD account (correspondent banks Ashikaga Bank and Banco Delta Asia) was the primary account funded from Headquarters for the UNDP-DPRK program.
- The FTB-USD account was phased out in late 2002, and the FTB-Euro account (correspondent banks Deutsche Bank and Bank of China) became the primary account. The Panel understands this was due to a change in the use of currency in DPRK, from USD to Euro;<sup>115</sup>
- The FTB-KPW convertible Won account was primarily funded by the transfers from the FTB-USD (pre-2003) then FTB-Euro (2003 to 2007 accounts);
- The FTB non-convertible Won account was funded exclusively by GLOC contributions, totaling \$460,789;
- The ING North East Asia Bank and North East Asia Bank accounts (correspondent banks ING Tokyo and United Overseas respectively) were utilized by UNDP-DPRK over the Review Period in a more limited capacity, with total deposit and disbursement activity of less than \$1 million USD between the two accounts; and
- Two Headquarters bank accounts, UBS and Bank of America UK, were the main sources of Headquarters funding for UNDP-DPRK operations over the Review Period (i.e., 82% of the total funds deposited, not including transfers).

## **V. ANALYSIS OF PAYMENTS MADE**

### **A. Nature of Payments Made and Payees and Potential for Diversion of Funds**

One of the primary components of the Terms of Reference calls upon the Panel to “[i]dentify all payments made by UNDP for itself and by UNDP on behalf of other UN entities, other entities and/or other countries...” The Terms of Reference also required that the Panel identify “to the extent possible whether such payments were received by the ultimate beneficiaries.” The Panel noted above the total amount of payments by UNDP on behalf of itself (\$16.9 million) and by UNDP on behalf of others (\$6.9 million). In the discussion that follows, the Panel addresses the nature of payments made and the payees.

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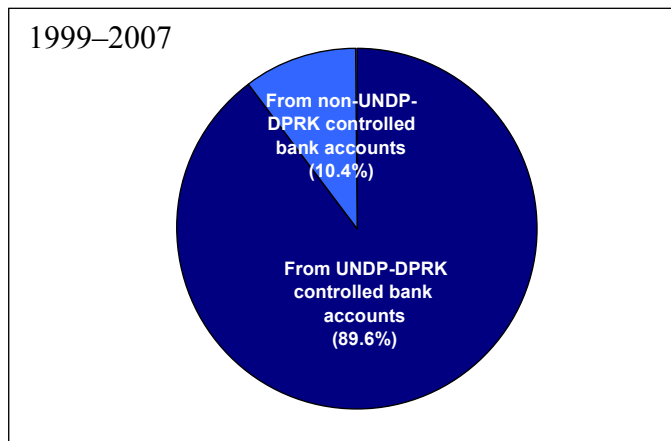
<sup>115</sup> For more information on DPRK’s decision not to use U.S. Dollars, *see* Chapter 1 of this Report.

## 1. Payment Summaries

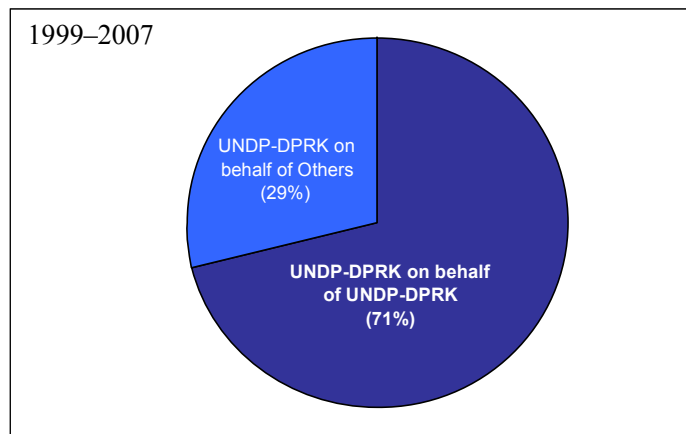
Once the scope of UNDP-DPRK operations was established, the Panel sought to understand the type of expenditures, payees, and general ledger accounts that were utilized in UNDP-DPRK. Based on analysis, review, and query of financial data, the Panel generated various summaries of payments made by UNDP-DPRK, including categorization of payees by amount, payee type, vendor name, and fund. These analyses focus on the core UNDP-DPRK operations due to lack of detailed information where other entities and agencies paid on behalf of UNDP-DPRK.

Total payments in UNDP-DPRK of \$23,782,796 were disbursed as follows:

- Payments totaling \$21,319,610 were made from the seven UNDP-DPRK Controlled Accounts, while payments totaling \$2,463,186 were made from non UNDP-DPRK Controlled Accounts, illustrated as a percent to total below:



In total, payments of \$23,782,795 were made by UNDP-DPRK during the period January 1, 1999 through March 27, 2007 as follows: (i) \$16,911,705 on behalf of UNDP-DPRK (self); and (ii) \$6,871,091 on behalf of Others.





## 2. Analysis of Payees

The Panel performed an analysis of total payments by payee (i.e. vendor name), and created a listing of the Top 20 payees. Based on review of the full vendor listing over the Review Period, the Panel has identified multiple vendors with the same names, which it standardized for vendor grouping purposes (e.g. Ministry of Agriculture and Agricultural Ministry). The Panel reviewed each payee name and categorized each as Government, Travel, UN Agencies, and Other (e.g. corporations, individuals, etc). UNDP personnel assisted the Panel in the categorization of vendors as those related to the DPRK government. Below is a summary of payee information by type of payee:

Payee Type	Amount	% to Total
Government	\$ 9,127,361	38%
Travel	\$ 954,791	4%
UN Agencies	\$ 389,783	2%
Other	\$ 13,310,860	56%
<b>Total</b>	<b>\$ 23,782,795</b>	<b>100%</b>

### *Observations*

- The Top 20 Payees, based on total payments, represent \$10,632,731 or 45% of all payments made by UNDP-DPRK, as follows:

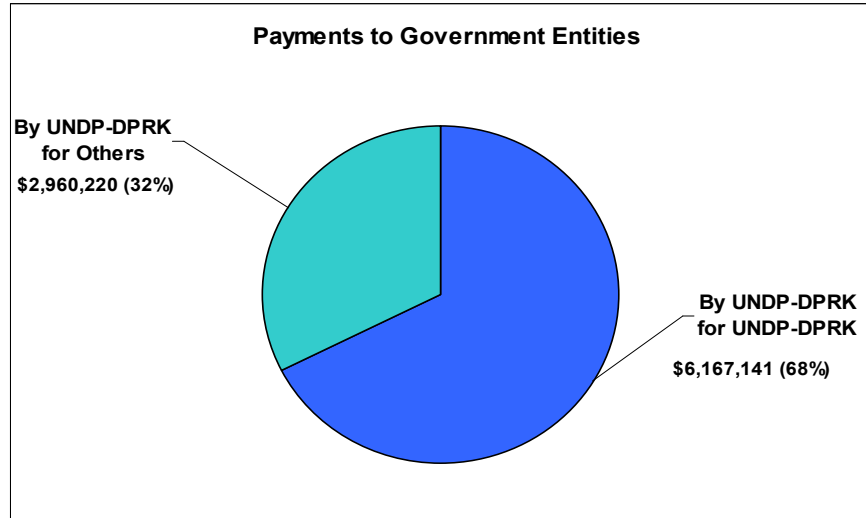
	Payee Name	Govt	By UNDP-DPRK for UNDP-DPRK	By UNDP-DPRK for Others	Total Amount
1	FELLOWS	X	837,480	459,323	\$1,296,803
2	GENERAL BUREAU FOR DIPLOMATS	X	1,102,163	147,171	1,249,334
3	INTERNATIONAL TELECOMMUNICATION CENTER		1,061,924	176,526	1,238,450
4	NCCs (including NCC-UNDP, NCC-E, NCC-FAO, NCC-UNESCO, NCC-UNFPA)	X	897,556	243,367	1,140,923
5	MINISTRY OF PUBLIC HEALTH	X	11,822	951,743	963,565
6	MINSOURCE INTERNATIONAL LTD		379,554	70,895	450,449
7	RIM CHEONG <sup>116</sup>		326,879	98,528	425,407
8	PYONGYANG FRIENDSHIP IMPORT CORPORATION	X	313,150	85,073	398,223

<sup>116</sup> It is the Panel's understanding that Rim Cheong was a National Staff member who served as an Administrative Officer and Interpreter in the UNDP-DPRK Country Office.

	Payee Name	Govt	By UNDP-DPRK for UNDP-DPRK	By UNDP-DPRK for Others	Total Amount
9	MINISTRY OF LAND & ENVIRONMENT PROTECTION	X	228,445	119,893	348,338
10	MINISTRY OF AGRICULTURE	X	303,062	45,106	348,168
11	AIR KORYO		223,821	104,544	328,365
12	MINISTRY OF FOREIGN TRADE	X	281,066	45,973	327,039
13	ARTJON SHKURTAJ <sup>117</sup>		289,713	0	289,713
14	MINISTRY OF CHEMICAL INDUSTRY	X	289,546	0	289,546
15	IAEA SAFEGUARDS INSPECTOR		0	284,407	284,407
16	SINDOK TRADING PTE. LTD.		282,813	0	282,813
17	MINISTRY OF FOREIGN AFFAIRS	X	83,495	168,473	251,968
18	WORLD FOOD PROGRAM DPRK		186,645	54,253	240,898
19	DANDONG LANDTRADE CO, LTD		229,310	10,000	239,310
20	CENTRAL BUREAU OF STATISTICS	X	48,746	190,266	239,012
	Payments to Top 20:		\$7,377,190	\$3,255,541	\$10,632,731
	Percentage of Total:		31%	14%	45%
	Payments to Government:		\$4,396,529	\$2,456,390	\$6,852,919
	Percentage of Total:		18%	10%	29%
	Payments to NCCs:		\$897,556	\$243,367	\$1,140,923
	Percentage of Total:		4%	1%	5%
	<b>Total Payments:</b>				<b>\$23,782,796</b>

- At least 11 of the Top 20 Payees were identified as government-related entities. These 11 payees represent payments of \$6,852,919 or 29% of all payments made by UNDP-DPRK.
- Payments to NCCs totaled \$1,140,923 and represent 5% of total payments made by UNDP-DPRK. \$897,556 of the \$1,140,923 was for UNDP-DPRK for UNDP-DPRK and \$243,367 was for Other Country Offices or Other UN Agencies.
- Payments to all payees identified as government-related totaled \$9,127,361 or 38% of all payments made by UNDP-DPRK, further segregated between UNDP-DPRK for itself and for others:

<sup>117</sup> Artjon Shkurtaaj served in the UNDP-DPRK Country Office, including as Operations Manager, from December 2004 through September 2006.



- Payments to all payees by UNDP-DPRK for UNDP-DPRK identified as government-related (including NCCs) totaling \$6,167,141 include payments to various Ministries for project-related subcontracts, salaries for professional and non-professional local personnel, meal allowances for local personnel, and project-related training as examples.
- Payments to all payees identified as travel-related totaled \$954,791 or 4% of all payments made by UNDP-DPRK, as follows:

	Payee Name	By UNDP-DPRK for DPRK	By UNDP-DPRK for Others	Amount
1	AIR KORYO	\$223,821	\$104,544	\$328,365
2	CHINA NORTHERN AIRLINE	93,369	110,534	203,903
3	CHINA SOUTHERN AIRLINE	139,604	499	140,103
4	CHINA INTERNATIONAL TRAVEL AIR LTD.	88,005	8,402	96,407
5	FOREIGN ENTERPRISE AIR SERVICE LTD	51,948	26,850	78,798
6	TRAVELLERS-LOCAL TRIP LOCAL TRIP	25,980	0	25,980
7	RUSIAN AIRLINE	8,442	12,061	20,503
8	TONGMYONG HOTEL	14,776	0	14,776
9	BEIJING FOREIGN ENTERPRISE AIR SERV. LTD	313	12,894	13,207
10	INTERNATIONAL TRAVEL AGENCY	7,423	1,446	8,869
11	MORANBONG HOTEL	0	6,259	6,259
12	STA TRAVEL	5,988	0	5,988
13	TOP LEVEL TOURS LTD	2,827	0	2,827
14	CHINA INTERNATIONAL TRAVEL AGENCY	0	2,766	2,766
15	AEROFLOT	0	2,210	2,210
16	YANGGAKDO HOTEL	1,307	0	1,307

	Payee Name	By UNDP-DPRK for DPRK	By UNDP-DPRK for Others	Amount
17	NS-LOCAL TRIP	0	890	890
18	KORYO HOTEL	377	255	632
19	OAG FLIGHT DISK	324	0	324
20	TRVL AGENCY OF RYANGGANG PROV.	256	0	256
21	PYONGYANG HOTEL	214	0	214
22	CW TRAVEL (THAILAND) LIMITED	207	0	207
		\$665,181	\$289,610	\$954,791
	Percentage of Total:	3%	1%	4%
	<b>Total Payments:</b>			<b>\$23,782,796</b>

- Payments to other UN Agencies totaled \$389,783 or 2% of all payments made by UNDP-DPRK:

	Payee Name	By UNDP-DPRK for UNDP-DPRK	By UNDP-DPRK for Others	Amount
1	WORLD FOOD PROGRAM DPRK	\$186,645	\$54,253	\$240,898
2	UNICEF	62,588	3,848	66,436
3	WHO	5,794	15,917	21,711
4	UNFPA DPRK 4 NATIONAL STAFF	0	20,839	20,839
5	UN INSTITUTE FOR TRAINING & RESEARCH	15,000	0	15,000
6	UNESCO, CLT/CH/ITH	13,320	0	13,320
7	UNFPA/DPRK DRIVER	0	4,322	4,322
8	UNDP OFFICE STAFF	2,524	0	2,524
9	UNITED NATIONS OFFICE GENEVA	2,500	0	2,500
10	UN CHOL SU/KIM HYONG GAP	0	1,527	1,527
11	UNFPA STAFF	586	0	586
12	UNDP – PYONGYANG	0	73	73
13	UNOCHA, DPRK	0	47	47
14	UN INSTITUTE FOR DISARMAMENT RESEARCH	0	0	-
		\$288,957	\$100,826	\$389,783
	Percentage of Total:	1.2%	0.4%	1.6%
	<b>Total Payments:</b>			<b>\$23,782,796</b>

***Payments from GLOC/Non-Convertible Won Account***

As noted above, GLOC was only deposited into the FTB Non-Convertible Won Account in the total amount of \$460,789. The disbursements from this account were in the

total amount of \$360,070 during the Review Period of 1999 to 2007. The below table represents a summary of amounts disbursed from the Non-Convertible Won Account during the period 2004 through 2007:

Expense Description		Year				
Detail	2004	2005	2006	2007	Total	
Agency Services – Global						
Reimb & Support Servs Income		\$ 8,251	\$ 2,789		\$ 11,040	
Rental & Maint-Other Office Eq	\$ 77				76	
<b>Agency Services - Global Total</b>	<b>77</b>	<b>8,251</b>	<b>2,789</b>		<b>11,117</b>	
CO Programme Delivery						
Maint, Oper of Transport Equip		31	179		211	
Promotional Materials and Dist				\$ 532	532	
Rent			1,869	1,357	3,227	
Travel – Other			101		101	
<b>CO Programme Delivery Total</b>		<b>31</b>	<b>2,151</b>	<b>1,889</b>	<b>4,072</b>	
CO Programme Support						
Common Services-Premises	27				27	
Custodial & Cleaning Services				8	8	
Moving Expenses		50			50	
Premises Alternations	2,594				2,594	
Rent	6,227	5,472	5,609	3,390	20,699	
Rental & Maint-Other Office Eq	473	51	365		890	
Utilities	279	448	583	200	1,511	
<b>CO Programme Support Total</b>	<b>9,602</b>	<b>6,022</b>	<b>6,558</b>	<b>3,599</b>	<b>25,782</b>	
RR Prog Sppt Country Offices						
Custodial & Cleaning Services	1,055		221		1,277	
Rent	41,946	24,197	37,652	30,040	133,836	
Rental & Maint-Other Office Eq		1,738	8,855	3,659	14,252	
Utilities	8,157		1,308		9,465	
<b>RR Prog Sppt Country Offices Total</b>	<b>51,159</b>	<b>25,935</b>	<b>48,037</b>	<b>33,699</b>	<b>158,831</b>	
<b>Total</b>	<b>\$ 60,839</b>	<b>\$ 40,240</b>	<b>\$ 59,536</b>	<b>\$ 39,188</b>	<b>\$ 199,804</b>	

### **3. Expenditures by UNDP Fund Sources**

UNDP-DPRK payments were disbursed from among 57 funds. Funds are: regular resource allocation for UNDP programs and projects and distributed in three ways called

TRACs (targeted resource assignments from core), which are assigned to countries a) directly, b) for regional country application, and c) for countries in special situations (in crisis). Regular resources, derived from formal pledges by member states, finance the core of UNDP operations. Additionally, other resources come from cost-sharing with partners, trust funds, and government contributions. Finally, additional resources are pledged to UNDP in the form of UNDP-administered funds and trust funds (TF): mechanisms established to receive contributions from one or several governments or non-governmental donors, including private corporations or individuals. The Executive Board has authorized the Administrator to establish trust funds on its behalf.<sup>118</sup>

The Top 20 Funds (including the funds with no descriptive details per data) accounted for \$23,341,161 of total payments or 98% of all payments. See below for Top 20 Funds:

	Fund Code	Fund Description (per Financial Data)	Number of Payments	Amount	% to Total
1	(Not Identifiable) <sup>119</sup>		4,784	9,290,775	39.8%
2	04000	UNDP-IPF / TRAC-Trac 1.1.1 *	1,513	4,321,417	18.5%
3	12000	Agency Services – Global	1,218	3,150,597	13.5%
4	00001	Voluntary Contributions	2,032	1,527,647	6.5%
5	02300	RR Prog Sppt Country Offices	1,037	1,213,234	5.2%
6	FPA90	CO Programme Delivery	803	931,675	4.0%
7	62000	GEF Voluntary Contribution	191	669,292	2.9%
8	59020	TF Perez-Guerrero Econo Tech	19	464,316	2.0%
9	54050	SIDA TF UNDP Specific Actv	70	276,817	1.2%
10	11300	OR Services Fees	173	231,084	1.0%
11	FPA50	CO Programme Support	294	210,479	0.9%
12	44200	DRK TF Agri Relief & Rehab Pr	59	201,460	0.9%
13	FPA10	HQ Management & Administration	3	195,414	0.8%
14	D011	Support to the Resident Coordinators	311	157,697	0.7%
15	11800	OR HQ Non-Core Workload	189	119,575	0.5%
16	04500	Prog Sppt Res Coord Line 3.1.2	186	116,532	0.5%
17	KE00	TRAC 1.1.3/UNOPS Resource Development	39	85,841	0.4%
18	04400	Dev Support Services Line 3.1	22	72,034	0.3%
19	44202	ROK TF Trumen River Area Devel	14	59,291	0.3%
20	04120	TRAC3 – Response	3	45,984	0.2%

<sup>118</sup> UNDP Programming Manual, Chapter 3: Resources Managed by UNDP (1999-2006).

<sup>119</sup> One fund represents a grouping of all transactions that did not include a fund code or fund description. This “blank” fund contains 4,784 transactions totaling \$9,290,775 and relates to the Winfoas period.

Fund Code	Fund Description (per Financial Data)	Number of Payments	Amount	% to Total
	<b>Total Top 20</b>	<b>12,960</b>	<b>23,341,161</b>	

#### 4. Payments to National Staff

Financial data does not clearly or systematically identify all payments made to National Staff as such. Interviewees stated that payment made for meal allowances would indicate the payee as “National Staff” in the data and the payee noted on the check would be the name of the Admin Officer. Analysis of the data in financial systems reflects that payments were made to the payee “National Staff” (along with iterations of “National Staff”), as follows:

WINFOAS			
	\$ USD	# of Payments	From Account
<b>Bonus</b>	407	5	FTB A/C 08825112 (Euro)
<b>DSA</b>	3,031	2	FTB A/C 08825102 (USD)
<b>Meal Allowance</b>	7,992	32	FTB A/C 08825102 (USD) = 4,775 FTB A/C 08825112 (Euro) = 3,217
<b>Overtime</b>	6,891	50	FTB A/C 08825102 (USD) = 183 FTB A/C 08825112 (Euro) = 6,708
<b>Travel</b>	261	10	FTB A/C 08825102 (USD)
<b>Total</b>	<b>18,582</b>	<b>99</b>	
The payment method identified for all 99 payments was “C” for cheque.			

ATLAS					
		Total	Meal Allowance	O/T	Other
<sup>1</sup>	<b>National Staff</b>	\$100,368	\$59,969	\$1,957	\$38,442
<sup>1</sup>	<b>OCHA National Staff</b>	6,594	3,596	-	2,998
<sup>1</sup>	<b>UNFPA DPRK 3 National Staff</b>	8,642	3,049	-	5,593
<sup>2</sup>	<b>UNFPA DPRK 4 National Staff</b>	12,197	12,197	-	-
	<b>Total</b>	<b>\$127,801</b>	<b>\$78,811</b>	<b>\$1,957</b>	<b>\$47,033</b>
NOTES:					
<sup>1</sup>	It is noted that all payments in these categories were made from FTB account 08825112 (Euro).				
<sup>2</sup>	Total comprised of \$1,582 made from FTB account 08825101 (KPW-C); \$7,906 made from FTB account 08825112 (Euro); and \$2,162 made from UNFPA KPW account.				

Meal allowances account for 61% of all payments to National Staff. The payment method for all 100 payments was “MAN.” Ninety-three of the payments had payment ID

beginning with “CC” - understood to indicate “cash check.” Of the remaining seven payments, two IDs began with “DD,” two with “FPA/BT,” one with “C,” and two with “00.”

According to current and former UNDP-DPRK employees, National Staff were provided a monthly meal allowance of 100 Euro during the Atlas period. The Panel was also informed by current and former UNDP-DPRK employees that there were 25 National Staff working for UNDP-DPRK. As such, one would expect to see at least 97,500 Euro (\$121,875, converted at an average exchange rate of 1.25 for the period 1/1/04 through 3/31/07) in meal allowances during the period January 1, 2004 through March 31, 2007. It is unclear why the reported meal allowance amount is lower. Additional procedures would be necessary to confirm the completeness and accuracy of these figures, as well as the nature of the services.

#### **5. Testing and Analysis of UNDP-DPRK Related Payment Transactions**

The purpose of this review was to perform a detailed analysis of payments made by UNDP-DPRK on behalf of UNDP-DPRK and on behalf of others.<sup>120</sup> This included analyzing and assessing supporting payment documentation to determine disbursement source, disbursement recipient, intermediaries where applicable, and compliance with UNDP rules, regulations, and mandate levels of authority.

The Panel selected a sample of payment transactions from: (1) WINFOAS and ATLAS payments data; and (2) UNDP-DPRK Controlled Account monthly bank statements. The selection was based on consideration of the following factors to ensure a representative sample for the review:

- Top 20 vendor listing by total payments;
- Accounts of interest related to UNDP-DPRK allegations per EIIRP, including equipment, salaries (national staff), bank charges, advance government payments, consultants fees, and other accounts or transactions of interest identified;
- Cross-section of payments across UNDP-DPRK Controlled Accounts;
- Payments across multiple years of the Review Period; and

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<sup>120</sup> Payment transactions selected from ATLAS include samples from business unit PRK10 (*UNDP-DPRK on behalf of itself and others*) primarily, with a limited number of transactions selected from PRK40 (*UNFPA*) (1) and PRK50 (*UNOPS*) (3). For WINFOAS, the business unit information is not available.



- Bank statements with missing, incomplete, altered, or other abnormal transactions detail.

Documentation related to sampled transactions was provided from the Data Repository in hardcopy format, generally, with one payment package per payment voucher selected. The below table highlights the sample selections by number of transactions and USD amounts:<sup>121</sup>

<b>Samples by Source</b>	<b>No. of Transactions Reviewed</b>	<b>Amount Associated with Transactions Reviewed</b>
WINFOAS Data	22	\$1,177,449
ATLAS Data	21	679,663
Bank Statements	12	245,498
<b>Total</b>	<b>55</b>	<b>\$2,102,610</b>

The samples reviewed include transactions in the following currencies, converted to USD as necessary for illustrative purposes: USD, Euro, KPW Convertible, and KPW Non-Convertible:

<b>Currency</b>	<b>No. of Transactions Reviewed</b>	<b>Amount Associated with Transactions Reviewed</b>
USD	23	\$ 756,975
EUR	19	790,922
KPW - Convertible	6	420,095
KPW – Non-Convertible	7	134,618
<b>Total</b>	<b>55</b>	<b>\$ 2,102,610</b>

***General Findings***

For all of the sampled transactions, the payment description per the voucher (document titled “Voucher” for “Cash Disbursement”) reflects project description based on

<sup>121</sup> Payment vouchers may have multiple line items (or invoices) associated with them but are summarized at the voucher level for this review, and thus the total amount of payments reviewed is less than the voucher amount reported in the above table.

supporting documentation, which could include a project mandate document, invoice detail, transfer request, or other descriptive documents.

- 100% of the 55 sample transactions reviewed included a voucher in the payments package which agreed to the WINFOAS and ATLAS transaction voucher number.
- In two of 55 sampled transactions (from WINFOAS), totaling \$87,224, or 4% of total sample value, the reviewer of the voucher indicated an issue with the proposed payment transaction. (*See below for further details.*)

### ***Payment Authorization***

Some vouchers lacked evidence of payment approval or unauthorized approvals based on payment approval authority guidelines, as follows:

- Eight sampled transactions totaling \$469,067 USD or 22.3% of total sample value contained no evidence of payment approval from UNDP-DPRK authorized approver(s) per supporting documentation. For six of these transactions, the approval field was blank in the available ATLAS data.
- Two sampled transactions totaling \$103,680 USD or 5% of total sample value contained voucher approvals by UNDP-DPRK Operations Manager, but the payment amount was greater than \$2,500 USD. UNDP-DPRK interviewees indicated that PO's greater than \$2,500 USD should be approved by the ARR, DRR, or the Resident Representative (“RR”), and this approval was not evidenced in the supporting documentation.

### ***Compliance with UNDP Guidelines***

Within the sample of transactions, the Panel noted general compliance with UNDP Guidelines. The Panel noted three instances of transactions which appear to be inconsistent with UNDP guidelines regarding payment authorizations and related supporting documentation.

Payments by UNDP-DPRK on behalf of UNDP-DPRK using a UNDP-DPRK Controlled Account

1. Voucher #6011100045 (from WINFOAS) - An interoffice memo from Ri Song Chol (FAO NPO) requests authorization to make two payments of US\$10,000 each to two national consultants as follows:

UNDP Pyongyang has been authorized to make payments of US \$10,000 to 2 national consultants for 10 months in total And US \$10,000 for 2 in-country training courses for 20 personnels [sic] for 5 days and 2 days respectively and 2 two-day on-the-job training. (A copy of the Allotment Advice, Reimbursable Loan Agreement, approving e-mail on the payment from FAO Regional Office and Reports by the national consultants are herewith attached.) The project authorities, Ministry of Agriculture, requested the payment for activities already completed.

A handwritten note from Deidre Boyd, UNDP-DPRK DRR, states:

Approved with reluctance, as the use of national consultants (i.e. their identification and recruitment) is clearly not in accordance with normal UN procedures (which forbids the double employment of gov't. civil servants). DB. 27 Nov 2001.

The \$20,000 USD was paid to the Ministry of Agriculture, per the financial systems data, while the total amount paid to this vendor (Ministry of Agriculture) during the Review Period was \$348,169 per the financial systems data.

Payments by UNDP-DPRK on behalf of UNDP-DPRK using a non UNDP-DPRK Account

2. Voucher #00004173 (from ATLAS, business unit PRK10) - According to the invoice and bill of lading, UNDP-DPRK purchased a telephone system from "Minsource International LTD." However, the payment supporting documentation package contains one voucher with two different payee names: "Minsource International LTD" and "International Master Trade Co., Limited." The payee in the ATLAS system is "International Master Trade Co., Limited," however the supporting documentation including purchase order, invoice, and Contract, Assets, and Procurement Committee ("CAP") approval form indicate Minsource International as the vendor. It cannot be determined whether International Master Co. is the same vendor or a different business entity.

The total amount paid to Minsource International LTD and International Master Trade Co, Limited during the Review Period is \$450,449 and \$131,731 USD respectively, per the financial systems data.

Payments by UNDP-DPRK on behalf of Others using a UNDP-DPRK Controlled Account

3. Voucher #3020100001 (from WINFOAS) - Mr. Hyon Pyong Sik, Finance Director of the Ministry of Public Health, requested payment transfers of KPW 80,890 and KPW 63,636 to the account of Daisho Trade Corp. (A/C No: 088/691-02) from UNDP-DPRK's FTB KPW Convertible account. A handwritten note from Deidre Boyd, states:

We cannot do this - it is a different bank account to the specified by WHO. Pls forward to WHO DPRK for their advice. DB.

A handwritten note from WHO DPRK states:

You are requested to kindly release fund in the account no. as mentioned above. Regret the inconvenience. Thanks and regards.

The transfer of funds was eventually approved. The bank transfer request shows a transfer of 144,532 KPW to the Daisho Trade Corp. account.

Although transfer was made to Daisho Trade Corp. account, the vendor name listed in the financial systems data was “Ministry of Public Health.” It cannot be determined whether Daisho Trade Corp. is the appropriate bank or payee associated with the WINFOAS vendor named “Ministry of Public Health.”

The total amount paid to the Ministry of Public Health during the Review Period is \$963,565 USD per the financial systems data, which includes payments made by UNDP-DPRK for itself and primarily for others. There is no payee listed as “Daisho Trade Corp.” or iterations thereof per the financial systems data.

### ***Conclusion***

Payment authorizations were generally approved in accordance to UNDP guidelines, with several possible exceptions noted; the three sampled transactions referenced above would require further interpretation of the supporting documentation from UNDP-DPRK staff or others, to make conclusive observations. On the basis of the Panel’s analysis, the Panel cannot fully render conclusions with respect to specific aspects of the payment process

and authorization. It is true that payment recipients cannot be identified for check transactions, due to lack of cancelled (or original) checks. Likewise, intermediaries for payments cannot be identified, as there is no available documentation to trace the payment from source to the ultimate beneficiary. At the same time, however, testing and analysis noted as follows:

- 100% matching of vouchers with information in WINFOAS and ATLAS; and
- General compliance with UNDP Guidelines regarding payment authorizations.

#### **6. Receipt of Payments by Ultimate Beneficiaries**

On the basis of the sampling noted in the preceding section, the Panel was able to generate a general understanding of whether ultimate intended beneficiaries received payments. Analysis of the sample of 55 transactions, as defined above, revealed the following with respect to intended beneficiaries.

- In 90% of the sampled transactions (by USD value), or 50 out of 55, the name of the service provider of goods or services in the supporting documents (e.g. invoice, payment request, etc.) matched the payee name in the WINFOAS or ATLAS electronic data files. For the remaining five sampled transactions (one from WINFOAS, four from ATLAS business unit PRK10), three contained a different vendor name and the two were missing supporting documentation (i.e. invoices or payment requests) and could not be verified for vendor name.
- For 78% of the sampled transactions reviewed, there is evidence of the payee's receipt of payment, but the signature of the recipient cannot be verified as the intended recipient without knowledge of vendor or interpretation of handwriting by UNDP personnel.
- For 22% of the sampled transactions reviewed, there is no evidence of the payee's receipt of payment. For example, payee's signature on the payment voucher or supplemental evidence of receipt is not evidenced.

While the Panel's sampling process revealed trends regarding the proper receipt of payments by the intended beneficiaries, the analysis of all payees is particularly difficult with respect to operations in the DPRK. In particular, the following factors affect the analysis.

- Most payments made by UNDP-DPRK on behalf of itself and on behalf of others were executed by check<sup>122</sup> (88.3% of the number of overall transactions and 69.8% of the dollar value of disbursements). Cancelled checks or their copies were not available. The Panel thus was not able to determine if the intended beneficiaries of payments made by check were appropriately paid, without having access to other documentation evidencing the receipt of goods/services, and without having access to personnel with knowledge of the operations.
- In addition, for the Project Walk-through selected expenditures,<sup>123</sup> some level of supporting documentation was provided for 94% of the selected transactions. However, for only approximately 67% of the sampled vouchers, is there evidence of the payee's receipt of payment.<sup>124</sup>
- The remaining payments were made using EFT. The Panel conducted limited testing of selected transactions which were made via EFT. In performing these procedures instances in which UNDP-DPRK made payments on behalf of itself and on behalf of others in which EFTs were made to beneficiaries other than the payee name were noted in the UNDP-DPRK financial system data.<sup>124</sup>

Because of these factors, the Panel cannot determine with precision the ultimate beneficiaries as to each transaction in the UNDP-DPRK program. On the other hand, on the basis of sampling, the Panel has identified a high percentage of transactions that comply with UNDP guidelines and for which documentation is consistent with data in the WINFOAS and ATLAS systems.

Furthermore, the Panel has considered the possibility of the diversion of funds from UNDP-DPRK to others—a topic closely related to the above discussion regarding intended beneficiaries. As a general matter, it is evident that UNDP-DPRK had a process in place for the initiation, approval, and execution of payments. The evidence demonstrates that UNDP

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<sup>122</sup> Primarily, manual checks

<sup>123</sup> Results of the Project Walk-throughs are discussed in the next chapter on projects, Chapter 3.

<sup>124</sup> For example, a payment intended for Roberto Christen was made to the account of Maria Christen.

generally adhered to authorization procedures, and its documentation is consistent with proper payment to intended beneficiaries. As previously explained, the challenge relates to the difficulty of precisely confirming actual receipt of payment at the end of the transactional chain. While there is no evidence of diversion of funds, the Panel cannot conclusively determine whether such diversion occurred.<sup>125</sup>

## **B. Identification of Bank Accounts and Signatories**

Item 1 of the Terms of Reference includes a request that the Panel identify all bank accounts utilized by or for the benefit of the UNDP Administered activities, including the persons that had signature authority in regard to such accounts. In Section IV C above and in Appendix 2 the Panel has listed such accounts and corresponding signatories.

## **C. Purported Cash Transactions**

### **1. Concerns Raised**

In response to assertions by the U.S. Mission, the U.S. Senate's Permanent Subcommittee on Investigations (PSI) considered questions about: (1) claims that UNDP was making cash payments to its National Staff in cash; and (2) the propriety and amount of hard currency payments made to the DPRK government through UNDP's U.S. Dollar, Euro, and convertible Won accounts.

With respect to concerns about the purported use of cash, the PSI's Staff Report noted that such concerns were based on evidence in the form of UNDP emails that referenced "cash" and information provided by a former Operations Manager. The PSI Staff Report also noted that UNDP disputed the accusation citing additional evidence in the form of source documents that were not available to the PSI.<sup>126</sup> (Concerns about UNDP's hard currency payments to the DPRK are set forth and discussed below in Section IV D.)

The Panel has tested the viability of allegations concerning the use of cash as follows:

- Data analyses and key word search;
- Interviews with current and former UNDP-DPRK employees;

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<sup>125</sup> Diversion of funds, if any, would occur after UNDP-DPRK's disbursement and issuance of a check. Thus, if any diversion occurred, it would have to be done on a case-by-case basis at the payee level.

<sup>126</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

- Review of UNDP guidelines applicable to the payment process;
- Review of bank statements;
- Comparison of bank statements to the data reflected in the financial systems;
- Review of General Ledger; and
- Testing of Selected Transactions.

The Panel’s analysis of cash and hard currency transactions is set forth below.

## **2. Findings**

### ***General Use of Cash in UNDP-DPRK***

The use of cash transactions is discouraged<sup>127</sup> by UNDP in its operations, and cash should only be used for use designated as petty cash. However, it appears that a significant portion of payments made to National Staff employed by UNDP-DPRK were made to them using a local practice of cash-check. The cash-checks were exchanged for hard currency which was later distributed to applicable National Staff. The Panel understands that due to the nature of the DPRK economy most Korean nationals do not possess a bank account and hence, payments made to them had to be converted to cash.

National Staff employed by UNDP-DPRK were generally paid for the following: salaries,<sup>128</sup> meal allowance, overtime, and DSA. Meal allowance, overtime, and DSA were routinely paid directly to National Staff, thus requiring a practical way to pay National Staff who did not have bank accounts, even though UNDP discourages the use of cash payments.

### ***Data Analysis***

Analysis of UNDP-DPRK financial data reflects that the financial systems are not designed to allow cash payments. In fact, ATLAS and WINFOAS consist of the following three options to choose from when processing a journal entry—system check, manual check,

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<sup>127</sup> According to Financial Rule 125.06: “All disbursements shall be made by cheque or bank transfer, except to the extent that cash disbursements are authorized by the Treasurer or by a duly authorized staff member in a country office.”

<sup>128</sup> Interviewees stated that payments for salaries associated with national staff were made directly via bank transfer to related DPRK government ministries such as Ministry of Foreign Affairs or the Government Bureau for Cooperation with International Organizations (GBCIO) or made to the General Services Bureau (GSB). It was not clear how much of these amounts were paid to National Staff, if any.



or bank transfer. A summary by Payment Method for UNDP-DPRK Controlled Accounts is contained below:

Type	No. Payments	% of Total	Payment Amt (USD)	% of Total
Check / Demand Draft	5,891	48.7%	\$7,637,902	32.1%
Manual Check	4,790	39.6%	8,960,050	37.7%
Subtotal	10,681	88.3%	16,597,952	69.8%
Electronic Fund Transfer	358	2.9%	3,081,443	13.0%
Bank Transfer	999	8.4%	4,099,151	17.2%
Subtotal	1,357	11.3%	7,180,594	30.2%
Blank	65	0.6%	4,250	0.0%
Total	12,106	100%	\$23,782,796	100%

The Payment Method field reflects the selection by the user upon input of the payment information into the financial system. It is noted that the system does not provide for a payment in cash.

***Interviews with UNDP-DPRK and UNDP Headquarters Management***<sup>129</sup>

Based on interviews conducted, the primary methods developed by UNDP-DPRK to pay National Staff were the use of cash checks by designating a primary recipient on behalf of other National Staff. Interviewees stated that cash-check was a check that could be presented and exchanged for cash at the FTB without having the need for a bank account.

<sup>129</sup> Interviews related to this Chapter include with Sara Adam, Vineet Bhatia, Paul Brewah, Diane Kepler, Dale Leach, Julie Anne Mejia, and Darshak Shah.

- Overtime and DSA – cash-check was primarily used for Overtime and DSA. It was noted that these payments were made out to the individual out of the FTB Euro account until December 2006 and subsequently paid from the FTB convertible Won account.
- Amounts identified in financial systems data to the payee “National Staff” for: Overtime was \$8,848 (WINFOAS: \$6,891 and ATLAS: \$1,957); and DSA was \$3,031 (WINFOAS: \$3,031. There was no clear distinction for DSA payments in ATLAS).
- Meal allowances were paid directly to the National Staff whereby the staff designated one individual (typically the Admin Officer) to receive a lump sum check on their behalf. The Admin Office would cash the check and distribute the funds to each individual. The FTB Euro account was utilized to pay meal allowances from the time the account was opened until December 2006. Subsequent to December 2006, the FTB convertible Won account was used.
- The amount identified in financial systems data to the payee “National Staff” for Meal Allowances was \$86,803 (WINFOAS: \$7,992 and ATLAS: \$78,811)

UNDP-DPRK management indicated that they were not aware of any cash transactions, and that the standard practice of payment was to issue checks or perform EFTs to pay vendors.

***Review of Bank Statements and Comparison to the Financial Systems Data***

FTB bank statements reflect a number of debit transactions in the FTB-Euro account which are associated with the description “Cash.” Specifically, the FTB-Euro monthly bank statements, for the period May 2004 to August 2004 contained line items called “Cash.” A comparison of bank statement to financial data reflected that all transactions associated with the description Cash were matched by amount with transactions in the financial systems data which had an associated check number. The total number of such transactions in the described period is 193, or \$200,219 USD.

In most instances, on the bank statements, the check number was handwritten beside the typed word “Cash,” and also matched the financial data containing a check number. Without the availability of physical checks for these transactions to review, the Panel cannot conclude with certainty as to the nature of the transaction. Based on this procedure, for the

transactions described above, it appears the description “Cash” may have been inappropriately stated by the FTB to describe the particular transaction, and these transactions were executed with manual checks.

Bank statements during the period May 2004 to August 2004 do include entries that contain the description “Check <Number>.” The reason for the difference between the presentation of the transactions stated as Cash and checks cannot be determined. In response to inquiries of UNDP-DPRK current and former employees, they stated that they were not familiar with the above FTB practice.

As noted above, the references herein to “hard currency” are not intended to convey the impression that each such transaction was a *cash* transaction, rather hard currency transactions represent disbursements drawn on negotiable currency accounts. Use of this method of disbursement did not provide added hard currency to the DPRK, because hard currency originated with replenishments from source accounts in USD and Euro into UNDP-DPRK accounts.

### ***Review of General Ledger***

A review of the general ledger account reveals only one petty cash account (Account no. 11015), which is associated with a low volume of activity (less than \$500 dollars for 2004-2007).

In short, The Panel has evaluated allegations of excessive cash transactions in connection with UNDP’s operations in the DPRK. The review included data analyses; interviews with current and former UNDP-DPRK employees; review of guidelines applicable to payments; review of bank statements; comparison of bank statements to the data reflected in the financial systems; and testing of selected transactions. The Panel notes the following observations:

- The Panel did not identify payments made directly in cash or made payable to cash (i.e., it did not identify any payee/vendor name listed as “Cash” in the financial data), other than the use of a petty cash account. However, a key word search of the sub-ledger<sup>130</sup> reflects a number of transactions in which the description field contains

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<sup>130</sup> Accounts payable module.

references to cash payment. Each of these transactions was associated with a disbursement made by check or bank transfer.

- There were payments made to DPRK government employees “seconded” to UNDP-DPRK (“National Staff”) who were regularly paid for meal allowances, overtime and daily subsistence allowance (“DSA”). Most of these payments were made using a local practice of “cash-check”<sup>131</sup> that was presented to the bank by an individual. The cash-checks were exchanged for cash by the designated individual and later distributed to others.

#### **D. Hard Currency Payments to DPRK Government Entities, Including National Coordinating Committees**

##### **1. Concerns Raised**

The PSI considered questions about UNDP’s hard currency payments to the DPRK government during the course of the development program.<sup>132</sup> The U.S. Mission previously raised similar questions with UNDP officials about the extent of UNDP’s hard currency payments to the DPRK and in particular the National Coordinating Committees (NCCs), and there has been considerable disagreement over actual amounts paid.<sup>133</sup> The Panel has considered these claims and sets forth below calculations regarding the amount of money that UNDP transferred in payments to the DPRK in connection with UN-related activities in the DPRK.

##### **2. Findings**

###### ***Amounts Paid to the DPRK, Including NCCs***

A significant portion (38%) of disbursements made by UNDP-DPRK was to entities associated with the DPRK government.<sup>134</sup> The Panel estimates the total amount of these disbursements is \$9.13 million, as follows:

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<sup>131</sup> The Panel understands that most individuals in DPRK do not have bank accounts. Cash-checks enable individuals without bank accounts to present checks at a bank for payment.

<sup>132</sup> United States Senate Permanent Subcommittee on Investigations. “United Nations Development Program: A Case Study of North Korea.” Staff Report. (Jan. 24, 2008).

<sup>133</sup> Ambassador Zalmay Khalilzad letter to Ad Melkert (July 23, 2007)

<sup>134</sup> UNDP-DPRK general ledger does not provide a specific grouping for these entities. Since the Panel was unable to interview local personnel, based on best efforts using documentation provided, these payments have

Disbursements made by UNDP-DPRK on behalf of itself	\$6.16 million
Disbursement made by UNDP-DPRK on behalf of Other Country Offices and other UN agencies	2.96 million
<b>Total</b>	<b>\$9.13 million</b>

Eleven of the Top 20 Payees were categorized as government agencies. The payments made to them were in connection with the role of these entities as executing agencies for various UNDP and other projects, and in connection with the employment of numerous National Staff.

The DPRK government set up National Coordinating Committees (NCCs) to serve as liaisons between the DPRK’s ministries and the UNDP. For example, the DPRK’s Ministry of Foreign Affairs established an agency known as the National Coordinating Committee for UNDP (NCC-UNDP). The NCCs, including NCC-UNDP, were designated by the DPRK to receive UNDP funds to be used in connection with UNDP’s development program.

Payments made by UNDP-DPRK to NCCs, included in the amount above (i.e., \$9.13 million), were identified in the financial systems as transactions where the payee name contained iterations of “NCC.” The total amount of these disbursements is \$1.14 million, as follows:

Disbursements made by UNDP-DPRK on behalf of itself	\$0.90 million
Disbursement made by UNDP-DPRK on behalf of Other Country Offices and other UN agencies	<u>0.24 million</u>
<b>Total</b>	<b>\$1.14 million</b>

The iterations of payee names identified in the financial systems and related amounts (in USD) are summarized below:

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been categorized. The identification of various entities to this category was confirmed by current and former UNDP-DPRK employees.

<b>Payee Name</b>	<b>By UNDP-DPRK for UNDP-DPRK</b>	<b>By UNDP-DPRK for Others</b>
NCC FOR ENVIORNMENT	\$110,029	\$142,566
NCC FOR ENVIRONMENT	424,906	-
NCC FOR FAO	23,056	-
NCC FOR UNDP	291,994	89,023
NCC FOR UNESCO	34,980	11,250
NCC FOR UNFPA	12,591	528
<b>TOTAL</b>	<b>\$897,556</b>	<b>\$243,367</b>

It is the Panel’s understanding based on the expenditure account descriptions that this amount reflects payments to the DPRK government for the NCCs serving as executing agencies for some Nationally Executed projects (NEX).

***Figures Alleged by the Permanent Mission of the U.S. to UN***

In July 2007, the U.S. Mission and UNDP materially disagreed about the amount of funds that UNDP on behalf of itself paid to the NCC-UNDP. The U.S. Mission understood that the amount that the UNDP paid to the NCC-UNDP was approximately \$7 million during the period from 2001 to 2005. UNDP on the other hand stated that the amount was 161,000 Euros and \$8,000 U.S. Dollars.<sup>135</sup>

The above-stated analysis establishes that the amount UNDP paid on behalf of itself to NCC-UNDP was \$291,994 for the entire Review Period (UNDP paid an additional \$89,023 to NCC-UNDP on behalf of others during the Review Period). The amount posited by the U.S. Mission is materially at variance with the Panel’s analysis. Even including payments to *all* of the NCC committees for the entire Review Period, the Panel’s calculation

<sup>135</sup> Ambassador Zalmay Khalilzad letter to Kemal Dervis (July 23, 2007).

of \$897,556 (UNDP on behalf of itself) plus \$243,367 (UNDP on behalf of other UN agencies) is far less than the U.S. Mission's proposed calculation.<sup>136</sup>

## **E. International Finance Trade Joint Company and Banco Delta Asia**

### **1. Concerns Raised**

The U.S. Mission has also highlighted transactions between the DPRK's NCC, the International Finance Joint Trade Company (IFTJ), and Banco Delta Asia (BDA) as a cause for concern.<sup>137</sup> According to the PSI's Staff Report, which addressed these concerns as well, IFTJ is an entity based in Macau with close ties to the DPRK government. The Staff Report further indicates that Banco Delta Asia is a bank headquartered in Macau, which the U.S. regarded as "a primary money laundering concern." On September 15, 2005, the U.S. black-listed the bank, thereby prohibiting U.S. financial institutions from maintaining correspondent accounts with Banco Delta Asia.

The PSI Staff Report notes the following issue concerning transactions occurring in 2002: "Evidence obtained by the Subcommittee establishes that \$2.72 million was transferred in nine increments from NCC UNDP's account at the Foreign Trade Bank ... to IFTJ's account at Banco Delta Asia." According to the Staff Report, funds were then transferred to DPRK diplomatic missions. The PSI Staff Report also notes documents indicating that the DPRK passed money through its IFTJ account with Banco Delta Asia for the purchase of real estate.<sup>138</sup> The PSI Staff Report concluded that UNDP funds were not involved in the \$2.72 million in transfers of DPRK funds.

The question is whether and to what extent the UNDP—separate and distinct from the DPRK government and its agencies, such as NCC—had any cross over with either IFTJ or Banco Delta Asia. A related question is whether the evidence indicates that UNDP officials were aware of the relationship between FTB and IFTJ. The Panel has addressed these issues below.

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<sup>136</sup> The PSI Staff Report noted that a possible source of confusion may have been caused by calculating an amount from the "budget value" of ongoing projects which could result in an inflated figure for payments to the DPRK. See United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

<sup>137</sup> Ambassador Zalmay Khalilzad letter to Kemal Dervis (July 23, 2007).

<sup>138</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

## **2. Findings**

Transactional data and documentation show no signs that UNDP had any knowledge or involvement in the questioned transactions involving IFTJ and Banco Delta Asia. The Panel has not identified any transactions to IFTJ (or any iteration of IFTJ) during the Review Period. A keyword search on ATLAS and WINFOAS did not reflect any payments made to IFTJ nor iterations of IFTJ.<sup>139</sup>

As for Banco Delta Asia, the Panel is aware of 26 transactions associated with this particular bank, recorded as “Bank Charges,” totaling \$1,023. All the payments made to Banco Delta Asia appear to be bank charges associated with replenishments made into the UNDP-DPRK’s Foreign Trade Bank USD account. These charges occurred between August 2000 and July 2002 and were generally \$12 to \$15 per transaction although on three instances the total transaction amounts were higher: \$191.50; \$187.50 and \$62.50.

The Panel emphasizes, moreover, that the minimal cross-over via bank charges between UNDP and Banco Delta Asia occurred while the UNDP maintained a USD account, i.e., prior to 2003 and well before U.S. authorities identified Banco Delta Asia’s practices as raising money laundering concerns. (UNDP-DPRK’s last transaction involving Banco Delta Asia occurred on July 17, 2002.)

As with other DPRK government accounts, UNDP had no control over or ability to know how money flowed in and out of the NCC accounts. UNDP’s accounts were separate and distinct from accounts maintained by the DPRK government, including accounts that the NCCs maintained. UNDP would of course be aware of the funds that it transferred to NCC in connection with UNDP-administered programs as well as funds that it transferred on behalf of other UN agencies. However, the evidence does not reveal that UNDP had any way of knowing: (1) whether and to what extent other sources of funds flowed to the DPRK government; (2) whether other sources were commingled with funds that UNDP paid to the DPRK government; and (3) persons and entities that may have received money from DPRK government accounts if such persons had no relation to UN-related activities and projects.

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<sup>139</sup> Keywords searches included: Trade Joint, Int, Trade, Finance; all with wild card variations thereof. Results produced many false positives but after review, none were deemed matches.



In addition, the Panel notes that UNDP officials and representatives of the DPRK government have each reconfirmed to the Panel that UNDP had no involvement in the \$2.72 million in transactions involving IFTJ and Banco Delta Asia from the NCC-UNDP account. DPRK officials told the Panel, as they did the U.S. government, that the payments were not made with UNDP funds. According to DPRK officials: (1) the funds originated with the DPRK's Ministry of Foreign Affairs; (2) funds unrelated to the UNDP were deposited in the NCC-UNDP account; and (3) the DPRK government's purpose in engaging in the transactions was to move money out of the DPRK in the event of the imposition of sanctions.<sup>140</sup>

Forensic analysis indicates that UNDP did not make any payments to IFTJ. Nor did UNDP transact business with Banco Delta Asia in connection with the DPRK program, other than paying bank charges totaling \$1,023 in the years well before the U.S. identified Banco Delta Asia as a potential money laundering concern. There is no evidence, or even a claim, that UNDP officials had any reason to know that these entities could be used by the DPRK government as a means by which to funnel DPRK funds beyond its borders.

## **F. Payments to Zang Lok**

### **1. Concerns Raised**

Another concern raised by the U.S. Mission and addressed in the PSI Staff Report regards three payments that UNDP made on behalf of other UN agencies to an entity known as Zang Lok Trading Co. (Zang Lok) in Macau. The Staff Report notes that through these payments from UNDP's accounts, Zang Lok received a total of \$52,000. According to reports from the U.S. Mission and the PSI Staff Report, Zang Lok "has ties to a North Korean entity that has been designated [by the U.S. government] as the main North Korean financial agent for sales of conventional arms, ballistic missiles and goods related to the assembly and manufacture of such weapons."<sup>141</sup>

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<sup>140</sup> Interview of representatives from DPRK Permanent Mission (Apr. 11, 2008); United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008).

<sup>141</sup> United States Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008) (quoting Ambassador Mark Wallace letter to Ad Melkert (June 7, 2007)).

The PSI Staff Report notes that “[i]t does not appear that the UNDP, or the UN agencies on which behalf UNDP was acting, knew—or had any way of knowing—whether Zang Lok was connected to an entity involved with DPRK weapons activity at the time the payments were made.”<sup>142</sup>

## **2. Findings**

The Panel reviewed the Zang Lok matter and found that three payments totaling approximately \$52,000 were made to Zang Lok between April 2002 and May 2004. The Panel has identified the following three payments<sup>143</sup> to Zang Lok in ATLAS and WINFOAS, totaling \$52,201:

- A payment of \$18,610 made on May 5, 2004 by EFT from the UNDP-DPRK UBS account (240-C02508610). The payment was recorded in Account 72145 (Svc Co-Training and Educ Serv) and the transaction description states “UNESCO - KR 000014.” No further details are available.
- A payment of \$ 4,024 made on May 11, 2004 by EFT from the UNDP-DPRK UBS account. The payment was recorded in Account 72145 (Svc Co-Training and Educ Serv) and the transaction description states “KR 000014”. No further details are available.
- A payment of \$29,450 made on April 12, 2002 by EFT from the UNDP-DPRK FTB USD account (08825101). The payment description states “Computer Equipment & accessories”. Additional payment totaling \$117 reflects a bank charge associated with the transfer. One voucher (ID 6020400023) totaling \$29,567 was recorded in WINFOAS.

In addition, the Panel finds that there is no indication that UNDP or the UN agencies involved in the transactions knew of or could have known of the purported connection between Zang Lok and the DPRK. (The PSI Staff Report notes the same conclusion.)

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<sup>142</sup> United States Senate Permanent Subcommittee on Investigations. “United Nations Development Program: A Case Study of North Korea.” Staff Report. (Jan. 24, 2008).

<sup>143</sup> For the two payments to Zang Lok identified in ATLAS, the payments were for Project/Voucher Business Unit PRK 10; Fund Code 12000; Department “Dem Rep Korea-UN Sister Agency”; and Donor “UNESCO.” For WINFOAS (Apr. 12, 2002 transaction), similar detail is not available.

## **VI. CONCLUSIONS**

On the basis of the foregoing discussion, the Panel offers the following conclusions:

1. Data in UNDP-DPRK financial systems was consistent with transaction amounts stated in bank statements, and hence the Panel could perform detailed analyses based on this data.
2. UNDP-DPRK made disbursements during the Review Period totaling \$23.8 million comprised of \$16.9 million spent on behalf of itself and \$6.9 million spent on behalf of others. (The Panel has also engaged in calculations concerning amounts that *others* spent on behalf of UNDP-DPRK as discussed in Appendix 1.)
3. Bank reconciliation review indicates that reconciliations were performed on a monthly basis and were generally signed by a preparer and a reviewer to evidence review and approval. It appears the reconciliations were done within several months of month-end. Evidence of explanations documented by UNDP-DPRK management for the reconciling items appeared reasonable.
4. Payment authorizations were generally approved in accordance with UNDP guidelines.
5. With respect to the vast majority of sampled payments, there is evidence indicating that payments were received by the intended beneficiaries. The Panel is unaware of any evidence indicating that an intended beneficiary did not receive payment.
6. The Panel tested the manner in which UNDP made its payments in an effort to identify any weaknesses in UNDP's internal controls and to determine the likelihood that payments were made to intended beneficiaries.
  - Of the 55 transactions that the Panel tested, 100% of them included a voucher in the payments package which agreed with the data in UNDP's financial systems. Payment authorizations, moreover, generally complied with UNDP guidelines.
  - In 90% of the sampled transactions (by USD value), or 50 out of 55, the name of the service provider of goods or services in the supporting documents (e.g. invoice,

payment request, etc.) matched the payee name in the WINFOAS or ATLAS electronic data files.

- For 78% of the sampled transactions reviewed, there is evidence of the payee's receipt of payment.

7. The Panel did not identify payments made directly in cash or made payable to cash (i.e., it did not identify any payee/vendor name listed as “Cash” in the financial data), other than the use of a petty cash account. There were payments made to DPRK nationals who worked for the UNDP-DPRK program. Such national staff members were regularly paid for meal allowances, overtime and DSA. Most of these payments were made using a local practice of “cash-check” that was presented to the bank by an individual.

8. UNDP-DPRK held accounts in U.S. Dollars, Euro, convertible Won and non-convertible Won. From these accounts, UNDP-DPRK made payments to the DPRK in connection with UNDP-administered programs in the total amount \$9,127,361.

9. UNDP would of course be aware of the funds that it transferred to the DPRK, including the National Coordinating Committees (NCCs), in connection with UNDP-administered programs as well as funds that it transferred on behalf of other UN agencies. However, the evidence does not reveal that UNDP had any way of knowing: (1) whether and to what extent other sources of funds flowed to the DPRK government; (2) whether other sources were commingled with funds that UNDP paid to the DPRK government; and (3) persons and entities that may have received money from DPRK government accounts if such persons had no relation to UN-related activities and projects. More specifically, there is no evidence that UNDP officials knew that the DPRK government transferred from one of its NCC accounts \$2.72 million to an entity known as International Finance Trade Joint Co.

10. There is no indication that UNDP or the UN agencies involved in transactions with Zang Lok Trading Co. knew of or could have known of purported connections between Zang Lok and the DPRK government.

## **VII. RECOMMENDATIONS**

Set forth below are the Panel’s recommendations for strengthening controls related to UNDP-DPRK operations. The recommendations that follow presuppose a renewed UNDP presence in the DPRK.

### **A. General Recommendations**

It is evident that the UNDP-DPRK operated in a challenging environment. In the Panel’s view adjustments to DPRK-specific procedures, controls and practices that are required by UNDP Headquarters (“Alternative Procedures”) should be made only after a careful evaluation of the operational ramifications, fraud risks considerations, and the perceptions associated with such modifications.

Further, it is suggested that an evaluation of UNDP-DPRK controls be performed and its results documented, to consist of the following at a minimum:

- Listing of DPRK-specific circumstances and challenges that require an alternative approach to UNDP guidelines;
- Detailed analysis and summary of alternative options;
- Selection of Alternative Procedures and rationale for their selection.

Further, in light of the history of allegations associated with UNDP-DPRK operations, the difficult political environment and the daily challenges that may face local management, it is recommended that the evaluation and results of Alternative Procedures be prepared by UNDP-DPRK international staff and approved by UNDP Headquarters management. This will ensure that the evaluation is performed in a manner reflecting the knowledge, experience, and oversight of the most informed UNDP resources that can adequately evaluate the challenges and propose sound Alternative Procedures.

### **B. Banking Statements and Banking Arrangements**

In light of the limited sophistication of the financial systems and processes of the Foreign Trade Bank (FTB),<sup>144</sup> UNDP should evaluate the banking relationships and the

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<sup>144</sup> As evident by this review and analysis of FTB bank statements.

extensive use of FTB as the primary banking partner of UNDP-DPRK<sup>145</sup> to ensure the most favorable banks and accounts are used. Criteria in selecting banks should include, for example:

- Competitive exchange rates;
- Accurate and timely prepared bank statements; and
- Customer service for resolving banking issues or discrepancies, including direct access for international staff to the bank.

Additional recommendations are as follows:

- Evaluate the necessity of using FTB for transactions other than GLOC payments to national staff, rent, and utility.
- To the extent that UNDP-DPRK selects to continue to use FTB as its primary banking partner, consider adopting additional controls to mitigate any identified risk associated with the limitations of FTB's banking practices.
- To compensate for the lack of cancelled checks - copy the face of each check prior to dissemination to enable identification of beneficiaries.

## **C. Financial Systems**

### **1. Use of General Ledger Accounts**

Financial information and data analysis indicates a lack of consistency regarding the use of general ledger accounts, including GLOC and National Staff accounts. The Panel understands that the structure and nature of financial systems accounts are designed by UNDP Headquarters and are reflective of their cumulative knowledge and experience relating to the best use of the chart of accounts in the UNDP system. It is recommended that UNDP-DPRK follows closely the structure of the general ledger accounts for ease of monitoring the nature and amounts associated with various expense accounts and payees.

The Panel notes that a cost center approach to each country office should be analyzed, pursued, and adopted.

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<sup>145</sup> Preliminary research reflects that the Foreign Trade Bank was founded in 1959 to conduct international business for the Central Bank. Since 1978, six other state banks have been founded to deal with foreign exchange and foreign enterprise exchanges. Between 1987 and 1996, nine joint-venture and foreign-investment banks were established to attract Koreans overseas to invest in the DPRK. The adequacy of other financial institutions operating in the DPRK was not evaluated further.

Further, it is suggested that a periodic review of accounts utilized by UNDP-DPRK is performed and analyzed to ensure appropriateness and reasonableness. The results of such review should be documented and maintained to enable comparison between periods, among programs, etc.

## **2. Mandatory Input Fields**

It is the Panel's understanding that the input of check numbers, transaction descriptions, who the payment/invoice is paid on behalf of, payment approver (often filled with a "0"), and complete payee address information was not mandatory in ATLAS (i.e., they are not required fields). As a result, monitoring, reviewing and reporting payment activity may be impeded due to the lack of transaction level detail. UNDP-DPRK should consider analyzing the use of such fields to improve monitoring, reviewing, and reporting capability.

## **3. Automated System Controls**

The Panel's review revealed several instances in which the sequence of dates on checks, bank statements and in the entries recorded in the financial system was not consistent with the general flow of manual check payments (e.g., date of journal entry recorded in ATLAS was prior to date stated for the respective entry in the bank statement). Additionally, some checks in which the payee name did not match the referenced vendor's name were observed. UNDP-DPRK should evaluate the circumstances associated with such instances and ensure system controls prohibit the issuance of checks under the same check number, varying names, as well as in sequential order by bank.

## **4. Manual Checks**

The use of manual checks in UNDP-DPRK should be strongly discouraged and monitored for compliance on a periodic basis.

## **5. Payments in Connection with National Staff**<sup>146</sup>

The Panel understands that payments to National Staff were for salaries, meal allowance, overtime, and DSA and related suggests the following:

- Interviews reflect that payments in connection with National Staff were made to government ministries and were fixed based on an agreed rate with the DPRK government. The practice of making payments to National Staff in connection with Meal Allowance, Overtime, and DSA such that they are converted to cash and distributed to others is discussed in detail in this report. The continued use of such practice should be carefully evaluated in light of the risks inherent to the use of cash.
- Expenses associated with National Staff should be carefully recorded in the general ledger in the appropriate and designated accounts to reflect the amount, nature of their expense (contribution to UNDP-DPRK operations), and reflect the beneficiary of such payment. The use of general categories (National Staff) or combination of payees should be disallowed.

## **6. Payments Made to Consultants**

Compliance with UNDP guidelines should be carefully monitored and enforced regarding payments to consultants. Such payments should be supported by documentation reflecting the nature of the service, whether consultants are local or international and whether they are employed by UNDP-DPRK in another capacity.

## **7. Documentation of Payments and Beneficiaries**

It is difficult to determine the ultimate beneficiaries of payments made by UNDP-DPRK on behalf of itself. It is recommended that for each payment made, clear and consistent documentation is maintained evidencing each of the following for all disbursements:

- Name of payee;
- Amount paid;
- Nature of service or goods acquired;

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<sup>146</sup> It is recognized that UNDP guidelines call for different levels of accountability regarding payments made by UNDP on behalf of itself and payments made on behalf of others. Hence the following recommendations should be reviewed accordingly.



- Date of service;
- Date of payment;
- If beneficiary does not have a bank account, an indication of the same;
- If beneficiary of payment is different than the provider of goods service, an indication of the same; and
- Name and signature of payee and ultimate beneficiaries.

It is recommended to require maintenance of a complete disbursement package for each payment. A check list should be developed to ensure compliance with the above.

### **8. Documentation of Payments Made on Behalf of Others**

The Panel notes difficulties in determining the entity on whose behalf a disbursement was made. It is recommended for each payment made on behalf of another country office or another UN Agency (“Requesting Entity”) that clear and consistent documentation is maintained evidencing the request from the Requesting Entity (including clear evidence of approval and booking instructions) and to designate a field within ATLAS that is consistently used to capture the identity of the Requesting Entity, rather than a free-form text input in a description field.

### **9. Allocation of Expenses to Projects**

The Panel notes that expenses generally categorized as overhead cost were allocated to various projects. It was impossible to evaluate the appropriateness of these allocations as the total amount allocated and the allocation methods were not evident in the documentation reviewed. In connection with cost allocation, the following procedures are recommended:

- Evaluate UNDP fund accounting guidance;
- Determine allocation methods, as appropriate;
- Set specific guidelines for what costs can be allocated; and
- Evaluate the reasonableness of the allocations on a periodical basis.

### **10. Segregation of Duties**

In her role of UNDP-DPRK Finance Officer, Ms. Li Kum Sun was a signatory of numerous Controlled Accounts. In addition, she was the preparer of bank reconciliations for

these accounts. To maintain proper segregation of duties, it is recommended that these roles are performed by different individuals.

#### **11. Avoid Use of Confusing Account Descriptions**

The UNDP's reference to accounts controlled by the NCC as "NCC-UNDP" should be revisited. This description creates confusion and even suggests UNDP's knowledge and control of accounts exclusively held by the DPRK, which as noted was not the case here. UNDP needs to ensure that its designations accurately reflect the nature of its relationships with governments to whom UNDP provides development programs and with whom UNDP engages in transactions.

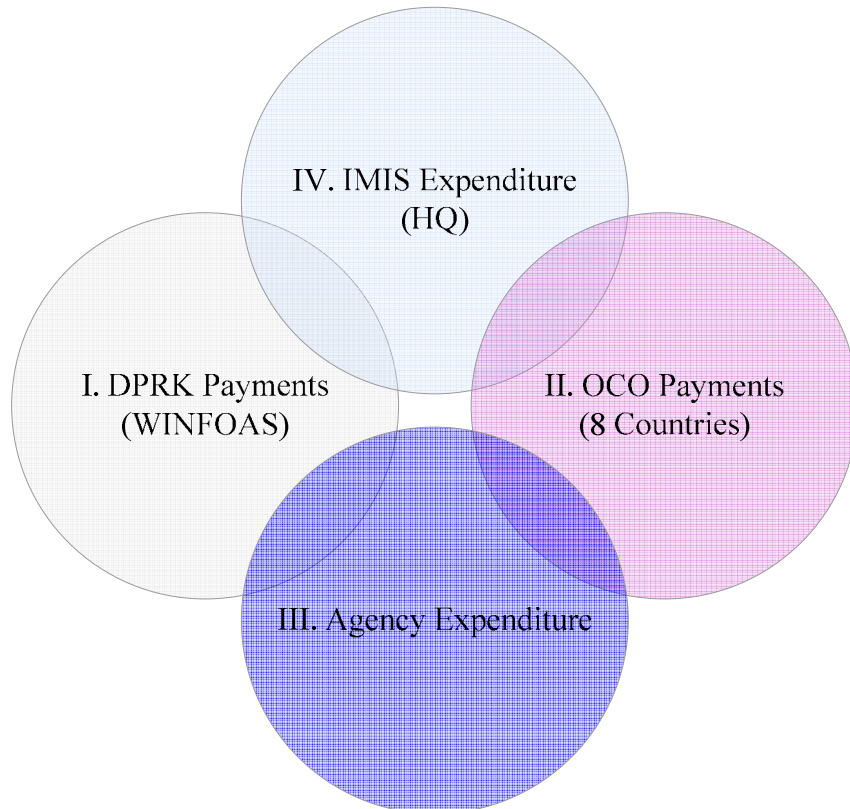
## APENDIX 1: PAYMENTS MADE ON BEHALF OF UNDP-DPRK BY OTHERS

### *1999–2003 (Winfoas Time Period)*

Multiple sources of data would have to be used to obtain a complete picture of the UNDP-DPRK operations during the 1999 to 2003 time period, as follows:

- IMIS General Ledger data for UNDP Headquarters Payments;
- WINFOAS data from other Country Offices (“OCO”) besides UNDP-DPRK;
- UN Agency Expenditures in PFMS; and
- FIM Database - additional database which summarizes payments made by other Country Offices on behalf of UNDP-DPRK. A summary in IMIS of other country office payments could also be made without FIM.

One challenge with this data is that there are overlaps as diagrammed below.



Based on the complexity of acquiring and distilling the information in a fashion that would remove overlap among the various data sets, UNDP executed a series of analyses at

the request of the Panel. As a result, a common understanding was established regarding the nature of the various financial systems used by UNDP in connection with UNDP-DPRK during the 1999–2003 period. The range of total payments made on behalf of UNDP-DPRK during this period was understood to be between \$2.1 and \$17.3 million. Subsequent to those meetings, UNDP represented that the total payments made on behalf of UNDP-DPRK by others in the pre-Atlas period was \$7.25 million.

***2004–2007 (Atlas Time Period)***

Analysis of this time period proved to be less difficult and yielded more precise outcomes. Specifically, the total payments made on behalf of UNDP-DPRK by others during the 2004 to 2007 period was \$7.4 million. The following table describes a categorization of those payments by expenditure source:

<b>Expenditure Source</b>		<b>Amount (USD)</b>
<b>Description</b>	<b>Additional Information Provided by UNDP</b>	
Project Delivery External (PDE)	Other Non-ATLAS Agencies	\$2,849,478
IMIS Payroll	International Staff Salaries, Management Projects	1,658,825
Project Delivery Report (PDR)	Other ATLAS Agencies	1,070,409
Global Payroll (GP)	Includes Local Staff Salaries	605,971
On-Line Journal Entry	Reclass between Chart fields	419,314
Other Non-ATLAS Agency Payments		81,495
Other ATLAS Agency Payments on behalf of UNDP- DPRK		710,025
<b>Total</b>		<b>\$7,395,517</b>

**Summary of Payments by Others (1999–2007)**

When the possible range for the Winfoas period (\$2.1M - \$17.3M) is added to the actual amount for the Atlas years (\$7.4M), the possible range of total payments made by others is \$9.5M to \$24.7M. Using UNDP's estimate for the Winfoas years, the amount would be \$14.6M. The below table summarizes the amounts that were discussed with UNDP:

	WINFOAS (1999 - 2003) (USD)			ATLAS (2004 - 2007) (USD)	Total (1999 - 2007) (USD)		
	(A)	(B)	(C)	(D)	(A) + (D)	(B) + (D)	(C) + (D)
	Low	High	UNDP Value	Actual	Low	High	UNDP Value
II. OCO Payments	\$2,157,982	\$2,157,982	\$2,157,982	\$791,520	\$2,949,502	\$2,949,502	\$2,949,502
III. Agency Expenditure	-	6,102,982	3,807,109	3,919,887	3,919,887	10,022,869	7,726,996
IV. IMIS Expenditure (HQ)	-	9,089,918	1,284,249	2,684,110	2,684,110	11,774,028	3,968,359
<b>Payments by Others Total</b>	<b>\$2,157,982</b>	<b>\$17,350,882</b>	<b>\$7,249,340</b>	<b>\$7,395,517</b>	<b>\$9,553,499</b>	<b>\$24,746,399</b>	<b>\$14,644,857</b>

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<b>Disbursements made on behalf of UNDP-DPRK by UNDP Country Offices and other UN Agencies<sup>147</sup>:</b>	
ATLAS (2004–2007):	7.4 million
<b>Subtotal</b>	<b>31.2 million</b>
WINFOAS - Possible Range (1999–2003):	2.1 - 17.3 million
<b>Total</b>	<b>\$33.3 - \$48.5 million</b>

The Panel has noted that significant uncertainty remains in connection with the exact amount of payments made on behalf of UNDP-DPRK by various UNDP Country Offices and other UN Agencies during the Winfoas accounting period, and thus a range of \$2.1 to \$17.3 million is stated. UNDP acknowledges that some level of transaction duplication exists between the four data sets provided; however, due to time constraints, the Panel cannot determine the exact level of this duplication. Therefore, the range represents the minimum and maximum amounts based on potential transaction duplication.

The Panel does note again though, that UNDP states that the amount in this category, “Disbursements made on behalf of UNDP-DPRK by UNDP Country Offices and other UN Agencies,” is \$7.2 million from the Winfoas period and did provide an analysis.<sup>148</sup>

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<sup>147</sup> Transaction level detail and supporting documentation are not available at UNDP for most of the transactions in this category and would need to be requested and obtained from the respective Country Offices and/or UN Agencies. As such, the data analyses described in this report are based on \$23.8 million of disbursements by UNDP-DPRK on behalf of itself and on behalf of other UN Agencies, unless otherwise stated.

<sup>148</sup> Overview of DPRK payments for the years 1999-2003 provided by UNDP (May 10, 2008 and May 20, 2008).

## APPENDIX 2: BANK ACCOUNT SIGNATORIES

**UNDP-DPRK**

**Bank Account Signatories**

**Time Period: From Jan 1999  
to Dec 2007**

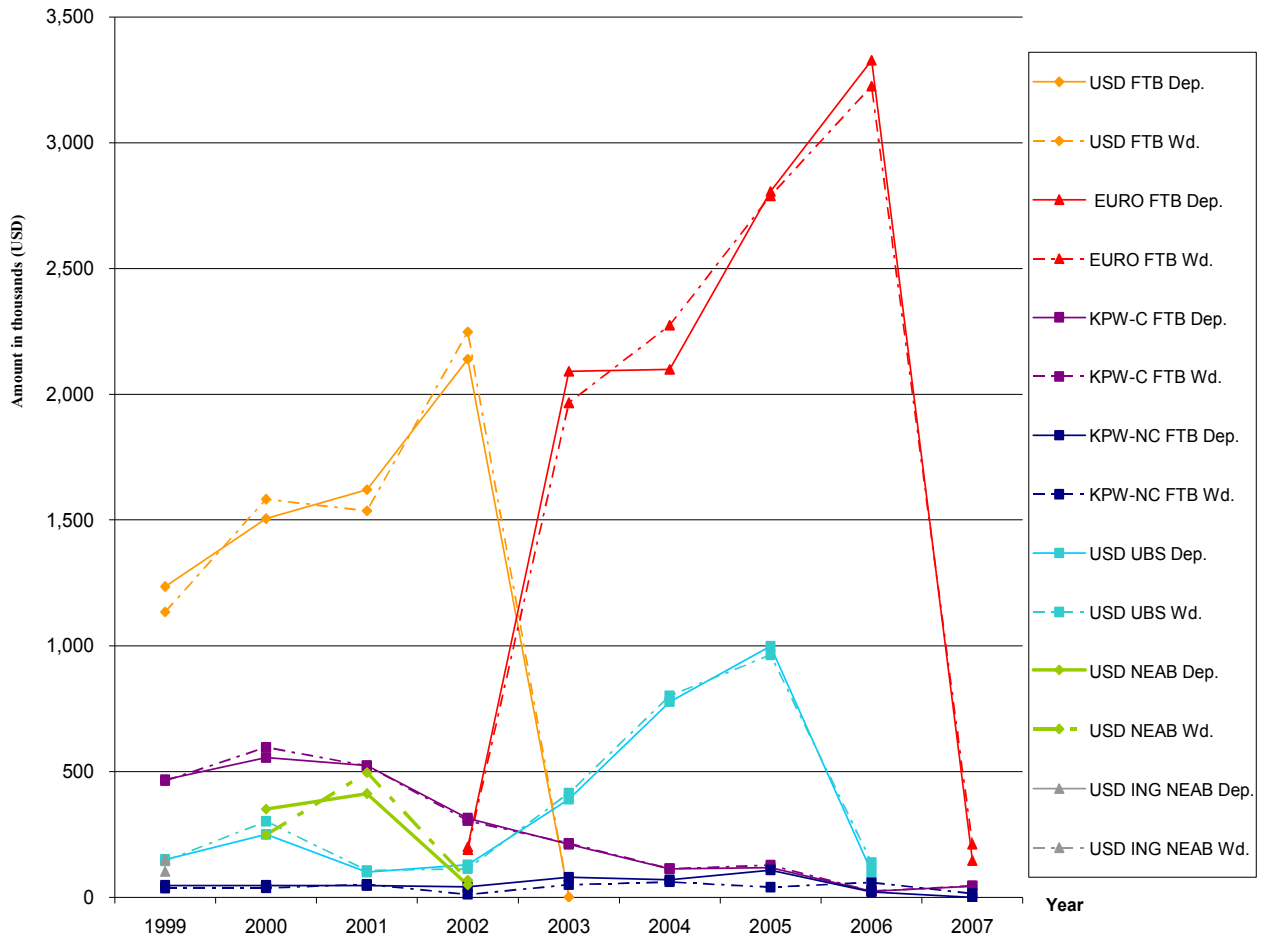
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Bank Name	Account Name	Account Number	Currency	Open Date	Close Date	Signatory
1	Foreign Trade Bank	REPRESENTATIVE OFFICE OF UNDP	08825102	U.S. Dollar	3/3/1999	2/5/2003	Christian Lemaire (2/18/99 - 3/26/01) Cheryl Hairston (2/18/99 - 3/26/01) Samar Singha (2/18/99 - 3/26/01) Kirsten Jorgensen (2/18/99 - 3/26/01) Chen Yuhua (2/18/99 - 3/26/01) Jorn Sorensen (2/18/99 - 3/26/01) David Morton (3/27/01 - 1/30/03) Deidre Boyd (3/27/01 - 12/11/01) Li Kum Sun (3/27/01 - ) Jaginder N. Kanwar (3/27/01 - 12/11/01) Abu Selim (12/12/01 - 7/14/05) Olof Nunez (12/5/02 - 1/30/03) Masood Hyder (1/31/03 - 7/29/04) Sara Adam (7/30/04 - 1/16/05) Timo Pakkala (7/15/05 - ) Artjon Shkurtaj (7/15/05 - 9/14/06) Vineet Bhatia (1/11/06 - ) Paul Brewah (9/15/06 - )
2	Foreign Trade Bank	REPRESENTATIVE OFFICE OF UNDP	08825112	Euro	12/10/2002	Active	Masood Hyder (11/27/02 - 7/29/04) Abu Selim (11/27/02 - 7/14/05) Li Kum Sun (11/27/02 - ) Sara Adam (7/30/04 - 1/16/05) Timo Pakkala (7/15/05 - ) Artjon Shkurtaj (7/15/05 - 9/14/06) Vineet Bhatia (11/11/06 - ) Paul Brewah (9/15/06 - )
3	Foreign Trade Bank	REPRESENTATIVE OFFICE OF UNDP	08825101	Convertible Won	9/11/1984 (Provided by UNDP)	Active	David Morton (3/27/01 - 1/30/03) Deidre Boyd (3/27/01 - 12/11/01) Li Kum Sun (3/27/01 - ) Jaginder N. Kanwar (3/27/01 - 12/11/01) Abu Selim (12/12/01 - 7/14/05) Olof Nunez (12/5/02 - 1/30/03) Masood Hyder (1/31/03 - 7/29/04) Sara Adam (7/30/04 - 1/16/05) Timo Pakkala (7/15/05 - ) Artjon Shkurtaj (7/15/05 - 9/14/06) Vineet Bhatia (1/11/06 - ) Paul Brewah (9/15/06 - )

4	Foreign Trade Bank	1. Jan 1999 ~ Jan 2003: REPRESENTATIVE OFFICE OF UNDP 2. Feb 2003 : Blank 3. March 2003 : UNDP(in Korean but blank in English) 4. April 2003 : UNDP REP(Handwritten) 5. May 2003 ~ Jul 2003 : UNDP REP. 6. Aug 2003 ~ Sep 2005 : Blank 7. Oct 2005 ~ : REPRESENTATIVE OFFICE OF UNDP	076250	Non-Convertible Won	3/9/1983 (Provided by UNDP)	Active	David Morton (3/27/01 - 1/30/03) Deidre Boyd (3/27/01 - 12/11/01) Li Kum Sun (3/27/01 - ) Jaginder N. Kanwar (3/27/01 - 12/11/01) Abu Selim (12/12/01 - 7/14/05) Olof Nunez (12/5/02 - 1/30/03) Masood Hyder (1/31/03 - 7/29/04) Sara Adam (7/30/04 - 1/16/05) Timo Pakkala (7/15/05 - ) Artjon Shkurtaj (7/15/05 - 9/14/06) Vineet Bhatia (1/11/06 - ) Paul Brewah (9/15/06 - )
5	SWISS BANK CORPORATION	UNDP PRESENT. IN THE DEMOCRATIC REPUBLIC OF KOREA	240-C0250861.0	USD	Pre 1984 (Provided by UNDP)	8/22/2006	David Morton (3/27/01 - close) Deidre Boyd (3/27/01 - 12/11/01) Li Kum Sun (3/27/01 - close) Jaginder N. Kanwar (3/27/01 - 12/11/01) Abu Selim (12/12/01 - close) Olof Nunez (12/5/02 - close)
6	NORTH EAST ASIA BANK	UNDP Pyongyang Office	0521	USD	6/15/2000	8/1/2002	David Morton (5/22/00 - close) Kirsten Jorgensen (5/22/00 - ) Neil Reece-Evans (5/22/00 - ) Chen Yuhua (5/22/00 - ) Samar R. Singha (5/22/00 - ) Deidre Boyd (3/27/01 - 12/11/01) Li Kim Sun (3/27/01 - close) Jaginder Kanwar (3/27/01 - 12/11/01) Abu Selim (12/12/01 - close)



7	ING NORTH EAST ASIA BANK	UNDP	0555-1	USD	8/12/ 1997 (Provi ded by UND P)	7/22/19 99	Christian Lemaire (7/24/97 - )Willi Schöll (7/24/97 - )Cheryl Hairston (7/24/97 - )Samar Singha (7/24/97 - )
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### APPENDIX 3: ANNUAL BANK ACCOUNT ACTIVITY



## Chapter 3

### UNDP-DPRK Project Implementation (Terms of Reference Item 2)

#### **I. TERMS OF REFERENCE**

Determine if the projects implemented under the country programme were managed and implemented in accordance with UNDP regulations, rules, guidelines and practices, and with UNDP's Standard Basic Assistance Agreement with the DPRK Government, including whether such projects were effectively monitored and evaluated regularly in accordance with such regulations, rules, guidelines and practices. The report shall identify, enumerate and confirm all project site visits, whether more visits should have been made in accordance with UNDP policies and procedures and whether UNDP international personnel participated in such visits.

#### **II. EXECUTIVE SUMMARY**

The Panel carried out its review of implementation of the United Nations Development Programme's (UNDP) projects in the Democratic People's Republic of Korea (DPRK) over the period 1999–2007 in accordance with Item 2 of the Terms of Reference. The review approach is outlined in Section III A of this Chapter.

All relevant UNDP manuals, guidelines, and handbooks which covered the management, monitoring, and evaluation of UNDP programs and projects were reviewed in order to identify UNDP requirements. Project documentation which would provide appropriate indicators of compliance with such requirements was also reviewed. The detailed results of this review are covered in Section IV of this Chapter.

The UNDP-DPRK program over the period 1999–2007 consisted of 106 projects. These projects were reviewed and categorized into sub-sets based on common characteristics such as executing arrangements, management requirements, implementation duration, and budget, which were considered as having potential impact on the review. Following the initial review of projects, two sub-sets covering 35 projects were omitted from the review of implementation: 23 pre-1999 projects and 12 UNDP-managed support projects for UN

system and aid coordination for program development. The remaining 71 projects (91% of total program size over the review period) were subject to an implementation review.

The Panel's implementation review focused on the following areas: project execution arrangements (particularly Nationally Executed projects); monitoring and evaluation tools; monitoring and evaluation outcomes; and the appropriate use of funds for the purposes of the projects. The review findings are presented in Section IV of this Chapter.

The volume, quality, and scope of the relevant documentation retrieved from UNDP Headquarters and the UNDP-DPRK Country Office files demonstrated that the majority of the program, and more importantly the larger, more complex, or higher-risk projects, were managed, monitored, and evaluated substantially in accordance with UNDP requirements. However, because there were a significant number of relevant documents referred to in secondary sources, e.g., independent evaluation and consultants' reports, which could not be found in the source files, it is fair to infer that the documentation reviewed by the Panel on this topic was not exhaustive.

The review also found that there were some deficiencies in the management of projects. However, the Panel did not find that NEX projects in particular had any specific implementation weaknesses. Nonetheless, the Panel highlights the continued need for capacity and institution-building in the context of NEX projects. The deficiencies in the monitoring and reporting of the Country Programme were highlighted by UNDP in its latest country program review, and the Panel acknowledges that efforts were underway to improve these areas of identified weaknesses as the Panel began its analytical work.<sup>149</sup>

Verification of the appropriate use of the funds was satisfactory for the majority of categories of expenditure in the review sample. Additionally, a detailed "walk-through" of a sample of projects supports the Panel's finding that there is no evidence to substantiate the allegations that projects' resources were consistently mismanaged or diverted for other purposes, or generally unaccounted for. It is fair to conclude from the review that the program resources as a whole were generally managed and accounted for substantially in accordance with UNDP requirements and used for the purposes of the projects.

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<sup>149</sup> Note on Monitoring and Evaluation for UNDP-DPRK, Regional Bureau for Asia and the Pacific (Nov. 29, 2007).

The review also looked into a number of the specific allegations related to access to project sites in the DPRK and compliance with field visit requirements. The review found evidence to confirm that there were requirements for prior clearance through the government of the DPRK for project site visits, but clear procedures existed for expediting travel and for conducting site visits related to project implementation. In the majority of projects, these procedures seem to have worked satisfactorily. However, regarding two projects each of which had security zones within the wider project area, access by foreigners to or through these security zones was forbidden, and extensive negotiations were required to complete the mandatory site visits. On the basis of its review, the Panel concludes that allegations suggesting that field visits did not occur are unfounded.

Over the period covered by the review, UNDP policies on management, monitoring, reporting, and evaluation have evolved toward “programmatic results” rather than inputs and outputs. This approach is consistent with that of many other aid agencies and provides a better opportunity to account for the impact of UNDP’s work over time in a country, provided project-level evaluation is not compromised. Additionally, donors are rightly concerned with transparency, accountability, and the appropriate use of funds which is measured more specifically in the context of implementation and evaluation of specific projects. UNDP Headquarters’ reporting requirements, and the Country Office’s documentation on implementation, are intended to provide mechanisms to address these concerns. They are also meant to ensure that policies and procedures for management, monitoring, reporting, and evaluation provide adequate verification that project funds were managed and used efficiently and for the purposes of the project. In the DPRK, these mechanisms in some cases required a more robust application.

### **III. REVIEW SCOPE AND OBJECTIVES**

#### **A. The Review Approach and the Review Sample**

##### **1. The Review Approach**

The Panel conducted a comprehensive review of the projects constituting the United Nations Development Programme’s (UNDP) program in the Democratic People’s Republic of Korea (DPRK) over a nine-year period (1999–2007). In its review of the management and implementation of the projects, the Panel adopted the following approach and relied on:

- Review of relevant UNDP regulations, rules, guidelines, and practices to determine what the requisite procedures for implementing, monitoring, and evaluating projects were under the DPRK country program;<sup>150</sup>
- Review of Country Programs for the period 1999–2007,<sup>151</sup> and individual project documents to ascertain the characteristics of the projects comprising the program, such as:
  - number of projects, duration of projects, budget/expenditure components of projects, and status (closed, cancelled, suspended) of the projects;
  - execution modalities (DEX, NEX, UN Agency, and NGO<sup>152</sup>) and management arrangements of projects including supporting services (“NEX hybrid”);
- Review of supporting documentation for individual projects including project documents, monitoring reports including field visit and assessment reports, and financial data;<sup>153</sup>
- Review and analysis of the data and documentation for each project; and
- Overall analysis of the aggregate data and indicators for the program (1999–2007).

## **2. UNDP Projects in the DPRK**

In order to determine the portfolio of projects under the UNDP-DPRK program, the Panel examined an initial list of projects prepared by the UNDP Regional Bureau for Asia and the Pacific (RBAP) in coordination with the UNDP’s DPRK Country Office staff and records. The Panel then triangulated all project numbers against expenditure information from source documents such as Combined Delivery Reports (CDR), Project Delivery Reports

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<sup>150</sup> Standard Basic Assistance Agreement (Nov. 8, 1979) (the SBAA does not have specific provisions for the implementation of projects); UNDP Programming Manual (1999–2006); UNDP Results Management Guide: Programme Management and Projects Management (2006–present); Handbook on Monitoring and Evaluation for Results (2002–present); UNDP Financial Regulations and Rules (1995–2000; 2000–2005; 2005–present); UNDP Finance Manual (1991–2000; 2000–2007); UNDP User Guide: Contracts, Asset, and Procurement Management (2006–present); Guidelines for Use of Special Services Agreements (July 1995–2005).

<sup>151</sup> UNDP Country Cooperation Framework for DPRK (1997–1999; 2001–2003; 2005–2006; and 2007–2009 (draft)).

<sup>152</sup> Direct Execution Strategy, National Execution Strategy, Non-Governmental Organization.

<sup>153</sup> Combined Delivery Reports and Project Delivery Reports (1999–2007). The Panel has also reviewed individual relevant financial documents per project, such as purchase orders, invoices, and payment vouchers.

(PDR), references to projects in audit reports and other reports. The Panel also examined all available source documents, determining the universe of projects under the review period to be 106 total projects with an aggregate expenditure of \$18,917,222 U.S. Dollars (USD).<sup>154</sup>

These 106 projects were active for some duration over the course of the review period which spanned two distinct accounting systems (“Winfoas” 1999–2003 and “Atlas” 2004–2007). Of the 106 projects:

- 50 were active during the Winfoas period;
- 32 were active during the Atlas period; and
- 24 were active in both the Winfoas and Atlas periods.

For the 24 projects which were active across the Winfoas and Atlas periods, there are two project identifiers—the original Winfoas project identifier (project numbers) and the Atlas project identifier. For the purposes of this review, for these 24 projects, as these projects were substantively the same (same project document and same body of work including supporting data, e.g., field visit reports) and only the project identifiers were different for the purposes of migrating from one system to another, and for tracking expenditure across the accounting periods, the Panel did not view these projects as separate projects.

Also for these 24 projects, for purposes of expenditure information for this review, Winfoas period expenditures were aggregated with Atlas period expenditures for a total expenditure figure. An example of a project which spanned two periods is Winfoas 03002/Atlas 12271 Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making. As there was a one-to-one migration of 03002 from the Winfoas period (expenditure of \$38,225 USD) to 12271 for the Atlas period (expenditure of \$306,605.18 USD), this project is counted as one project with a total expenditure of \$344,830.18.

Additionally, while some projects were substantively the same but represented different objectives or components, if those projects were identified uniquely via multiple

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<sup>154</sup> It is important to note that the project expenditure information could not be mapped to payment transaction information in totality due to limitations of the payment data (payments made by other UN Agencies and other UNDP Country Offices) as set forth in Chapter 2 of this Report. It is also important to note that while Chapter 2 dealt with all payments including payments in relation to projects, the figure of \$18,917,222 USD relates to expenditures for projects from 1999–September 30, 2007 (the Panel’s review period is up to March 2007).

Atlas project numbers, the Panel commensurately reviewed those projects as unique.<sup>155</sup> See Appendix 1 for the complete list of UNDP-DPRK projects for the review period.

### ***Summary Facts – Projects Universe***

The 106 individual projects comprising the UNDP’s program in the DPRK from 1999–2007 consisted of 17 DEX-executed projects, 50 NEX-executed projects, and 39 UN Agency-executed projects.<sup>156</sup> None of the UNDP projects in the DPRK were NGO-executed. The four execution modalities for UNDP projects are discussed further in Section B. 2 below.

Of the 50 NEX-executed projects:<sup>157</sup>

- Seven were Perez-Guerrero Trust Fund projects;
- 16 had official supporting service management arrangements whereby UNDP or another UN Agency supported these projects;
- 27 had UNDP-DPRK or other UNDP Country Offices (via UNDP-DPRK) direct payment support; and
- Seven had NEX advances paid to the DPRK government with all seven also having UNDP Country Office support. The total paid in NEX advances during the Atlas period is \$413,244.69 USD for two projects:
  - 03002 Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making paid to the NCC for Environment (executing agency) and the Ministry of Land and Environment Protection (implementing agency)
  - 37898 DPRK-POPS (Persistent Organic Pollutants) Enabling Activity: Preparation of the National Implementation Plan under the Stockholm Convention paid to the Ministry of Chemical Industry (implementing agency).

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<sup>155</sup> In only two instances were multiple unique project numbers merged for this review: 02005 (Atlas numbers 12266/12267) Formulation of Documentation on Sustainable Rural Energy Strategy Investment and Plan and 03013 (co-related Atlas numbers 32542/41354) Support Project for Environmental Liaison Officer.

<sup>156</sup> Section IV B of this Chapter examines the appropriateness of the selection of execution modality of the projects.

<sup>157</sup> 13 were begun pre-1999; 26 were begun in the Winfoas period 1999-2003; and 11 were begun in the Atlas period 2004-2007.



- 24 NEX audits were conducted between 2000–2005. Of the 24 audits, 16 were considered satisfactory, 7 were considered partially satisfactory, and 1 was considered deficient.<sup>158</sup>
- None of the 50 NEX-executed projects were pure NEX (fully nationally executed).

### **3. The Review Sample**

After establishing the total universe of projects, the Panel determined to group the projects into clusters, i.e., projects sharing common characteristics which would directly influence the implementation review. The clusters are:

- Pre-1999 Projects;
- UNDP-managed Support Projects;
- Perez-Guerrero Trust Fund Projects;
- Small, Short Duration, or Single Output Projects;
- 2006 Projects; and
- All Other Projects.

#### ***Pre-1999 Projects (sub-set 1):***

These projects had been approved prior to 1999, some as far back as 1990. In most cases, the majority of the expenditure and operational activities for these projects occurred prior to 1999. Documentation for these projects was unlikely to be readily available, as UNDP's documents retention policy has a limit of seven years.

Therefore, the Panel decided that only those pre-1999 projects which had incurred a significant majority of expenditure in 1999 and thereafter would be included in the project review sample, subject to detailed review.<sup>159</sup> Applying this criterion, 23 projects representing expenditure of \$941,161 (5% of total program expenditure for the period 1999–

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<sup>158</sup> The entire NEX audit process of 2004 for five NEX projects was considered deficient, but after Country Office corrections, was deemed to be satisfactory.

<sup>159</sup> Three pre-1999 projects: 90009 Programme Support Project (sub-set 6); 97001/55495 Environment and Industrial Pollution Management Programme in the Democratic People's Republic of Korea (sub-set 6); and 98A04 1998/99 Autumn/Winter Double Crop Programme Contribution from Norway (sub-set 4) are included in the projects review sample.

2007), were excluded from the UNDP list of projects for the purposes of the implementation review.

***UNDP-managed Support Projects (sub-set 2):***

UNDP-managed support projects provided direct assistance to the UNDP Country Office through the Resident Representative via resources designated as “Support to UN System and Aid Coordination.”

Through *Development Support Services* resources, the Resident Coordinator/Resident Representative was able to engage short-term assistance to garner “substantive advice in programme priority areas; substantive inputs related to the development of the CCF; development of sector or thematic programming; program initiatives relating to global themes such as environment, gender, or human rights.”<sup>160</sup> As this fund is designed to provide substantive inputs, they are used neither for administrative expenses nor equipment and require only one annual report to the UNDP Bureau of Management and the Regional Bureau for Asia and the Pacific.

Additionally, through another resource, *Support to the Resident Coordinator (SRC)*, funding provided the Resident Coordinator/Resident Representative the ability to respond to “opportunities for UN system collaboration” and serve “as a catalyst for the development and strengthening of country coordination initiatives.”<sup>161</sup> Projects funded by this resource are managed by the Resident Coordinator/Resident Representative and required an annual report on the activities and results to be submitted to the Secretary-General.

These resources were managed solely through the UNDP Resident Coordinator/Resident Representative through the DEX modality.<sup>162</sup>

These 12 projects which represent expenditure of \$736,082 (4% of total program expenditure for the period 1999–2007) were excluded for the purposes of the implementation review.

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<sup>160</sup> UNDP Programming Manual (1999–2006).

<sup>161</sup> UNDP Programming Manual (1999–2006).

<sup>162</sup> There is one anomaly in relation to UNDP-managed administrative projects. 03013 Support Project for Environmental Liaison Officer began in 2003 as a NEX project with the NCC-Environment as the Executing Agency. This project was not migrated over to the Atlas period. A new project, 32542 was created in the Atlas period for the same purpose. This is also a NEX project. Additionally, 41354 was created for the same purpose. 32542 and 41354 however, are characterized as a “UNDP-managed project” which for monitoring and evaluation purposes would be subject to the criteria for support projects as opposed to NEX projects. For purposes of this review, 03013/32542/41354 are counted therefore, as one project and in the UNDP-managed administrative cluster, but also counted as a NEX hybrid project.

It is important to note that not all DEX projects are UNDP-managed support projects. The six other DEX projects not in sub-set 2 are: 02002/12262 Capacity Building for Enhanced Development Cooperation (sub-set 6); 02005/12266/12267 Formulation of Documentation on Sustainable Rural Energy Strategy Investment and Plan (sub-set 6); 50029, 50030, 50031 Economic Management Training I, II, and III (sub-set 5); and 50817 Sustainable Rural Energy Development (SRED) Programme (sub-set 5).

***Perez-Guerrero Trust Fund for Economic and Technical Cooperation among Country Members of the Group of 77 (PGTF) (sub-set 3):***

These projects, though included in the UNDP-DPRK country program were not subject to UNDP's approval and implementation rules. PGTF projects were approved by a committee of the Group of 77 and were governed by the rules specifically established for the PGTF.

The Panel reviewed these seven projects separately to verify compliance with the procedures for administering PGTF projects. These seven projects represent an expenditure of \$265,907 (1% of the total program expenditure for the period 1999–2007).

***Small, Short Duration, or Single Output Projects (sub-set 4):***

The management, monitoring, and evaluation requirements for these projects are much more flexible and simpler than for larger, more complex projects, or projects of longer duration.

Many of these projects involved a single output, e.g., a study by consultants; program inputs such as commodities, i.e., fertilizers and seeds, or construction materials; one or more pieces of transport, construction, or agricultural equipment; and/or training or fellowships. Evaluation is not required for these projects.

For monitoring purposes, only one report, which verifies satisfactory performance and completion of the project, is required to satisfy the requirements of monitoring, evaluation, and field visits (as applicable).

For the purposes of the implementation review of these projects, documentary verification of the satisfactory performance and output of the project was used as the indicator of satisfactory implementation and appropriate use of the funds.

This sub-set of 20 projects represents expenditure of \$1,416,445 (7% of the total program expenditure for the period 1999–2007).

***2006 Projects (sub-set 5):***

Fifteen projects were approved in 2006.<sup>163</sup> Eight of these projects, which were cancelled or suspended in March 2007, are reviewed in this sub-set.<sup>164</sup> Most of these projects had not completed a year of implementation at the time of cancellation or suspension. Therefore, very little if any monitoring documentation was available for these projects.

Management assessment and verification of the use of funds were carried out for these projects, but monitoring indicators for these projects were not included in the overall analysis.

These eight projects represent expenditures of \$1,088,092 (6% of total project expenditures for the period 1999–2007).

***All Other Projects (sub-set 6):***

The remaining 36 projects represent expenditures of \$14,469,535 which is 76% of the total program expenditure for the period 1999–2007 and comprise the critical mass of the Panel’s review and analysis.

**Table 1: Project Sub-sets**

<b>Project Sub-set</b>		<b># of Projects</b>	<b>Expenditure \$ USD</b>	
	<i>Excluded from Review</i>	# of Projects	\$ USD	% of total
1	Pre-1999 projects	23	941,161	5%
2	UNDP-managed	12	736,082	4%

<sup>163</sup> For a detailed discussion of the project formulation and approval process, please see Chapter 1, Section II B.

<sup>164</sup> Three of the 15 projects approved in 2006 are PGTF projects thus in sub-set 3 and four of the 15 are UNDP-managed Administrative Support Projects in sub-set 2.

<b>Sub-total</b>	<b>35</b>	<b>1,677,243</b>	<b>9%</b>
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	<i>Implementation Review</i>	# of Projects	\$ USD	% of total
3	PGTF projects	7	265,907	1%

	<i>Review Sample</i>	# of Projects	\$ USD	% of total
4	Small/Short Duration/Single Output	20	1,416,445	7%
5	2006 projects	8	1,088,092	6%
6	Other projects	36	14,469,535	76%
<b>Sub-total</b> (Implementation Review and Review Sample)		<b>74</b>	<b>17,239,979</b>	<b>91%</b>
<b>TOTAL</b>		<b>106</b>	<b>18,917,222</b>	<b>100%</b>

See Appendix 2 for a full list of UNDP-DPRK projects by sub-set.

## **B. Projects Subject to Implementation Review**

The sample of projects which were subject to a full review of implementation covered sub-sets 4, 5, and 6 above—a total of 64 projects—representing a total expenditure of \$16,974,072 (90%) of the total program expenditure over the period 1999–2007.

### **1. UNDP Requirements for Project Implementation**

The UNDP manuals and documents covering the management, monitoring, and evaluation of UNDP programs formed the basis of the review. The relevant sections in the

financial manuals dealing with “Utilization and Control of Resources” and “Expenditure by Executing Entities and by UNDP” were also reviewed, as were a number of explanatory notes on monitoring and evaluation, provided by various departments in UNDP.<sup>165</sup> These documents were reviewed to identify appropriate management arrangements and requirements and to provide a full understanding of the monitoring and evaluation tools included under UNDP rules. The sections in the UNDP Financial Regulations and Rules dealing with the program and project operational matters were also reviewed, but merely reflected the procedures which were covered in greater detail in the operations documents.

The UNDP Programming Manual (1999–2006) and the Handbook on Monitoring and Evaluation (2002–present) were the documents that were most applicable to projects being reviewed, as they covered most of the review period (1999–2007).

## **2. Project Execution Arrangements**

As illustrated in Chapter 1 of this Report, UNDP arranges for the execution of its projects in one of four ways:

- i. Direct execution (DEX). This refers to cases where management is by UNDP itself and is permitted only in exceptional circumstances.<sup>166</sup>
- ii. National execution (NEX) refers to management by a government entity when it is considered by the country office that there is adequate capacity (NEX is the norm across the UN system);
- iii. Execution by a United Nations agency; or
- iv. Execution by NGO<sup>167</sup>

In addition to the above management arrangements, a UNDP Country Office can provide support services to programs and projects under national execution (NEX).<sup>168</sup> NEX projects with support services have been referred to as NEX “hybrid.” UN Agencies can also

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<sup>165</sup> UNDP Financial Regulations and Rules (1995–2000; 2000–2005; 2005–present); UNDP Finance Manual (1991–2000; 2000–2007); UNDP User Guide: Contracts, Asset, and Procurement Management (2006–present); Guidelines for Use of Special Services Agreements (July 1995–2005); Handbook on Monitoring and Evaluation for Results (2002–present); Note on Monitoring and Evaluation for UNDP-DPRK, Regional Bureau for Asia and the Pacific (Nov. 29, 2007); and UNDP Evaluation Office Note on UNDP’s Evaluation Requirements as Related to Country Offices in the Period 1999-2007 (Jun 11, 2007).

<sup>166</sup> UNDP Programming Manual (1999–2006).

<sup>167</sup> In the UNDP/DPRK program, execution by NGO was never used.

<sup>168</sup> UNDP Programming Manual (1999–2006).

provide support services to programs and projects under national execution (NEX) and direct execution (DEX). Such agency support services arrangements were used in some NEX-executed projects in the UNDP-DPRK program and are also referred to as NEX “hybrid”.

Support services for NEX and DEX-executed projects are covered in an agreement between the executing agency and the entity providing the support services. Support services usually cover activities such as procurement of equipment, sub-contracts, consultant services, management of training/fellowships, and monitoring and reporting.

### ***Agricultural Recovery and Environmental Protection (AREP)***

The Panel includes here a discussion about the Agricultural Recovery and Environmental Protection (AREP) Program as an illustration of the type of program coordination—each associated project being a component part of a larger framework that contributes to a change in development conditions in the DPRK—that UNDP’s Country Cooperation Frameworks were intended to create. UNDP’s AREP Program, under the larger umbrella of the AREP programs overseen and funded by members of the international community, initially consisted of 13 separate projects supported by a 14<sup>th</sup> project, the Agricultural Recovery and Environment Protection Support Project (99001), which provided program and capacity-building support and specific execution support services to the other 13 projects.<sup>169</sup> As such, the AREP Program illustrates the following aspects of a robust framework:

- AREP is a thematic grouping of projects under a single cooperation framework with the specific goals of: (1) restoring grain production to their earlier levels (pre-1990); and (2) strengthening the framework for sustainable food production.<sup>170</sup> The associated set of UNDP projects were part of the AREP Cooperation Framework in which the international donor community together provided assistance for a much larger envelope of sub-programs that were not exclusively composed of UNDP projects.

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<sup>169</sup> These 14 projects were preceded by four Agricultural Relief and Rehabilitation (ARRP) projects, and succeeded by an additional four projects in the AREP umbrella. See Appendix 3 for a listing of all AREP-related projects.

<sup>170</sup> “Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme,” Consultant Report, (Feb. 2003).

- At UNDP, the institutional arrangements that were developed for providing central support to the 13 UNDP-AREP projects necessitated the establishment of the AREP Support Project. This project provided a variety of coordination and support functions to the larger AREP Cooperation Framework. It also provided the basis for UNDP Country Office support to those projects which were officially under the NEX umbrella, but which had disbursements and other services managed by UNDP. This mode of implementation of NEX-supported projects has been referred to as NEX “hybrid”.<sup>171</sup>
- The 14 AREP projects at UNDP were carried out through a variety of execution modalities, with different modalities chosen by UNDP and its government partners based on the needs of the particular project.
- There is substantial evidence that each of the AREP projects was monitored and evaluated through project evaluation reports, field visits reports, and consultant reports.<sup>172</sup>

Eleven of these projects fall within the Review Sample of this report.<sup>173</sup>

### ***AREP Cooperation Framework***

In 1998, UNDP and the Food and Agriculture Organization (FAO) worked with the DPRK government to formulate the AREP Program. This program was designed to deal with the consequences of the natural disasters of the mid-1990s that resulted in sharp declines in food production and food security.

The broad scope of work that made up the AREP umbrella encompassed a framework for the international donor community which resulted in \$381 million USD in contributions.<sup>174</sup> Under that umbrella, 14 UNDP-DPRK agricultural and rural development

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<sup>171</sup> See Chapter 1, Background.

<sup>172</sup> “Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme,” Consultant Report, (Feb. 2003). See also, “UNDP Mission Report, Review of the Country Programme (2005-2006) for the Democratic People’s Republic of Korea” (Mar. 2006); “Review of the Country Cooperation Framework for the Democratic Republic of Korea” (Aug. 2000).

<sup>173</sup> The three AREP projects not included in the review sample are: 97002 Agricultural Rehabilitation and Food Security; 97006 Capacity-Building for Agricultural Rehabilitation and Food Security; and 98A02 1998 Double-Crop Programme Contribution from Norway.

<sup>174</sup> “Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme,” Consultant Report, (Feb. 2003). See also, “Review of the Country Cooperation Framework for the Democratic Republic of Korea” (Aug. 2000).



projects were executed. These 14 projects have start and end dates that cover the Panel's reference period and thus are useful in their illustration of a variety of factors.

### *Institutional Arrangements for AREP Support*

Of particular note was UNDP project 99001 Agricultural Recovery and Environmental Protection Support Project, which provided overall support to the program, including specific execution services for the other projects. It also provided coordination for all elements of the larger AREP Coordination Framework (see Table 2 below).<sup>175</sup> This project was approved in 1999 and continued until 2007.<sup>176</sup>

Project 99001 supported a technical support group, the AREP International Technical Support Group, which was based in the UNDP-DPRK Country Office. The United Nations Office for Project Services (UNOPS) was the executing agency for 99001. UNOPS hired the staff located in the DPRK Country Office as part of the AREP International Technical Support Group. In the early stages of implementation of the AREP umbrella, UNDP coordinated resource team meetings and chaired bi-weekly meetings of an Agricultural Sub-Committee of international agencies, donors, and NGOs participating in the larger AREP Program.<sup>177</sup>

It should be noted that from 1999 to 2007, as various projects under the AREP umbrella were initiated, executed, and then closed down, the nature of the staffing and personnel under the support project changed. The Panel was provided information that in addition to the 13 AREP projects, the AREP Support Office also supported non-AREP projects such as 02002 Capacity Building for Enhanced Development Cooperation, 50817 Sustainable Rural Energy Development (SRED) Program, and 41525 Capacity Building for Statistics Related to the Millennium Development Goals and the PGTF projects.<sup>178</sup>

The staff of the AREP Support Office was physically located in the UNDP Country Office until December 2002 when they were relocated to a nearby building provided by the DPRK government. Staffing organizational charts for the UNDP-DPRK office provided to the Panel for the years 2000–2006 show various AREP project staff in the DPRK office.

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<sup>175</sup> "Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme," Consultant Report, (Feb. 2003).

<sup>176</sup> Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000).

<sup>177</sup> Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000).

<sup>178</sup> RBAP statement to the Panel regarding the AREP Project Support Office (Mar. 24, 2008).

This was due to the fact that the entire project was under the supervision of, and reported to, the Country Director/Resident Representative.<sup>179</sup>

In addition to personnel shown on the staffing chart, a number of persons served in the UNDP-DPRK Country office in the capacity of Chief Technical Advisors to various projects, including the AREP projects. The Panel has learned from the Regional Bureau for Asia and the Pacific that 15 CTAs worked for eight UNDP projects during the period 1999–2006. Among the duties of these staff were monitoring and evaluation of projects, which included submitting a series of reports forming part of the overall project management and oversight structure.<sup>180</sup> Many of the field reports recorded in other parts of this Chapter of the Report was prepared by these personnel.

### ***AREP Project Execution Arrangements***

As noted above, 11 of the 14 AREP projects are in the review sample for the Panel’s report. The table below illustrates the variety of project execution arrangements for these projects, as well as the overall support project, described in detail above.

**Table 2: Projects under AREP Umbrella**

<b>Project ID</b>	<b>Project Title</b>	<b>Expenditure \$ USD</b>	<b>Execution Modality</b>	<b>Executing Agency</b>	<b>Implementing Agency</b>
99001/12256	Agricultural Recovery and Environment Protection Support Project	2,185,293	UN Agency	UNOPS	Ministry of Agriculture through FDRC (Flood Damage Rehabilitation Commission)
98A04	1998/99 Autumn/Winter Double Crop Programme Contribution from Norway	82,253	UN Agency	UNOPS	Flood Damage Rehabilitation Commission
99A03	Agriculture Recovery and Environment	163,723	UN Agency	UNOPS	Flood Damage Rehabilitation Committee

<sup>179</sup> RBAP statement to the Panel regarding the AREP Project Support Office (Mar. 24, 2008).

<sup>180</sup> RBAP statement to the Panel regarding the AREP Project Support Office (Mar. 24, 2008).

<b>Project ID</b>	<b>Project Title</b>	<b>Expenditure \$ USD</b>	<b>Execution Modality</b>	<b>Executing Agency</b>	<b>Implementing Agency</b>
	Protection Fertilizer Support Project				
99A06	AREP Support Project for Sweet Potato Cultivation	33,310	NEX hybrid	Flood Damage Rehabilitation Committee w/UNDP Country Office Support	Ministry of Agriculture
99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	456,702	UN Agency	UNOPS	Ministry of Agriculture/ Academy of Sciences
99006	Rehabilitation of the Namyang Salt Pan for Universal Salt Iodization	92,051	NEX hybrid	Flood Damage Rehabilitation Commission w/WFP and UNICEF Support	State Planning Commission
99007	AREP Support Project for Salt Production	100,344	NEX hybrid	Ryomjin Salt Production Enterprise w/WFP and UNICEF Support	Flood Damage Rehabilitation Commission
99008	Emergency Flood Relief and Preparedness	92,125	NEX hybrid	Flood Damage Rehabilitation Commission w/UNDP Country Office support	Ministry of Agriculture
01A01/12259	AREP Support	183,939	NEX	Flood	Ministry of

Project ID	Project Title	Expenditure \$ USD	Execution Modality	Executing Agency	Implementing Agency
	Project for Reforestation		hybrid	Damage Rehabilitation Commission w/UNDP Country Office support	Forestry
01A05/12258	NEAFF Support to Forestry Rehabilitation Component of Agricultural Rehabilitation and Environmental Protection	335,787	UN Agency	UNOPS	Flood Damage Rehabilitation Commission
01002	Emergency Response to Flood Damage in Kangwon Province	78,500	NEX hybrid	Flood Damage Rehabilitation Commission w/UNDP Country Office support	Flood Damage Rehabilitation Commission

### *Monitoring and Evaluation of AREP Projects*

There is substantial evidence that each of the AREP projects were monitored and evaluated through project evaluation reports, field visits reports and budgeting, and consultant reports.<sup>181</sup> Monitoring and evaluation (M&E) took place in differing ways, particularly given the change in evaluation methodology as described by the UNDP Evaluation Office, moving from a focus on inputs and outputs to a focus on development outcomes.<sup>182</sup> In 2000, there was a thorough review of the Agricultural Rehabilitation and Food Security (ARFS) programs, which included AREP: in 2003, an evaluation of AREP progress toward achieving food security for the country; in 2004, a consultant's report on

<sup>181</sup> "Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme," Consultant Report, (Feb. 2003). *See also*, UNDP Mission Report, Review of the Country Programme (2005-2006) for the Democratic People's Republic of Korea (Mar. 2006); and Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000).

<sup>182</sup> "Handbook on Monitoring and Evaluation for Results" and "Guidelines for Outcome Evaluators," UNDP, June 2002.

AREP's progress; and in 2006 a "Review of the Country Programme," which includes a review of AREP.<sup>183</sup> Each of these reviews included interviews and site visits for some number of AREP projects. This discussion of reviews is meant to illustrate the level of monitoring and evaluation being conducted under this one program and is not a comprehensive listing of all the monitoring that took place.

Finally, it should be noted that while outcomes are beyond the Panel's purview, one of the greatest successes of AREP at UNDP was its demonstration of a program approach to country assistance and how a good framework is able to exploit existing synergies between projects to achieve greater, more sustainable results.<sup>184</sup> It appeared to the Panel that AREP was the only UNDP program in the DPRK to take this approach. Despite this significant success, AREP was less successful in achieving its stated outcomes—increasing long-term food security in the country by building the capacity of both farmers and government agencies to adapt to the necessary realities in the long term. While there were increases in food production, driven primarily by the procurement of inputs, the limited staff and funding in the country and the limitations of the country situation itself were repeatedly pointed to as stumbling blocks for long-term success.<sup>185</sup>

### **3. Monitoring and Evaluation Tools**

Monitoring and evaluation is a core element of program and project management at UNDP and is the central factor by which UNDP demonstrates performance and outcomes, measured by UNDP's contribution to the elimination of poverty.<sup>186</sup> In 1999, UNDP began its programme of reform and renewal toward this end. In 2002, UNDP's Evaluation Office distributed its *Handbook on Monitoring and Evaluation for Results*, which states, "The focus

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<sup>183</sup> Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000); "Assessment of UNDP Contribution Towards Food Security Through Support to AREP Programme," Consultant Report, (Feb. 2003); Agricultural Recovery and Environmental Protection (AREP), Report on Consultancy Period, (June 30, 2004); UNDP Mission Report, Review of the Country Programme (2005-2006) for the Democratic People's Republic of Korea (Mar. 2006). *See also*, Field Visit Report, "AREP Support Project" (Sept. 2001); DPRK Uplands Food Security Program Financial Monitoring and Evaluation of Sub-Work Team Production, Consultant Report (Nov. 2002); The Strategy Paper of Amending the Agriculture and Environment Program, DPR Korea, Consultant Report (Aug. 2005); and Field Visit Report "AREP Support Project" (July 2004).

<sup>184</sup> Review of the Country Cooperation Framework for the Democratic Republic of Korea (Aug. 2000).

<sup>185</sup> Lessons Learned: Agricultural Reconstruction and Environmental Protection Programme (AREP), Consultant Report (June 2004).

<sup>186</sup> Handbook on Monitoring and Evaluation for Results (2002–present).

of monitoring and evaluation is to enhance the effectiveness of UNDP assistance by establishing a clear link between past, present and future interventions and results.’<sup>187</sup>

The monitoring and evaluation policies of UNDP make clear that monitoring and systematic reporting are critical components of all programs and projects, regardless of duration and budget. The manner in which these reviews are conducted and the decisions as to which tools are used in each situation are decided selectively based on specific criteria. UNDP rules on monitoring and evaluation are not based on a “one size fits all” approach. Rather, the rules provide for a range of monitoring and evaluation tools and associated reporting requirements meant to be adapted to the situation.

The rules are more specific when applied to the types of projects for which the various tools exist. Each project has rules associated with it in its project document which determines the tools that are applicable, when they are required, and the general criteria applicable to the use of the tools.

The monitoring, reporting, and evaluation requirements applicable to a project are first specified in the project document. These requirements are then consolidated into annual monitoring and evaluation plans for each Country Office which are reviewed by UNDP Headquarters and which serve as the basis for evaluation compliance. The execution of these plans is one of the key factors in assessing Country Office management performance.

There are a variety of monitoring and evaluation tools described in the UNDP Programming Manual and in the Handbook on Monitoring and Evaluation. The use of these tools in some combination, taking into account required reporting instruments, time frames, and purpose determines which combination of tools is most appropriate for any given project.

Monitoring and evaluation serve two very distinct roles in program management. The UNDP Programming Manual defines monitoring as follows:

Monitoring is a continuing function that aims primarily to provide...an ongoing program or project with early indications of progress, or lack thereof, in the achievement of programme or project objectives.’<sup>188</sup> Further, ‘Monitoring tracks the actual performance or situation against what was planned or expected according to pre-determined standards, [and]...generally involves collecting and analyzing data on

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<sup>187</sup> Handbook on Monitoring and Evaluation for Results (2002–present).

<sup>188</sup> UNDP Programming Manual (1999–2006)

implementation processes, strategies and results, and recommending corrective measures.<sup>189</sup>

**Table 3: Monitoring Tools Made Available to UNDP Country Offices<sup>190</sup>**

<b>TOOL</b>	<b>USE</b>	<b>FREQUENCY</b>
Project Work Plans	Use to set benchmarks, for implementation and for strategy. Use to map key results to SRF.	Varies.
Progress and/or Quarterly Reports	Based on project documents. Use to track results achieved, use of funds, plan response.	4 times a year, or as determined.
Bilateral/Tripartite Meetings	Discussion tool for strategy, feedback, problem-solving	Varies.
Field Visits	Verify results, recommend actions, and see operations on the ground.	Varies, but for most projects, at least once a year.
Spot-check visits	Most useful for management accountability. Also, identify problems, rate progress.	When needed for specific reasons.
Client surveys	Organize feedback from beneficiaries. Validate results, indicators, corrective action.	When needed for feedback.
External assessments/monitoring	Done by external experts for independent technical validation, research, etc.	As needed.
Steering committees/mechanisms	Monitor follow-up, results focus.	Varies.
Donor Coordination Groups	Provide input on results, provide feedback to projects.	Varies.

While monitoring is an ongoing activity, evaluation on the other hand, provides a thorough look at activities and outcomes over a specified period of time.

The UNDP Programming Manual defines evaluation as follows: “Evaluation is a time-bound exercise that attempts to assess systematically and objectively the relevance, performance and success of ongoing and completed programs and projects.” Further,

<sup>189</sup> Handbook on Monitoring and Evaluation for Results (2002–present)

<sup>190</sup> Handbook on Monitoring and Evaluation for Results (2002–present). *See also*, UNDP Results Management Guide: Programme Management and Projects Management (2006–present).

“Outcome evaluations address the short, medium and long-term results of a program or cluster of related UNDP projects. Project evaluations focus on evaluating the performance of a single project during or at the end of the cycle.”<sup>191</sup>

**Table 4: Evaluation Tools Made Available to UNDP Country Office<sup>192</sup>**

TOOL	USE	FREQUENCY
Annual Project Report (APR)	Shows progress against goals, rated for progress against outputs and outcomes.	Annually
Project Evaluation	Assesses specific contributions, efficiency, effectiveness, relevance, and sustainability. Use to manage for results.	As needed or requested.
Outcome Evaluation	Assesses effectiveness, efficiency, sustainability, and relevance of the program and/or all relevant projects against their own objectives and combined contributions.	As needed or requested.
Annual Review	An opportunity to review the APR, M&E, other reporting, and lessons learned. Use to inform Results-Oriented Annual Report (ROAR).	Annually

#### **IV. THE REVIEW FINDINGS**

The project review results and analysis are discussed under the following topics:

- Perez-Guerrero Trust Fund projects
- Projects Review Sample
  - Review Project Execution Modality
  - Monitoring and Evaluation Indicators
  - Field Visits
  - Use of Funds

<sup>191</sup> UNDP Programming Manual (1999–2006)

<sup>192</sup> Handbook on Monitoring and Evaluation for Results (2002–present). *See also*, UNDP Results Management Guide: Programme Management and Projects Management (2006–present).



### **A. Perez-Guerrero Trust Fund Projects**

The projects in sub-set 3, Perez-Guerrero Trust Fund (PGTF) projects were reviewed separately for compliance with the administrative procedures. The following projects in the UNDP-DPRK program over the period 1999–2007 were financed and administered in accordance with the procedures governing grants under the Perez-Guerrero Trust Fund:

- 34007 Cooperation for Flower and Vegetables Technology
- 40947 Training of Groundnuts Breeding Experts for the Effective Use of Groundnut Genetic Resources in the Developing Countries
- 41074 Training of Researchers for Production, Processing and Inspection Methods of Seed in Developing Countries
- 48437 Training of Experts of Construction and Operation of Small-Size Hydropower Plants of Developing Countries
- 48439 Training of Irrigation and Drainage Designers for Protecting the Drought and Flood Damage in Developing Countries
- 48440 Training of Experts of Standardization and Meteorology of Developing Countries
- 03012/12276 Training of Irrigation Designers for Protecting the Drought Damage by Undertaking the Active Irrigation Construction in Developing Countries

All of these projects involved the DPRK providing training and/or technical assistance and cooperating with other developing members of the Group of 77 (G77) in such technical cooperation for the benefit of the participating cooperating countries. A number of the training programs sponsored by the DPRK were in fact run in regional centers (e.g. in Guinea for West Africa - 40947 Training of Groundnuts Breeding Experts) with wide participation from the countries from the region.

Grant requests were submitted with a project proposal to the G77 and were considered by a Committee of the G77. When a grant was approved, the Committee of the G77 authorized UNDP to disburse the amount of the approved grant to the applicant, the DPRK in these cases. The sponsoring agency then prepared the project and carried it out in accordance with the proposal submitted with a grant request. Upon completion of the approved activity, the sponsor prepared a completion report and submitted it to UNDP and the Committee of the G77.

These projects involved no monitoring and evaluation. Nor was there a need for field visits. Moreover, because there was no equipment or other procurement, these projects are not included in the projects which the Panel reviewed for monitoring and evaluation.

**Table 5: Perez-Guerrero Trust Fund Projects**

<b>Project ID</b>	<b>Final Completion Reports Reviewed</b>	<b>Amounts Paid to the DPRK \$ USD</b>
03012/12276	Training for Designers for Protecting Drought Damage by Undertaking Effective Irrigation Construction - October 2003	40,000
34007	Cooperation for Flowers and Vegetables Technology - June 2005	39,960
40947	Training for Groundnuts Breeding Experts - June 2005	44,550
41074	Training of Researchers for Production Processing and Inspection Methods of Seeds - July 2005	44,550
48437	Training of Experts of Construction and Operation of Small Size Hydro Power Plants - August 2006	29,154
48439	Training of Irrigation & Drainage Designers for Protection of Drought & Flood Damages - August 2006	33,846
48440	Training of Experts of Standardization & Meteorology - August 2006	33,846
	<b>TOTAL paid to the DPRK by UNDP on behalf of PGTF-G77</b>	<b>265,907</b>

***Conclusion Regarding PGTF Projects***

The PGTF projects were managed in accordance with the procedures governing PGTF projects and PGTF funds. Final completion reports for all seven of the PGTF projects were reviewed and are satisfactory. Payments totaling \$265,907 were made to DPRK on behalf of the PGTF in accordance with the PGTF procedures.

## **B. Projects Review Sample**

### **1. Project Execution Modality**

One of the management indicators used in reviewing each project was whether the appropriate execution modality had been selected and specified in the project document. The various execution modalities used for the project review sample were also analyzed for the period 1999–2007. Three of four execution modalities were used in the UNDP-DPRK program:

- NEX (national execution)
  - NEX hybrid – NEX projects with support services from UNDP or another UN Agency or NEX under the AREP umbrella
- UN Agency
- DEX (direct execution)

Nearly half of the projects in the review sample (64 projects) were NEX-executed projects. The 31 NEX projects in the review sample represent a total expenditure of \$5,388,295. Twelve of the NEX projects with related expenditures of \$873,308 in the review sample were small, short duration, or single output projects. Additionally, none of the 16 NEX projects in the review sample without official management arrangements for support services or not under the AREP umbrella were pure “NEX” in that none of those projects were exclusively executed by a DPRK government executing agency.

Forty-four projects accounting for 82% of the total expenditure of the sample were executed through modalities which ensured that execution and more particularly procurement and use of funds was handled by UN Agencies or assisted through the UNDP-DPRK Country Office. There is no pattern of increasing or decreasing use of NEX in the program during the review period. This analysis confirms the finding that the NEX modality generally, and more particularly NEX projects without AREP or other formal support services, was only used in those projects for which the UNDP-DPRK Country Office felt that the local capacity existed for successful execution, and kept the risks associated with NEX projects to a minimum by further providing support services to high-risk NEX projects particularly in areas such as procurement and disbursement of funds.

The management sections of the project documents were reviewed and were found to be generally consistent with the criteria outlined in the UNDP Programming Manual.

It is evident that the UNDP-DPRK Country Office took the exercise of selecting appropriate execution modalities seriously and achieved a balance between maintaining a reasonable level of the UNDP stated objective of NEX execution while managing the risks.

In two projects (37898 DPRK-POPS (Persistent Organic Pollutants) Enabling Activity: Preparation of the National Implementation Plan under the Stockholm Convention, and 90009 Programme Support Project) the case for NEX was not obvious or had not been clearly made, other than the fact that the consultant for the donor (Global Environment Facility) recommended NEX execution in the project preparation document and UNDP apparently concurred. Nevertheless, project 37898 DPRK-POPS (Persistent Organic Pollutants) Enabling Activity appears to have been satisfactorily implemented in 2006 prior to cancellation in 2007.

For the project 90009 Programme Support, a 1990 project which had been delayed in implementation, and for which expenditures ceased in 2003, there was very little useful documentation retrieved to provide a reasonable review.

The Panel found evidence on file that the financial reporting requirement for NEX projects i.e. quarterly financial reports for NEX advances and documented evidence of expenditures, was complied with.

## **2. Monitoring and Evaluation Evidence**

For all of the 64 projects in the review sample, monitoring and evaluation documentation was catalogued by project, type of report, and date of report. Some of this documentation was initially supplied by UNDP, but additional documentation was also found in the UNDP-DPRK files.

Copies of all available project documents (agreements and budget), final/terminal reports, and evaluation reports were reviewed. For small, short duration, or single output projects, a copy of at least one status report or completion document was retrieved for review.

The Panel noted some deficiencies in monitoring and evaluation evidence as the table that follows depicts:

**Table 6: Projects with Deficient Documentation**

Project ID	Execution Modality	Project Title	Small, short Duration, or single output	Expenditure \$ USD	Documentation Found
90009	NEX hybrid (UNDP-CO)	Programme Support		296,320	Project was approved in 1990; no documentation other than budget revisions and financial transaction information found.
00001	NEX hybrid (UNDP-CO)	Support to Capacity Building for AREP	x	25,292	- Project document; expenditures for consultant and training.
00003	NEX hybrid (UNDP-CO)	Capacity Building in the UN System	x	21,922	- Project document; expenditures for Monitoring and Evaluation, and Mission.
01001	NEX hybrid (UNEP)	Strengthening Environmental Assessment and Reporting	x	16,890	- Project document; expenditures for training and miscellaneous (\$2,145)
02001	NEX hybrid (UNDP-CO)	Project Formulation for Enhanced Development	x	59,666	- Project document; mission report
02011	UN (WTO)	Sustainable Tourism Development for Mt Chilbo	x	139,000	- Project document; expenditures for consultants

These six projects were approved in 2002 or earlier. One project, 90009 Programme Support, was a 1990 project for which no monitoring and evaluation documentation could be found. The other five projects were small, short duration, or single output projects which require only one report which sufficed for the annual report, final report, and field visit.

\* \* \*

The monitoring and evaluation documentation which was found, though limited in some projects, was considered to be representative and satisfactory.

For all of the remaining projects in the sample (excluding the 2006 projects which had been cancelled, closed, or suspended in March 2007) there was documentation demonstrating that a significant majority of projects, and the program as a whole, was implemented, monitored, and evaluated in a manner substantially consistent with the UNDP requirements.

Nonetheless there were clearly some weaknesses in the management, monitoring, reporting, and evaluation of projects, particularly in the delivery outcomes and the document retention for all projects. These weaknesses had been raised in previous country program reviews and internal audit reports.<sup>193</sup> The Panel understands that UNDP had made and was making significant efforts to address them.

All of the projects after 2002 were found to be satisfactory with respect to monitoring and evaluation indicators.

### **3. Field Visits**

Applying the UNDP requirements for field visits as specified in the UNDP Programming Manual and the Handbook on Monitoring and Evaluation, the Panel identified the projects for which field visits were mandatory. Additionally, the project documents were reviewed to identify those projects for which field visits were deemed to be necessary.

In light of the Board of Auditors (2007) findings that, “the control over the project access exercised by the DPRK authorities, was not in line with Article X of the Standard Basic Agreement entered into between UNDP and the Government of DPRK which provided that “the Government shall, in particular, grant them the following rights and facilities:...(c) access to the site of work and all necessary rights of way; (d) free movement within or to or from the country, to the extent necessary for proper execution of UNDP assistance...”<sup>194</sup> it is important to note that there were a range of ways to visit and monitor projects. In addition to formal site visits, the Board of Auditors (2007) also observed that monitoring and/or evaluation visits occurred in the following ways:

- (a) Interim progress reports;
- (b) Assessment/mission reports;

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<sup>193</sup> Internal Audit Reports 1999, 2001, and 2004.

<sup>194</sup> Report of the Board of Auditors (May 31, 2007).

- (c) Field visit reports;
- (d) Final reports on projects;
- (e) Annual project review reports; and
- (f) Evaluation and project preparation mission reports.<sup>195</sup>

Annual field visits were required for 25 projects (39% of the project sample). Field Visit Reports were found for all of these projects. Field Visit Reports were also found for five additional projects for which field visits were not required.

All of the 25 projects for which field visits had been required and for which Field Visit Reports had been found, had at least one field visit per year and, therefore, satisfied the UNDP requirements.

In addition to the specific Field Visit Reports, as noted above, monitoring reports, consultants' reports, evaluation reports, and inventory reports also recorded visits to project sites during all stages of project implementation. 111 site visits covering 36 projects (including the 25 noted above) are recorded in these reports.

Documents that the Panel has reviewed show that UNDP international personnel visited some programs on a regular basis. However, the Panel did not find any documentation establishing that all projects which required site visits were visited in a timely manner in each instance.

### ***Specific Allegations Concerning Field Visits***

#### **Allegation: Field visits did not occur.**

The field visit reports reviewed showed that UNDP international staff participated in at least 76 of the 111 field visit reports recorded.

The review recorded a total of 198 site visits (not all resulting in field visit reports) over the period 1999–2007. Of these, at least 153 (77%) included UNDP international personnel and/or international consultants. The field visit reports which included international consultants are corroborated by the consultants' records of such site visits in their reports. In addition, a large number of field visits included photographic records of projects' progress.

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<sup>195</sup> Report of the Board of Auditors (May 31, 2007).

Many field visits included other monitoring activities such as inspecting and receiving equipment, inventories etc. Documentation for these activities corroborates the field visits in question (e.g., inspection/receiving documents are required before a supplier can be paid). For example, a field visit took place on September 14, 2006 by Muluaem Zeleke (an international staff member) and Ri Kyong Il, a national program officer. The purpose of this visit was to confirm the receipt and inspection of computers purchased for projects 50029 and 50031, Economic Management Training projects which were delivered to Pyongyang University of Foreign Studies and Kim Il Sung University. The Panel inspected all of the documentation associated with this procurement—requests for quotation through to receipt, inspection, and delivery acknowledgment—and notes that all procedures were followed and recorded in this visit.<sup>196</sup>

A random sample of payments made by the UNDP Country Office for the period May 2005 to April 2006 generated 37 payments to UNDP personnel (international staff and local personnel) for “Field Trip Expenses.” For the same period, the review found 16 field visit reports for an average of two UNDP personnel per field visit, which is consistent with the field visit reports.

Allegation: Field visits were controlled by DPRK officials.

The Board of Auditors report notes that “Project visits by UN personnel or their representatives took place only after arrangements were made through the Ministry of Foreign Affairs.”<sup>197</sup> However, the Panel’s review of the field visit reports did not record any DPRK officials participating in the visits who were not directly involved in the implementation of the project. Because meeting and discussing the project with as many

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<sup>196</sup> From start to finish, the review notes: Letters from Ri Hung Sik, NCC-UNDP to Timo Pakkala (June 28, 2006 and Jul 4, 2006) (requesting the procurement of computers and enclosing technical specifications); Request for Quotation issued to six suppliers (July 10, 2006); Four bids signed by the Operations Manager (Artjon Shkurtaj) and time and date stamped (July 22, 2006); Local Contracts, Assets & Procurement Committee Review (Aug. 1, 2006) (approving contract with Dandong Land Trade Co. signed by Vineet Bhatia, Deputy Resident Representative, Artjon Shkurtaj, Operations Manager, Muluaem Zeleke, Procurement Specialist, and three other members of LCAP); Purchase Order 641 (Aug. 1, 2006); Pro-forma Invoice (Aug. 18, 2006); Bill of Lading (Sept. 4, 2006) (noting transport by Ryondae); Receiving and Inspection Report (Sept. 14, 2006); Delivery Note (Sept. 15, 2006) (acknowledging receipt of computers at Pyongyang Foreign Language University and attached list of all serial numbers); Delivery Note (Sept. 15, 2006) (acknowledging receipt of computers at Kim Il Sung University and attached list of all serial numbers); and Request for Payment from Zeleke to Shkurtaj (Sept. 22, 2006) (signed by both, authorizing payment, and attaching all requisite documentation).

<sup>197</sup> Report of the Board of Auditors (May 31, 2007).



local officials and stakeholders as possible is an important part of the field visit component, local officials met by UNDP personnel and consultants are noted in the documentation. All appear to have held posts directly related to the project(s) which were the subject of the field visit.

While this does not refute the findings of the Board of Auditors, it is relevant to note the roles of the personnel in attendance from the Ministry of Foreign Affairs. The reality remains however, that project visits required clearance or authorization from the government.<sup>198</sup> The Panel observes this is also a practice which is followed by most UNDP-assisted countries.

#### Restricted Access to Project Sites.

A review of project documentation, including consultants' reports, status reports, field visit reports, evaluation reports, etc., has produced evidence that for a few projects, access to part of the project site was limited and special arrangements often involving protracted negotiations were required for UNDP-DPRK to visit the site. For example, the 1999 Internal Audit Report states that no permission had been given for foreigners to visit the site in project 92009 Strengthening of the R&D at the Anju Mine Engineering Institute.<sup>199</sup> The following are some other examples:

#### ***Project 00G35 - Conservation of Biodiversity at Mount Myohyang***

Per the Terminal Evaluation Report (March 2004):

For reasons of national security, international specialists are not able to enter all parts of the area encompassed by a Project. Different strategies for achieving the results expected need careful consideration in project design.

...

National security is an overriding concern in the DPR Korea and some of the protective measures applied in the name of security - such as limits on where both Korean and international staff can go, and when, and for what duration - pose unusual difficulties for project implementation. The impact of these restrictions appears not to have been fully understood by those who designed the Project, and of those who approved it. This could be attributed to inexperience on both sides.

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<sup>198</sup> Report of the Board of Auditors (May 31, 2007).

<sup>199</sup> Internal Audit Report 1999.

Notwithstanding the above statements in the Terminal Evaluation Report, the Evaluation Mission in Annex II—Itinerary of Activities of the Evaluation Mission—recorded having visited the site on two occasions. The first visit lasted nine days (Wednesday, March 3–Thursday, March 11, 2004); the second visit lasted two days (Monday, March 15–Wednesday, March 17, 2004).

***Project 02G35 - Coastal Biodiversity Management of DPR Korea's West Sea***

Per the Minutes of the 1<sup>st</sup> Project Steering Committee (December 2005):

The November 2004 Mission Report as acknowledged by NCCE in [a] letter addressed to UNDP Resident Representative January 2005 recommends the following outcome indicators of the inception phase... Indicator 4: No significant problems over site access for the International Conservation Advisor;... an initial assessment shows that the outcome of Indicator 4 has been reached...

***Project 12275 - Propagation of Grass-feeding Animals***

Per the Field Visit Report (October 12, 2004) - which was organized to accompany two consultants:

A serious discussion with regard to construction of the road to the pasture land has been conducted, and as in the past, the road is still impassable by car. We have been informed that it will take some 4 hours to walk to the site and our request to walk the distance has been deferred for the next visit. We are hopeful that it will be done in the beginning of November when the mission for the Fodder Consultant is fielded.

Per the Field Visit Report (November 10–11, 2004) a visit held to accompany a consultant indicates the subsequent field visit was made and that while "...the arduous march to the summit took more than 3½ hours to climb, was made to validate the existence of the much talked about pasture land..."

***Project 01A05 - Forestry Rehabilitation***

Per the Field Visit Report (April 27, 2004),

On 27 April 2004, the AREP team with six members including the FDRC Chairman attempted to visit Tongchon Tree Nursery. Heavy rain had been falling for 24 hours and as the last river crossing was impassable, the team was forced to turn back.

*UNDP Mission Report - Review of the Country Programme (2005-2006) for the DPRK -  
March 2006*

Access to project sites and institutions is an issue of much discussion among the representatives of international cooperation agencies in Pyongyang... The Government knows and accepts that international and foreign organizations have to contact counterpart institutions and persons in fulfilling their cooperative tasks and the related quality control. On the other hand, the Government sees reasons to restrict the movement of foreign visitors within the country. As a result, the so-called access is limited to the contact necessary for project implementation, and there should always be a clear understanding of the extent it will be granted. A different issue presents itself when a project site itself is located in a security area...[which] took years of studies, deliberations, and negotiations until a solution was worked out, clearly delineating a limited pilot area as well as ... procedures governing access to the site...

Field visits to the Wonsan Hydro-Power site were extremely limited.

A review of the Field Visit Reports, Consultant Reports, and field trip payments for the project highlighted the following that over the period 2004–2005, there were ten field visits made to the Wonsan Hydro-Power site and UNDP international staff participated in these field visits. On two of the visits, annual inventories were taken and on one of the visits, inspection/receipt of equipment took place. During that period, six consultants visited the DPRK to advise on the project. Many of the field visits were done to accompany these consultants on site visits. The Field Visit Reports and/or the Consultants Reports record the following site visits by the various consultants:

January 28-29, 2004	Dr. Bernard Joos
May 10-12, 2004	Mr. Ashley Barnsgrove
May 24-25, 2004	Mr. Ashley Barnsgrove
September 6, 2004	Mr. Gerard Fitzgerald
December 1-2, 2004	Mr. Juan Heredia
August 2005	Mr. Aseged Habtegabriel
September 23-25, 2005	Ms. Benin Myishi

In addition, a team of UN Energy Specialists from the Regional Office and Headquarters visited the site on October 25-26, 2005.

A review of UNDP Country Office payments for field visits over this period produced 14 payments for field visit expenses specifically relating to the Wonsan Hydro-

Power project. The UNDP Country Office payments for field visit expenses only covered UNDP-DPRK personnel; consultants' expenses were paid under the consultants' SSA.

#### **4. Use of Funds**

UNDP financial data for project expenditure lists expenditures under these five categories:

- **Personnel:**
  - International consultants; Administrative Support; UN volunteers; Monitoring; Evaluation and Mission costs; and National consultants
- **Sub-contracts**
- **Training (Learning)**
- **Equipment**
- **Miscellaneous**

The project budgets which are part of project documents also use these categories as the budget line items.

#### ***Project Walk-throughs***

The objective of conducting walk-throughs was to assess compliance with relevant UNDP guidelines as relates to project expenditures. This included a review of transactional data based on the financial systems in addition to review and analysis of source documentation that supported each of the selected transactions.

The Panel selected nine projects from the review sample and one PGTF project for which to conduct walk-throughs. For each project, a sample of transactions was reviewed.

#### ***Methodology of Project Selection and Review Process***

The total of payments related to the Selected Projects is \$7,537,247 (40%).<sup>200</sup> Two of the Selected Projects were selected based on particular interest and the remaining eight were

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<sup>200</sup> Based on the Combined Delivery Reports, total expenditure related to the Selected Projects is \$7,537,247. Payments data which was available was \$3,307,643. As the Panel did not have some financial data related to payments made on behalf of UNDP-DPRK by other UN Agencies and other UNDP Country Offices, as noted earlier, a one-to-one match of expenditures in Combined Delivery Reports to payment transactions could not be made.

selected based on the length of projects (particularly those that bridged both the Winfoas and Atlas time period); projects with large Personnel or Miscellaneous payments; or projects with a significant number of payments. The following table summarizes the Selected Projects:

**Table 7: Project Walk-throughs**

	<b>Project ID</b>	<b>Project Title</b>	<b>Payments \$ USD<sup>201</sup></b>	<b>Payments Sampled (USD)</b>	<b>% Coverage</b>
1	90009	Programme Support Project	239,857	36,076	15%
2	97001 / 55495	Environment and Industrial Pollution Management Programme	64,526	13,327	21%
3	99001 / 12256	Agricultural Recovery and Environment Protection Support Project	1,110,424	142,405	13%
4	02U01 / 12260	Capacity Building in Arms Control and Disarmament	200,729	91,729	46%
5	02002 / 12262	Capacity Building for Enhanced Development Cooperation (EDC)	1,002,849	96,353	10%
6	34007	Cooperation for Flower and Vegetables	39,960	39,960	100%
7	41320	Capacity Building for Efficient Trade Procedures in DPRK	157,029	105,694	67%
8	41497	Capacity Building in Arms Control and Disarmament	206,579	65,021	31%
9	41525 <sup>202</sup>	Capacity Building for Statistics Related to the Millennium Development Goals (MDG)	290	290	100%
10	50817	Sustainable Rural Energy Development (SRED) Programme	285,400	94,906	33%
		<b>TOTAL</b>	<b>3,307,643</b>	<b>685,762</b>	<b>21%</b>

For the Selected Projects, 104 transactions were sampled. For each transaction, the Panel reviewed the available documentation and compared it to: (1) information captured in UNDP's financial systems; and (2) applicable procurement and authorization requirements.

### ***Observations***

A review of documentation<sup>203</sup> related to the Selected Projects budgets reflects the following:

<sup>201</sup> Payment transactions selection was based on UNDP's financial systems data as of April 21, 2008; transactions were limited to those in the Review Period.

<sup>202</sup> The sampling was taken from 41525 and not the earlier project active in the Winfoas period, 37139.

1. Documentation and approvals:

- 99% of the payment vouchers were available for the 104 Selected Transactions.
- 94% of supporting documentation was available for the 104 Selected Transactions.
- Review of payment vouchers reflects that payments totaling \$44,495, or 6.5% of the sampled vouchers, were not appropriately authorized; i.e. either both signatures or second signatures were missing. According to the *Finance Manual*, each disbursement voucher requires approval from two officers.
- Review of documentation reflects that four transactions which exceeded the Procurement limit of \$30,000 required the approvals of the Local Contracts, Assets, & Procurement Committee (LCAP) but documentation evidencing approvals was not available.<sup>204</sup>
- Four transactions totaling \$152,587 for which documentation was not available included payments to consultants, NEX Advances, and advances towards fellowships and study tours.
- For 33% of the sampled vouchers, the payee signature (as evidence of receipt) was missing.
- Payments to consultants totaling approximately \$113,700 were not supported by an invoice as is required by the *Finance Manual*. Of these payments, \$22,500 was not supported by proof of service as is also required by the *Finance Manual*.

2. For 77 transactions (74%) the available supporting documentation was insufficient to determine whether the ultimate beneficiary is consistent with the payee name indicated in

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<sup>203</sup> The Panel notes that four boxes of source financial documentation were badly water-damaged and therefore could not be accessed.

<sup>204</sup> While this is the case, the Panel notes here that there was substantial evidence of other LCAP submissions for contracts. For example, the Panel notes a case, LCAP Case Number 21, reviewed on Nov. 29, 2006 for the procurement of books for project 41497 Capacity Building in Arms Control and Disarmament whereby the Committee met to review a submission to approve a \$2,978 USD contract to procure books for the project. The submission notes that the Country Office attempted to competitively procure the books from Amazon.com, Peter Justessen, Elsingor SA, and the UN Bookstore. The lack of a credit card for the UNDP-DPRK Country Office prevented the purchase from being made from Amazon.com; Elsingor SA was selected as the ultimate supplier on the basis of responsiveness. The submission was approved by Vineet Bhatia (Deputy Resident Representative) as well as other members of the LCAP and ultimately approved by Timo Pakkala (Resident Representative). From procurement to invoice to delivery, the Panel notes the compliance with appropriate procedure including appropriateness of purchase of the books (expendable items) for the project to be delivered to the Disarmament and Peace Institute.

the financial system (WINFOAS or ATLAS). Insufficient evidence includes unavailability of copies of cancelled checks for manual or other checks, wire transfers, bank transfers and demand draft advices for the Selected Transactions.

3. Analysis of the method of payment used for the Selected Transactions reflects the following:

Electronic Transfer <sup>205</sup>	59%
Manual Check or Checks <sup>206</sup>	31%
Demand Draft <sup>207</sup>	<u>10%</u>
<b>Total</b>	<b>100%</b>

#### *Allocation of Expenses to Projects*

Entire local administrative staff salaries (i.e., cleaners, gardeners, and drivers) for specific months subject to detailed testing were applied to projects. In addition, local professional staff salaries were allocated to the project. For example, the supporting documentation did not specify which staff member worked on the particular project thus the Panel cannot determine whether the amounts were properly charged to the projects. Similarly, in September 2003, one payment toward Mulualem Zeleke's (UNDP-DPRK Programme Officer<sup>208</sup>) Volunteer Living Allowance (VLA) totaling \$17,443 was allocated to 99001 Agricultural Recovery and Environment Protection Support Project without rationale for the one month of payment.<sup>209</sup>

Several payments to International Telecommunication Center totaling Korean Won 114,500 were made for periodic communication charges. A review of the supporting documents reflects itemized charges that were manually allocated to projects without clear cost basis.

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<sup>205</sup> In WINFOAS, funds transfers were captured as Bank Transfers, while in ATLAS they were captured as EFT (Electronic Funds Transfers).

<sup>206</sup> In WINFOAS, Checks were captured as Checks, while in ATLAS they were captured as MAN (Manual Checks).

<sup>207</sup> Per online research, "a Demand Draft is a method used by individuals to make transfer payments from one bank account to another...the major difference between demand drafts and normal checks is that demand drafts do not require a signature in order to be cashed."

<sup>208</sup> Mulualem Zeleke subsequently became UNDP-DPRK Procurement Officer.

<sup>209</sup> The Panel notes it had limited information on project budget allocations for shared staffing costs across projects.

A payment totaling EUR 202.06 was made to Marteen Boon, Chief Technical Advisor (CTA), for an office retreat. Based on the supporting documents available, it appears that others, including procurement staff (Zelege) and finance (Vijay Thapa), attended the same office retreat. It is not possible based on the available documentation to determine the rationale for the application of these charges to the project 41525 Capacity Building for Statistics Related to the Millennium Development Goals. (See Appendix 4 for detailed observations regarding specific transactions.)

In addition to the project walk-throughs, the Panel conducted a review of specific expenditure components. The Panel notes the following regarding Personnel (international consultants line), Training, and Miscellaneous expenditures.<sup>210</sup>

### *International Consultants*

Forty-three projects in the review sample incurred expenditures totaling \$3,620,254 for international consultants (19% of total projects expenditure). All international consultants were procured and contracted by UNDP, UNOPS, or another UN Agency. No documentation which could confirm the consultants' outputs could be found for the following five projects:

**Table 8: Projects with Deficient Supporting Documentation (International Consultants)**

<b>Project ID</b>	<b>Execution Modality</b>	<b>Project Title</b>	<b>Consultant Expenditure \$ USD</b>
99002	UN (UNIDO)	Export Processing Zones	14,000
00001	NEX hybrid (UNDP-CO)	Support to Capacity Building for AREP	8,400
00005	UN (UNIFEM)	Rationalizing Cottage Industries in Pyongyang II	17,901
02011	UN (WTO)	Tourism Development	112,000
51470	UN (UNIDO)	Conformity Assessment for Expo	27,994

<sup>210</sup> Equipment expenditures were reviewed in relation to the Panel's work on Item 3 of the Terms of Reference and are discussed in Chapter 4 of the Report.



<b>Project ID</b>	<b>Execution Modality</b>	<b>Project Title</b>	<b>Consultant Expenditure \$ USD</b>
		<b>TOTAL</b>	<b>180,295</b>

International consultants' expenditure in these projects accounted for 5% of the total international consultants' expenditures in the review sample, and 1% of the total expenditure of the review sample.

### ***Training***

Twenty-nine projects in the review sample incurred expenditure totaling \$1,860,257 for Training (including Fellowships), which represents 10% of total projects expenditure. Documentation confirming that the training had taken place could not be found for the following four projects:

**Table 9: Projects with Deficient Supporting Documentation (Training)**

<b>Project ID</b>	<b>Execution Modality</b>	<b>Project Title</b>	<b>Training Expenditure \$ USD</b>
90009	NEX	Programme Support	72,128
99001	UN (UNOPS)	AREP Support	93,202
00001	NEX	Support to Capacity Building for AREP	11,492
02004	UN (UNIFEM)	Support to Pyongyang Women's Trading and Garment Center	51,726
		<b>TOTAL</b>	<b>228,548</b>

Training expenditure in these projects accounted for 12% of the total training expenditures in the review sample, and 1% of the total expenditure of the review sample.

### ***Miscellaneous Expenditure***

In reviewing the projects expenditure data, there were a number of instances in which high miscellaneous expenditure was incurred. The relevant UNDP manuals define

miscellaneous expenditure as sundries “including “miscellaneous items such as postage and telephone charges when the Government is unable to meet these costs.” Miscellaneous also includes reporting costs which “include the cost of producing required reports when the report is prepared by the designated institution,” and “direct costs for certain country-office costs incurred in supporting programmes and projects of GEF and Capacity 20 only.”<sup>211</sup> In the project budgets, provision for miscellaneous expenditures average between 2% and 5% of the total project budget. In only one instance did the miscellaneous budget exceed \$50,000, for a very large project.

Miscellaneous expenditure was found to be extraordinarily high in the following 11 projects:

**Table 10: Extraordinary Miscellaneous Expenditures**

Project ID	Project Title	2003	2004	2005	2006	2007	Total
03006/12274	Capacity Building for Increased Coal Production in Chikdong Youth Coal Mine of DPR Korea	\$999	\$39,763	-\$9	-\$53		\$40,700
37898	DPRK-POPS (Persistent Organic Pollutants) Enabling Activity: Preparation of the National Implementation Plan under the Stockholm Convention			\$5,049	\$42,725	-\$2,231	\$45,543
90009	Programme Support Project	\$56,525					\$56,525
45354	Small Wind Energy Development and Promotion in Rural Areas				\$103,184	-\$1,218	\$101,965

<sup>211</sup> See, e.g., UNDP Programming Manual (1999–2006)

<b>Project ID</b>	<b>Project Title</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>Total</b>
03002/12271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	\$5,516	\$15,944	\$43,949	\$36,889	\$2,221	\$104,519
50817	Sustainable Rural Energy Development (SRED) Programme				\$6,178	\$129,539	\$135,717
41326	Capacity Development for Women-managed Enterprise Networks in DPR Korea			\$53,715	\$95,284	\$1,280	\$150,279
00037139/41525	Capacity Building for Statistics Related to the Millennium Development Goals			\$45,668	\$101,542	\$6,606	\$153,816
97001/55495	Environment and Industrial Pollution Management Programme in the Democratic People's Republic of Korea	\$153,588					\$153,588
02G35/12269	Coastal Biodiversity Management of DPR Korea's West Sea	\$8,039	\$1,897	\$53,508	\$147,143		\$210,586
41320	Capacity Building for Efficient Trade Procedures in DPR Korea			\$128,061	\$200,385	\$856	\$329,302
		<b>\$224,667</b>	<b>\$57,603</b>	<b>\$329,941</b>	<b>\$733,277</b>	<b>\$137,053</b>	<b>\$1,482,541</b>

The Panel notes that according to the UNDP, the following expenditure accounts are included as Miscellaneous:<sup>212</sup>

74500	Miscellaneous Expenses
74505	Insurance
74510	Bank Charges
74515	Claims and Adjustments
74520	Storage
74525	Sundry
74599	UNDP cost recovery chrgs-Bills

However, expenditures under these account codes also included costs related to overseas and in-country training, workshop, and fellowship. UNDP noted to the Panel that this is the case for UNDP projects worldwide.<sup>213</sup> The Panel takes note UNDP's assertion that training costs<sup>214</sup> captured under learning expenditure account codes are limited to staff training as opposed to project-training.

63400	Learning Costs
63405	Learning Costs
63406	Learning-Ticket Costs
63407	Learning-Subsistence Allowance
63408	Learning-Sub Contracts

These (extraordinary) miscellaneous expenditures in the projects sample account for \$1,482,541, which represents 9% of the total projects expenditure for the sample of 64 projects and 78% of the total miscellaneous expenditure for the sample of 64 projects.

### ***Conclusion Regarding Use of Funds***

The quantity, coverage, and quality of the documentation found and reviewed demonstrated that a significant majority of the projects' resources were managed and

<sup>212</sup> UNDP Chartfield of Expenditure Accounts.

<sup>213</sup> Regional Bureau for Asia and the Pacific statement to the Panel (Apr. 30, 2008).

<sup>214</sup> The total expenditure captured under Training for the projects sample is \$1,860,257.

accounted for substantially in accordance with UNDP rules, regulations, procedures, and practices. Based on the significant amount of relevant documentation referred to in secondary sources, e.g., independent evaluation and consultants' reports, which could not be found in the Country Office files, it is fair to infer that the documentation found and retrieved for this review was by no means exhaustive.

The review found no evidence to substantiate the allegations that the projects' resources were consistently mismanaged, significantly diverted for other purposes or generally unaccounted for. It is fair to conclude from the review that the program resources as a whole were generally managed and accounted for substantially in accordance with UNDP requirements and used for the purposes of the projects.

## **V. OVERALL CONCLUSIONS**

1. The Panel reviewed 106 individual projects comprising the UNDP's program in the DPRK from 1999–2007 as clusters, i.e., projects sharing common characteristics which would directly influence the implementation review.
2. The volume, quality, and scope of the relevant documentation retrieved demonstrated that the majority of the program, and more importantly the larger, more complex, or higher-risk projects, were managed, monitored, and evaluated substantially in accordance with UNDP requirements.
3. Of the 31 NEX projects in the review sample, 12 were small, short duration, or single output projects; none of the 16 NEX projects in the review sample without official management arrangements for support services or not under the AREP umbrella were pure "NEX" in that none of those projects were exclusively executed by a DPRK government executing agency.
4. Forty-four projects accounting for 82% of the total expenditure of the sample were executed through modalities which ensured that execution and, more particularly, procurement and use of funds were handled by UN Agencies or through the UNDP-DPRK Country Office.

5. There were clear monitoring and systematic reporting mechanisms in place. The manner in which these reviews were conducted and the decisions as to which tools were used in each situation were decided selectively based on specific criteria. UNDP rules on monitoring and evaluation are not based on a “one size fits all” approach. Rather, the rules provide for a range of monitoring and evaluation tools and associated reporting requirements that are meant to be adapted to the situation.
6. The monitoring and evaluation documentation which was found, though limited in some projects, was considered to be representative and satisfactory. There was documentation demonstrating that a significant majority of projects, and the program as a whole, was implemented, monitored, and evaluated in a manner substantially consistent with the UNDP requirements.
7. While there were clearly some weaknesses in the management, monitoring, reporting, and evaluation of projects, the Panel understands that UNDP had made and was making significant efforts to address them.
8. On the basis of its review, the Panel concludes that allegations suggesting that field visits did not occur are unfounded.
9. Field visit reports did not record any DPRK officials participating in the visits who were not directly involved in the implementation of the project. According to documentation, all participants appear to have held posts directly related to the project(s) which were the subject of the field visit.
10. The review found evidence to confirm that there were restrictions on free movement in DPRK, but clear procedures existed for expediting travel and site visits related to project implementation. The reality remains however, that project visits required clearance or authorization from the government, as is the practice in most UNDP-assisted countries.

11. The review of financial transaction documentation found no evidence to substantiate the allegations that the projects' resources were consistently mismanaged, significantly diverted for other purposes and generally unaccounted for.

## **VI. RECOMMENDATIONS**

UNDP management and regional bureaus should engage in transparent dialogue with donors. This would enable addressing specific country, program, or project concerns that could limit resources and support for country programs.

UNDP should prioritize a program approach to country assistance. As an example, the framework approach in AREP allowed the program to exploit synergies between projects and achieve overall better results.

National execution capacity should be strengthened in countries where it is lacking, in ways that are appropriate to the context. The national execution of projects is useful for combining project-level support with capacity and institution building. Supporting and training government counterparts and national staff will result in more outcome-based, sustainable practices.

In countries where capacity of the supreme audit institution is lacking, audits for nationally-executed projects should be externally and independently engaged.

Evaluation exercises should include thorough preparation that includes enhanced program and project documentation. It should also create database systems that streamline access to information for evaluators. Also, it is recommended that the post-evaluation process be strengthened by sharing the results in summary form—particularly for the more complex projects—with the Executive Board and Headquarters management for lessons learned.

Reinstate a specific training budget line to reduce the appearance of inflated miscellaneous costs. Adding capacity will require Country Offices to make full use of the UN system options available for training seconded national staff. Creating a training budget will not only reduce inflated miscellaneous costs but will also raise the profile of training as a component of capacity-building.

**APPENDIX 1: 1999-2007 UNDP-DPRK PROJECTS**

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
1	DRK90002		Soil-less Culture of Greenhouse Vegetables	\$ 1,895	UN Agency
2	DRK90006		Modernization of the Construction	\$ (100)	NEX
3	DRK90007		Electric Power Management Systems	\$ 200	NEX
4	DRK90009		Programme Support Project	\$ 296,320	NEX
5	DRK90014		Programme Logistical Support Project	\$ 22,500	UN Agency
6	DRK91004		Support to TCDC	\$ 13,220	NEX
7	DRK92003		Support to Disarmament Initiatives in DPRK	\$ 19,168	NEX
8	DRK92009		Strengthening of the R&D at the Anju Mine Engineering Institute	\$ 26,899	NEX
9	DRK92011		Energy Efficiency Improvement Programme	\$ 21,067	NEX
10	DRK92W01		Rationalizing Cottage Industry in Pyongyang	\$ 17,292	UN Agency
11	DRK94001		Efficiency and Sustainability in Agriculture	\$ 59,242	NEX
12	DRK95001		International Economic Cooperation Programme (IECP)	\$ 32,763	NEX
13	DRK95516		International Economic Cooperation Programme (IECP)	\$ 13,616	NEX
14	DRK96002		Support to Agricultural Relief and Rehabilitation Programme	\$ 54,459	UN Agency
15	DRK96G31		Enabling DPR Korea to Prepare its First National Communication in Response to its Commitments to the UNFCCC	\$ 44,833	NEX
16	DRK97001	55495	Environment and Industrial Pollution Management Programme in the Democratic People's Republic of Korea	\$ 1,049,151	NEX
17	DRK97002		Agricultural Rehabilitation and Food Security	\$ 329,630	UN Agency
18	DRK97006		Capacity-Building for Agricultural Rehabilitation and Food Security	\$ 167,992	UN Agency



	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
19	DRK97A02		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution of the Netherlands	\$ (7,121)	UN Agency
20	DRK97A03		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution from the Canadian Foodgrain Bank	\$ (3,078)	UN Agency
21	DRK97G31		National Biodiversity Strategic and Action Plan, and Report to the Country Office.	\$ 117,595	NEX
22	DRK98006		Support to Agricultural Sector	\$ (3,423)	UN Agency
23	DRK98A01		1998 Double-Crop Programme Contribution from CARITAS	\$ (83)	UN Agency
24	DRK98A02		1998 Double-Crop Programme Contribution from Norway		UN Agency
25	DRK98A03		Economic Management Training (EMTP) of DPR Korea	\$ 12,595	UN Agency
26	DRK98A04		1998/99 Autumn/Winter Double Crop Programme Contribution from Norway	\$ 82,253	UN Agency
27	DRK99001	12256	Agricultural Recovery and Environment Protection Support Project	\$ 2,185,293	UN Agency
28	DRK99002		Support for the Establishment of Export Processing Zones and Bonded Manufacturing and Warehouse Facilities	\$ 22,973	UN Agency
29	DRK99004		Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	\$ 456,702	UN Agency
30	DRK99005		Agriculture Rehabilitation and Food Security (ARRP Phase II)	\$ 59,605	UN Agency
31	DRK99006		Rehabilitation of the Namyang Salt Pan for Universal Salt Iodization	\$ 92,051	NEX
32	DRK99007		AREP Support Project for Salt Production	\$ 100,344	NEX
33	DRK99008		Emergency Flood Relief and Preparedness	\$ 92,125	NEX
34	DRK99A03		Agriculture Recovery and Environment Protection Fertilizer Support Project	\$ 163,723	UN Agency
35	DRK99A05		AREP Support Project for Sweet Potato Cultivation	\$ 112,095	NEX

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
36	DRK99A06		AREP Support Project for Sweet Potato Cultivation	\$ 33,310	NEX
37	DRK99G41		Renewable Energy Development for Rural Electrification Project	\$ 22,103	UN Agency
38	DRK00001		Support to Capacity Building for Agricultural Recovery and Environmental Protection Programme through TCDC	\$ 25,292	NEX
39	DRK00003		Capacity Building in the UN System	\$ 21,922	NEX
40	DRK00004		Formulation of Advisory Note and CCF	\$ 24,268	UN Agency
41	DRK00005		Rationalizing Cottage Industries in Pyongyang II	\$ 77,238	UN Agency
42	DRK00111	12261	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$ 99,148	UN Agency
43	DRK00A01		Human Resource Upgrading to Support the Air Traffic Services	\$ 181,216	UN Agency
44	DRK00G35	12257	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$ 715,485	UN Agency
45	DRK01001		Strengthening Environmental Assessment and Reporting in DPR of Korea	\$ 16,890	NEX
46	DRK01002		Emergency Response to Flood Damage in Kangwon Province	\$ 78,500	NEX
47	DRK01A01	12259	AREP Support Project for Reforestation	\$ 183,939	NEX
48	DRK01A05	12258	NEAFF Support to Forestry Rehabilitation Component of Agricultural Rehabilitation and Environmental Protection	\$ 335,787	UN Agency
49	DRK02001		Project Formulation Mission for "Capacity Building for Enhanced Development Cooperation"	\$ 59,666	NEX
50	DRK02002	12262	Capacity Building for Enhanced Development Cooperation	\$ 1,083,830	DEX
51	DRK02003	12263	Sweet Potato Cultivation and Processing	\$ 245,296	NEX
52	DRK02004		Support to Pyongyang Women's Trading and Garment Center	\$ 294,856	UN Agency
53	DRK02005	12266/12267	Formulation of Documentation on Sustainable Rural Energy Strategy Investment and Plan	\$ 430,047	DEX

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
54	DRK02008		Support to Capacity Building for Chikdong Coal Mine in DPRK	\$ 29,212	UN Agency
55	DRK02011		Sustainable Tourism Development for Mt Chilbo	\$ 139,000	UN Agency
56	DRK02A01		Support to the Central Tree Nursery in the DPRK	\$ 15,006	NEX
57	DRK02A02		Capacity Building for Enhanced Information Technology Training by the Osaka and Pyongyang Training Center	\$ 242,603	NEX
58	DRK02A03	12264	Emergency Response to Rice Water Weevil Epidemic	\$ 520	NEX
59	DRK02A04	12265	Emergency Response to Rice Water Weevil Epidemic	\$ 163,256	NEX
60	DRK02A05	12268	Enhanced Capacity for Selected Financial Institutions in DPR Korea	\$ 157,893	NEX
61	DRK02G35	12269	Coastal Biodiversity Management of DPR Korea's West Sea	\$ 635,336	UN Agency
62	DRK02U01	12260	Capacity Building for Disarmament Initiatives	\$ 240,676	NEX
63	DRK03001	12270	Coastal Biodiversity Management of DPR Korea's West Sea	\$ 72,877	UN Agency
64	DRK03002	12271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	\$ 344,830	NEX
65	DRK03003	12272	Support to UNDP/TCDC Activities of DPR Korea	\$ 191,839	NEX
66	DRK03004	12273	Enhanced National Capacity for Disaster Mitigation and Preparedness through GIS/RIS	\$ 504,822	UN Agency
67	DRK03006	12274	Capacity Building for Increased Coal Production in Chikdong Youth Coal Mine of DPR Korea	\$ 203,735	NEX
68	DRK03007		Human Resource Upgrading to Support the Air Traffic Services	\$ 201,847	UN Agency
69	DRK03008	12275	Support towards Increased Access to Food for Rural Population through Propagation of grass-feeding animal and its Products	\$ 348,345	NEX

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
70	DRK03009		Project Formulation Mission for "Capacity Building for Enhanced National E-Trade Procedure System"	\$ 20,287	NEX
71	DRK03010	12277	Support to Wonsan Hydro-Power Scheme Development	\$ 449,279	NEX
72	DRK03012	12276	Training of Irrigation Designers for Protecting the Drought Damage by Undertaking the Active Irrigation Construction in Developing Countries	\$ 40,000	NEX
73	DRK03013	32542/41354	Support Project for Environmental Liaison Officer	\$ 4,048	NEX
74	PRK00037139	41525	Capacity Building for Statistics Related to the Millennium Development Goals	\$ 1,039,466	UN Agency
75	32958	32958	Improved Country level Coordination	\$ 21,582	DEX
76	32959	32959	Improved Country level Coordination	\$ 20,674	DEX
77	32960	32960	Strengthen Coordination Capacity	\$ 52,228	DEX
78	32961	32961	Increasing Efficiency & Cost Effectiveness	\$ 65,512	DEX
79	34007	34007	Cooperation for Flower and Vegetables Technology	\$ 39,960	NEX
80	34013	34013	Development Support Services	\$ 45,963	DEX
81	37512	37512	Emergency Response to the Ryongchon Disaster	\$ 45,710	NEX
82	37898	37898	DPRK-POPS (Persistent Organic Pollutants) Enabling Activity: Preparation of the National Implementation Plan under the Stockholm Convention	\$ 285,431	NEX
83	40947	40947	Training of Groundnuts Breeding Experts for the Effective Use of Groundnut Genetic Resources in the Developing Countries	\$ 44,550	NEX
84	41074	41074	Training of Researchers for Production, Processing and Inspection Methods of Seed in Developing Countries	\$ 44,550	NEX
85	41320	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	\$ 815,676	UN Agency

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
86	41326	41326	Capacity Development for Women-managed Enterprise Networks in DPR Korea	\$ 362,795	UN Agency
87	41497	41497	Capacity Building in Arms Control and Disarmament	\$ 225,944	NEX
88	44026	44026	Capacity Building for Human Resource Development in Mt. Chilbo	\$ 479,487	UN Agency
89	45191	45191	Development Support Services	\$ 68,194	DEX
90	45354	45354	Small Wind Energy Development and Promotion in Rural Areas	\$ 268,375	UN Agency
91	45469	45469	Small Wind Energy Development and Promotion in Rural Areas	\$ 76,453	UN Agency
92	45550	45550	Rajin – Wonjong Road Feasibility Study	\$ 17,362	NEX
93	45836	45836	Support to Capacity Building in the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women	\$ 28,679	NEX
94	48437	48437	Training of Experts of Construction and Operation of Small-Size Hydropower Plants of Developing Countries	\$ 29,154	NEX
95	48439	48439	Training of Irrigation and Drainage Designers for Protecting the Drought and Flood Damage in Developing Countries	\$ 33,846	NEX
96	48440	48440	Training of Experts of Standardization and Meteorology of Developing Countries	\$ 33,846	NEX
97	49653	49653	Strengthening National Capacity for Programme Results	\$ 368,818	DEX
98	50029	50029	The Economic Management Training Project	\$ 822	DEX
99	50030	50030	The Economic Management Training Project	\$ 44,071	DEX
100	50031	50031	The Economic Management Training Project	\$ 84,215	DEX
101	50817	50817	Sustainable Rural Energy Development (SRED) Programme	\$ 560,931	DEX

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
102	51470	51470	Technical Assessment Mission for Capacity Building for Conformity Assessment for Export Market Access	\$ 35,864	UN Agency
103	54730	54730	Coordination for Results	\$ 35,499	DEX
104	55275	55275	Coordination Capacity of the UNCT	\$ 48,564	DEX
105	55460	55460	UN Advocacy and Resource Mobilization	\$ 5,000	DEX
106	55461	55461	Non-resident UN Agencies	\$ 1	DEX
<b>Total:</b>				<b>\$ 18,917,222</b>	

**APPENDIX 2: 1999-2007 UNDP-DPRK PROJECTS (Sub-sets)**

	<b>Project Subset</b>	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
1	1-pre-1999	DRK90002		Soil-less Culture of Greenhouse Vegetables	\$1,895	UN Agency
2	1-pre-1999	DRK90006		Modernization of the Construction	-\$100	NEX
3	1-pre-1999	DRK90007		Electric Power Management Systems	\$200	NEX
4	1-pre-1999	DRK90014		Programme Logistical Support Project	\$22,500	UN Agency
5	1-pre-1999	DRK91004		Support to TCDC	\$13,220	NEX
6	1-pre-1999	DRK92003		Support to Disarmament Initiatives in DPRK	\$19,168	NEX
7	1-pre-1999	DRK92009		Strengthening of the R&D at the Anju Mine Engineering Institute	\$26,899	NEX
8	1-pre-1999	DRK92011		Energy Efficiency Improvement Programme	\$21,067	NEX
9	1-pre-1999	DRK92W01		Rationalizing Cottage Industry in Pyongyang	\$17,292	UN Agency
10	1-pre-1999	DRK94001		Efficiency and Sustainability in Agriculture	\$59,242	NEX
11	1-pre-1999	DRK95001		International Economic Cooperation Programme (IECP)	\$32,763	NEX
12	1-pre-1999	DRK95516		International Economic Cooperation Programme (IECP)	\$13,616	NEX
13	1-pre-1999	DRK96002		Support to Agricultural Relief and Rehabilitation Programme	\$54,459	UN Agency

	<b>Project Subset</b>	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
14	1-pre-1999	DRK96G31		Enabling DPR Korea to Prepare its First National Communication in Response to its Commitments to the UNFCCC	\$44,833	NEX
15	1-pre-1999	DRK97002		Agricultural Rehabilitation and Food Security	\$329,630	UN Agency
16	1-pre-1999	DRK97006		Capacity-Building for Agricultural Rehabilitation and Food Security	\$167,992	UN Agency
17	1-pre-1999	DRK97A02		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution of the Netherlands	-\$7,121	UN Agency
18	1-pre-1999	DRK97A03		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution from the Canadian Foodgrain Bank	-\$3,078	UN Agency
19	1-pre-1999	DRK97G31		National Biodiversity Strategic and Action Plan, and Report to the Country Office	\$117,595	NEX
20	1-pre-1999	DRK98006		Support to Agricultural Sector	-\$3,423	UN Agency
21	1-pre-1999	DRK98A01		1998 Double-Crop Programme Contribution from CARITAS	-\$83	UN Agency
22	1-pre-1999	DRK98A02		1998 Double-Crop Programme Contribution from Norway	\$0	UN Agency
23	1-pre-1999	DRK98A03		Economic Management Training (EMTP) of DPR Korea	\$12,595	UN Agency



	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
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**Total sub-set 1: \$941,161**

1	2 - UNDP-A	DRK03013	32542/41354	Support Project for Environmental Liaison Officer	\$4,048	NEX
2	2 - UNDP-A	32958	32958	Improved Country level Coordination	\$21,582	DEX
3	2 - UNDP-A	32959	32959	Improved Country level Coordination	\$20,674	DEX
4	2 - UNDP-A	32960	32960	Strengthen Coordination Capacity	\$52,228	DEX
5	2 - UNDP-A	32961	32961	Increasing Efficiency & Cost Effectiveness	\$65,512	DEX
6	2 - UNDP-A	34013	34013	Development Support Services	\$45,963	DEX
7	2 - UNDP-A	45191	45191	Development Support Services	\$68,194	DEX
8	2 - UNDP-A	49653	49653	Strengthening National Capacity for Programme Results	\$368,818	DEX
9	2 - UNDP-A	54730	54730	Coordination for Results	\$35,499	DEX
10	2 - UNDP-A	55275	55275	Coordination Capacity of the UNCT	\$48,564	DEX
11	2 - UNDP-A	55460	55460	UN Advocacy and Resource Mobilization	\$5,000	DEX
12	2 - UNDP-A	55461	55461	Non-resident UN Agencies	\$1	DEX

**Total sub-set 2: \$736,083**

1	3-PGTF	DRK03012	12276	Training of Irrigation Designers for Protecting the Drought Damage by Undertaking the Active Irrigation Construction in Developing Countries	\$40,000	NEX
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	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
2	3-PGTF	34007	34007	Cooperation for Flower and Vegetables Technology	\$39,960	NEX
3	3-PGTF	40947	40947	Training of Groundnuts Breeding Experts for the Effective Use of Groundnut Genetic Resources in the Developing Countries	\$44,550	NEX
4	3-PGTF	41074	41074	Training of Researchers for Production, Processing and Inspection Methods of Seed in Developing Countries	\$44,550	NEX
5	3-PGTF	48437	48437	Training of Experts of Construction and Operation of Small-Size Hydropower Plants of Developing Countries	\$29,154	NEX
6	3-PGTF	48439	48439	Training of Irrigation and Drainage Designers for Protecting the Drought and Flood Damage in Developing Countries	\$33,846	NEX
7	3-PGTF	48440	48440	Training of Experts of Standardization and Meteorology of Developing Countries	\$33,846	NEX
<b>Total sub-set 3:</b>					<b>\$265,907</b>	
1	4-Small/short/single	DRK02A04	12265	Emergency Response to Rice Water Weevil Epidemic	\$163,256	NEX

	<b>Project Subset</b>	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
2	4-Small/short/single	37512	37512	Emergency Response to the Ryongchon Disaster	\$45,710	NEX
3	4-Small/short/single	DRK00001		Support to Capacity Building for Agricultural Recovery and Environmental Protection Programme through TCDC	\$25,292	NEX
4	4-Small/short/single	DRK00003		Capacity Building in the UN System	\$21,922	NEX
5	4-Small/short/single	DRK00004		Formulation of Advisory	\$24,268	UN Agency
6	4-Small/short/single	DRK01001		Strengthening Environmental Assessment and Reporting in DPR of Korea	\$16,890	NEX
7	4-Small/short/single	DRK01002		Emergency Response to Flood Damage in Kangwon Province	\$78,500	NEX
8	4-Small/short/single	DRK02001		Project Formulation Mission for "Capacity Building for Enhanced Development Cooperation"	\$59,666	NEX
9	4-Small/short/single	DRK02008		Support to Capacity Building for Chikdong Coal Mine in DPRK	\$29,212	UN Agency
10	4-Small/short/single	DRK02011		Sustainable Tourism Development for Mt Chilbo	\$139,000	UN Agency
11	4-Small/short/single	DRK02A01		Support to the Central Tree Nursery in the DPRK	\$15,006	NEX

	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
12	4-Small/short/single	DRK02A02		Capacity Building for Enhanced Information Technology Training by the Osaka and Pyongyang Training Center	\$242,603	NEX
13	4-Small/short/single	DRK03009		Project Formulation Mission for "Capacity Building for Enhanced National E-Trade Procedure System"	\$20,287	NEX
14	4-Small/short/single	DRK98A04		1998/99 Autumn/Winter Double Crop Programme Contribution from Norway	\$82,253	UN Agency
15	4-Small/short/single	DRK99002		Support for the Establishment of Export Processing Zones and Bonded Manufacturing and Warehouse Facilities	\$22,973	UN Agency
16	4-Small/short/single	DRK99005		Agriculture Rehabilitation and Food Security (ARRP Phase II)	\$59,605	UN Agency
17	4-Small/short/single	DRK99006		Rehabilitation of the Namyang Salt Pan for Universal Salt Iodization	\$92,051	NEX
18	4-Small/short/single	DRK99008		Emergency Flood Relief and Preparedness	\$92,125	NEX
19	4-Small/short/single	DRK99A03		Agriculture Recovery and Environment Protection Fertilizer Support Project	\$163,723	UN Agency

	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
20	4-Small/short/single	DRK99G41		Renewable Energy Development for Rural Electrification Project	\$22,103	UN Agency

**Total sub-set 4: \$1,416,445**

1	5-2006	45354	45354	Small Wind Energy Development and Promotion in Rural Areas	\$268,375	UN Agency
2	5-2006	45469	45469	Small Wind Energy Development and Promotion in Rural Areas	\$76,453	UN Agency
3	5-2006	45550	45550	Rajin – Wonjong Road Feasibility Study	\$17,362	NEX
4	5-2006	50029	50029	The Economic Management Training Project	\$822	DEX
5	5-2006	50030	50030	The Economic Management Training Project	\$44,071	DEX
6	5-2006	50031	50031	The Economic Management Training Project	\$84,215	DEX
7	5-2006	50817	50817	Sustainable Rural Energy Development (SRED) Programme	\$560,931	DEX
8	5-2006	51470	51470	Technical Assessment Mission for Capacity Building for Conformity Assessment for Export Market Access	\$35,864	UN Agency

**Total sub-set 5: \$1,088,092**

	<b>Project Subset</b>	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
1	6-All Other	37898	37898	DPRK-POPS (Persistent Organic Pollutants) Enabling Activity: Preparation of the National Implementation Plan under the Stockholm Convention	\$285,431	NEX
2	6-All Other	41320	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	\$815,676	UN Agency
3	6-All Other	41326	41326	Capacity Development for Women-managed Enterprise Networks in DPR Korea	\$362,795	UN Agency
4	6-All Other	41497	41497	Capacity Building in Arms Control and Disarmament	\$225,944	NEX
5	6-All Other	44026	44026	Capacity Building for Human Resource Development in Mt. Chilbo	\$479,487	UN Agency
6	6-All Other	45836	45836	Support to Capacity Building in the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women	\$28,679	NEX
7	6-All Other	DRK00005		Rationalizing Cottage Industries in Pyongyang II	\$77,238	UN Agency
8	6-All Other	DRK00111	12261	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$99,148	UN Agency

	<b>Project Subset</b>	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Execution Modality</b>
9	6-All Other	DRK00A01		Human Resource Upgrading to Support the Air Traffic Services	\$181,216	UN Agency
10	6-All Other	DRK00G35	12257	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$715,485	UN Agency
11	6-All Other	DRK01A01	12259	AREP Support Project for Reforestation	\$183,939	NEX
12	6-All Other	DRK01A05	12258	NEAFF Support to Forestry Rehabilitation Component of Agricultural Rehabilitation and Environmental Protection	\$335,787	UN Agency
13	6-All Other	DRK02002	12262	Capacity Building for Enhanced Development Cooperation	\$1,083,830	DEX
14	6-All Other	DRK02003	12263	Sweet Potato Cultivation and Processing	\$245,296	NEX
15	6-All Other	DRK02004		Support to Pyongyang Women's Trading and Garment Center	\$294,856	UN Agency
16	6-All Other	DRK02005	12266/12267	Formulation of Documentation on Sustainable Rural Energy Strategy Investment and Plan	\$430,047	DEX
17	6-All Other	DRK02A03	12264	Emergency Response to Rice Water Weevil Epidemic	\$520	NEX
18	6-All Other	DRK02A05	12268	Enhanced Capacity for Selected Financial Institutions in DPR Korea	\$157,893	NEX

	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
19	6-All Other	DRK02G35	12269	Coastal Biodiversity Management of DPR Korea's West Sea	\$635,336	UN Agency
20	6-All Other	DRK02U01	12260	Capacity Building for Disarmament Initiatives	\$240,676	NEX
21	6-All Other	DRK03001	12270	Coastal Biodiversity Management of DPR Korea's West Sea	\$72,877	UN Agency
22	6-All Other	DRK03002	12271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	\$344,830	NEX
23	6-All Other	DRK03003	12272	Support to UNDP/TCDC Activities of DPR Korea	\$191,839	NEX
24	6-All Other	DRK03004	12273	Enhanced National Capacity for Disaster Mitigation and Preparedness through GIS/RIS	\$504,822	UN Agency
25	6-All Other	DRK03006	12274	Capacity Building for Increased Coal Production in Chikdong Youth Coal Mine of DPR Korea	\$203,735	NEX
26	6-All Other	DRK03007		Human Resource Upgrading to Support the Air Traffic Services	\$201,847	UN Agency
27	6-All Other	DRK03008	12275	Support towards Increased Access to Food for Rural Population through Propagation of grass-feeding animal and its Products	\$348,345	NEX



	Project Subset	Project Number	Atlas Project Number	Project Title	Sum Amount	Execution Modality
28	6-All Other	DRK03010	12277	Support to Wonsan Hydro-Power Scheme Development	\$449,279	NEX
29	6-All Other	DRK90009		Programme Support Project	\$296,320	NEX
30	6-All Other	DRK97001	55495	Environment and Industrial Pollution Management Programme in the Democratic People's Republic of Korea	\$1,049,151	NEX
31	6-All Other	DRK99001	12256	Agricultural Recovery and Environment Protection Support Project	\$2,185,293	UN Agency
32	6-All Other	DRK99004		Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	\$456,702	UN Agency
33	6-All Other	DRK99007		AREP Support Project for Salt Production	\$100,344	NEX
34	6-All Other	DRK99A05		AREP Support Project for Sweet Potato Cultivation	\$112,095	NEX
35	6-All Other	DRK99A06		AREP Support Project for Sweet Potato Cultivation	\$33,310	NEX
36	6-All Other	PRK00037139	41525	Capacity Building for Statistics Related to the Millennium Development Goals	\$1,039,466	UN Agency

**Total sub-set 6: \$14,469,535**

**Grand Total: \$18,917,222**

**APPENDIX 3: 1999-2007 UNDP-DPRK PROJECTS UNDER ARRП AND AREP**

**UMBRELLA**

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Project Categories</b>	<b>Execution Modality</b>
1	DRK99A06		AREP Support Project for Sweet Potato Cultivation	\$33,310	AREP	NEX
2	DRK99A05		AREP Support Project for Sweet Potato Cultivation	\$112,095	AREP	NEX
3	DRK99A03		Agriculture Recovery and Environment Protection Fertilizer Support Project	\$163,723	AREP	UN Agency
4	DRK99008		Emergency Flood Relief and Preparedness	\$92,125	AREP	NEX
5	DRK99007		AREP Support Project for Salt Production	\$100,344	AREP	NEX
6	DRK99006		Rehabilitation of the Namyang Salt Pan for Universal Salt Iodization	\$92,051	AREP	NEX
7	DRK99005		Agriculture Rehabilitation and Food Security (ARRP Phase II)	\$59,605	ARRP	UN Agency
8	DRK99004		Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	\$456,702	AREP	UN Agency
9	DRK99001	12256	Agricultural Recovery and Environment Protection Support Project	\$2,185,293	AREP	UN Agency
10	DRK98A04		1998/99 Autumn/Winter Double Crop Programme Contribution from Norway	\$82,253	AREP	UN Agency
11	DRK98A02		1998 Double-Crop Programme Contribution from Norway	\$0	AREP	UN Agency
12	DRK98A01		1998 Double-Crop Programme Contribution from CARITAS	-\$83	AREP	UN Agency
13	DRK97A03		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution from the Canadian Foodgrain Bank	-\$3,078	ARRP	UN Agency
14	DRK97A02		Agricultural Relief and Rehabilitation Programme (ARRP) Contribution of the Netherlands	-\$7,121	ARRP	UN Agency

	<b>Project Number</b>	<b>Atlas Project Number</b>	<b>Project Title</b>	<b>Sum Amount</b>	<b>Project Categories</b>	<b>Execution Modality</b>
15	DRK97006		Capacity-Building for Agricultural Rehabilitation and Food Security	\$167,992	AREP	UN Agency
16	DRK97002		Agricultural Rehabilitation and Food Security	\$329,630	AREP	UN Agency
17	DRK96002		Support to Agricultural Relief and Rehabilitation Programme	\$54,459	ARRP	UN Agency
18	DRK03008	12275	Support towards Increased Access to Food for Rural Population through Propagation of grass-feeding animal and its Products	\$348,345	AREP	NEX
19	DRK01A05	12258	NEAFF Support to Forestry Rehabilitation Component of Agricultural Rehabilitation and Environmental Protection	\$335,787	AREP	UN Agency
20	DRK01A01	12259	AREP Support Project for Reforestation	\$183,939	AREP	NEX
21	DRK01002		Emergency Response to Flood Damage in Kangwon Province	\$78,500	AREP	NEX
22	DRK00001		Support to Capacity Building for Agricultural Recovery and Environmental Protection Programme through TCDC	\$25,292	AREP	NEX

## APPENDIX 4: PROJECT WALK-THROUGH TRANSACTIONS TESTED AND SPECIFIC OBSERVATIONS

### Specific Transactions Observations

1. In one instance, funds from one project (90009) were used to pay an invoice related to another project. Available supporting documentation reflects that communication charges totaling \$1,384 were transferred from 97001 to 90009. This transfer was supported by an internal memo between Kim Su Gong and David Morton stating as follows: *“this change is due to there [sic] is no [sic] enough funds available under the project DRK/97/001/01/99 to cover the requesting [sic] amount of \$1,851”*.

It appears that occasionally, funds from one project were used to pay invoices for another project, but was usually reversed once budgets were revised.

2. Funds related to a consultant, Roberto Christen totaling \$22,500 (99001), were wired to a UBS account held under the name of Maria Christen. Further, according to the Special Services Agreement, the fees to be paid were to be \$9,790 per month; however the actual payment was generally \$8,000 per month. Invoices, timesheets, or consultant evaluations were not available along with the supporting documentation.

3. One of the Selected Transactions for 50817 included a payment of EUR 13,000 to Peace Motors for the purchase of a vehicle. While Year 1 budget for equipment<sup>215</sup> is \$165,000, it is not evident whether the purchase of the vehicle is in accordance with the mandate of the project, given that there is a lack of detail in the project budget document. Approvals available for this acquisition include approvals from Vineet Bhatia (Deputy Resident Representative) and Muluaem Zeleke (Procurement Officer). The supporting documentation also included a submission to the LCAP for a waiver from the usual procurement process.

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<sup>215</sup> UNDP-DPRK vehicles are generally recorded in an equipment account.

4. Vouchers for Project 97001 reflect that there were four Nationals (Ri Jun Ho, Kim Myong Hwan, Li Sun Hui, and Jang Yong) who travelled to Paris for a study tour. A review of the documentation attached reflects that round-trip air-tickets (Pyongyang-Beijing-Paris-Beijing-Pyongyang) were provided to the travelers by UNDP. However, it also appears that part of the advance that was paid included fare for a train ticket for the Beijing-Pyongyang section of the trip and therefore may have been over-paid by \$280 USD in total in the process.

5. The Delivery Note for an invoice for computers and office furniture totaling \$14,023 for Jawala Corp (Project 122260) was not available.

6. Payments totaling \$92,668 were made to DPRK government agencies or government employees. The support for these payments indicated they were for study tours and fellowships. These generally represent an advance of 80% of the Daily Subsistence Allowance (DSA)/transportation charges that are due to individuals that are traveling.

Advances related to DSA payments are made to the executing government agency. It is the Panel's understanding that if the project was a DEX project, i.e. executed by UNDP-DPRK, there should be supporting documentation including invitations. If however, the project was executed by another UN Agency or the government (NEX), the supporting documentation may be limited to an inter-office memo.

The 20% balance DSA was paid to the local staff contingent on them providing boarding passes, receipts, but most importantly, the post-conference report. One transaction was tested and the documentation was found to be adequate.

7. The calculated amount of DSA on Voucher ID 0005 was \$18,201; however, the amount was manually adjusted to \$15,010. It was not evident why this adjustment was made.

## **Chapter 4**

### **Report on Dual Use Equipment**

#### **(Terms of Reference, Item 3)**

#### **I. TERMS OF REFERENCE**

Identify all equipment that may qualify as having “dual use” procured by or for UNDP projects or procured by UNDP for other UN entities, other entities and/or other countries, and make every effort to determine whether, within the parameters of the rules and regulations that existed at the time, including legal interpretation of such rules and regulations, such equipment was exported by the concerned vendors in compliance with applicable international export licensing requirements, the nature of the equipment, the names of the vendors who supplied such equipment, and the current disposition and location of such equipment.

#### **II. APPLICABLE INTERNATIONAL EXPORT LICENSING REQUIREMENTS**

##### **A. Executive Summary**

In this Chapter, the Panel considers compliance with applicable international export licensing requirements in the context of United Nations Development Programme’s (UNDP) operations in the Democratic Peoples Republic of Korea (DPRK). The analysis begins with UN privileges and immunities. Under the Convention on the Privileges and Immunities of the UN, the UNDP and its employees are immune from the enforcement of export control laws. At the same time, however, UNDP contractors, such as vendors and distributors, are not so clearly covered by UN privileges and immunities.

In either case, sensitivity to applicable export controls is required. With respect to UNDP’s program in the DPRK, products were exported from numerous countries including Australia, the Netherlands, and China. The laws of these countries are thus relevant to a consideration of potential export control requirements. An agreement between several countries known as the Wassenaar Arrangement is relevant as well. And while no products were exported directly from the U.S., the U.S. would likely claim a cross-border application of its regulations in certain instances.

While familiarity with and sensitivity to export control systems is clearly necessary in connection with UNDP's operations and its relationships with contractors, the applicable international laws are exceedingly complex. In many instances, questions of applicability remain unresolved. For example, there are questions about whether and to what extent a country's export control system can have cross-border application. Other questions exist as to which parties in a supply chain are subject to a given export control system and whether persons who facilitate exports face compliance obligations.

In this report, the Panel has not attempted to examine every possible export control regime. Nor has it attempted to resolve controversies and questions concerning the applicability of such laws or the inherent tensions that exist from competing interpretations. In fact, these tensions among laws and the application of privileges and immunities are not issues unique to UNDP, but instead have broad applicability to the UN system as a whole. Resolution of the applicability of international dual use principles will require extensive discussion and agreement on a UN-wide basis with input from and agreement by the Member States. The Panel does not consider that its review will resolve these matters, and any such efforts would far exceed the Panel's Terms of Reference.

In addressing the applicability of international laws relating to the export of dual use products, the Panel discusses in this Section the following three primary factors:

- Privileges and immunities apply to the UN and bar application of national laws to its operations.
- UNDP plays a unique role in the countries in which it operates in relation to equipment purchases.
- Export control regimes vary substantially from country to country and raise numerous complex legal issues having a case-by-case applicability.

(Section III of this Chapter discusses U.S. export control laws. Without finding that U.S. law applies, the Panel offers an analysis of the U.S. law in the context of UNDP's program in the DPRK.)

## **B. UN Privileges and Immunities**

UN privileges and immunities emanate from the Convention on the Privileges and Immunities of the United Nations (the "Convention"). Sections 3 and 7 of the Convention

are the primary provisions applicable in the context of dual use analysis and provide as follows:

The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

...

The United Nations, its assets, income and other property shall be ... exempt from ... prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country.<sup>216</sup>

On November 26, 2007, in response to questions by the Permanent Mission of the United States to the UN, UNDP explained the operation of the UN privileges and immunities in the context of export control laws and set forth the position of the UN's Office of Legal Affairs. As explained in this correspondence, the UN approaches the issue from two angles. The first is from the perspective of the UN playing the role of exporter. In this context, the UN Legal Affairs Office explained as follows:

Accordingly, where the United Nations itself is the exporter, provided that the exports are for the official use of the United Nations, including UNDP, it is the Organization's position that it is not legally required to obtain an export license. However, any subsequent disposal of such equipment would need to be undertaken in accordance with the applicable law, which may include export control laws and regulations, for example, in the event that the United Nations would dispose of such equipment through a sale to third parties.<sup>217</sup>

The second perspective concerns circumstances in which the UN retains a contractor to export products for the organization. According to the UN, "[i]n such a case, it would be the UN contractor that would be required to obtain an export license..." In the case of UN contractors, moreover, standard UN contract terms contain provisions requiring contractors

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<sup>216</sup> Convention on the Privileges and Immunities of the United Nations, §§ 3 & 7.

<sup>217</sup> Kemal Dervis letter to Ambassador Zalmay Khalilzad (Nov. 26, 2007) (attaching analysis of UN's Office of Legal Affairs in a memorandum entitled, "Legal Position of the UN Regarding US Export Control Laws").



to comply with laws and regulations, “which would require the contractor to obtain any necessary export licenses.”<sup>218</sup>

According to the UN, the privileges and immunities apply to UN personnel. However, it is less clear that the immunities extend to vendors, distributors, etc. from whom the UN purchases equipment. While it may be possible for such parties to claim immunity, the UN generally takes the position that its third party private sector contractors, vendors, distributors, etc. should obtain any required licenses. This is in keeping with the customary diplomatic practice of respecting the laws of host countries.

In addition, the UN takes the position that Article II, Section 7 of the Convention permits the transfer of exported items to the country to which the items were exported, so long as the transfer is consistent with that country’s requirements.<sup>219</sup> Regarding UNDP’s operations in the DPRK, the Panel understands from discussions with the UN Office of Legal Affairs that one interpretation is that the Convention covers the final transfer of UNDP project items to the DPRK government notwithstanding earlier written guidance to the contrary.<sup>220</sup>

### **C. UNDP’s Role**

In the countries in which it operates, UNDP serves two key functions which are relevant to the examination of equipment purchases. The first is as a partner to government activities, such that UNDP owns equipment resources acquired for in-country projects. However, equipment is designed for use by and ultimately transferred to the governments. The second is as a central focal point for UN operations in a country where another UN agency may not have a head of agency. In this latter role, the UNDP Resident Representative is the consignee for UN imports into the country and also provides services to other UN

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<sup>218</sup> Kemal Dervis letter to Ambassador Zalmay Khalilzad (Nov. 26, 2007) (attaching analysis of UN’s Office of Legal Affairs in a memorandum entitled, “Legal Position of the UN Regarding US Export Control Laws”).

<sup>219</sup> Larry Johnson memorandum to Peri Johnson (Aug. 2, 2007) (memorandum entitled “Legal Obligations of the UNDP regarding Export Control Licensing Requirements of the United States Government”; setting forth the views of the UN’s Office of Legal Affairs). In this memorandum, the UN’s Office of Legal Affairs states that any disposal of exported equipment, such as a sale to third parties, must be undertaken in accordance with applicable law. We further note that in that same memorandum, the UN’s Office of Legal Affairs specifies that the UN’s procurement practice has been to require its contractors to obtain any required export licenses.

<sup>220</sup> Larry Johnson memorandum to Peri Johnson (Aug. 2, 2007)

agencies in the purchase of equipment or in completing financial transactions on behalf of other agencies for equipment purchases.

The Panel has endeavored to outline the facts and circumstances surrounding equipment purchases in the DPRK during the relevant time period. It notes here that most equipment purchased by UNDP (and ultimately transferred to an agency of the DPRK government) is not for use by UN personnel but by agencies of the country to which it is shipped, a situation which creates issues for actors outside the UN system, which as noted above might not be covered by UN privileges and immunities. Chief among these actors are the vendors of equipment.

In other instances, because of the central role the UNDP Resident Representative plays in many countries, including the role of consignee for any UN shipments into the country, questions arise as to ultimate responsibility for any conditions that vendors, source countries, or export agencies place on the purchase of the equipment.

#### **D. Complexities Associated with Application of Export Control Systems**

##### **1. Sample of Export Control Regimes**

- ***Wassenaar Arrangement.*** Many countries, such as European Union members, Australia, and the U.S., participate in the Wassenaar Arrangement, under which a number of dual use goods require a license for export to certain countries. Most of the major export control regimes are based on multilateral lists such as those of the Wassenaar Arrangement.<sup>221</sup>
- ***Netherlands.*** The laws of the Netherlands generally require licenses for exports of dual use items appearing on Annex I of the European Community Regulation 1334/2000 made to countries outside the European Community.
- ***Australia.*** Australia is a participant in several multilateral export control regimes, including the Wassenaar Arrangement, the Nuclear Suppliers Group, the Chemical Weapons Convention, the Biological Weapons Convention, and the Australia Group (which controls biological and chemical items). Australia's export requirements are consistent with these regimes.

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<sup>221</sup> The Wassenaar Arrangement was established on December 19, 1995 and became effective in July 1996. See [wassenaar.org](http://wassenaar.org).

- **China.** China is not a participant in the Wassenaar Arrangement or the Australia Group, but is a signatory to the Chemical Weapons Convention and a participant in the Nuclear Suppliers Group. Its export controls are generally less robust than those of the Netherlands or Australia.
- **United States.** U.S. laws are written so as to have extraterritorial effect. The extraterritorial application of U.S. export control laws is in fundamental tension with international law. Many countries would assert that only their export controls apply to products exported from their territory, regardless of the product's country of origin, which is one principle by which the U.S. exerts extraterritorial applications.

## **2. Security Council Resolution 1718**

On October 14, 2006, the UN Security Council passed resolution 1718, condemning recent nuclear tests by the DPRK, imposing sanctions on the country, and calling for the country to immediately return to multilateral talks on the issue. As a component of Resolution 1718, a Security Council Committee was established to “oversee the relevant sanctions measures and to undertake the tasks set out by the Security Council.” The sanctions included an arms embargo, an assets freeze, and a travel ban. In the interest of enforcing this resolution, and to ensure compliance with the sanctions regime, the Security Council called on all Member States to take cooperative action including through inspection of cargo to and from DPRK as necessary. This sanctions regime was particularly relevant to UNDP’s equipment procurement process, as it included lists of items, materials, equipment, goods, and technology that were under the purview of this Resolution, and whose distribution and procurement was severely curtailed or denied.<sup>222</sup>

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<sup>222</sup> Security Council Resolution 1718 (Oct. 14, 2006); <http://www.un.org/News/Press/docs/2006/sc8853.doc.htm>; <http://www.un.org/sc/committees/1718/index.shtml>. See Section III.G of this Chapter for a discussion of compliance matters regarding UNDP internal procedures. The Panel notes that Resolution 1718’s applicability was relatively minimal given that it was only applicable for approximately five months prior to the suspension of UNDP’s operations in the DPRK. The Panel references Resolution 1718 for information purposes only. A significant majority of the equipment bought in connection with the UNDP-DPRK program was purchased before the passage of this Resolution such that the Resolution was inapplicable.

### **3. Complex and Unresolved Legal Issues**

Application of each of the various export control regimes that may have applicability to UNDP's operations in the DPRK raises complex and technical issues of international law that the Panel has not attempted to answer in this Report. Indeed, many such issues remain unresolved between the various countries. Set forth below are examples of the complex and unresolved issues of international law that apply in the context of dual use analysis:

- Whether and to what extent an export control regime can have cross-border applicability.
- Whether and to what extent the Convention's privileges and immunities apply to UN contractors.
- Whether and to what extent a person who facilitates the export of dual use items bears responsibility for another's noncompliance with an export control regulation.
- Whether and to what extent a dual use law is applicable if it conflicts with other principles of international law.
- Whether and to what extent one country has jurisdiction to enforce noncompliance with its laws, when such noncompliance occurs beyond the country's territory.

These legal issues, moreover, are not unique to UNDP's program in the DPRK or even to the UNDP more generally. Instead, the questions apply to the UN as a whole and require resolution through discussion, negotiation, and agreement among the Member States and on a UN-wide basis.

#### **E. UNDP's Compliance Efforts re: DPRK**

##### **1. Coordination between Headquarters and Country Office**

The Panel questioned UNDP officials from the DPRK Country Office and from the Regional Bureau for Asia and the Pacific (RBAP) about any procedures or operational guidelines that might have been provided to country offices, and particularly to UNDP staff in DPRK on dual use equipment or compliance with export controls.

RBAP officials informed the Panel that in response to concerns raised by the Japanese government regarding the purchase of potential dual use equipment for the DPRK program, the RBAP had shared equipment lists with that government for informational

purposes.<sup>223</sup> Several officials noted that all equipment purchases for the UNDP-DPRK program had to be reviewed at the RBAP level and that this approval included review of equipment proposed for projects.<sup>224</sup>

At the same time, however, the DPRK Country Office staff noted that there were no specific guidelines provided to them regarding dual use equipment.<sup>225</sup> For example, in August 2006, the Country Office requested guidance from RBAP and UNDP Headquarters' Advisory Committee on Procurement. The Country Office was told that no specific guidelines existed.<sup>226</sup> The context for the August 2006 inquiry was a request for additional equipment for the Project DRK03004/12273 Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS, for which equipment purchases with possible dual use significance had already been made in 2006.<sup>227</sup>

In October 2006, RBAP provided some instruction to UNDP-DPRK officials related to the August 2006 request for guidance. On October 11, 2006, Romulo Garcia, the Division Chief of RBAP, instructed Vineet Bhatia, Deputy Resident Representative, not to proceed with the purchase of any equipment as proposed and “to close down the project immediately.” Garcia further noted in this e-mail that in late 2005 he had received clearance from the head of the Bureau to “wind down the project but only for some training activities left, definitely not for any equipment purchase.”<sup>228</sup> Several days later, on October 14, 2006, the Security Council Committee published lists of items, materials, equipment, good and technology that Member States were to prevent from the direct or indirect supply, sale, or transfer of to the DPRK pursuant. (The lists were established pursuant to UN Security Council Resolution 1718.)<sup>229</sup> RBAP's decision in late 2005 to wind down the project does

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<sup>223</sup> Hafiz Pasha letter to Mr. Hajime Furuta, Director-General Economic Cooperation Bureau, Ministry of Foreign Affairs (Nov. 17, 2003) (welcoming opportunity to provide additional information to assure the government of Japan that UNDP is providing support of development activity in DPRK; including: annexes to letter regarding status of UNDP-DPRK programs; 3-page equipment list procured under CCF2 (country cooperation framework) projects; and additional information on details of UNDP activities in DPRK). The Panel has reviewed further documentation including emails and notes to file not listed here.

<sup>224</sup> Romulo Garcia interview (Oct. 30, 2007); Timo Pakkala interview (Nov. 1, 2007); and David Lockwood interview (Mar. 26, 2008).

<sup>225</sup> Vineet Bhatia interview (Dec. 5, 2007); Muluaem Zeleke interview (Jan. 15, 2008).

<sup>226</sup> Vineet Bhatia email to Napoleon Navarro (Aug. 14, 2006) (email thread continuing on the 17<sup>th</sup>, 18<sup>th</sup>, and 23<sup>rd</sup> with Krishan Batra email to Vineet Bhatia and Napoleon Navarro (Aug. 23, 2006), in which Batra states “we don't have specific guidelines.”)

<sup>227</sup> See Appendix 3 at the end of this Chapter.

<sup>228</sup> Romulo Garcia email to Vineet Bhatia (Oct. 11, 2006).

<sup>229</sup> S/RES/1718 <http://www.un.org/sc/committees/1718/index.shtml>

not seem to have been communicated to the UNDP-DPRK office, as equipment purchases continued throughout 2006, including some potential dual use items.

## **2. Coordination between Country Office and Vendors**

The Panel notes several examples of the manner in which UNDP's Country Office in the DPRK communicated with vendors and suppliers in connection with export compliance matters. First, as part of Project DRK99004, Agricultural Recovery and Environment Support Project, Component Three: Project for Geographic Information System, the UNDP received an ESS NOAA/AVHRR HRPT Tracking System/Satellite Receiving Station, including SATMASTER Software, for receiving data from orbiting land-use satellites. The UNDP also received spare parts to support this system. The equipment, and training for its use, was provided by an Australian company. This system may have been controlled under the Wassenaar Arrangement, under Category 5A - Part 1. There was no indication that an end-use statement was completed for this sale. Items controlled under U.S. law appear on Wassenaar's Very Sensitive List and also on the Australian Defence and Strategic Goods List. Because it is possible that this system could be controlled under U.S. law, the items may have required a license for export from Australia to the DPRK.

In other cases, UNDP did complete end-user statements at the behest of the vendor of the item being exported to the DPRK. For example, in Project DRK02G35, Coastal Biodiversity of the West Sea, a Danish IT vendor requested an end-use statement from the UNDP for the IT equipment being shipped to the DPRK. Although there appears to have been some internal dispute about whether UNDP or UNOPS (executing agency for the project) should complete and sign the end-use statement, ultimately the end-use statement was completed by the UNDP's Resident Representative in the DPRK.<sup>230</sup>

As another example, the Panel has information concerning a Dutch company which served as a UNOPS vendor for equipment used in several projects. In March 2006, this vendor requested that UNOPS, the executing agency, seek clarification from UNDP as to the end-user of the equipment for Project DRK03004, Enhanced National Capacity for Disaster Mitigation and Preparedness through GIS/RIS. The vendor requested that UNOPS inquire as to the end-user for a spectrometer. The reply from UNOPS to the vendor was "Yes, the

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<sup>230</sup> See Ri Hyong Choi email to Timo Pakkala (June 13, 2006) (including email chain).

Spectrometer will be used for civil purpose by UNDP staff in DPR Korea."<sup>231</sup> The company then provided this information to the Dutch customs authorities who advised the vendor verbally that for the spectrometer in question, an export license would not be needed. The Panel has no information as to the basis for this.

#### **F. Conclusions**

On the basis of the foregoing discussion, the Panel concludes that the myriad and varying laws concerning international regulations applicable to the export of dual use items require examination and analysis on a UN-wide basis so that the legal implications are clarified to all UN agencies. Discussion of U.S. laws on dual use items is discussed in Section III of this Chapter.

The Panel further concludes that UNDP generally followed procurement procedures, but did not have systematic or consistent procedures for the review of equipment purchases for the DPRK country program. In fact, procurement of equipment for DPRK seems to have occurred without review by Headquarters. The Panel is aware of just one instance in which Headquarters disapproved the purchase of a piece of equipment as noted above. With respect to communications with vendors, the examples cited above reveal that opportunities existed for Country Office officials and UNDP contractors to address potential export compliance matters.

In the absence of any guidance from UNDP Headquarters on dual use matters, inquiries from vendors were handled in an ad hoc manner and Country Office personnel were left without clear guidelines for procurements.

#### **G. Recommendations**

In the absence of UN-wide agreement with Member States, the Panel makes the following recommendations to UNDP for future action regarding export control issues and dual use equipment.

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<sup>231</sup> Rob Lintvelt, Managing Director of Lineco BV, email to Jarintorn Kiatniyomrung, Procurement Assistant, UNOPS.

### **Training and Familiarization with Export Control Requirements with Particular Focus on Export Destinations of Heightened Concern**

UNDP and its executing agency partners should assure that in countries, such as the DPRK, which are of heightened sensitivity regarding exports, personnel either in country, or those advising in country personnel who have export and procurement responsibilities related to these countries, be trained to gain familiarity with applicable export control regimes. The export control requirements are complex, and many organizations devote significant staff and resources to training their personnel. A basic understanding of export control regimes, particularly how they cover sensitive countries, is essential to avoiding future concerns.

### **Other Training Recommendations**

Given the worldwide scope and location of UN operations, the Panel also recommends that UN employees involved with exports and reexports also be trained regarding the export control regimes of the localities in which they operate and international export control regimes, such as the Wassenaar Arrangement. In addition, those employees should be familiar with the export control laws of the country of origin of the items that they procure.

### **Compliance Officer**

Ideally, UNDP should have an individual on its staff responsible for assessing UNDP's exports and reexports. By monitoring individual transactions, this individual would be in a better position to identify exports or reexports that are inconsistent with various countries' laws. This individual could be someone already on the procurement staff, or could be an individual hired specifically to provide expertise in export control. It is recognized that the UN operates on a worldwide basis and of course must be cognizant of export control laws wherever located.

### **Compliance with License Requirements**

As the UNDP Resident Representative in a country is often the official consignee of equipment which may have an export license that includes conditions, UNDP should work



with its sister UN agencies to assure that any conditions attached to equipment which has an export license, are explicitly made known to UNDP.

UNDP and other UN agencies should establish systems for collection and transmittal of information on any licenses issued for equipment by an export control agency or other government entities in the country from which an item is exported. This information should include the details of any conditions that are attached to the licensed equipment. These conditions may include to terms of use, transfer, or other disposition.

UNDP and its sister agencies should also assure that if there are conditions, those conditions remain on records of the equipment over time, so that the existence of any conditions that are attached to the equipment are known to those who use, or dispose of, the equipment.

### **Procurement Changes**

Some basic changes in procurement practices for UNDP and its executing agency partners would provide information that could be useful in determining export control compliance.

#### ***Obtain Country of Origin Information***

For UNDP's purchasing processes which involve exports or reexports, the Panel recommends that UNDP identify the country of origin of the items for which it arranges shipment to its programs.

#### ***Require Export Classification Information from Manufacturers***

UNDP should consider requesting an export classification from the manufacturer as a step in the procurement process. For example, the UNDP's procurement forms could include a field for the manufacturer or distributor to include the export classification of the item being procured. If the manufacturer cannot provide this information, the UNDP should consult the technical specifications of the item and determine the classification itself, or with the help of outside consultants. The easiest time to gather information on the classification of a product is just before its purchase. At that point, the manufacturers are anxious to make the sale, and can usually obtain the export classification with minimal difficulty.

***Provide Explicit Information on End Users to Vendors and Shippers***

The Panel has found that for some sensitive items purchased by UNDP for export to DPRK, it was not explicitly stated during the procurement process that the equipment would be utilized by DPRK nationals working under the auspices of UNDP projects in DPRK. In fact, in response to inquiries from vendors about use of equipment, UNDP/United Nations Office for Project Services (UNOPS) replied that it was for the UNDP Country Office, when in fact equipment was designated for a project operations well removed from the Country Office. Clarity with vendors regarding end users is key as the bulk of export compliance liabilities fall on themselves.

***Institute Robust Procedures for Managing Transfers and Retransfers of Equipment, Particularly as Regards any Conditions Placed on Transfers by Manufacturers***

In UNDP programs, by design, equipment is transferred to government partners at the end of a project, and in some cases during the course of a project. Procurement procedures for these transfers should be robust enough so that those involved are aware of any provisions that apply to these retransfers, and make explicit decisions regarding the application of the provisions.

***Maintain Information on Items which are Exported to Sensitive Countries***

As a corollary to increased familiarization and training, when items are procured and exported to countries which appear to have some sensitivity in various applicable export control regimes, a thorough record of the items exported should be maintained. The record should include not only purchase orders and invoices, but specifications describing in detail the item exported, the manufacturer's name, and the exact model of the item being exported to the DPRK. Records on any conditions and correspondence related to such purchases should also be kept.

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### **III. CLASSIFICATION AND ANALYSIS UNDER U.S. LAW**

#### **A. Introduction**

The Panel understands that its Terms of Reference required it to undertake both technical analysis of equipment purchased for the UNDP-DPRK program to determine its potential to be “dual use” as well as an examination of the procurement and shipping processes for equipment so identified to ascertain compliance with applicable international export rules. Set forth in this Section are the export laws of the U.S. and a discussion of dual use principles under U.S. law and its implications which may apply to UNDP’s operations in the DPRK. As explained in Section II, the Panel is not in a position to resolve whether and to what extent the various international export rules apply.

The Panel engaged Arnold & Porter LLP (Arnold & Porter or advisory firm), for expert advisory services on export laws which govern dual use equipment, including the control regimes of the U.S. and other countries having relevance to procurements made for the UNDP-DPRK program.

The choice of the U.S. export control systems as an illustration of the applicability of an export control system reflects two factors: (1) the Panel was informed by communications from the U.S. government to UNDP which asserted application of its export control laws to UN programs in the context of the UNDP-DPRK program;<sup>232</sup> and (2) the Panel understood that in addition to claims regarding UN programs, the U.S. government asserts extraterritorial application of its laws, in fundamental tension with international law.

Arnold & Porter provided a report to the Panel on its analytic work and on its assessment of what controls may have applied to equipment purchased for the UNDP-DPRK program, notwithstanding consideration of UN privileges and immunities, or other interpretations of law. The analysis that follows is based, in part, on input from Arnold & Porter and the report that it provided to the Panel.

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<sup>232</sup> Zalmay Khalilzad letter to Kemal Dervis (July 23, 2007); Larry Johnson memorandum to Peri Johnson (Aug. 2, 2007) (memorandum entitled “Legal Obligations of the UNDP regarding Export Control Licensing Requirements of the United States Government”; setting forth the views of the UN’s Office of Legal Affairs). It should be noted that the Panel did not require the advisory firm to obtain official opinions from the U.S. or any other government export control agencies but rather requested the advisory firm to provide a general review of compliance with export control laws.

The Panel emphasizes at the outset two key considerations:

- The Panel is *not* making a determination that U.S. law in fact applies to any equipment purchases that were made in connection with UNDP's program in the DPRK. Without drawing any conclusions as to the applicability of U.S. law, the Panel has nonetheless discussed how the law would apply if it were applicable.
- The provisions set forth in the Convention on the Privileges and Immunities of the United Nations insulate representatives of the UNDP and other UN agencies operating in the DPRK from liability resulting from any noncompliance with export control regimes. (However, the applicability of privileges and immunities beyond UNDP and UN agency personnel, i.e., to equipment vendors and distributors, is less clear.)

## **B. U.S. Export Control Regimes**

U.S. export controls are managed primarily by two different government agencies. A third agency has concurrent jurisdiction for items transferred under either of the primary U.S. export control regimes. Appendix 1 contains an explanation of the various control regimes in table form, and also contains brief narrative descriptions of the controls that apply. In very summary form, these controls and the respective agencies are discussed below.

### **1. U.S. Department of State Controls**

The U.S. Department of State is responsible for implementing the International Traffic in Arms Regulations (ITAR), 22 C.F.R. § 120 *et seq.*, which govern the export and reexport of "defense articles," i.e., items designed or modified for a military purpose. In addition, technical data related to ITAR-controlled defense articles is controlled by the ITAR. Unless a specific exception applies, parties exporting or reexporting an ITAR-controlled item must obtain a license from the U.S. Department of State.

### **2. U.S. Department of Commerce Controls**

#### ***Commerce Control List***

U.S.-origin items that are not controlled by the ITAR are generally controlled by the U.S. Department of Commerce's Export Administration Regulations (EAR), 15 C.F.R. § 730

*et seq.* The EAR control “dual use” items, that is, items that are not specifically designed for a military purpose but which can be used for either civil or military purposes. The EAR contains a list called the Commerce Control List (CCL), which is a list of classifications of dual use items. The export controls that apply to a given item depend on the export classification of the item according to the CCL. Items can be controlled for various reasons, which are noted in Appendix 1.

### ***EAR 99***

The CCL sets forth the exact controls that apply to each item’s classification. Items that do not specifically appear on the CCL but that are subject to Commerce Department controls are classified as “EAR 99,” which is the lowest level of Commerce Department control. It is necessary to review each item to determine whether it is a “dual use” item or an EAR 99 item under U.S. export control law. Items classified as EAR 99 are controlled for trade and destination purposes, and not for dual use purposes. EAR 99 controls are less stringent than those for items appearing on the CCL.

### **3. U.S. Department of Treasury Controls**

The U.S. Department of Treasury’s Office of Foreign Assets Control (OFAC) is responsible for enforcing a variety of U.S. economic and trade sanctions regimes. *See* 31 C.F.R. § 500 *et seq.* These provisions apply concurrently to any jurisdiction by the Commerce Department under EAR and are thus relevant to determining potential liability under U.S. export controls.

For example, transactions involving the DPRK are covered by the OFAC regulations. In the time period under review, these regulations gave OFAC the authority to penalize parties making expenditures incident to an export or reexport made without a required Commerce Department license. The OFAC regulations are thus a concurrent set of regulatory requirements that as written may apply to the transfer of dual use goods to the DPRK that are subject to U.S. jurisdiction or are otherwise supported from the U.S.

### **C. Relationship between U.S. Export Controls and International Law**

The U.S. export control system governs items of U.S. origin, or dual use items containing more than 10 percent U.S.-origin items (with regard to the DPRK). As written, U.S. export control laws follow these items wherever they may go, unless a specific action takes place which cuts off jurisdiction. (Such an action could be, for example, including a U.S.-origin part in an end product where the U.S.-origin content of the end product is less than 10 percent of the value of the end product.) The U.S., therefore, continues to enforce U.S. export controls over products outside U.S. territory.

For example, the U.S. Department of Commerce brought an administrative action and imposed a fine against Varian A.G. of Zug, Switzerland for unauthorized retransfers from Switzerland to the DPRK of computers classified under ECCN 4A994 and encryption under ECCN 5D002.<sup>233</sup> More recently, on April 10, 2008, a French corporation, Cryostar, pleaded guilty to conspiracy, illegal export, and attempted illegal export of pumps to Iran. The Assistant Secretary of Commerce for Export Enforcement, Darryl Jackson, noted in a U.S. Department of Justice press release that “foreign parties that choose to export U.S.-origin goods to embargoed destinations, such as Iran, violate our export control laws. As this case demonstrates, we will vigorously pursue such violations.”<sup>234</sup> Other examples include U.S. administrative action against an Italian company for unauthorized retransfers of U.S.-origin instrument landing systems,<sup>235</sup> a U.K. company for unauthorized retransfers of pipes,<sup>236</sup> and actions against companies located in the Netherlands, U.A.E, and Cyprus for unauthorized retransfers of U.S.-origin equipment.<sup>237</sup>

### **D. Examination of Equipment Purchased by UNDP for DRPK Programs**

#### **1. Universe of Equipment**

##### ***Equipment Purchases for UNDP-DPRK Program***

The Panel focused its examination on equipment purchased for the UNDP-DPRK program. It began its analysis by obtaining equipment expenditures for the DPRK program

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<sup>233</sup> See <http://efoia.bis.doc.gov/exportcontrolviolations/e1001.pdf>

<sup>234</sup> U.S. Department of Justice press release (Apr. 10, 2008) available at: [http://www.bis.doc.gov/news/2008/doj04\\_10\\_08.html](http://www.bis.doc.gov/news/2008/doj04_10_08.html).

<sup>235</sup> See <http://efoia.bis.doc.gov/exportcontrolviolations/e2022.pdf>

<sup>236</sup> See <http://efoia.bis.doc.gov/exportcontrolviolations/e2021.pdf>

<sup>237</sup> See <http://efoia.bis.doc.gov/exportcontrolviolations/e2010.pdf>

in the reference period of 1999 to 2007. From the total Project Universe of 106 projects, 63 had equipment expenditures, which totaled \$5.59 million. (See Appendix 2 for nine year expenditure chart.)

Using expenditure data, Panel staff then retrieved documents on projects and equipment purchases from the UNDP Country Office files as well as from other sources. Panel staff also contacted the United Nations Office of Project Services (UNOPS) for assistance in retrieving documents on UNOPS procurements for DPRK projects. (See discussion of UNOPS role in Chapter I of the Panel's Report). Documentary information collected for equipment included project documents, equipment specifications, requests for quotations, purchase orders, vendor invoices, shipping manifests, and receiving documentation, as well as inventories and disposition of assets forms.

***Data Limitations on Scope of Inquiry--Equipment Purchases Facilitated for other UN Agencies or Other Entities***

The Panel's Terms of Reference require examination of equipment purchased by the DPRK Country Office for other UN agencies. The Panel has not been able to address this task due to limitations on data available from UNDP's electronic records as well as hard copy data in the DPRK Country Office files. Detailed records on equipment purchased in this manner reside with the agency or entity which requested the purchase. Time and cost considerations, as well as the structure of UNDP data bases, militated against pursuing this information.

**2. Approach to Analysis**

The equipment expenditures and transactions in the 63 projects represented hundreds of items procured over a nine-year time frame. In general, the equipment purchased in the 63 projects in the reference period falls into eight categories:

1. Geographic Information Systems and Geographic Positioning technology and equipment;
2. Computers and computer peripheral equipment, as well as software;
3. Motor vehicles, motor cycles, heavy agricultural and construction vehicles;

4. Fertilizer and seed, which are categorized as equipment under export control regimes;
5. Process equipment for dairy plant, salt mine, and coal mine safety equipment;
6. Electrical equipment such as generators;
7. Lab equipment; and
8. Standard office equipment, such as photocopiers, fax machines, and miscellaneous furniture.

A 100% classification of this equipment would not have been feasible or advisable given time requirements and the costs associated with the classification effort. Initial reviews revealed that similar equipment was purchased for multiple projects. Thus, with the assistance of the advisory firm, the Panel organized the equipment into four levels for review, referred to herein as Levels I through IV.

These levels represent the Panel's estimates regarding: (1) potential to be dual use items under U.S. law; and (2) likelihood for classification as items subject to U.S. export controls. Grouping into these levels allowed for the identification of high emphasis items with particular export control relevance and an in-depth examination of a sub-set of equipment which was indicative of the entire universe.

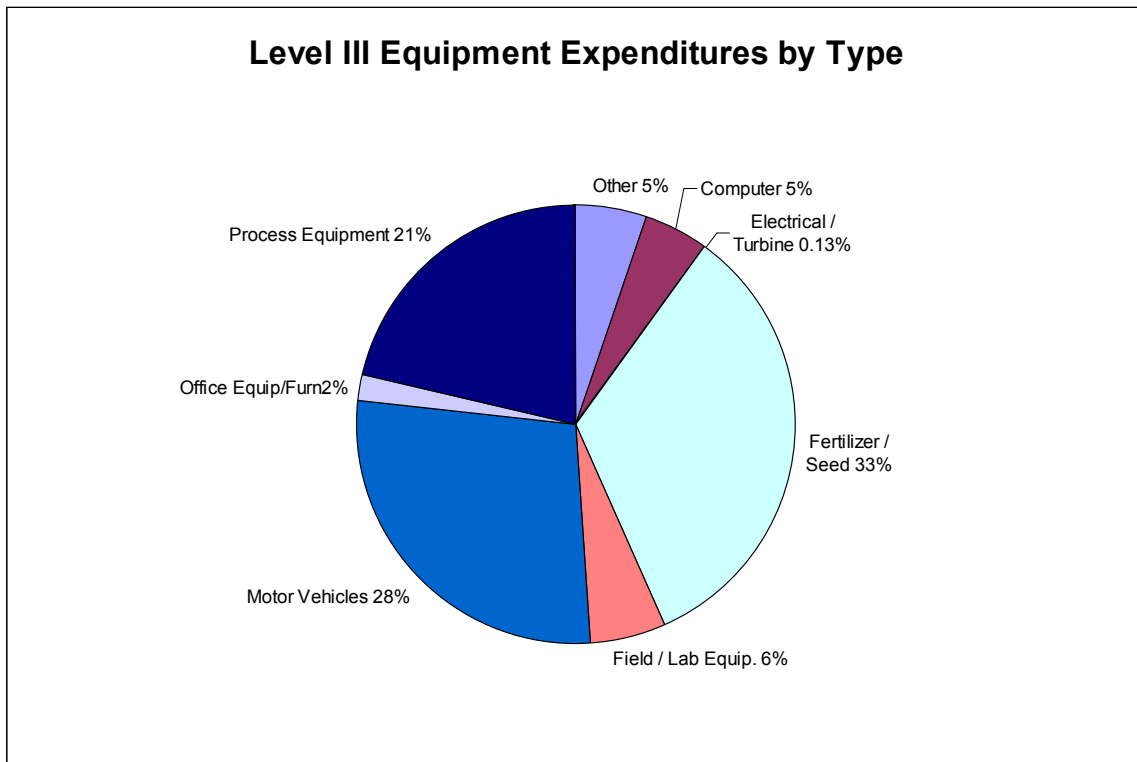
The levels used for purposes of this analysis also indicate the depth of analysis that the advisory firm conducted. For Levels I and II, a full review of all available documentation was done by the advisory firm. Each Level I or II item was classified under applicable export control requirements. For Levels III and IV, the Panel supplied equipment documentation to the advisory firm, which conducted a less exacting review focusing on possible relation to export controls. For Levels III and IV, however, a full classification was not performed unless the item warranted it. See Appendix 3 for a list of levels and projects.

Further explanation of Levels I through IV is as follows:

- **Level I.** This level contains equipment from five projects identified as having the most likely equipment to be categorized as dual use and therefore subject to export control. The Panel's attention was drawn to these projects by references in the media and elsewhere to specific pieces of equipment within these projects.



- **Level II.** This level contains equipment from nine projects. The factors considered in identifying these projects for review included: (1) the large amount of computer and related equipment purchases; (2) the recipient agencies of these projects which are all line agencies of the DPRK government; (3) reference to the projects and the equipment in statements by the alleged whistleblower<sup>238</sup> and other entities; (4) procurement circumstances indicating violation of export conditions.
- **Level III.** This level contains twenty-one projects which were identified in conjunction with experts from the firm providing advisory services to the Panel on export controls. The characteristics of these projects are: (1) contained computer equipment similar to that identified in Level II; (2) represented agricultural-related projects, so that equipment purchases included seeds, fertilizer, agricultural vehicles, and machinery, which are relatively easily examined in terms of export controls; and (3) represented environmental or industrial development programs with specific types of equipment including generators, lab equipment, and turbines, which are of interest.



<sup>238</sup> Chapter 6 of the Panel’s Report examines the allegations of Artjon Shkurta in further detail.

- **Level IV.** This level contains twenty-eight projects in which equipment expenditures were not material (less than \$1000), mirrored equipment examined in-depth in other levels, and contained equipment for which the Panel and the Advisory firm felt that less scrutiny was needed.

#### **E. Dual Use Classifications and Analysis under U.S. Law**

Review of the purchase orders and shipping documentation for the projects did not reveal any items that the UNDP purchased for import to the DPRK that were directly exported from the U.S. under the review period. Rather, during the review period, the items appear to have been procured outside the U.S. and exported from countries other than the U.S. However, many of the items reviewed appeared to be of U.S. origin, or have greater than 10 percent U.S.-origin content, and therefore could be deemed by the U.S. as subject to the EAR with regard to exports and reexports to the DPRK. In other cases, although the item was shipped from outside the U.S, there remains the possibility that the item contained sufficient U.S.-origin content that the U.S. would find it to be subject to the EAR's licensing requirements for the DPRK. With these underlying facts in mind, the Panel's advisory firm conducted a review of individual items that UNDP purchased for import to the DPRK.

##### **1. ITAR Controls**

To begin with, the Panel and Advisory firm find that no items were identified which were specifically designed, developed, configured, adapted, or modified for a military application. UNDP simply did not purchase for import into the DPRK and did not otherwise cause to be exported to the DPRK any item that was controlled under ITAR.

##### **2. U.S. Department of Commerce Controls**

###### ***Items with ECCN above EAR 99***

Of the 151 pieces of equipment reviewed in the above-referenced Level I and II categories, 95 items were classified as being on the Commerce Control List with ECCNs above EAR 99. Under U.S. interpretation of its law, these items would have required a license from the U.S. Commerce Department for export or reexport to the DPRK. (See list of items and ECCN in Appendix 4.) In addition, the principal party in interest would have been

responsible for obtaining the required U.S. license. (See Appendix 5 for a table showing compliance obligations under U.S. laws.) Some illustrative items are noted below with applicable ECCNs.

### ***GPS-Related Items***

Specifically, UNDP purchased for import to the DPRK GPS-related technologies, including receiver base station kits, handheld receivers, and other civilian GPS-related equipment and associated software (ECCN 7A994 and 7D994). These items were exported in 2006, except for the software, which was exported in December 2000. From the documentation, it appears that most of these items were U.S.-origin.<sup>239</sup> All of the U.S.-origin items were subject to Commerce Department anti-terrorism controls at the time of the retransfer. Therefore, under U.S. interpretations of its laws, a license would have been required for export to the DPRK from the U.S., or reexport from outside the U.S.

### ***Computers and External Media***

UNDP also purchased for import to the DPRK computers and peripherals, including monitors, external hard drives, and portable memory devices (ECCN 4A994), and computer communications equipment, such as routers, hubs, switches, and modems (ECCN 5A991). Some of these items were imported in December 2000. The remainder was imported between 2005 and 2006. All of these items would have been deemed by the U.S. to be subject to Commerce Department anti-terrorism controls at the time of import. Therefore a license from the U.S. would have been required for import to the DPRK.

Although some of the computers imported to the DPRK may have been manufactured abroad, those manufactured for American companies (*e.g.*, Dell Computer) most likely have greater than 10 percent U.S.-origin content.<sup>240</sup> As such, export of those computers would

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<sup>239</sup> In regards to one of the items, the documentation is unclear, but it is likely that at the time, it was of U.S.-origin.

<sup>240</sup> The advisory firm confirmed this analysis with Dell Computer Corporation export personnel. Dell informed the advisory firm in an email dated March 27, 2008, that its systems manufactured abroad contain more than 10 percent U.S. content, and that export licenses would be required to the DPRK even for Dell desktop or laptop computers manufactured overseas. This explanation was made with regard to the current line of Dell computers. We believe that this analysis would remain true for computers manufactured overseas prior to today, as those computers are more likely than today's computers to have used more than 10 percent U.S.-origin components.

have been deemed by the U.S. to have required a license for export from the U.S. or reexport from a third country to the DPRK under the EAR.

As another example, UNDP purchased for import to the DPRK a Sun SPARC workstation clone (ECCN 5A002 if U.S.-origin). This workstation was exported in December 2000. The information available does not provide sufficient information to determine whether the item was U.S.-origin or contained U.S.-origin parts and components. Most work stations of this caliber in 2000 contained U.S.-origin microprocessors but the only way to know for certain would be to obtain the serial number for the computer and to work with the manufacturer to determine the origin and amount of U.S. content.

If the Sun SPARC workstation clone was of U.S. origin, contained U.S.-origin encryption software, or more than 10 percent U.S.-origin content, then it would have been deemed by the U.S. to be subject to Commerce Department national security and anti-terrorism controls at the time of transfer. A license would have been required for the transfer of the workstation to the DPRK if subject to U.S. jurisdiction. This item would be of greater concern than ordinary computers, as it was subject to national security controls as well as anti-terrorism controls. The U.S. government would likely regard an export or reexport of this item to the DPRK as a greater national security risk whether or not the item was subject to U.S. export jurisdiction.

### *Computer Software*

Many, if not all, of the above-referenced computers used the Microsoft Windows operating system. Microsoft Windows is controlled for encryption reasons (ECCN 5D992.b.1). It is eligible for export under the EAR's mass market exception, but as the U.S. laws are written, it may not be exported to or reexported to the DPRK without a license. It would be possible to export or reexport such encryption software if it was less than 10 percent of the total value of the computer. However, in those cases, the exporter or reexporter would be required to submit to the U.S. government the calculations made to determine that the U.S.-origin content was less than 10 percent of the value of the exported item prior to retransferring the product to the DPRK.<sup>241</sup> There is no indication that the non-

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<sup>241</sup> Supplement No. 2 to 15 C.F.R. § 734, Calculation of Values for *De Minimis* Values, at (b)(1).

U.S. vendors, manufacturers, freight forwarders, or any other participants in the supply chain made these calculations and submissions with the U.S. government.

In addition, UNDP purchased for import to the DPRK, licenses for software that was subject to U.S. encryption controls because it contains encryption, including Oracle 10G server management/database software (ECCN 5D002.c.1, eligible for License Exception ENC-Retail) and Microsoft Office Professional (ECCN 5D992.b.1). The Oracle 10G software and Microsoft Office Software were acquired in 2005. The Oracle 10G software was controlled by the U.S. for national security and anti-terrorism reasons and under U.S. law would have required a license for export or reexport to the DPRK. License Exception ENC was not available for an export or reexport to the DPRK in 2005. This might be of heightened concern, as the item is controlled for more sensitive U.S. national security reasons.

The Commerce Department's policy in 2005 was to deny export licenses for any export of goods controlled for national security reasons to the DPRK.<sup>242</sup> The Microsoft Office software is controlled for anti-terrorism reasons, so this item is less sensitive than the Oracle 10G software. Nevertheless, the U.S. law provides that Microsoft Office software still required a license for export to the DPRK in 2005, but was not subject to the same policy of denial as the Oracle 10G software. Given that these items are of U.S. origin, the U.S. would hold that the same restrictions applicable for exports also applied to reexports.

#### ***Other Level I and II Items***

UNDP purchased for import to the DPRK equipment other than GPS, computer equipment, and software, including:

- a handheld oscilloscope (ECCN 3A992.a);
- a portable spectrometer (ECCN 3A999.f); and
- a power generator (ECCN 2A994 if U.S.-origin).

Each of these items was procured and exported in 2006. The handheld oscilloscope is a U.S.-origin device. Based on publicly available information, it is not likely that the portable spectrometer and power generator are of U.S.-origin. Nevertheless, these items are listed herein. To the extent that these items are of U.S. origin and subject to U.S. export

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<sup>242</sup> 15 C.F.R. § 742.19(b)(1)(iv) (2005).

controls, they would have been deemed by the U.S. to be controlled for anti-terrorism reasons and would have required a reexport license for transfer to the DPRK in 2006, at the time they were imported.

The oscilloscope is very close to being controlled under 3A292.d, which controls digital oscilloscopes that sample at a rate greater than 1 giga-sample per second, although it does not cross the threshold for control. The handheld oscilloscope that the UNDP purchased for import to the DPRK sampled at exactly 1 giga-sample per second and thus could be classified as 3A992.a.

### *Use Controls*

Most of the items that would have required a license for export were also subject to “use” controls at the time of the export. In such cases, a license was required to train DPRK nationals to operate the equipment if the training was conducted by nationals subject to U.S. jurisdiction. The U.S. Commerce Department takes the position that training individuals in the use of certain export-controlled equipment requires an export license.

The UNDP equipment for which an export “use” license would have been required includes:

- GPS equipment (“use” controlled under 7E994)
- Computers and controlled peripherals (“use” controlled under 4E992)
- Sun clone workstation (assuming it was of U.S. origin) (“use” controlled under 5E002)
- Oracle 10G software (“use” controlled under 5E002)
- Microsoft Office software (“use” controlled under 5E992)
- Handheld oscilloscope (“use” controlled under 3E991)
- Power generator (assuming it was of U.S. origin) (“use” controlled under 2E994)

### *Level III and IV Items*

The review that the advisory firm conducted for items in projects that the Panel classified as Level III and IV projects was not as detailed a classification analysis as was performed for items in Level I and Level II projects. In most cases, there was not sufficient

information to firmly classify the item or sufficient information to positively identify the country of origin of the item. For these items, the review resulted in potential classifications (assuming the item was of U.S. origin), and the most sensitive items are listed as follows:

- Computers, servers, and associated memory devices (4A994)
- Fertilizer (possibly 1C997)
- Welding rods (1B999)
- Gas detectors for use in a mining project (possibly 1A995, if these sensors are specific to the mining industry)
- A variety of pumps, pipes and flanges (possibly 2B999 or 1B999)
- Air compressor (possibly 8A992.k)
- Traffic Collision and Alert equipment (U.S. origin, manufactured by Honeywell) (at least 7A994, possibly 7A003 or 7A103)<sup>243</sup>
- Electric generators (2A994)

Each of these items could be deemed by the U.S. to be subject to anti-terrorism controls if they were of U.S. origin. Except for the computers and the traffic collision and alert equipment, the country of origin of the goods could not be determined. However, it is believed many of them were not of U.S. origin, as the manufacturer and/or the shipper were non-U.S. parties. Moreover, except for the computers, more technical information about the products themselves would be needed in order to firmly determine the classification of the items under the EAR.

#### **F. Transfer of Items to the DPRK Government upon Suspension of Program**

On January 27, 2007, the U.S. Commerce Department revised the EAR to require a license for all U.S.-origin items which the UNDP purchased for import to the DPRK, including items controlled under EAR 99. The tighter U.S. controls required licenses for the retransfer of nearly any U.S.-origin item to the DPRK after January 2007. At the suspension of the UNDP program in the DPRK in March of 2007, the UNDP transferred a large amount of equipment in closed projects to agencies of the DPRK government. To the extent that this

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<sup>243</sup> It is not clear that this equipment was exported. There are indications that Honeywell held the shipment because of the need for a Commerce Department license.

equipment included U.S.-origin items, the UNDP's retransfer to the DPRK government of U.S.-origin items subject to U.S. license requirements would likely be considered by the U.S. to contravene its export policies prevailing at that time.

### **G. Analysis of Compliance Obligations of Relevant Parties**

In this section of the Report, the Panel includes analysis from its advisory firm regarding the compliance obligations, which according to U.S. law might fall on the various participants in the process by which UNDP-DPRK acquired equipment.<sup>244</sup> These participants include vendors as well as UNDP representatives at the Country Office and headquarters levels. The U.S. holds that export controls give rise to strict liability: that is, a violation of export control laws gives rise to liability, regardless of knowledge, intent, or even negligence. Parties to an export transaction are expected to perform sufficient diligence on each transaction and, where required, to obtain export licenses. (Appendix 5 lists the overall liabilities according to U.S. law of parties in connection with export or re-export of controlled items.)<sup>245</sup>

In the event of noncompliance with export control laws, Article II, Section 7 of the Convention on the Privileges and Immunities of the United Nations affords privileges and immunities to the participants in the acquisition process, particularly with respect to UNDP representatives. For discussion purposes only, the Panel has reviewed the various compliance obligations notwithstanding any protections that the Convention may afford. (See Section II.B of this Chapter for a discussion of the Convention and applicable privileges and immunities.)

#### **1. Potential Obligations of UNDP and Other UN Staff**

As written, U.S. export controls apply to UNDP's activities in the DPRK. In addition, providing assistance to a transaction that violates U.S. export controls is itself

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<sup>244</sup> The Panel's advisory firm approached its compliance obligation analysis by examining the licensing requirements that one would have to take if one was obligated to abide by restrictions placed on U.S. persons and on activities not eligible for privileges and immunities treatment.

<sup>245</sup> Any conclusions reached by the Panel with regard to compliance with export regulations are not meant to be definitive statements of responsibility, but rather to outline what actions might have been expected of various parties to procurement transactions subject to U.S. regulations. The Panel recognizes that as relates to this very complex issue, there may be alternative interpretations, and divergent opinions from the ones found in this section of its Report.



deemed a violation.<sup>246</sup> The U.S. may consider UNDP representatives as being under the umbrella of U.S. export control laws by operation of the following principles:

- Export control laws apply to U.S. citizens located anywhere and to other personnel located in the U.S.
- Transactions made in support of exports or reexports are subject to OFAC regulations.
- U.S. export controls attach to an export-controlled item, which remains subject to U.S. export controls even after it has left the U.S. If the item is not modified or remains more than 10 percent of the total value of any final product containing that item, U.S. export controls (with regard to the DPRK) follow the item wherever it may go.

## **2. Compliance Obligations of Other Parties in the Export Chain**

Manufacturers and exporters/shippers are expected to screen their customers and ensure that items are not shipped to unauthorized end uses or end-users. Manufacturers and exporters/shippers are expected to ensure that no unauthorized exports are made to parties appearing on the Commerce Department's Denied Persons List, Entity List, or Unverified List, as well as on the Treasury Department's Specifically Designated Nationals list or any one of the State Department's Proliferation Sanctions lists.<sup>247</sup>

Manufacturers and exporters/shippers are further expected to review individual transactions for "red flags," i.e., signs that the item being exported poses a greater risk of unauthorized use. Exporters that fail to take these measures will be at risk of higher legal penalties in the event of an export violation. With regard to exports and reexports for the UNDP-DPRK program, manufacturers and exporters could be held independently liable for exports and reexports made in violation of U.S. export controls. Liability attaches at each step of the export chain, and employers are held responsible for the export violations of their employees. Each party in the export chain must take appropriate steps and make appropriate inquiries to assure itself that the next recipient of the item in the chain will act in accordance with the U.S. export controls that apply to the item.

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<sup>246</sup> 15 C.F.R. § 764.2(b)

<sup>247</sup> See Section III.B for description of U.S. export control laws.

Information available to the Panel shows that exports of items to the DPRK were made primarily by vendors or distributors receiving orders from UNOPS offices in Bangkok, Singapore, and other non-U.S. locations who were acting as executing agents on behalf of the UNDP-DPRK program. In other cases, the DPRK Country Office itself procured items from outside DPRK for import. Vendors and distributors, who shipped directly to the DPRK and were therefore the “exporter” of the items to the DPRK, were expected to obtain the required U.S. reexport licenses for items subject to U.S. jurisdiction.

It is unlikely that the UN privileges and immunities would apply to manufacturers, vendors, and distributors, although the Panel’s advisory firm is aware of other international organizations with similar privileges and immunities that have tried to extend privileges and immunities to such third parties.

Item 3 of the Terms of Reference calls for the Panel to identify “the names of vendors who supplied such equipment” governed by export controls on dual use. Using the U.S. export regulations and the classification analysis set forth in this section, the names of the vendors and the equipment that they supplied are set forth in Appendix 4. The list appearing in Appendix 4 is presented to the best of the Panel’s knowledge, on the basis of available information, and with input from the Panel’s advisory firm. As noted, in supplying this information, the Panel is not making a finding that the U.S. export controls in fact apply.

#### **H. End-users**

End-users of licensed items are limited to using the items for the specific purpose for which the license was granted. They may not retransfer the item to another party. Any unauthorized use or retransfer of the items is also deemed by the U.S. to be a violation of its export control laws. Exporters like the UNDP should monitor their end-users to ensure that they comply with the terms of any applicable export or reexport license. End-users that violate U.S. export control laws may be subject to U.S. government sanctions, including fines and denial orders.

## **I. Specific Cases Examined by the Panel**

In the course of its inquiries, the Panel's attention was directed to three cases for which questions existed regarding UNDP's compliance with export control obligations. These cases are discussed below.

### **1. United Nations Environment Programme (UNEP) Application for U.S. Export License – 1999**

Materials made available to the Panel by the U.S. government, and related media accounts<sup>248</sup> referred to the denial of export licenses by the Department of Commerce for U.S.-origin GPS software, sought by a "UNDP consultant in 1999." The Panel's inquiries have revealed that the referenced application was made on behalf of the United Nations Environment Programme (UNEP), not UNDP. However, the Panel has further determined that UNEP and UNDP were both engaged in agricultural improvement projects, in which GPS systems and related software were procured. As explained above, such GPS equipment and related software were likely of U.S. origin and thus would be deemed by the U.S. to be within the scope of U.S. export controls.

### **2. UNDP Role as Consignee of Equipment Subject to License Conditions**

The U.S. government provided the Panel with information concerning an export license granted to a U.S. vendor for agricultural equipment to be used in the DPRK by the Food and Agricultural Organization (FAO), in 1998. The Department of Commerce granted the export license to the vendor, but with a set of conditions governing who had access to the equipment, who could use the equipment, how the equipment was to be monitored, and ultimate disposition of the equipment. These conditions were assigned to the equipment and, as stated, applied to all participants in the transaction. In particular, the license approval designated the conditions as explicitly applying to the consignee of the equipment in the DPRK. A similar set of circumstances is known to the Panel in regard to an export license which was granted to a U.S. vendor for computer and computer-related equipment procured

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<sup>248</sup> "North Korea Tech Transfer," *Wall Street Journal*, July 20, 2007.

by the United Nations Population Fund (UNFPA) in 1997. In that instance, one of the conditions required notice to the consignee of all license conditions.

In response to questions regarding UNDP as consignee of other UN agency imports to the DPRK, UNDP has noted that the role of the UNDP Resident Representative is to “only facilitate customs clearance and entry of the goods into the country.”<sup>249</sup> As the UNDP Resident Representative was the consignee of the equipment, under U.S. law, the obligations for adhering to the export license conditions applied to him. However, as noted above, UNDP could invoke the protections provided in the Convention on the Privileges and Immunities of the UN.

#### **J. Disposition/Retransfer of Imported Items to DPRK Government**

As discussed previously, in 2007, the UNDP suspended its projects in the DPRK. The documents reviewed indicate that the UNDP transferred most of its projects’ existing inventory to the DPRK government. Many of those transfers took place in March and April 2007. By the terms of the regulations prevailing at that time, a retransfer of any item subject to the EAR—including all of the items classified as EAR 99, other than food or medicine—would have required a license.<sup>250</sup> In effect, *any* U.S.-origin item retransferred to the DPRK government in 2007 would be deemed by the U.S. to have required a license. This includes not only the GPS equipment, computers, and other equipment previously mentioned, but also printers and office furniture, i.e., dual use and non-dual use items.

The Panel’s advisory firm notes that the August 2, 2007 analysis from Larry Johnson, Assistant Secretary-General in charge of the Office of Legal Affairs entitled “Legal Obligations regarding Export Control Licensing Requirements of the United States Government” specifically acknowledges the need for retransfer authorization under certain circumstances when the equipment is no longer used by UN personnel:

...it should be noted that any subsequent disposal of such equipment would need to be undertaken in accordance with the applicable law, which may include export control laws and regulations, for example, in the event that the United Nations would dispose of such equipment through a sale to third parties.

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<sup>249</sup> UNDP Regional Bureau for Asia and the Pacific statement to the Panel (Mar. 27, 2008).

<sup>250</sup> 15 C.F.R. § 746.4(a)

The language does not address a transfer to a government such as the DPRK, although the advisory firm would expect the U.S. government to take the position that retransfer authorization would be necessary for those items subject to U.S. licensing requirements.<sup>251</sup>

Notwithstanding the potential noncompliance with export control laws, as noted previously, the Convention provides that the UN's privileges and immunities regarding export regulations cover sales or retransfers of items in the country to which the UN exported those items, provided that the transfer is by agreement with the government of that country. This provision grants the UNDP immunity in the event of noncompliance with U.S. retransfer regulations.

#### **K. Current Location of Equipment**

As a final point, the Terms of Reference ask the Panel to identify the "current disposition and location" of any possible dual use items. As noted, in connection with the suspension of UNDP's program in the DPRK, UNDP transferred much of its project inventory to the DPRK. The Panel has not conducted investigative measures in the DPRK and has had limited access to DPRK government officials. As such, the Panel has not determined the precise location of the equipment other than that such equipment identified to the extent possible as noted in Appendix 4 was transferred to the DPRK government.

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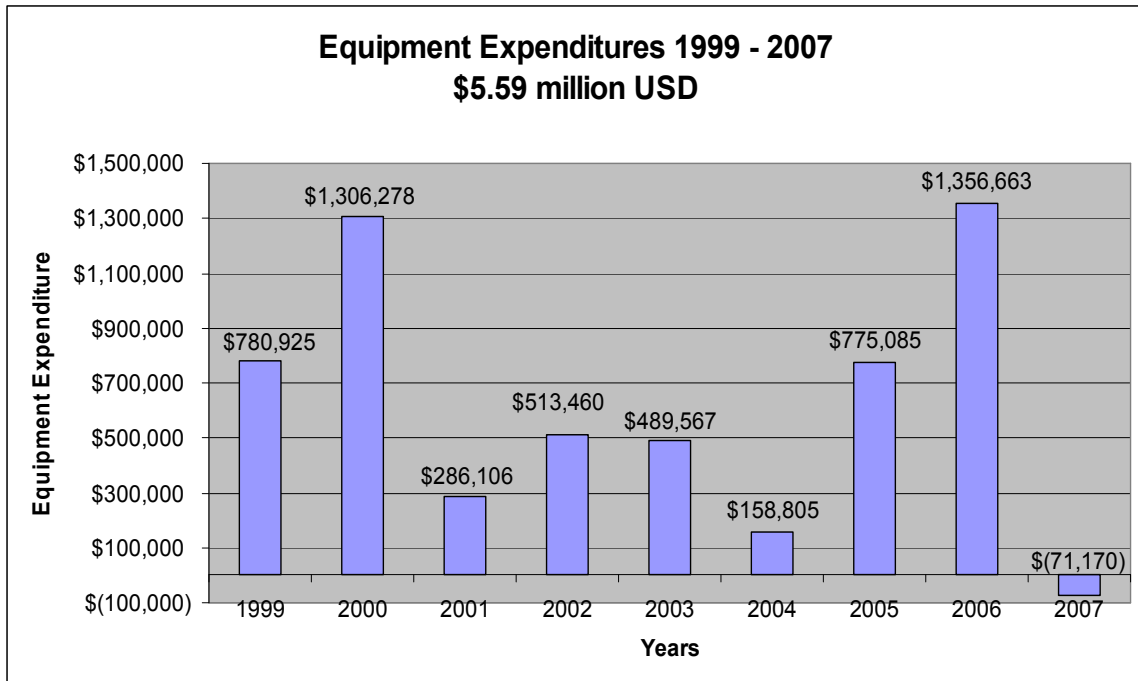
<sup>251</sup> The UN Office of Legal Affairs informed the Panel's advisory firm that one interpretation is that the Convention covers the final transfer of UNDP project items to the DPRK government notwithstanding earlier written guidance to the contrary.

**APPENDIX 1: U.S. EXPORT CONTROLS**

<u><b>U.S Agency Export Control Regimes</b></u>	<u><b>Regulations Administered</b></u>	<u><b>Coverage</b></u>
U.S. Department of State	International Traffic in Arms Regulations ( <b>ITAR</b> )	<p>Defense articles—items designed for military use</p> <p>Defense services—furnishing assistance (including training) to non-U.S. persons regarding defense articles</p> <p>Technical data—data related to the design, operation, repair, etc. of defense articles</p>
U.S. Department of Commerce	Export Administration Regulations ( <b>EAR</b> )	<p>(1) <b>Commerce Control List (CCL)</b>—list of classifications of dual use items: items are controlled for various reasons:</p> <ul style="list-style-type: none"> <li><b>AT</b>—Anti-terrorism (includes some encryption)</li> <li><b>CB</b>—Chemical/biological weapons</li> <li><b>CC</b>—Crime Control</li> <li><b>CW</b>—Chemical Weapons Convention</li> <li><b>EI</b>—Encryption Items</li> <li><b>FC</b>—Firearms Convention</li> <li><b>MT</b>—Missile Technology</li> <li><b>NP</b>—Nuclear Non-Proliferation</li> <li><b>NS</b>—National Security</li> <li><b>RS</b>—Regional Stability</li> <li><b>SS</b>—Short Supply</li> <li><b>UN</b>—United Nations Embargo</li> <li><b>SI</b>—Significant Items</li> </ul> <p><b>Export Control Classification Numbers (ECCNs)</b> are associated with each item subject to the EAR and are used to designate the types of controls that apply to the item (such as AT controls or NS controls). The ECCN of a particular item reflects the export sensitivity of that item. Based on the ECCN of an item and the destination of the item, an exporter can determine whether an export license is required. The more sensitive the ECCN, the more likely a license will be required to a</p>

<u>U.S Agency Export Control Regimes</u>	<u>Regulations Administered</u>	<u>Coverage</u>
		<p>particular destination.</p> <p><b>2. EAR 99: This is the lowest ECCN</b> number and is used to designate items which are not specifically listed on the CCL but still may only be exported consistent with the Export Administration Regulations.</p> <p>EAR 99 items did not require a license for export or reexport to the DPRK from June 19, 2000 to January 25, 2007, provided that the items were not to be used to support proliferation activities, other nuclear-related activities, long-range missile programs, or terrorism.</p>
<p>U.S. Treasury Department Office of Foreign Assets Control (OFAC)</p>	<p>OFAC focuses on destinations and financial flows, but interacts with U.S. DOC regulations in regard to “destination” requirements of those regulations.</p>	<p>OFAC may separately penalize parties for transactions incident to exports or reexports to the DPRK made without a required Commerce Department license. Prior to June 19, 2000 and after Jan, 25, 2007, most exports or reexports to the DPRK required a Commerce Department license, so OFAC could assess separate penalties if exports or reexports made during these time periods were made without the required license. In the intervening period, many more items could be exported to the DPRK without a Commerce Department license, so fewer exports or reexports could be subject to OFAC penalties. Those items that required a Commerce Department license during this intervening period could be subject to OFAC penalties. U.S. government list-based restrictions, such as the prohibitions contained in OFAC’s Specially Designated Nationals List, would apply to all transfers during all time periods.</p>

**APPENDIX 2: UNDP-DPRK EQUIPMENT EXPENDITURES 1999-2007**





**APPENDIX 3: EQUIPMENT BY LEVELS**

	<b>Level</b>	<b>Project Number</b>	<b>Atlas Number</b>	<b>Project Document Title</b>	<b>Equipment Expenditures</b>
	Level 1	45354	45354	Small Wind Energy Development and Promotion in Rural Areas	\$99,921
	Level 1	45469	45469	Small Wind Energy Development and Promotion in Rural Areas	\$70,485
	Level 1	DRK02G35	12269	Coastal Biodiversity Management of DPR Korea's West Sea	\$217,690
5 Projects	Level 1	DRK03004	12273	Enhanced National Capacity for Disaster Mitigation and Preparedness through GIS/RIS	\$234,033
<b>\$957,332</b>	Level 1	DRK99004		Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	\$335,202
	Level 2	41320	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	\$163,881
	Level 2	50029	50029	The Economic Management Training Project	\$143
	Level 2	50030	50030	The Economic Management Training Project	\$0
	Level 2	50031	50031	The Economic Management Training Project	\$83,596
	Level 2	50817	50817	Sustainable Rural Energy Development (SRED) Programme	\$120,182
	Level 2	DRK02002	12262	Capacity Building for Enhanced Development Cooperation	\$127,131

	Level	Project Number	Atlas Number	Project Document Title	Equipment Expenditures
	Level 2	DRK03002	12271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	\$125,326
9 Projects	Level 2	DRK03010	12277	Support to Wonsan Hydro-Power Scheme Development	\$35,959
<b>\$893,434</b>	Level 2	PRK00037139	41525	Capacity Building for Statistics Related to the Millennium Development Goals	\$237,217
	Level 3	41326	41326	Capacity Development for Women-managed Enterprise Networks in DPR Korea	\$81,924
	Level 3	44026	44026	Capacity Building for Human Resource Development in Mt. Chilbo	\$87,523
	Level 3	45550	45550	Rajin – Wonjong Road Feasibility Study	\$15,131
	Level 3	DRK00A01		Human Resource Upgrading to Support the Air Traffic Services	\$20,162
	Level 3	DRK00G35	12257	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$202,409
	Level 3	DRK02003	12263	Sweet Potato Cultivation and Processing	\$191,244
	Level 3	DRK02A01		Support to the Central Tree Nursery in the DPRK	\$14,570
	Level 3	DRK02A04	12265	Emergency Response to Rice Water Weevil Epidemic	\$157,027

	Level	Project Number	Atlas Number	Project Document Title	Equipment Expenditures
	Level 3	DRK02A05	12268	Enhanced Capacity for Selected Financial Institutions in DPR Korea	\$12,016
	Level 3	DRK03008	12275	Support towards Increased Access to Food for Rural Population through Propagation of grass-feeding animal and its Products	\$169,229
	Level 3	DRK03013	32542/41354	Support Project for Environmental Liaison Officer	\$3,236
	Level 3	DRK92009		Strengthening of the R&D at the Anju Mine Engineering Institute	\$18,099
	Level 3	DRK97001	55495	Environment and Industrial Pollution Management Programme in the Democratic People's Republic of Korea	\$178,635
	Level 3	DRK97002		Agricultural Rehabilitation and Food Security	\$280,698
	Level 3	DRK98A04		1998/99 Autumn/Winter Double Crop Programme Contribution from Norway	\$81,669
	Level 3	DRK99001	12256	Agricultural Recovery and Environment Protection Support Project	\$781,331
	Level 3	DRK99005		Agriculture Rehabilitation and Food Security (ARRP Phase II)	\$59,605
	Level 3	DRK99006		Rehabilitation of the Namyang Salt Pan for Universal Salt Iodization	\$91,477
	Level 3	DRK99A03		Agriculture Recovery and Environment	\$159,938

	Level	Project Number	Atlas Number	Project Document Title	Equipment Expenditures
				Protection Fertilizer Support Project	
21 Projects	Level 3	DRK99A05		AREP Support Project for Sweet Potato Cultivation	\$107,920
<b>\$2,732,696</b>	Level 3	DRK99A06		AREP Support Project for Sweet Potato Cultivation	\$18,853
	Level 4	32958	32958	Improved Country level Coordination	\$17,462
	Level 4	32960	32960	Strengthen Coordination Capacity	\$2,417
	Level 4	41497	41497	Capacity Building in Arms Control and Disarmament	\$2,979
	Level 4	DRK00111	12261	Conservation of Biodiversity at Mount Myohyang in the DPR Korea	\$37,884
	Level 4	DRK01002		Emergency Response to Flood Damage in Kangwon Province	\$76,751
	Level 4	DRK01A01	12259	AREP Support Project for Reforestation	\$138,109
	Level 4	DRK01A05	12258	NEAFF Support to Forestry Rehabilitation Component of Agricultural Rehabilitation and Environmental Protection	\$223,039
	Level 4	DRK02004		Support to Pyongyang Women's Trading and Garment Center	\$26,406
	Level 4	DRK02U01	12260	Capacity Building for Disarmament Initiatives	\$2,376
	Level 4	DRK03001	12270	Coastal Biodiversity Management of DPR Korea's West Sea	\$50,335
	Level 4	DRK03006	12274	Capacity Building for Increased Coal Production in Chikdong Youth Coal Mine of DPR	\$92,030

	Level	Project Number	Atlas Number	Project Document Title	Equipment Expenditures
				Korea	
	Level 4	DRK03007		Human Resource Upgrading to Support the Air Traffic Services	\$21,735
	Level 4	DRK92011		Energy Efficiency Improvement Programme	\$4,351
	Level 4	DRK96002		Support to Agricultural Relief and Rehabilitation Programme	\$40,469
	Level 4	DRK96G31		Enabling DPR Korea to Prepare its First National Communication in Response to its Commitments to the UNFCCC	\$3,025
	Level 4	DRK97006		Capacity-Building for Agricultural Rehabilitation and Food Security	\$1,554
18 Projects	Level 4	DRK97G31		National Biodiversity Strategic and Action Plan, and Report to the COP	\$11,850
<b>\$844,856.10</b>	Level 4	DRK99007		AREP Support Project for Salt Production	\$92,084
10 Projects: <b>\$167,399.95</b> Excluded Projects (less than \$1,000 or excluded by advisory firm)					

## APPENDIX 4: UNDP-DPRK EQUIPMENT ITEMS

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Software supplied for Workstation b. PCIEASY/PACE Remote Sensing Software for UNIX	7D994	US-origin (developed by US Army Corps of Engineers)	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Software supplied for Workstation SPANS Explorer for Windows 95/98	7D994	Believed to be of Canadian origin (see <a href="http://www.govtech.com/gt/print_article.php?id=95367">http://www.govtech.com/gt/print_article.php?id=95367</a> )	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	Trimble Recon Handheld, Model 49670-21	7A994	US-origin	Lineco BV	Assets held in the DPRK - project suspended
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	GPS Receiver Base Station Kit GPS -- Trimble DSM-232 RS DGPS Model 60231-00	7A994	US-origin	Lineco BV	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	Trimble Recon GPS CF Card Model 96016-03	7A994	US-origin	Lineco BV	Assets held in the DPRK - project suspended
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	GPS PDA Receivers	7A994	Believed to be of U.S.-origin; all other GPS equipment that UNDP procured was of U.S.-origin	Lineco BV	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	GPS Receiver Handheld Rover -- Trimble GeoXT Standalone System Model 61000-20	7A994	US-origin	Lineco BV	Transfer of title of assets to DPRK government 11 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Microsoft Office Professional 2003	5D992.b.1	Microsoft is a US company, so US-origin. Shipped from unknown location - Invoice & PO list Thailand	Siam Integrated Technology Co. Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Firewall SonicWALL TZ50INT	5D992.a or 5A992.c	SonicWALL is a US company, so US-origin. Shipped from unknown location	Dandong Land Trade Co., Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Oracle 10G on server	5D002.c.1	Oracle is a US company, so US-origin. Shipped from an unknown location - Invoice & PO list Thailand	Siam Integrated Technology Co. Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Cisco 2610XM Router	5A991.c.10	Cisco is a US company, so US-origin. Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	Switching Hub TP-Link 10/100, 16-port	5A991.C.10	TP-Link is a Chinese company, so products are of Chinese origin Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Unconfirmed

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	3Com SuperStack 3 Switch 3800	5A991.c	3Com is a Colorado company, so this is likely a US-origin item. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	3Com SuperStack 3 Switch 4900	5A991.c	3Com is a Colorado company, so this is likely a US-origin item. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	External USB Modem 56K V.92	5A991.b.2	Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Modem for multiple phone lines	5A991.b.2	Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	DRK03002/12271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Modem -- ADSL	5A991.b.2	Shipped from unknown location, but possibly China (see Purchase Order 627)	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007



LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	48 Ports Switch for Server	5A991.b or 5A991.c	SonicWALL is a US company, so US-origin. Shipped from unknown location	Dandong Land Trade Co., Ltd.	Assets held in the DPRK - project suspended
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	3Com Switching Hub 24 port, 10/100 base T	5A991.b or 5A991.c	3Com is a Colorado company, so this is likely a US-origin item	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Intel Express 410T Standard Switch HUB	5A991.b or 5A991.c	Intel Express is a Colorado company, so this is likely a US-origin item.	Unconfirmed	Unconfirmed
LEVEL TWO	DRK03002/12771	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	D-Link Switch 10/100/1000 with 8 Ports	5A991.b or .c	D-Link is a Taiwanese company, so likely Taiwan origin Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Sun Clone (equivalent to Ultra Sparc) including Hitachi Super Scan 811 Monitor	5A002	Sun is a US company, but origin of the clone is unclear	GeoMapping Technologies Pty Ltd	Unconfirmed

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Spare parts for NOAA/AVHRR Satellite Receiving Station	5A001.b.5, 5A991.b.6 or 5A991.g	Based on documentation, believed to be of Australia origin. g. May have required a license from Australia under the Wassenaar Arrangement.	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Dell 17 inch TFT LCD Monitor	4A994.h	Dell is a US company, so US-origin. Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	HP Monitor vs17e	4A994.h	HP is a US company, so US-origin shipped from unknown location - Invoice & PO list Thailand	Siam Integrated Technology Co. Ltd.	Assets held in the DPRK - project suspended
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Philips 105S Monitor	4A994.h	a. likely UK/Netherlands origin, not US origin, but Philips has labs in the US)	Unconfirmed	Unconfirmed
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Philips 107S Monitor	4A994.h	a. likely UK/Netherlands origin, not US origin, but Philips has labs in the US)	Unconfirmed	Unconfirmed
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Transcend JetFlash Portable Data Storage 1 GB	4A994.d.2	Transcend is a Taiwanese company, so likely Taiwanese origin. Shipped from unknown location	Unconfirmed	Assets held in the DPRK - project suspended

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	HP SW DAT 401 DDS4/40 GB Ultra SCSI External Tape Drive	4A994.d. 2	HP is a US company, so US origin. Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	External Hard Drive IOMEGA 250 GBX2	4A994.d. 2	Iomega is a US company, so US-origin. Shipped from unknown location	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	SanDisk Cruzer Micro 256 MB, 512 MB	4A994.d. 1	SanDisk is a US company, so products likely of US origin	Thakral Brothers (PTE) Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Imation External 16x16x8x6x4 DVD+/- RW DL Burner (USB)	4A994.d. 1	Imation is a US company, so likely US-origin	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	External USB Mass storage 120 GB	4A994.d. 1	US-origin	Thakral Brothers (PTE) Ltd.	Request for Asset Disposal, Theft, Transfer or Sale on 14 Dec 2006
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	SanDisk Cruzer Micro	4A994.d. 1	SanDisk is a US company, so products likely of US origin	Thakral Brothers (PTE) Ltd.	Request for Asset Disposal, Theft, Transfer or Sale on 14 Dec 2006
LEVEL TWO	50031	The Economic Management Training Project III	Seagate Barracuda Serial ATA 320G, 7200 rpm external hard disk	4A994.d. 1	Seagate is a US company, so likely US-origin. Shipped from China.	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	External Hard Drive 160 GB interface with USB 2.0	4A994.d. 1	Controlled if products of US origin. Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	USB Flash Drive 512MB	4A994.d. 1	Controlled if products of US origin. Shipped from China (Dandong Land Trade Co., Ltd.) (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	Philips External Hard Disk 2.5" 80GB USB	4A994.d. 1	1. (likely UK/Netherlands origin, not US origin, but Philips has labs in the US)	DAN:OFFICE	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	USB Harddisk 40Gb	4A994.d. 1	Controlled if products of US origin. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Unconfirmed
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	Transcend StoreJet USB2.0 Portable 40GB HDD	4A994.d. 1	Likely not US-origin (Transcend manufacturing is in Taiwan)	Thakral Brothers (PTE) Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	USB Flash Memory 128Mb	4A994.d. 1	Controlled if products of US origin Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Unconfirmed
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	Sony SDX 500K Tape Drive	4A994.d. 1	Sony is a Japanese company, so this is likely a Japanese-origin item.	Unconfirmed	Unconfirmed
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	SanDisk 2 GB, Memory Pro Duo Card SDMSPD-2048R	4A994.d	US-origin	ScanAfrica	Transfer of title of assets to DPRK government, 11 April 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	Kingston 128 MB, 512 MB USB 2.0 Memory Stick	4A994.c	Kingston is a California company, so products likely of U.S.-origin	DAN:OFFICE	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	PC with Pentium III processor	4A994.b	Intel is a US company, so items are likely of US origin.	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	HP Compaq AQ Desktop DX2000	4A994.b	HP is a US company, so US-origin. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Unconfirmed	Unconfirmed
LEVEL TWO	DRK02002/12 262	Capacity Building for Enhanced Development Cooperation	Dell Latitude D610	4A994.b	Dell is a US company, so US-origin. Shipped from unknown location (possibly China as were previous computers shipped for this project)	Unconfirmed	(5 of 7) Transfer of title of assets to DPRK government 11 Apr 2007; (1 of 7) Assets held at WFP 30 Apr 2007
LEVEL TWO	DRK02002/12 262	Capacity Building for Enhanced Development Cooperation	Dell C640	4A994.b	Dell is a US company, so US-origin. Shipped from Beijing, China (Purchase Order 014)	Elsingor	Assets held at WFP 30 Apr 2007
LEVEL TWO	DRK02002/12 262	Capacity Building for Enhanced Development Cooperation	Dell C840	4A994.b	Dell is a US company, so US-origin Shipped from Beijing, China (Purchase Order 2003-01)	Elsingor	Assets held at WFP 30 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	DRK02002/12 262	Capacity Building for Enhanced Development Cooperation	Dell GX260	4A994.b	Dell is a US company, so US-origin. Shipped from Beijing, China (Purchase Order 014)	Elsingor	Assets held at WFP 30 Apr 2007
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Compaq NX7400 laptop computer	4A994.b	HP is a US company, so US-origin shipped from unknown location; some shipped from Dandong, China (Minsource International Ltd.) (Purchase Order 355)	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Dell Dimension E520 desktop computer	4A994.b	Dell is a US company, so US-origin. Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	HP 370 G5 with Monitor	4A994.b	HP is a US company, so US-origin. Shipped from Dandong, China	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Dell Optiplex GX 280 with 17-inch monitor	4A994.b	Dell is a US company, so likely US-origin. Shipped from unknown location- Invoice & PO list Thailand	Siam Integrated Technology Co. Ltd.	Assets held in the DPRK - project suspended
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	HP NX6120 Notebook	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Dell Laptop Computer	4A994.b	Dell is a US company, so US origin. Shipped from China	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Dell laptop computer, Intel Core 2 Duo processor	4A994.b	US-origin item Shipped from Hong Kong	Unconfirmed	Assets held in the DPRK - project suspended

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Desktop Computer Pentium 4	4A994.b	Shipped from China (see inventory list)	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL TWO	DRK03010/12 277	Support to Wonsan Hydro-Power Scheme Development	HP Compaq D530 Desktop Computer	4A994.b	HP is a US company, so US-origin. Shipped from China	Unconfirmed	Request for Asset Disposal, Theft, Transfer or Sale on 12 Dec 2006
LEVEL TWO	DRK03010/12 277	Support to Wonsan Hydro-Power Scheme Development	Toshiba Satellite 2450	4A994.b	Toshiba is a Japanese company, so likely Japanese origin. Shipped from China	Unconfirmed	Request for Asset Disposal, Theft, Transfer or Sale on 12 Dec 2006
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	Pentium IV Laptop	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Request for Asset Disposal, Theft, Transfer or Sale on 14 Dec 2006
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	Pentium IV Pcs High Spec	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Request for Asset Disposal, Theft, Transfer or Sale on 14 Dec 2006
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	Pentium IV Pcs Second high spec	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Request for Asset Disposal, Theft, Transfer or Sale on 14 Dec 2006
LEVEL TWO	50031	The Economic Management Training Project III	HP DX 7200 desktop computer, 3.4 GHz processor	4A994.b	Dell is a US company, so likely US-origin. Shipped from China.	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Acer E500	4A994.b	Acer is a Taiwanese company, so Taiwan origin, but the presence of the Intel chip may result in the control of the item under the <i>de minimis</i> rules. Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Acer Intel Centrino Desktop Computer	4A994.b	Acer is a Taiwanese company, so Taiwan origin, but the presence of the Intel chip may result in the control of the item under the <i>de minimis</i> rules. Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Dell PowerEdge 830 File Server	4A994.b	Dell is a US company, so US-origin. Shipped from China (Dandong Land Trade Co., Ltd.) (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007



LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Acer SA80 Desktop Computers	4A994.b	Acer is a Taiwanese company, so Taiwan origin, but the presence of the Intel chip may result in the control of the item under the <i>de minimis</i> rules. Shipped from unknown location, but possibly China (see Purchase Order 627)	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Fujitsu S7021 Notebook Computers	4A994.b	Fujitsu is a Taiwanese company, so Taiwan origin, but the presence of the Intel chip may result in the control of the item under the <i>de minimis</i> rules. Shipped from unknown location, but possibly China (see Purchase Order 627 )	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	Dell Dimension 1100n Computers	4A994.b	Dell is a US company, so US-origin. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Transfer of title of assets to DPRK government 11 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	Dell PowerEdge 1850 Perimeter Server	4A994.b	Dell is a US company, so US-origin. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	41320	Capacity Building for Efficient Trade Procedures in DPR Korea	Dell PowerEdge 2800 Network Access Server	4A994.b	Dell is a US company, so US-origin. Shipped from unknown location (possibly China or Japan, based on Purchase Order 752)	Orient Development CO., LTD	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK02002/12 262	Capacity Building for Enhanced Development Cooperation	Dell Optiplex GX620	4A994.b	Dell is a US company, so US-origin. Shipped from unknown location (possibly China as were previous computers shipped for this project)	Unconfirmed	Unconfirmed
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	HP Dual Server Processor	4A994.b	HP is a US company, so US-origin. Shipped from unknown location; some shipped from Dandong, China (Purchase Order 355)	Minsource International Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Dell Latitude D510 laptop computers	4A994.b	Dell is a US company, so likely US-origin. Shipped from unknown location. - Invoice & PO list Thailand	Siam Integrated Technology Co. Ltd.	Assets held in the DPRK - project suspended

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	HP COMPAQ DX2100MT Personal Computer	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	HP Pavilion Media Center PC m7529cn	4A994.b	HP is a US company, so US-origin shipped from unknown location	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Dell desktop computer, Pentium D processor	4A994.b	US-origin item Shipped from Hong Kong	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL TWO	50031	The Economic Management Training Project III	HP DX 2030 desktop computer, 2.66 GHz Pentium 4 processor	4A994.b	Dell is a US company, so likely US-origin. Shipped from China	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	DRK03002/12 271	Strengthening Information Technology & Environment Monitoring Capability in DPR Korea Towards Sustainable Decision Making	Acer T650 Desktop Computer	4A994.b	Acer is a Taiwanese company, so Taiwan origin, but the presence of the Intel chip may result in the control of the item under the de minimis rules. Shipped from China (Purchase Order 627)	Dandong Land Trade Co., Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	50029/50030	The Economic Management Training Project I/II	Dell Core Duo T2300E, 1.66 GHz/512 MB. 80 GB, 3.5" floppy drive	4A994.b	Dell is a US company, so likely US-origin. Shipped from Hong Kong through China	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL TWO	50029/50030	The Economic Management Training Project I/II	Dell laptops, Pentium IV, 30 GHz/512 MB, 80GB, 3.5" floppy drive	4A994.b	Dell is a US company, so likely US-origin. Shipped from Hong Kong through China	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL TWO	50029/50030	The Economic Management Training Project I/II	Toshiba Core Duo T2300E, 1.66 GHz/512 MB, 80 GB	4A994.b	Toshiba is a Japanese company, so likely Japanese origin. Shipped from Hong Kong through China	Minsource International Ltd.	Transfer of title of assets to DPRK government 11 Apr 2007
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	HP COMPAQ NX6120 Laptop Computer	4A994.b	US-origin	Thakral Brothers (PTE) Ltd.	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL ONE	DRK99004	Agricultural Recovery and Environment Protection Support Project: Component Three: Project for Geographic Information System	PC with Pentium II processor	4A994.b	Intel is a US company, so items are likely of US origin	GeoMapping Technologies Pty Ltd	Unconfirmed
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	HP COMPAQ DX2100MT-PIV computer	4A994.b	n/a	Thakral Brothers (PTE) Ltd.	Unconfirmed
LEVEL TWO	41525	Capacity Building for Statistics Related to the Millennium Development Goals	Network Server with Microsoft S/V 2000	4A994	Likely U.S.-origin	Unconfirmed	Assets held in the DPRK - project suspended
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	Fujitsu-Siemens AMILO Xi 1546 Notebook Computer	4A494.b	believed to be of Danish origin -- see Dan-Office confirmation of UNOPS order 44956.	DAN:OFFICE	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	Photoelectric UV Visible Spectrophotometer	3A999.f	We believe this is U.K.-origin equipment, shipped through Lineco B.V. -- see invoice from Lineco B.V. dated November 30, 2006	Lineco BV	Transfer of title of assets to DPRK government, 11 April 2007

LEVEL	PROJECT	PROJECT NAME	ITEM	ECCN	ORIGIN	VENDOR	Disposition
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	TRISTAN 5 Portable Spectrometer	3A999.f	Unlikely to be of US-origin	Lineco BV	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL ONE	45469	Small Wind Energy Development and Promotion in Rural Areas	Fluke 196B 100 MHz Oscilloscope Handheld ScopeMeter	3A992.a	US-origin	Lineco BV	Assets held in the DPRK - project suspended
LEVEL ONE	DRK02G35/12 269	Coastal Biodiversity Management of DPR Korea's West Sea	Memmert VO 400 Vacuum drying oven	2B999 or EAR99	German-origin equipment, shipped through Lineco B.V.; see invoice from Lineco B.V. dated November 30, 2006	Lineco BV	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL ONE	DRK03004/12 273	Enhanced National Capacity for Disaster Mitigation and preparedness through GIS/RIS	Power Generator, 5.5 kV, Model: Honda EM 5500 CX	2A994	Likely U.K.-origin. Shipped through Lineco B.V. (Netherlands). (See <a href="http://www.hondagenenerator.co.uk/index.html">http://www.hondagenenerator.co.uk/index.html</a> )	Lineco BV	Transfer of title of assets to DPRK government, 11 April 2007
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Gas Alarm measuring CO, CO2, CH4, and O2	1A995	Country of manufacture unknown. Shipped from China (see Purchase Order 768)	Dandong Land Trade Co., Ltd.	Assets held in the DPRK - project suspended
LEVEL TWO	50817	Sustainable Rural Energy Development (SRED) Programme	Gas Alarm measuring CO, CO2, CH4, and O2	1A995	Country of manufacture unknown Shipped from China (see Purchase Order 768)	Dandong Land Trade Co., Ltd.	Assets held in the DPRK - project suspended

**APPENDIX 5: LIABILITIES OF PARTIES TO EXPORT OR REEXPORT OF CONTROLLED ITEMS**

<b>Party</b>	<b>Responsibilities</b>	<b>Governing Regulations</b>
<p>U.S. principal party of interest (<b>USPPI</b>)—party seeking the export or re-export of an item.</p> <p>Could be the buyer, vendor, or distributor.</p>	<p>Responsible for determining appropriate licensing authority and ensuring that any required export license is obtained prior to export.</p> <p>This is the case even if a freight forwarder or shipping agent is used to perform certain exporting tasks.</p>	<p>U.S. Department of State, International Traffic in Arms Regulations (<b>ITAR</b>) (<b>22 C.F.R. § 127.1(a)(1)</b>)</p> <p>U.S. Department of Commerce, Export Administration Regulations (<b>EAR</b>) (<b>15 C.F.R. § 758.3(a)</b>)</p> <p>U.S. Department of Treasury, Office of Foreign Assets Control (<b>OFAC</b>)</p>
Freight Forwarders/Distributors	Ensure that all licenses have been obtained.	
Vendors selling an item to be exported or reexported— Potential liability	Expected to “know the customer” and have confidence that the customer will not improperly export or reexport.	
Providers of “assistance” or facilitation of exports or reexports of items subject to controls	Assure that assistance or facilitation activities do not support violations of export or reexport controls.	<p><b>ITAR (22 C.F.R. § 127.1(a)(3), (d))</b></p> <p><b>EAR (15 C.F.R. § 764.2(a))</b></p>
Consignees which receive equipment may be viewed by the U.S. government as falling into the “assistance” category	Assuring that provisions of any licenses or other export controls are complied with, as regards equipment ordered, and received.	<b>EAR (15 C.F.R. § 764.2)</b>

**Chapter 5**  
**Counterfeit Currency Issues**  
**Re: UNDP's Operations in the DPRK**  
**(Terms of Reference Item 4)**

**I. TERMS OF REFERENCE**

Under item 4 of the Panel's Terms of Reference, the Panel has been asked to: Identify the facts relating to any counterfeit or suspected counterfeit currency that came into the custody of the UNDP Administered country office or of which the country office became aware, including any applicable UNDP policies regarding the reporting of such counterfeit currency to the relevant issuing country and the actions taken by UNDP in regard to such currency.

**II. EXECUTIVE SUMMARY**

For approximately eleven years, the United Nations Development Programme's (UNDP) Country Office in the Democratic People's Republic of Korea (DPRK) held in its safe \$3,500 in defaced counterfeit U.S. Dollars (USD). The significant time lapse that occurred between UNDP's receipt of the defaced counterfeit notes in 1996 and the eventual handover of the notes to U.S. authorities in March 2007 raises several issues that the Panel has analyzed in this Chapter. These issues include tracking, to the extent feasible, the chain of custody and assessing the responsiveness of various UNDP officials that through their respective positions had oversight responsibilities for this matter.

Regarding the chain of custody, the Panel describes in this Chapter several factors that impeded its ability to track the chain of custody throughout the eleven-year period. For example, the serial numbers of the defaced notes were not recorded and witness recollections varied significantly as to the appearance of markings on the notes that were designed to render them unusable. The Panel is able to find nonetheless that:

- In October 1995, a UNDP consultant received a disbursement from the Foreign Trade Bank in the amount of \$3,500 USD.

- In early 1996, an individual acting on behalf of the referenced consultant delivered to UNDP-DPRK defaced counterfeit currency in the amount of \$3,500 along with an explanatory letter purportedly from the consultant.
- From 1996 to March 16, 2007, \$3,500 in defaced counterfeit currency remained in the safe of the UNDP's Country Office in the DPRK.
- On March 16, 2007, representatives of the Country Office sent the defaced notes via DHL from Pyongyang to UNDP-Beijing; from the UNDP-Beijing office, the defaced notes were then sent to UNDP Headquarters, which arranged to hand over the notes to U.S. authorities.

There are, nevertheless, ambiguities in the chain of custody analysis which are identified herein. For instance, the Panel cannot conclusively determine whether the defaced notes delivered to UNDP's Country Office in 1996 originated with the Foreign Trade Bank's disbursement in October 1995. Moreover, absent recorded serial numbers or more precise descriptions of the notes, the Panel cannot find with complete certainty that the notes received in 1996 are the same notes that UNDP handed over to U.S. authorities in March 2007.

Regarding action and inaction by UNDP officials, the Panel finds that representatives of the Country Office and UNDP Headquarters knew of concerns about counterfeit currency in the DPRK. At a minimum, warning signs existed that required a more timely and effective response. There is no evidence that anyone acted in bad faith or in a fraudulent or deceptive manner. Instead, the Panel finds that there was a clear lack of attentiveness at the Country Office and Headquarters levels and that communications between the Country Office and UNDP Headquarters were inadequate.

The Country Office failed to raise the existence of the defaced counterfeit notes with sufficient clarity. On the other hand, despite inquiries by the UN and the Permanent Mission of the United States to the UN (U.S. Mission) concerning potential counterfeit currency issues, UNDP Headquarters failed to take follow up action which might have identified and resolved the issue earlier. The dynamic that existed was such that the Country Office, the Regional Bureau for Asia and the Pacific, the Office of the Treasurer, the Office of Finance and Administration, and the Office of Legal and Procurement Services each had a role to play; yet each relied on the other to act without ensuring that any such action was occurring.



As a final point on the subject of counterfeit currency, the Panel notes that prior to 2002, UNDP was using U.S. Dollars as the foreign currency for its DPRK operations. The evidence indicates that circulation of counterfeit U.S. Dollars was widely prevalent in the DPRK. After 2002, UNDP-DPRK's use of U.S. Dollars ceased, after which UNDP started using Euros as the foreign currency for disbursements. The possibility of UNDP disbursement procedures being misused for circulation of counterfeit dollars (USD) was thus minimized.

### **III. REVIEW SCOPE AND OBJECTIVES**

The Panel has inquired into the facts and circumstances concerning the specific case of \$3,500 in defaced counterfeit U.S. Dollars (USD) found in the office safe of the Country Office of the United Nations Development Programme (UNDP) in the Democratic People's Republic of Korea (DPRK). It has further inquired into the respective roles of the staff in the Country Office and UNDP Headquarters, including UNDP's Office of Audit and Performance Review (OAPR, now known as Office of Audit and Investigations), with regard to the manner in which each division handled the matter. In addition, certain communications provided to the Panel by the Permanent Mission of the United States to the UN (U.S. Mission) contain claims that the UNDP-DPRK Country Office's disbursement procedures facilitated the circulation of counterfeit currency. The Panel has reviewed these allegations as well. (The Panel has discussed this latter issue regarding potential for counterfeit currency in the Conclusion of this Chapter, i.e., Section VI, and notes here that after 2002, UNDP did not use U.S. Dollars as foreign currency for its operations in the DPRK.)

In its approach to the review, the Panel relied on the following:

- Review of UNDP internal correspondence including emails;
- Interviews with key UNDP staff (current and former) who by virtue of working in the DPRK Country Office or UNDP Headquarters, had knowledge of or dealt with the matter;
- Interview with the UN employee who had returned the alleged counterfeit currency to the UNDP-DPRK Country Office on behalf of the recipient consultant;

- Interview with the Deputy Branch Manager of the National Bank of Egypt which had allegedly rejected the USD bills as being counterfeit;
- Witness accounts as memorialized in interview memoranda provided by Lankler, Siffert and Wohl LLP;<sup>252</sup>
- Other sources who had knowledge of the facts of the case; and
- Review of UNDP policies and procedures.

In conducting inquiries, the Panel interviewed many staff members, current and former, who had handled this matter or had knowledge of it. The Panel also reviewed relevant documents to the extent they were available. Furthermore, in connection with an investigation of the suspected counterfeit currency by the U.S. Department of Justice, UNDP had engaged the services of a law firm, Lankler, Siffert and Wohl LLP to represent the organization and concerned staff.<sup>253</sup> The Panel met with representatives of the law firm and was provided memoranda of interviews of concerned UNDP staff recorded by the firm in connection with the investigation; the interviewees gave consent and waived attorney-client privilege as did the UNDP in order to share the memoranda with the Panel.

#### **IV. FINDINGS OF FACTS**

##### **A. Provenance**

The specific case of counterfeit currency known to the Panel and referred to in this Chapter relates to thirty-five defaced \$100 USD bills totaling \$3,500 found in the office safe of the UNDP-DPRK Country Office. An Egyptian power engineering consultant, Hazem El-Tanbouli, was hired by the UNDP for a project in 1995. On completion of his task, El-Tanbouli was paid for his services a sum of convertible Korean Won (C-KPW) 7,175.00 via check number 0036176 dated September 12, 1995. El-Tanbouli exchanged this amount for \$3,500 USD at the Foreign Trade Bank (FTB) in the DPRK on September 15, 1995 and received a Certificate of Exchange.<sup>254</sup>

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<sup>252</sup> Interview memoranda provided by Lankler, Siffert and Wohl LLP (Dec. 4, 2007 & Jan. 22, 2008).

<sup>253</sup> The Panel understands the U.S. Department of Justice did not continue with the proposed investigation.

<sup>254</sup> UNDP Field Office in D.P.R. of Korea Disbursement Voucher No. 3950900008 (Sept. 12, 1995); Check stub 0036176 (undated) (showing DV3950900008 for \$3500 / 7,499.11 KPW; KPW account: 08825101); a Foreign Trade Bank of the D.P.R. of Korea Certificate of Exchange (Sept. 15, 1995) (showing \$3,500 USD paid for 7,499.11 Won; no serial numbers of bills noted). The Panel notes that the disbursement voucher shows 7,175 Won as the amount and a UN exchange rate of 2.05 which equals \$3,500 USD (as noted). However the check

Soon thereafter, on October 1, 1995, El-Tanbouli informed G. Faruq Achikzad, the UN Resident Coordinator/UNDP Resident Representative of UNDP-DPRK (1993-1996), by a fax letter, that his purported bankers, the National Bank of Egypt, Agouza Branch, had rejected the USD notes as they were determined to be “well imitated false notes.” El-Tanbouli’s letter elaborated that the bank had returned the notes to him after marking them in order that they may not be used again. El-Tanbouli requested Achikzad to have the matter resolved.<sup>255</sup>

The images of the thirty-five \$100 USD bills that the Panel has reviewed are “Serial 1988” and each bears a unique serial number. Apart from circular, blue markings on each bill, the bills themselves are unremarkable. (Section V A below discusses in greater detail the chain of custody of the \$3,500 USD and the markings noted on the defaced notes).

#### **B. Treatment of Notes: Handling by UNDP-DPRK Country Office**

Thirty-five defaced \$100 USD counterfeit notes (hereafter referred to as “defaced notes” or “defaced counterfeit notes”) were subsequently sent by El-Tanbouli to the UNDP-DPRK Country Office through Yehia Abu Alam, a fellow Egyptian who had no connection with the matter but was traveling to the DPRK on another UN mission. The letter with which the defaced notes were sent for exchange is undated. As per account of different correspondences, El-Tanbouli’s letter and the defaced notes seem to have been received by the UNDP-DPRK sometime in 1996, well after El-Tanbouli’s receipt of the notes. Abu Alam has confirmed that he handled the delivery of the defaced notes for El-Tanbouli.<sup>256</sup>

The UNDP-DPRK Country Office then requested the Foreign Trade Bank to exchange the defaced notes with genuine notes through a series of communications including to the Ministry of Foreign Affairs, all of which were without success.<sup>257</sup> Achikzad also

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stub shows 7,499.11 as the amount in Won and the Certificate of Exchange shows 7,499.11 exchanged for \$3500 USD at an exchange rate of 2.1322.

<sup>255</sup> Hazem El-Tanbouli letter to G. Faruq Achikzad (undated) (noting time and date of fax transmission, i.e., Oct. 01 1995 06:58PM).

<sup>256</sup> Yehia Abu Alam interview (Jan. 17, 2008).

<sup>257</sup> G. Faruq Achikzad letter to Li Song Dae, Chairman, State External Economic Affairs Commission, Ministry of Foreign Affairs (June 10, 1996) raising issue of counterfeit currency which notes “...[El-Tanbouli] had no means of sending the false notes to us until a colleague was able to *recently* collect them from him and hand them over to our office.” [emphasis added]; G. Faruq Achikzad letter to Li Hung Sik, Secretary-General, NCC for UNDP (June 20, 1996) requesting Li to “...tak[ing] a look at the exchange of correspondence which relates to a confidential and sensitive issue of the counterfeit US\$3500, in dollar notes...”; and Foreign Trade Bank

conveyed to the FTB and other DPRK authorities that this was not the first time that such incidents of disbursement of counterfeit notes by the FTB had occurred and in this connection he referred to a case of a member of the Nigerian Embassy receiving \$21,000 USD in false notes. He also held out a threat that if the matter was not resolved, he would report the case to the UN Legal Office in New York.<sup>258</sup> The FTB informed UNDP-DPRK on July 15, 1996 that it was unable to return the currency because of the passage of time. The FTB further explained: “But it is impossible for us to recognize the above matter. Therefore our Bank has the honour to inform you that it is difficult to return the convertible currency of 7,499.11 won to your account.”<sup>259</sup>

The defaced notes remained in the office safe and the matter thereafter lay dormant until August 30, 1999 when Christian Lemaire, UN Resident Coordinator/UNDP Resident Representative of UNDP-DPRK (1996-1999), sent a letter seeking guidance from the UNDP Office of the Treasury on whether the bank notes could be disposed of “by shredding them.”<sup>260</sup> The letter, which was addressed to Walter Gore, then UNDP’s Treasurer, was said not to have been received by the UNDP Treasury.

From 2003 forward, the defaced notes were noted in each safe count record of the UNDP Country Office in the DPRK, which the Panel has examined.<sup>261</sup> In August 2004, during an internal audit of the UNDP-DPRK office, the counterfeit currency was noted during an inventory of the safe by a loaned staff member of Ernst and Young. The audit team located an unsigned copy of the letter from Lemaire to Gore. However, upon discussion with the audit manager, Cheryl-Lynne Kulasingham, Regional Audit Service Center, OAPR, the defaced notes were not mentioned in the draft or the final audit report. According to Kulasingham, she and other members of the audit team did not regard the matter as significant, because of the many years that had passed and because it appeared that the Country Office had taken steps to address the matter with the FTB.<sup>262</sup>

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letter to UNDP (July 15, 1996, translation July 22, 1996) stating “Your office did not advise until almost 1 year and is now informing...”

<sup>258</sup> G. Faruq Achikzad letter to The General Manager, Foreign Trade Bank, with copy to Li Song Dae, Chairman, State External Economic Affairs Commission, Ministry of Foreign Affairs and Choi Su Hon, Vice Minister and Chairman, NCC for UNDP (Aug. 1, 1996).

<sup>259</sup> Foreign Trade Bank letter to UNDP (July 15, 1996, translation July 22, 1996).

<sup>260</sup> Christian Lemaire letter [unsigned] to Walter Gore (Aug. 30, 1999).

<sup>261</sup> Safe Contents Records: July 3, 2003; July 2, 2004; Jan. 5, 2004; Jan. 14, 2004; Aug. 5, 2005; Sept. 25, 2006.

<sup>262</sup> Cheryl-Lynne Kulasingham interview (Apr. 17, 2008).

In September 2006, Paul Brewah, Operations Manager (September 2006-present) learned of the defaced notes held in the UNDP-DPRK safe through his soon to depart predecessor, Artjon Shkurtaj.<sup>263</sup> Brewah informed Vineet Bhatia, Deputy Resident Representative (January 2006-present), and Timo Pakkala, UN Resident Coordinator/UNDP Resident Representative (July 2005-present) of the defaced currency.<sup>264</sup> Brewah was asked to follow up on the matter. On October 29, 2006, Li Kum Sun, Finance Officer, sent an email to Samar Singha, Joint Administrator for the Regional Bureau for Asia and the Pacific (RBAP) and former UNDP-DPRK Operations Manager, asking for information as “the note was lost.”<sup>265</sup>

On October 30, 2006, Brewah emailed Shkurtaj stating “We have some US dollar counterfeit notes held in the safe. We need to have a note to the file. Can I ask you to please send us a note.” Shkurtaj responded that same day saying, “There is a note to file from the RR/RC is on the folder on the right side of your table (first drawer). It was as well signed from finance. Ms. Li Kum Sun knows.”<sup>266</sup> The Panel has examined this file including correspondence noted above, but did not see a note to file.

On February 6, 2007, following a request from Pakkala, Bhatia emailed a file containing “self explanatory documentation...on the counterfeit \$3,500” to Pakkala (who was then in New York City), David Lockwood, Deputy Regional Director of RBAP, and Romulo Garcia, Division Chief of RBAP.<sup>267</sup>

On March 16, 2007, the defaced notes were sent via DHL from Pyongyang to UNDP-Beijing by Bhatia and Brewah. From the UNDP-Beijing office, the defaced notes were then sent via UN Pouch to UNDP Headquarters to the attention of Julie Anne Mejia, UNDP’s Treasurer.<sup>268</sup>

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<sup>263</sup> Paul Brewah interview (Dec. 17, 2007).

<sup>264</sup> Paul Brewah interview (Dec. 17, 2007); Vineet Bhatia interview (Dec. 5, 2007); and Timo Pakkala interview (Jan. 10, 2008).

<sup>265</sup> Li Kum Sun email to Samar Singha (Oct. 29, 2006) (referencing a note to file regarding defaced counterfeit currency in the safe). Samar Singha email to Li Kum Sun (Oct. 31, 2006) (confirming he remembered preparing a note to file but that he did not have a copy).

<sup>266</sup> Paul Brewah email to Artjon Shkurtaj and response (Oct. 30, 2006).

<sup>267</sup> Vineet Bhatia email to Timo Pakkala (Feb. 6, 2007) (copied to Paul Brewah, UNDP-DPRK Operations Manager, Garcia, and Lockwood).

<sup>268</sup> Timo Pakkala letter to Julie Anne Mejia (Mar. 16, 2007); Vineet Bhatia statement to the Panel (Jan. 21, 2008).

### **C. Treatment of Notes: Handling by UNDP**

In May 2005, Napoleon Navarro, Desk Officer, DPRK-RBAP, learned about the defaced notes from Shkurtaj, who was then serving as UNDP's Operations Manager in the DPRK. While Navarro did not see the defaced notes, he has stated that he did not pursue the matter as he understood from Shkurtaj that UNDP Headquarters had been informed a long time ago.<sup>269</sup>

The Panel has learned that in June 2006, the U.S. Mission raised concerns about counterfeit currency in the DPRK at the Ambassadorial level. Subsequently, the U.S. Mission raised these concerns with UNDP Headquarters several times between August 2006 and December 2006.<sup>270</sup>

On August 10, 2006, Suzanne Bishopric, UN Director of Investment Management Services, Joint Staff Pension Fund, sent an email to Mejia with a copy to Farooq Chowdhury, UN Senior Investment Officer, Office of Programme, Planning, Budget and Accounts, stating "We have been told that some DPRK banks may have given international organizations operating in North Korea, including the UN, counterfeit USD currency." Bishopric further inquired if UNDP uses US Dollars in North Korea, if UNDP had any experience with the receipt of counterfeit US currency in the DPRK, and if UNDP funded travel for DPRK officials. That same day, Gilda Hokum-Ortega, Mejia's assistant forwarded the email from Mejia's email account to Laura Munisteri, Melvin Ysaguirre, and Miediana Yudianto, all from UNDP's Office of Finance and Administration (OFA). Yudianto then forwarded the email to Ben Velasco, a UNDP Treasury Associate.<sup>271</sup> Velasco in turn paraphrased the text of Bishopric's email into a new email to Shkurtaj with copy to Pakkala and Ysaguirre.<sup>272</sup>

On February 5, 2007, during a meeting attended by Pakkala, Garcia, Lockwood, Navarro, Mejia, Darshak Shah, Director and Comptroller of UNDP's Office of Finance and Administration, and others, Pakkala disclosed the existence of the \$3,500 in defaced

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<sup>269</sup> Napoleon Navarro statement to the Panel (Nov. 28, 2007); Napoleon Navarro interview (Jan. 8, 2008)

<sup>270</sup> Documents provided by the Permanent Mission of the United States to the UN; *see also*, Darshak Shah statement to the Panel (May 9, 2008).

<sup>271</sup> Email thread originating from Suzanne Bishopric to Julie Anne Mejia (Aug. 10, 2007); Suzanne Bishopric interview (Apr. 14, 2008).

<sup>272</sup> Ben Velasco email to Artjon Shkurtaj copied to Timo Pakkala and Melvin Ysaguirre (Aug. 10, 2006).

counterfeit notes.<sup>273</sup> Apart from Navarro, before the February 5<sup>th</sup> meeting, Garcia, Lockwood, Mejia, Shah, and Hafiz Pasha, Regional Director, UNDP-RBAP who was not present at the February 5, 2007 meeting, have each stated that they did not learn of the defaced currency until Pakkala's disclosure.<sup>274</sup>

As noted, the defaced notes were received at UNDP's Treasury Office in March 2007, by Mejia. Peri Johnson, Director, UNDP Legal Support Office, and Adam Simonson, UNDP Security Unit, then assisted in turning over the defaced notes to a Special Agent of the United States Department of Homeland Security, U.S. Secret Service on March 20, 2007.<sup>275</sup> Subsequent actions by U.S. authorities to ascertain the origin of the notes and issues of legal liabilities under U.S. laws are matters beyond the scope of the Panel's work.

The U.S. Secret Service concluded that the defaced notes at issue are circa 1992 and correspond with what the U.S. Secret Service calls "Super Notes" that emanate from the DPRK. In addition, the U.S. Secret Service stated that "Through extensive investigations, the Secret Service has made definitive connections between these highly deceptive counterfeit notes and the Democratic People's Republic of Korea."<sup>276</sup>

## **V. ANALYSIS OF RELEVANT FACTS**

### **A. Chain of Custody and Provenance of Defaced Counterfeit Notes**

As an initial matter, the Panel has attempted to determine the chain of custody with respect to the defaced counterfeit notes. The critical links in the chain of custody analysis are as follows:

- Alleged disbursement by the Foreign Trade Bank;
- Alleged presentation by El-Tanbouli to the National Bank of Egypt;
- Return of the notes to UNDP-DPRK;
- Custody in Country Office safe from 1996 to March 2007;

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<sup>273</sup> Nuno Queiros email to meeting attendees (Feb. 6, 2007) (including minutes of Feb. 5, 2007 meeting).

<sup>274</sup> Romulo Garcia statement to the Panel (Dec. 5, 2007); David Lockwood interview (Jan. 10, 2008); Napoleon Navarro statement to the Panel (Nov. 28, 2007); Julie Anne Mejia interview with Lankler, Siffert and Wohl (Mar. 23, 2007); Hafiz Pasha statement to the Panel (Dec. 5, 2007); and, Darshak Shah statement to the Panel (May 9, 2008).

<sup>275</sup> Receipt, Suspected Counterfeit US Bank Notes, signed for by a Special Agent (Mar. 20, 2007).

<sup>276</sup> U.S. Secret Service statement to the U.S. Mission forwarded to the Panel (Apr. 17, 2008); Meeting with the U.S. Secret Service (Dec. 4, 2007). The 1992 reference reflects the U.S. Secret Service's view as to when the notes were manufactured. The notes themselves bear the reference "series 1988."

- Return to UNDP Headquarters; and
- Handover to U.S. authorities.

The lack of any notation of the serial numbers coupled with inconsistent descriptions of the notes present a major obstacle to the Panel's ability to track the chain of custody. Specifically, prior to UNDP-DPRK's dispatch of the defaced notes to UNDP Headquarters, no one recorded the numbers appearing on the defaced counterfeit notes or otherwise indicated with specificity any identifying features.<sup>277</sup> The FTB's Certificate of Exchange for the \$3,500 USD in question does not contain any currency note serial numbers, nor do any of the safe inspection reports prepared periodically by the Country Office.

Two dimensions of the chain of custody analysis are particularly vexing: (1) whether the notes that El-Tanbouli received from the FTB were the same notes that he purportedly presented to the bank in Egypt and which were rejected, defaced, and then returned to UNDP-DPRK; and (2) whether the notes that the UNDP Country Office turned over to the U.S. authorities (via UNDP Headquarters) were the same notes that were kept in the Country Office for over eleven years.

**1. From the Foreign Trade Bank (1995) to the Country Office Safe (1996)**  
***Provenance of Defaced Counterfeit Currency Notes by OAPR***

A review of the period from the FTB's disbursement to El-Tanbouli in 1995 to UNDP-DPRK's eventual receipt of the defaced counterfeit notes in 1996 reveals several ambiguities in the chain of custody. An internal review done by UNDP's Office of Audit and Performance Review (OAPR) assumed that the notes returned on behalf of El-Tanbouli in 1996 were the same bills that were given to him by the FTB in September 1995.<sup>278</sup> The Panel finds this assumption highly questionable.

The OAPR review also observed that payment to El-Tanbouli for his consulting services was made in convertible Won check/voucher at his insistence. This is at variance with what staff members working in the DPRK at the time told the Panel. Carlyse Hessic who was Assistant Resident Representative in the UNDP Country Office from 1992-1996,

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<sup>277</sup> Serial numbers on bills sent from UNDP-DPRK to UNDP Treasury and then to U.S. authorities can be confirmed via scanned images taken in the DPRK, and notation of serial numbers at UNDP Headquarters.

<sup>278</sup> Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007).



stated that payment by check from either the UNDP Country Office's UBS U.S. Dollar account or the FTB convertible Won account was standard practice.<sup>279</sup>

Singha, who was also working in the Country Office at that time similarly stated that payment by convertible Won checks to consultants was standard practice as UNDP was trying to maximize use of the Won balances (convertible and non-convertible).<sup>280</sup> Logically, therefore, the Panel can infer that the mode of payment to El-Tanbouli would be consistent with prevailing practice. (*See* Chapter 2 for a detailed discussion of the convertible and Non-convertible Won accounts.)

### ***Attribution of Defaced Counterfeit Currency Notes to the Foreign Trade Bank***

As noted, the Certificate of Exchange through which the FTB exchanged the convertible Won for U.S. Dollars does not mention the currency note numbers. The Panel is thus left only with El-Tanbouli's story as pieced together by various documents and statements indicating that he took these notes to his bank, the National Bank of Egypt, Agouza Branch, which returned the notes to him after making a mark to render them unusable. At no point did El-Tanbouli identify for UNDP-DPRK the notes in a manner that establishes their identity.

In an effort to understand the relevant events occurring while El-Tanbouli retained custody of the notes, the Panel attempted to locate him through his last recorded phone number, through his bank, and through his colleague, Abu Alam. While efforts to locate El-Tanbouli were unavailing, the Panel contacted Abu Alam, who confirmed that he turned over the defaced notes along with the letter from El-Tanbouli to the UNDP Country Office.<sup>281</sup>

### ***Purported Involvement of the National Bank of Egypt***

The letter from El-Tanbouli states that he presented the U.S. Dollar bills to the Agouza branch of the National Bank of Egypt (Branch). The letter also refers to the National

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<sup>279</sup> Carlyse Hessian interview (Apr. 21, 2008).

<sup>280</sup> Samar Singha interview (Apr. 14, 2008).

<sup>281</sup> Yehia Abu Alam interview (Jan. 17, 2008).

Bank of Egypt as a bank that El-Tanbouli was then using. The Panel contacted the Branch in an effort to confirm these statements from the letter.<sup>282</sup>

The Deputy Manager of the Branch advised that El-Tanbouli has never been a customer of the Branch and that the normal invalidation practice is to punch holes and draw diagonal lines across counterfeit notes. The Deputy Manager also stated that the bank does not under any circumstances return invalidated notes to customers, but rather retains them for further investigation. The Deputy Manager posited that the defaced notes at issue here did not pass through the Branch as stated in El-Tanbouli's letter.<sup>283</sup>

Adding to the ambiguities surrounding El-Tanbouli's assertions is the absence of any evidence that El-Tanbouli followed up with UNDP-DPRK after his initial contract with them in 1995 in an effort retrieve his money. Furthermore, for reasons that are unclear, El-Tanbouli waited several months to return the defaced notes to the UNDP-DPRK via Abu Alam.

The Panel can say with confidence that: (1) El-Tanbouli received a disbursement from the FTB; and (2) Abu Alam delivered to UNDP-DPRK defaced counterfeit currency in the amount of \$3,500 USD along with an explanatory letter purportedly from El-Tanbouli. Beyond these known facts and given the entirety of circumstances, the Panel cannot conclusively determine the circumstances by which the defaced counterfeit currency reached the Country Office. Indeed, it is possible that the notes that Abu Alam returned to UNDP-DPRK were different from the FTB's initial disbursement to El-Tanbouli.

## **2. Chain of Custody while Notes were in Custody of Country Office**

There are also chain of custody questions regarding the period during which the defaced notes were held in the custody of UNDP's Country Office in the DPRK. Witness recollections of the defaced notes are inconsistent. The prevailing recollection was that the defaced notes had some mark or hole to render them unusable. Otherwise, the descriptions were varied. Some have described the defaced notes as bearing a red circle, or a blue circle, or a violet circle. At least one staff member said that the defaced notes had holes punched in

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<sup>282</sup> Saad Baha El-Din interview (Feb. 12 & 13, 2008) (Deputy Branch Manager of National Bank of Egypt). The Panel also made numerous attempts to retrieve a written statement confirming statements made by the Deputy Branch Manager via interviews but was unable to do so.

<sup>283</sup> Saad Baha El-Din interview (Feb. 12 & 13, 2008).

them. Another witness described the bills as worn and used. Furthermore, the purported letter from El-Tanbouli stated that the National Bank of Egypt had put a special mark on each note to render them unusable.<sup>284</sup>

The actual notes made available for the Panel's review had blue circular marks of small diameter and matched the scanned images of the defaced notes which were delivered to Headquarters. The Panel recognizes that after a lapse of more than eleven years on a matter that by all accounts was dormant, there could be minor discrepancies in memory from one witness to the next. Minor changes in shades of color could also take place with passage of time. There was regular inspection of the safe in the Country Office and also during handovers to successors during the eleven-year period. Moreover, there is no evidence of tampering with the notes in the safe. The Panel also believes that there is no cause or motive for any staff member in the Country Office to tamper with the notes.

Given the facts known to the Panel, for purposes of further analysis, the Panel has assumed that the notes which were turned over to the U.S. authorities on March 20, 2007 are the same notes that Abu Alam delivered in 1996 and that were subsequently kept in the office safe of UNDP-DPRK. The Panel emphasizes, however, that it cannot conclusively state this as a finding of fact.

### **B. UNDP's Treatment of the Defaced Counterfeit Currency**

The defaced counterfeit notes remained in the custody of the UNDP Country Office in DPRK for more than eleven years and the question raised in the Panel's Terms of Reference is whether applicable policies were followed and whether all possible measures to deal with the issue were taken. The Panel has looked into this matter from three perspectives: (1) action at the Country Office level; (2) action at Headquarters level, and (3) action at the OAPR level.

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<sup>284</sup> Yehia Abu Alam interview (Jan. 17, 2008); Carlyse Hessian interview (Apr. 21, 2008); Christian Lemaire interview (Jan. 24, 2008); Artjon Shkurtaj interview (Dec. 6, 2007); Samar Singha interview (Apr. 14, 2008); and, Hazem El-Tanbouli letter to G. Faruq Achikzad (undated, but fax header information shows Oct. 01 1995 06:58PM). On the issue of the handling of the counterfeit notes, it needs to be mentioned that the notes in the custody of the UNDP office safe had been defaced and did not have any transactional value. As such, it would not be entirely correct to say that the UNDP-DPRK Country Office was holding counterfeit notes. The notes in their custody should more correctly be described as defaced counterfeit U.S. Dollar bills as is referred to in this report.

## **1. Action at the Country Office Level**

At the Country Office level, there was general concern about the potential circulation of counterfeit currency in the DPRK during the relevant period. With respect to the \$3,500 USD in defaced notes, certain staff members tried to assist El-Tanbouli in good faith. While some efforts occurred under Lemaire's tenure from 1996 to 1999 to address the matter with Headquarters, overall the Country Office took very few proactive steps to address the presence of the defaced notes in the Country Office safe.

### ***General Concerns about Counterfeit Currency in the DPRK***

Incidents involving counterfeit notes in Pyongyang were not uncommon. Achikzad who was the Resident Representative from 1993 to 1996 recounted that his own wife had received U.S. Dollar bills from the FTB that were found to be counterfeit and which the FTB agreed to exchange with genuine notes. He also mentioned that he had read news reports that the DPRK government was engaging in counterfeiting activities, after which he became more vigilant. According to Achikzad, he met with DPRK's Foreign Minister and raised concerns about the use of counterfeit currency. The Minister reportedly assured him that counterfeiting activities would cease, which Achikzad viewed as an acknowledgement that such practices had occurred.<sup>285</sup>

Hessic has also stated that among the diplomatic corps there were concerns that the DPRK government was counterfeiting currency. Singha, another staff member working in the UNDP Country Office, similarly explained that counterfeiting was a significant issue at that time.<sup>286</sup>

Staff members at the Country Office took some precautions to protect UNDP from the potential circulation of counterfeit currency. According to Singha, staff members wrote down the numbers of currency notes dispensed by the FTB so that their identity could be preserved. Christian Lemaire, Achikzad's successor, has stated that he also took several protective measures. He instructed the staff that whenever the office received U.S. Dollars, they should be photocopied and also that a register be kept recording the numbers of all U.S.

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<sup>285</sup> G. Faruq Achikzad interview with Lankler, Siffert and Wohl (Mar. 28, 2007). Achikzad also was aware of other instances of staff of Nigerian and Indonesian Embassies confronting concerns about the use of counterfeit currency.

<sup>286</sup> Samar Singha interview (Apr. 14, 2008).

Dollars passing through the office. He also requested authorization to procure a U.S. currency “number validation machine.”<sup>287</sup>

From these witness accounts, it is clear that the Country Office staff were aware of the potential for counterfeiting practices and accordingly took precautionary measures. There is no evidence that UNDP Headquarters offered specific guidance to the Country Office on the subject of counterfeit currency. On the other hand, the Panel also notes that the successive Resident Representatives could have taken up the matter with Headquarters more effectively.

### *Action and Inaction re: \$3,500 in Defaced Notes*

Regarding the \$3,500 in defaced counterfeit notes, certain staff members tried to assist El-Tanbouli in good faith. For example, Achikzad told the DPRK authorities that if the \$3,500 defaced counterfeit currency were not replaced, he would report the matter to the UN Legal Office in New York. Ultimately, however, he did not report the matter to UNDP Headquarters for reasons that are unclear to the Panel.

According to Lemaire, he addressed the matter verbally during regular visits to New York, but failed to get any guidance. In addition, in August 1999, toward the end of his tenure, Lemaire sent a letter to Walter Gore, UNDP’s Treasurer, seeking advice on how best to proceed with the \$3,500 in defaced notes. This letter may have been lost in transit, and it is unclear whether Gore ever received it. Gore has stated that he has no recollection of the letter.<sup>288</sup>

Successive staff in the Country Office, in particular the Resident Representatives and Operations Managers, were aware of the existence of the defaced counterfeit notes in the safe and recorded as much in the safe inspection reports. Beyond Lemaire’s stated efforts to address the matter with UNDP Headquarters and the safe inspection reports, the Country Office staff did little else to resolve the matter. For example, in October 2006, Paul Brewah, Operations Manager, squarely addressed the matter with Timo Pakkala, Resident

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<sup>287</sup> G. Faruq Achikzad interview with Lankler, Siffert and Wohl (Mar 28, 2007); Carlyse Hessian interview (Apr. 21, 2008); Christian Lemaire interview with Lankler, Siffert and Wohl (Apr. 2, 2007); Christian Lemaire interview (Jan. 24, 2008); and Samar Singha interview (Apr. 14, 2008).

<sup>288</sup> Christian Lemaire interview with Lankler, Siffert and Wohl (Apr. 2, 2007); Christian Lemaire interview (Jan. 24, 2008); Christian Lemaire letter [unsigned] to Walter Gore (Aug. 30, 1999); and Walter Gore interview with Lankler, Siffert and Wohl (Mar. 29, 2007).

Representative.<sup>289</sup> At Pakkala's request, Brewah even made inquiries in late October through which he learned about the history of how the defaced notes purportedly came into the Country Office.<sup>290</sup> Yet, Pakkala waited until February 5, 2007, to raise the issue with UNDP Headquarters.<sup>291</sup>

It is true that the notes had been defaced and had no operational or accounting significance, and the notes remained dormant in the office safe for a number of years. However, the fact remains that following Lemaire's tenure, i.e., from the fall of 1999 until February 2007, there was no apparent discussion among the Country Office staff about taking proactive measures.

For example, no one seems to have considered having the Resident Representative approach a U.S. embassy to explain the issue. Similarly, UNDP holds regular conferences of its Operations Managers along with the Bureau of Management and including the Office of the Treasurer. Such annual events provided multiple opportunities for a representative from UNDP-DPRK to raise the issue of counterfeit notes and to seek guidance. There is no evidence that this was done. Thus, it was not until February 2007, that any action toward resolution of the matter was taken at the Country Office level.

### ***Role of Artjon Shkuratj***

Shkuratj was among the various Operations Managers who served at UNDP-DPRK. His service as Operations Manager spanned the period from February 2005 through September 25, 2006. Since February 2007, Shkuratj has alleged that he repeatedly complained about the \$3,500 in defaced counterfeit currency to his supervisors at the Country Office and others at UNDP Headquarters. In Chapter 6 of this Report, Shkuratj's claims are addressed in detail. The Panel notes here its conclusion that Shkuratj's claims regarding his proactive steps finds no support in the evidence and is otherwise not credible. (Two purported emails, hard copies of which Shkuratj provided to the U.S. Mission, refer to "fake" and counterfeit currency. These purported emails are discussed in detail in Chapter 6.)

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<sup>289</sup> Timo Pakkala interview (Jan. 10, 2008); Paul Brewah interview (Dec. 17, 2007).

<sup>290</sup> Timo Pakkala interview (Jan. 10, 2008); Paul Brewah interview (Dec. 17, 2007); Paul Brewah email to Artjon Shkuratj (Oct. 30, 2006); *see also* Li Kum Sun email to Samar Singha (Oct. 29, 2006).

<sup>291</sup> *See, e.g.*, Timo Pakkala interview (Jan. 10, 2008); Nuno Queiros email to meeting attendees including minutes of Feb. 5, 2007 meeting (Feb. 6, 2007).

### *Applicable Policies*

Regarding UNDP policies governing this matter, the Panel has considered the known facts against UNDP's Fraud Policy. The Panel concludes that there is no evidence that anyone at the Country Office level engaged in any fraud or deception resulting in any loss to UNDP. The action and inaction that occurred at the Country Office level does not implicate UNDP's Fraud Policy.

Instead, the storage of the defaced notes at the Country Office was a safe custody issue to which UNDP's Finance Manual provisions were applicable. The 1991–2000 Finance Manual under Section 10304, Cash Receipts, subsection 3.3, Safekeeping provides that “[u]nder no circumstances should personal property or monies be held with UNDP monies in the UNDP safe.” This same provision is repeated in a subsequent edition of the UNDP Finance Manual.<sup>292</sup> The Panel believes that storage of the defaced counterfeit notes in the office safe was a violation of this provision in the manual because the notes did not belong to UNDP.

In short, with respect to the role of the UNDP-DPRK Country Office in its handling of the defaced counterfeit currency, the Panel concludes as follows: (1) successive staff from 1995 to 2007 acted in good faith, first in trying to help El-Tanbouli recover his money and subsequently in preparing safe custody reports; (2) during the period up to 2002, when UNDP was using U.S. Dollar as one of the currencies of its operations, and when there were widespread allegations of counterfeiting in the DPRK, precautions were taken to prevent use of counterfeit currency in UNDP operations (although there is no documentation to corroborate this point, the Panel credits information provided by witnesses regarding precautionary measures taken during the period prior to 2002);<sup>293</sup> (3) provisions of the Finance Manual that prohibited storage of monies not belonging to UNDP in the office safe were violated; and (4) responsible members of the Country Office staff, including the Resident Representatives and the Operations Managers, did not take sufficient proactive measures to notify Headquarters, seek guidance, or otherwise bring about a resolution of the issue.

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<sup>292</sup> UNDP Finance Manual (1991–2000), July 1997 Reprint; and UNDP Finance Manual (May 19, 2000 – 2007).

<sup>293</sup> G. Faruq Achikzad interview with Lankler, Siffert and Wohl (Mar. 28, 2007); Carlyse Hessic interview (Apr. 21, 2008); Christian Lemaire interview (Jan. 24, 2008); and Samar Singha interview (Apr. 14, 2008).

## **2. Action at Headquarters**

UNDP Headquarters took no meaningful action to address the presence of counterfeit currency in the Country Office until February 2007, after the U.S. Mission began asking questions about the issue. It was only at that late point that UNDP Headquarters coordinated with the Country Office and arranged for delivery of the defaced counterfeit notes to New York for handover to U.S. authorities. To assess the propriety of Headquarters' failure to act, the Panel has focused on what the various participants at the Headquarters level knew about the defaced notes, when they knew it, and how they responded.

### ***Regional Bureau for Asia and the Pacific***

Regarding the Regional Bureau for Asia and the Pacific (RBAP), there is no dispute that Napoleon Navarro, Desk Officer for the DPRK, knew about the presence of the defaced notes as of May 2005 when he visited the Country Office on mission. During Navarro's visit, Shkurtaaj told him about the defaced counterfeit notes, although Navarro described Shkurtaaj's stance on the matter as casual.<sup>294</sup>

Navarro's superiors within RBAP, i.e., Romulo Garcia, Division Chief, and David Lockwood, RBAP's Deputy Regional Director, have denied knowledge of the matter until February 5, 2007. There is no concrete evidence that refutes Garcia's and Lockwood's denials. With respect to Garcia, the Panel notes that other evidence in connection with other aspects of this Report establishes with clarity that Navarro performed his duties with diligence and kept Garcia apprised of key developments in the DPRK. Navarro told the Panel, however, that he did not inform Garcia about the counterfeit currency in the Country Office safe, despite learning about it in May 2005. There is no documentary evidence to the contrary.<sup>295</sup>

With respect to Lockwood, his recollection conflicts with Darshak Shah's version of what was discussed during the meeting on February 5, 2007. As noted, Lockwood stated that it was at this meeting that he first learned of the \$3,500 in defaced counterfeit notes. By

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<sup>294</sup> Napoleon Navarro statement to the Panel (Nov. 28, 2007); Napoleon Navarro interview (Jan. 8, 2008); and Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007).

<sup>295</sup> Napoleon Navarro statement to the Panel (Nov. 28, 2007); Napoleon Navarro interview (Jan. 8, 2008); Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007); and Romulo Garcia statement to the Panel (Dec. 5, 2007).



contrast, Shah recalled that during the meeting, Lockwood noted a vague recollection of the counterfeit notes. According to Shah, Lockwood recalled a letter that UNDP Headquarters received on the subject—a possible reference to the above-described letter that Lemaire claims to have sent to the Treasury Office in August 1999.<sup>296</sup>

The Panel also notes that on September 5, 2006, Navarro forwarded an email to Garcia. Navarro had received the email from James Provenzano, then Director of the UNDP's Office of Legal and Procurement Services, who referenced a recent meeting with the U.S. Mission. The Provenzano email explained that the "Americans are concerned particularly about counterfeit currency coming out from DPRK." Navarro forwarded the email to Garcia with a note stating, "I frankly do not know what to make of it." Notably, this email did not trigger any response by RBAP other than Navarro forwarding it to Garcia with the above-referenced brief comment. The email also establishes Provenzano's awareness of the issue in general terms.<sup>297</sup>

Furthermore, the Panel notes that RBAP had good reason to pay closer attention to matters concerning counterfeit currency in the DPRK. As noted, during the period from 1995 to 2002, U.S. Dollar currency was being used for UNDP operations, and the circulation of counterfeit currency in DPRK was widely known.

### ***UNDP's Office of the Treasurer***

The Panel has interviewed Julie Anne Mejia, UNDP's Treasurer, and Ben Velasco, Treasury Associate. Each has denied knowledge of the \$3,500 in defaced counterfeit currency until February 2007.<sup>298</sup> Treasury has also denied knowledge of the letter that Lemaire claims to have sent to Gore in 1999.<sup>299</sup> Gore has similarly denied receipt of the

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<sup>296</sup> David Lockwood interview with Lankler, Siffert and Wohl (Mar. 27, 2007); Darshak Shah interview with Lankler, Siffert and Wohl (Mar. 30, 2007); and, Darshak Shah statement to the Panel (May 9, 2008).

<sup>297</sup> Napoleon Navarro email to Romulo Garcia (Sept. 1, 2007) (this email was in reference to a follow up with Provenzano concerning a "note verbale" on the subject of UNDP's use of hard currency in the DPRK). See Chapter 6 for a discussion of the *note verbale* topic.

<sup>298</sup> Julie Anne Mejia interview (Nov. 20, 2007); Julie Anne Mejia interview with Lankler, Siffert and Wohl (Mar. 23, 2007); Ben Velasco interview (Apr. 11, 2008); and Ben Velasco interview with Lankler, Siffert and Wohl (Mar. 29, 2007).

<sup>299</sup> See, e.g., Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007) (noting that Treasury officials had no knowledge of having received August 1999 letter from Gore).

letter.<sup>300</sup> Given their purported lack of knowledge, UNDP Treasury takes the position that Treasury did not offer guidance to the Country Office because it did not know about the issue in the first place.

Regarding the 1999 letter to Gore, its author (Lemaire) insists that it was sent, and during an internal audit in 2004, the auditors located an unsigned copy of the letter in the Country Office files. The Panel finds that irrespective of whether UNDP Headquarters actually received the letter, there were warning signs that counterfeit currency was an issue in the DPRK that required attention. In fact, it is undisputed that by August 2006, UNDP Treasury Officials were well-aware of inquiries by the UN and the U.S. Mission regarding UNDP's experience in the DPRK on this subject.

Specifically, on August 10, 2006, Suzanne Bishopric, UN Director of Investment Management Services, Joint Staff Pension Fund, sent an email to Mejia stating that the UN had been told that some DPRK banks may have given counterfeit dollars to UN organizations operating in the DPRK and inquiring whether UNDP used U.S. Dollars in the DPRK. Bishopric specifically asked, "Has UNDP had any experience with the receipt of counterfeit U.S. currency in North Korea?" In response, Mejia's assistant referred the matter for inquiry down the chain of command. The task of making the inquiry eventually became Velasco's responsibility. Velasco promptly forwarded an email to Shkurtaj asking for answers to Bishopric's questions.<sup>301</sup>

In addition to the UN's August 10<sup>th</sup> inquiry, the U.S. Mission raised concerns about counterfeit currency in the DPRK and specifically questioned UNDP's Treasury Office on the subject over the course of several meetings in August, November, and December 2006. Mejia attended several of the meetings with the U.S. Mission, including a meeting on approximately August 18, 2006. However, during these meetings, the U.S. Mission did not specifically reference the \$3,500 in defaced counterfeit notes.<sup>302</sup>

Despite the UN's inquiry on August 10, 2006 and the U.S. Mission's inquiries beginning as early as August 18, 2006, there was a notable lack of follow up. Neither Mejia

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<sup>300</sup> Walter Gore interview with Lankler, Siffert and Wohl (Mar. 29, 2007).

<sup>301</sup> Email thread originating from Suzanne Bishopric to Julie Anne Mejia (Aug. 10, 2007); Suzanne Bishopric interview (Apr. 14, 2008); Ben Velasco interview (Apr. 11, 2008); and Ben Velasco email to Artjon Shkurtaj copied to Timo Pakkala and Melvin Ysaguirre (Aug. 10, 2006).

<sup>302</sup> Julie Anne Mejia interview with Lankler, Siffert and Wohl (Mar. 23, 2007); documents provided by the Permanent Mission of the United States to the UN.

nor anyone else in her office checked to see if the Country Office had responded to Velasco's email. Instead, at least six weeks elapsed before Shkurtaj and Velasco discussed the matter, at which point Shkurtaj stated to Velasco that the Country Office does not deal in U.S. currency.<sup>303</sup>

### ***Office of Finance and Administration***

As with UNDP's Treasury Office, the Office of Finance and Administration (OFA) failed to respond to signals that counterfeit currency issues existed in connection with operations in the DPRK. Darshak Shah, OFA's Director and Comptroller, denies knowledge of Velasco's August 10<sup>th</sup> email, which is consistent with the fact that he was not listed as a recipient. Like Mejia, however, as early as August 2006, Shah participated in meetings with the U.S. Mission during which the subject of counterfeit currency was raised.<sup>304</sup>

Regarding the August 10, 2006 email from Velasco, the Panel notes discrepancies in accounts that Shah has provided at different points in time. Specifically, Shah first suggested to the Panel that *he* initiated the process which led to Velasco sending the August 10<sup>th</sup> email.<sup>305</sup> However, when Lankler, Siffert and Wohl interviewed Shah, he made no mention of having initiated action by Velasco.<sup>306</sup> Most recently, on May 9, 2008, Shah told the Panel unequivocally that he was not informed about Velasco's August 10<sup>th</sup> email at all.<sup>307</sup>

The thrust of Shah's position is that that he only became aware of the actual presence of the defaced notes on February 5, 2007, when Pakkala told him about them. Shah maintains that the U.S. Mission never specifically asked about the \$3,500 in defaced counterfeit notes; and that in a meeting on September 15, 2006 with UNDP's Treasury Office

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<sup>303</sup> Melvin Ysaguirre email to Darshak Shah (Feb. 14, 2007); Melvin Ysaguirre interview (Apr. 11, 2008); and Ben Velasco interview (Apr. 11, 2008).

<sup>304</sup> Darshak Shah interview (Apr. 8, 2008); Darshak Shah statement to the Panel (May 9, 2008); and Miediano Yudianto email to Ben Velasco (Aug. 10, 2006).

<sup>305</sup> Darshak Shah interview (Apr. 8, 2008).

<sup>306</sup> Darshak Shah interview with Lankler, Siffert and Wohl (Mar. 27 & Mar. 30, 2007). Adding to the uncertainty, a chronology attached to an OAPR investigative report indicates that on August 10, 2006, i.e., the date of the Velasco email, "Shah directs Ysaguirre to send e-mail to Tony Shkurtaj," citing information provided by Mejia. See Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007) (attaching chronology as Annex 1).

<sup>307</sup> Darshak Shah statement to the Panel (May 9, 2008).

and RBAP in which the participants discussed financial matters relating to the DPRK, no one brought the issue of the defaced notes to his attention.<sup>308</sup>

Shah's emphasis on his lack of knowledge about the defaced counterfeit notes does not dispel the Panel's concerns. Given the U.S. Mission's repeated reference to counterfeit currency issues in the DPRK and given Shah's involvement in multiple high-level discussions with Mejia and others on the subject, Shah was in a position to initiate, and indeed should have initiated, action which may have helped bring the matter to a resolution more quickly.

### *Senior Management*

UNDP senior management, notably Kemal Dervis, Administrator, and Ad Melkert, Associate Administrator, did not participate in meetings with the U.S. Mission on the subject of counterfeit currency until December 22, 2006. On that date, the U.S. Mission's Ambassador for Management and Reform, met with Dervis, Shah and others and noted concerns about the use of counterfeit currency in the DPRK. At that time, Dervis was unaware that defaced counterfeit notes were lying in the Country Office safe. In February 2007, the subject of the \$3,500 in defaced counterfeit notes surfaced in earnest and was squarely brought to the attention of senior management. Thus, on February 15, 2007, Melkert disclosed the existence of the defaced counterfeit notes to the U.S. Mission; and on March 16, 2007, the notes were sent to UNDP Headquarters before being delivered to U.S. authorities.

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In short, with respect to UNDP's treatment of the defaced counterfeit notes, the Panel finds that communications between the Country Office and UNDP Headquarters were inadequate. The Country Office failed to raise the issue with sufficient clarity, particularly after Lemaire's tenure ended in 1999. RBAP failed to act upon information that Navarro gathered in May 2005. And despite the UN's inquiry about UNDP's "experiences with the receipt of counterfeit US currency in North Korea," UNDP's Offices of the Treasurer and Finance and Administration failed to take follow up action which might have identified and resolved the issue earlier.

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<sup>308</sup> Darshak Shah interview (Apr. 8, 2008); and Darshak Shah statement to the Panel (May 9, 2008).

The dynamic that existed was such that while the Country Office, RBAP, the Office of the Treasurer, the Office of Finance and Administration, and the Office of Legal and Procurement Services each had a role to play, each relied on the other to act without ensuring that any such action was occurring. This dynamic was evident during Lemaire's tenure, during which the Country Office claimed that it awaited instructions from Headquarters, while Headquarters contended that no guidance was sought from the Country Office.

The Panel finds that in connection with the defaced counterfeit notes, there is no evidence of bad faith. However, a management lapse clearly occurred. That the matter remained dormant for eleven years is evidence enough of inadequate communication and coordination between Headquarters and field operations.

### **3. Role of Internal Audit**

In an organization such as UNDP, senior management has to depend on internal audit systems to provide information on irregularities that may be taking place in different parts of the organization. Since 1994, there were six internal audit reviews of the Country Office in DPRK. The purpose of the audits included obtaining assurance about compliance with established regulations, rules, policies, and procedures. Inventory of the office safe was one of the steps in the audit process. The only mention of the defaced counterfeit notes is in the working papers of the audit conducted by OAPR in 2004. The working papers refer to a surprise inventory that the audit team conducted of the safe. After describing the circumstances through which the notes were placed in the safe, OAPR noted that “[s]ince then, numerous efforts of the office include writing to the Treasurer to replace these with real USD have been futile.”<sup>309</sup> However, the defaced counterfeit notes were not raised as an issue in the audit report itself. The Panel believes that lack of sufficient attention to this issue in the internal audit and the resulting report deprived UNDP's senior management of timely information about this important matter.

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<sup>309</sup> Internal Review of Counterfeit US Dollar bills in the safe of UNDP-DPRK, UNDP Office of Audit and Performance Review (June 25, 2007).

## **VI. CONCLUSIONS**

Based on the investigative review of the issues listed in item 4 of the Terms of Reference, the Panel has reached the following conclusions:

1. There were thirty-five \$100 USD bills lying in the safe of UNDP Country Office in DPRK from 1996 until March 2007. These counterfeit bills had been defaced and had no transactional value or significance. It follows that the Country Office was not in custody of passable counterfeit currency per se. These bills may have belonged to El-Tanbouli who had been engaged as a consultant by UNDP-DPRK. The circumstances under which these bills came into the possession of El-Tanbouli are unclear. For lack of sufficient evidence, the Panel cannot confirm whether the defaced notes were disbursed to him by the Foreign Trade Bank or the bills were in his possession even before he received payment for his consulting services in September 1995. The Panel, however, has confirmed that the defaced notes were sent by El-Tanbouli to UNDP-DPRK with the request that, since the bills had been found to be false imitations, the FTB should exchange them.

2. The Country Office staff acted in good faith in pursuing the matter with the FTB and the DPRK at El-Tanbouli's request, but was not successful. The defaced counterfeit notes thereafter remained in the safe of the Country Office until March 2007. The notes were held by UNDP on behalf of El-Tanbouli by way of safe keeping pending resolution of the matter.

3. Keeping the notes in the office safe was in contravention of provisions of UNDP's Finance Manual under which personal property or monies should not be kept in the office. No other violation of policies or procedures was observed. However, the Country Office staff did not take sufficient timely proactive measures to seek guidance from their head office on how to deal with matter. As a result, the matter needlessly lay dormant for eleven years.

4. UNDP Headquarters had knowledge of issues concerning counterfeit currency in the DPRK across multiple levels, including the Regional Bureau for Asia and the Pacific, the Office of the Treasury, the Office of Finance and Administration, and the Office of Legal and Procurement Services. Each of these offices within UNDP Headquarters is thus accountable

for failing to address the matter more directly and thereby facilitating a more prompt resolution. In December 2006, the issue of counterfeit currency in the DPRK in general terms was brought to the level of senior management. UNDP's senior management, however, was not aware that defaced counterfeit notes were in the custody of the Country Office until February 2007. Once senior management was aware of the defaced notes in the Country Office, it reacted promptly to arrange for a handover of the notes to U.S. authorities. Furthermore, inadequate communication at the internal audit level contributed to the delay in resolving the matter, as auditors learned of the presence of the counterfeit notes in 2004, but failed to highlight the issue in an audit report to Headquarters.

5. Prior to 2002, UNDP was using U.S. Dollars as the foreign currency for its DPRK operations. There is enough evidence to indicate that circulation of counterfeit U.S. Dollars was widely prevalent. The Country Office took precautions to prevent use of counterfeit currency in their operations. Post 2002, the use of U.S. Dollars was discontinued for its operations, and UNDP started using Euros as the foreign currency for disbursements. The possibility of UNDP disbursement procedures being misused for circulation of counterfeit dollars thus was minimized.

## **VII. RECOMMENDATIONS**

In view of the facts and circumstances stated in this Chapter, the Panel offers the following recommendations:

UNDP should consider adopting more explicit reporting requirements regarding activities and operational issues occurring in its Country Offices. For example, quarterly reporting by Resident Representatives should be required. In addition, a more formalized mission reporting system is also advisable, whereby representatives from Headquarters can explain relevant findings and observations.

In setting up banking arrangements with host countries, particularly those countries for which the market for local currency is limited, UNDP should pay particular attention to accounts that are convertible. In such countries, convertible accounts can be manipulated and used as a means by which to disseminate counterfeit currency. Regarding the DPRK,

should operations in such country resume, UNDP could usefully review its convertible Won disbursement procedures to identify and eliminate any loopholes that need to be plugged.

In circumstances where the risk of counterfeit currency usage exists, UNDP Headquarters should provide guidance on how best to handle and record currency transactions. For example, a policy requiring the recording of serial numbers would assist UNDP in identifying and maintaining a chain of custody with respect to potentially counterfeit currency. The Panel understands that UNDP has promulgated policies on safe management and counterfeit currency and encourages active training on these subjects to be sure that the policies are properly understood and enforced.

Across UNDP's various offices and divisions at Headquarters and Country Offices, officials must be more vigilant in communicating areas of concern. Each office must take responsibility for addressing issues without assuming that another division will take action to ensure meaningful follow up.



## **Chapter 6**

### **Allegations of Retaliation against Former UNDP Consultant Who Reported Claims of Wrongdoing (Terms of Reference Item 5)**

#### **I. TERMS OF REFERENCE**

A complaint has been lodged that UNDP retaliated against an individual for “blowing the whistle” on irregularities in its operations in DPRK. In this respect, review the complainant’s allegations related to these operations and the alleged retaliation, make every effort to establish the facts, including about the specific events in DPRK and regarding application of relevant protection policies. After completing the review, the Independent Review Team shall share its findings on this aspect of the Independent Investigative Review with the Director, UN Ethics Office. The Director, UN Ethics Office, could then provide an opinion and formulate recommendations, as may be appropriate, on the retaliation allegations in light of these findings. If the UN Ethics Office requires further investigation of this specific issue, after having reviewed the findings of the investigative review, it can arrange for such follow-up before providing its recommendations, with the full cooperation of UNDP.

#### **II. EXECUTIVE SUMMARY**

Artjon Shkurtaj claims that UNDP retaliated against him for reporting wrongdoing in connection with the United Nations Development Programme’s (UNDP) operations and activities in the Democratic People’s Republic of Korea (DPRK). In this Chapter, the Panel has undertaken a substantive review of Shkurtaj’s claims and, on the basis of incontrovertible and undisputed facts, has concluded that Shkurtaj’s claims of retaliation are without merit.

The evidence establishes that, in some instances, Shkurtaj justifiably raised issues about UNDP’s practices in the DPRK. In particular, Shkurtaj correctly identified concerns about UNDP’s payments in hard currency to the DPRK. Shkurtaj had good reason to raise these matters to his superiors within the UNDP. In doing so, he encouraged UNDP to ensure compliance with its own policies and its applicable agreements with the DPRK. In fact, at

times, UNDP Headquarters expressly encouraged Shkurtaaj to monitor and highlight instances of hard currency payments so that UNDP officials could understand and address the issue.

The question therefore distills to whether the UNDP responded appropriately to Shkurtaaj's complaints about the use of hard currency in connection with UNDP's operations in the DPRK. The Panel concludes that UNDP's response to Shkurtaaj's complaints was reasonable. Indeed, it is clear from the evidence that at the Country Office and Headquarters levels, UNDP engaged in numerous discussions on the subject and considered solutions to the problem. This is not to say that Headquarters pursued all available avenues to address the matter. But the evidence reveals that far from ignoring Shkurtaaj, UNDP officials agreed with him and took steps to remedy and reduce the use of hard currency payments.

In fact, documentary evidence proves that Shkurtaaj recognized that UNDP Headquarters was responsive and cooperative to the concerns that he raised about hard currency payments. Given UNDP's responsiveness, Shkurtaaj had no basis for skirting ordinary channels of communication within UNDP and should not have so quickly brought his complaints to external authorities.

Apart from hard currency issues, Shkurtaaj claims that he expressly raised the fact that \$3,500 in defaced counterfeit U.S. Dollars had been in the custody of UNDP's Country Office in the DPRK. Specifically, Shkurtaaj claims that he brought this fact to the attention of high-ranking members of UNDP's Office of Finance and Administration, including the Office of the Treasury, and the Regional Bureau for Asia and the Pacific (RBAP). The evidence, however, does not support Shkurtaaj's assertion. To the contrary, the evidence reveals that Shkurtaaj did not regard the presence of the defaced counterfeit bills at the Country Office as an urgent matter. He spoke about the counterfeit notes with his peers and, in one instance, with a representative of the RBAP. However, despite being the custodian of the safe, Shkurtaaj did not take proactive steps within UNDP to bring about a resolution.

Shkurtaaj raised other concerns about UNDP's operations in the DPRK. At various points, Shkurtaaj flagged concerns about issues such as the international staff's lack of access to the DPRK's Foreign Trade Bank, insufficient project monitoring, and the degree to which the DPRK government monitored and controlled UNDP's operations. Shkurtaaj did not, however, pursue these matters as consistently or with the same persistence as he did with respect to the issue of hard currency payments.

Shkurtaj asserts that in response to the various concerns that he raised, UNDP retaliated against him. Shkurtaj's claims of retaliation implicate the propriety of three categories of hiring decisions that UNDP made. First, Shkurtaj sought and was denied a staff-level position as Operations Manager for UNDP's operations in the DPRK. With respect to this particular decision, poor communications between Headquarters and the Country Office resulted in a flawed selection process and ultimately a decision that Shkurtaj was not the best candidate for the position. Shkurtaj has cause to be frustrated with the process, because Country Office officials, despite harboring reservations about Shkurtaj's interpersonal skills, initially selected Shkurtaj for the position. Thereafter, a human resources official overruled Shkurtaj's selection, citing legitimate flaws in the process. Regardless of communications and management breakdowns in the selection process, the fact remains that there is no evidence of retaliation. Instead, the evidence reveals that it was *after* UNDP denied Shkurtaj's application for the staff-level position that Shkurtaj became particularly outspoken about UNDP's operations in the DPRK.

Second, Shkurtaj's final position with UNDP was as a temporary consultant under a Special Services Agreement with UNDP's Centre for Business Solutions. Shkurtaj was not fired from this position, but rather the period of his consultancy expired by its terms. The evidence overwhelmingly establishes that Shkurtaj was hired to perform short-term services for the Centre for Business Solutions in the context of a tight budget. There is no suggestion of retaliation in the decision not to renew Shkurtaj's contract.

Third, Shkurtaj challenges UNDP's decisions with respect to certain job postings to which he applied. Here again, the record fails to demonstrate retaliatory treatment. Instead, the evidence reveals a pattern in which Shkurtaj applied for positions to which he clearly was not qualified. For example, in July 2006, Shkurtaj applied for a staff position as a Team Leader with the Centre for Business Solutions. The posting required that each applicant be a Certified Public Accountant. Shkurtaj applied for the position without possessing this required credential. UNDP's decision to hire someone else who met the requirements set forth in the posting was not retaliatory.

Furthermore, for the reasons stated in Section IV of this Chapter, the Panel has serious reservations about Shkurtaj's credibility and the trustworthiness of claims that he has made to the Panel and to others. The Panel met with Shkurtaj on three separate occasions in

an effort to understand the nature of his allegations. Shkurtaaj proved to be an evasive witness. For example, Shkurtaaj repeatedly promised to back up his allegations with documentary evidence. Despite the Panel's repeated requests for and genuine interest in Shkurtaaj's purported proof, Shkurtaaj never provided it. Moreover, Shkurtaaj made assertions during the interview process that are untenable. He claimed for example that he never signed the Special Service Agreements with the Centre for Business Solutions, when the evidence conclusively authenticates his signature and his approval of the agreements.

Considering the totality of the circumstances, including the undisputed evidence, the accounts of numerous witnesses, and extensive documentary evidence, the Panel concludes that UNDP did not retaliate against Shkurtaaj for his role in raising concerns about UNDP's operations in the DPRK.

### **III. FINDINGS OF FACTS**

#### **A. Summary of Shkurtaaj's Service for United Nations and Related Agencies**

Since 1996, Artjon Shkurtaaj has performed services at various points in time for the United Nations (UN) and related agencies. Shkurtaaj began with short-term consultancy positions with the United Nations Development Programme (UNDP) in Tirana, Albania pursuant to Special Service Agreements (SSAs). Thereafter, Shkurtaaj held a variety of consultancy positions in different locations with the United Nations Office for Project Services (UNOPS) during the period from 1996 through March 2001. Typically, the assignments were for terms of one to three months.<sup>310</sup>

In September 2002, on the recommendation and secondment of the Permanent Mission of the Republic of Albania to the UN, Shkurtaaj secured a staff position with the United Nations Department for Economic and Social Affairs (DESA). Shkurtaaj maintained positions within DESA through a series of staff contracts, the last of which concluded on June 3, 2004. Shkurtaaj did not receive a further extension beyond June 2004. On May 7, 2004, Shkurtaaj lodged a complaint with the UN Office for Internal Oversight Services (OIOS). In this complaint (discussed below), Shkurtaaj claimed that DESA did not extend his

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<sup>310</sup> United Nations Personal History Form P11 for Artjon Shkurtaaj (Sept. 2002); Curriculum Vitae of Artjon Shkurtaaj (Mar. 2005).

contract because his supervisor, Guido Bertucci, retaliated against him for his cooperation in a prior internal investigation.<sup>311</sup>

In November 2004, Shkurtaaj secured a consultancy agreement whereby he began his first assignment relating to UNDP's activities in the Democratic People's Republic of Korea (DPRK). Shkurtaaj was not hired as a UNDP staff member. Instead, he served as a consultant through a series of SSA agreements from November 2004 through May 2006. During this period, Shkurtaaj first served a desk assignment in New York before accepting another assignment involving the DPRK which involved monitoring and evaluation planning at UNDP's office in Pyongyang. By March 2005, Shkurtaaj began service as the Operations Manager a.i. for UNDP-DPRK. Shkurtaaj served in this role through May 31, 2006, again by operation of multiple SSAs. Shkurtaaj's service in the DPRK ended on September 25, 2006. During his final months in the DPRK, i.e., from June 1, 2006 through September 25, 2006, Shkurtaaj operated under a staff contract known as an Activities of Limited Duration (ALD).<sup>312</sup>

Following his service as Operations Manager in the DPRK, Shkurtaaj worked for UNDP's Bureau of Management, specifically as an advisor for the Centre for Business Solutions (CBS). Shkurtaaj entered into two SSA agreements with CBS, the last of which ended on March 26, 2007.<sup>313</sup>

#### **B. Shkurtaaj's Service with DESA and His Complaint of Retaliation (2004)**

On May 7, 2004, Shkurtaaj filed a complaint with OIOS' Investigations Division. Shkurtaaj complained that his contract for services with DESA had not been extended as a result of his cooperation with an OIOS investigation earlier in the year. Shkurtaaj complained that he had supplied OIOS with a document that he believed revealed corruption at the United Nations' Thessaloniki Centre. As a result of Shkurtaaj's complaint of retaliation, OIOS

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<sup>311</sup> Guido Bertucci interview (Nov. 20, 2007); OIOS Report of Interview (July 2, 2004); Curriculum Vitae of Artjon Shkurtaaj (Mar. 2005).

<sup>312</sup> Curriculum Vitae of Artjon Shkurtaaj (Apr. 2007); Special Service Agreement (SSA) (Nov. and Dec. 2004; Jan., Mar., July, and Oct. 2005); UNDP Letter of Appointment to Artjon Shkurtaaj (June 1, 2006) (setting forth conditions of ALD-based employment). Shkurtaaj served as Operations Manager on an ad interim basis. It should be noted as well that Shkurtaaj served for more than eleven months continuously on SSA contracts without a waiver of restrictions on such continuous SSA contractual service.

<sup>313</sup> SSA (Sept. 27 and Dec. 27, 2007); Jens Wandel interviews (Nov. 21, 2007 and Apr. 11, 2008); *See also* Curriculum Vitae of Artjon Shkurtaaj (Apr. 2007).

conducted an investigation, interviewing Shkurtaaj, Shkurtaaj's supervisor, Bertucci, and nearly a dozen other witnesses. On July 2, 2004, OIOS issued a confidential report of investigation regarding Shkurtaaj's allegations. According to OIOS, the document on which Shkurtaaj relied in the initial OIOS investigation was not a forged document nor even an important document as Shkurtaaj had claimed it to be. OIOS concluded that there was no corroborative evidence to support Shkurtaaj's allegations of retaliation. OIOS explained that there had been a personality conflict between Shkurtaaj and Bertucci. OIOS noted further that Shkurtaaj "had performance problems" and had been "cautioned about his use of foul language." OIOS concluded that Shkurtaaj's loss of the position was "unrelated" to his cooperation with OIOS' investigation.<sup>314</sup>

### **C. Shkurtaaj's Initial Service as Operations Manager in DPRK (2005)**

In November 2004, Shkurtaaj began service for UNDP in the DPRK. By December 2004, Shkurtaaj was reporting to the UNDP's Country Office and was responsible for the completion of a monitoring and evaluation plan. Shkurtaaj was given considerable authority fairly early on in his term of service in the DPRK. By March 2005, Shkurtaaj served as the Operations Manager and reported to Abu Selim, who was then the Resident Representative a.i. in the DPRK until July 2005.<sup>315</sup>

Email correspondence reveals that Shkurtaaj served as Operations Manager without a signed contract of any kind from March 5, 2005 to April 1, 2005. During this period, Selim and Shkurtaaj considered a possible ALD-based contract. However, the discussions never materialized, and Shkurtaaj instead signed another consultancy agreement on approximately April 1, 2005. (Although he signed the agreement on approximately April 1, 2005, he dated it March 5, 2005, writing the date retroactively to cover the period in which he had no contract.)<sup>316</sup>

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<sup>314</sup> OIOS Report of Investigation (July 2, 2004). The Panel interviewed witnesses, including a witness from Albania on the subject of the DESA retaliation claim that Shkurtaaj filed. It should be noted further that Shkurtaaj appealed DESA's decision not to renew his contract. The appeal was dismissed because Shkurtaaj did not file the appeal on a timely basis. Reviewing authorities further noted that Shkurtaaj failed to advance sufficient evidence to establish a prima facie case. Miouly Pongon email to Peri Johnson (Apr. 30, 2008) (responding to Panel's inquiry).

<sup>315</sup> SSA (Mar. 5, 2005); Abu Selim interview (Nov. 1, 2007).

<sup>316</sup> Artjon Shkurtaaj email to Abu Selim (Mar. 13, 2005); Abu Selim email to Romulo Garcia (Apr. 5, 2005) (noting meeting between Shkurtaaj and Selim and final execution of contract).

## **1. Shkurtaj's Responsibilities as Operations Manager**

As an Operations Manager, Shkurtaj provided a range of functions for the Country Office. Shkurtaj coordinated disbursements, finance, procurement, human resources, security, and played a role in maintaining records as well. Shkurtaj supervised national staff who performed finance functions, including Li Kum Sun, a Finance Officer. Shkurtaj had two international staff members that reported to him: a procurement officer and a project finance officer. Shkurtaj described his functions as including the coordination of “all administrative activities related to financial and human resource management, office automation, security, and administrative systems.”<sup>317</sup>

During his service as Operations Manager in the DPRK, Shkurtaj enjoyed support from UNDP Headquarters, in particular Romulo Garcia and Napoleon Navarro, respectively, the Chief of the Northeast Asia and Mekong Division and the Desk Officer for the DPRK of the Regional Bureau for Asia and the Pacific (RBAP). According to Navarro, Shkurtaj was sent to the UNDP-DPRK Country Office “to ensure that the house was, is, and will be in order.” In an email dated March 1, 2005, Garcia complimented Shkurtaj for his initial service in the DPRK, noting that Shkurtaj was “a tremendous asset to the office” in Pyongyang.<sup>318</sup>

By contrast, Shkurtaj's relations with his colleagues in Pyongyang were often strained. Concerns about Shkurtaj's interpersonal skills arose early on in his service as Operations Manager. According to Selim, Shkurtaj was known to be “hard on staff”—local and international staff alike. Selim reported his views of Shkurtaj to UNDP Headquarters. Similarly, Yuexin Du, Assistant Resident Representative for UNDP-DPRK (May 2005-March 2007), brought concerns about Shkurtaj's treatment of the staff to Navarro's attention. She noted tension between Shkurtaj and the staff and multiple complaints about the manner in which he treated co-workers. She pleaded with Navarro, “We need to find a way to calm him down.”<sup>319</sup>

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<sup>317</sup> Curriculum Vitae Artjon Shkurtaj (Mar. 2005); Artjon Shkurtaj interview (Nov. 29, 2007); Timo Pakkala interview (Nov. 1, 2007). Initially, Shkurtaj did not have the two direct reports. However, by the close of 2005, the two international staff members reported to him.

<sup>318</sup> See, e.g., Napoleon Navarro email to Timo Pakkala (July 12, 2005); Romulo Garcia email to Artjon Shkurtaj (Mar. 1, 2005); Napoleon Navarro interview (Jan. 8, 2008).

<sup>319</sup> Abu Selim interview (Nov. 1, 2007); Yuexin Du email to Napoleon Navarro (July 5, 2006); Romulo Garcia interview (Oct. 30, 2007).

## **2. Other Employment Opportunities at UNDP-DPRK**

In February 2005, Shkurtaj applied for the position of Assistant Resident Representative in the DPRK. Navarro encouraged Shkurtaj to apply because Shkurtaj appeared to have the right experience and skill. Shkurtaj and three others were recommended for a short list of applicants for further consideration. Interviews occurred in February 2005 with Navarro participating as a panelist. On March 14, 2005, Yuexin Du was hired for the position in lieu of Shkurtaj. Shkurtaj continued with his service as Operations Manager.<sup>320</sup>

On May 23, 2005, Shkurtaj applied for another position within UNDP's operations in DPRK, i.e., the position of Deputy Resident Representative. Shkurtaj was not among the short list of candidates considered for the position. Ultimately, Vineet Bhatia was selected in the summer of 2005. Bhatia would not commence service as the Deputy Resident Representative until January 2006.<sup>321</sup>

## **3. Shkurtaj's Initial Concerns re: UNDP-DPRK and UNDP's Responses**

Shkurtaj prepared a "Mission Report" for February 2005, in which he noted to Selim his initial observations in regards to UNDP's operations in the DPRK. He addressed his remarks in an email to Selim and forwarded them to Navarro as well. Specifically, Shkurtaj asserted problems in a variety of categories, including operations, administration, and project management. The concerns that Shkurtaj raised in his February 2005 report did not directly concern issues that would later figure more prominently, such as payment to the DPRK in hard currency.<sup>322</sup>

On April 22, 2005, Shkurtaj received an email from Selim entitled "Counterfeit Cheques." In this email, Selim requested a prompt meeting with Shkurtaj and Li Kum Sun. Selim indicated in the email that he wanted to discuss bank reconciliation matters to ensure

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<sup>320</sup> Napoleon Navarro interview (Jan. 8, 2008); Artjon Shkurtaj interview (Nov. 29, 2007); Interview Report re Assistant Resident Representative DPRK (undated) (noting interviews that occurred on Feb. 23, 2005 and comments of interview panel); Jovita Domingo email to Yuexin Du (Mar. 14, 2005). Du began service at UNDP-DPRK in May 2005.

<sup>321</sup> Artjon Shkurtaj email to Jovita Domingo (May 23, 2005); Artjon Shkurtaj interview (Nov. 29, 2007); Vineet Bhatia interview (Dec. 5, 2007).

<sup>322</sup> Artjon Shkurtaj email to Abu Selim (dated incorrectly) (email captioned "Mission Report (Feb. 2005)") (available records indicate that the Mission Report was created no later than Mar. 3, 2005 when Navarro sent Shkurtaj an email thanking him for forwarding the report to him).



that adequate control measures were in place. Shkurtaj responded that same day. Shkurtaj made no reference then to any knowledge of counterfeit currency issues with respect to the Country Office. However, Shkurtaj raised concerns about the exclusive use of local staff to interface with the Foreign Trade Bank (FTB). Shkurtaj noted that FTB “doesn’t accept to deliver cash” to any representative of the Country Office other than Li Kum Sun, the Finance Officer and a member of the national staff. Shkurtaj specifically explained to Selim, “Please notice that all payments in DPRK are made to our Finance Officer (only) no foreigner or other staff can go to collect money in the Foreign Trade Bank (FTB).”<sup>323</sup>

In May 2005, Navarro was on mission to UNDP’s offices in Pyongyang. During the mission, Shkurtaj told Navarro about the presence of counterfeit currency in the safe of the Country Office. According to Navarro, Shkurtaj nonchalantly mentioned the counterfeit currency. From his conversation with Shkurtaj on the subject, Navarro believed that the issue had been properly documented, and thus there was no need to address the matter with Headquarters.<sup>324</sup>

In July 2005, Timo Pakkala replaced Selim as the Resident Representative for UNDP-DPRK. According to Shkurtaj, he met with Pakkala and Selim to discuss the transition. Shkurtaj claims that during transition meetings in July 2005, he flagged a number of issues for Pakkala including the possession of defaced counterfeit currency in the Country Office’s safe, cash management problems, and hiring problems. Shkurtaj further claims that Selim was very upset about Shkurtaj raising these issues at a point when he had nearly completed his service and was in the process of handing over responsibility for the office to Pakkala.<sup>325</sup>

Pakkala, on the other hand, denies that any such conversation about counterfeit currency occurred during the handover process. According to Pakkala, it was not until October 2006, that he first learned of the defaced counterfeit currency in the safe. By October 2006, Shkurtaj had left the DPRK and his replacement, Paul Brewah, informed

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<sup>323</sup> Abu Selim email to Artjon Shkurtaj and Li Kum Sun (Apr. 22, 2005); Artjon Shkurtaj email to Abu Selim and Li Kum Sun (Apr. 22, 2005). (Shkurtaj also noted in the email that he had “finalized with success the Bank Reconciliation.”) Artjon Shkurtaj email to Abu Selim and Li Kum Sun (Apr. 22, 2005).

<sup>324</sup> Napoleon Navarro interview (Jan. 8, 2007).

<sup>325</sup> Artjon Shkurtaj interview (Nov. 29, 2007).

Pakkala of the existence of the counterfeit currency. (As explained below, Brewah himself said he learned of the counterfeit currency from Shkurtaj.)<sup>326</sup>

During this same time period, Shkurtaj raised concerns about the nature of the agreement between the DPRK and UNDP known as a Standard Basic Assistance Agreement (SBAA) with Navarro and UNDP's Treasurer, Julie Anne Mejia. In response, on July 12, 2005, Mejia noted her interest in reviewing agreements with DPRK for “staff secondment, which should also specify currency of payment, meal allowance arrangements, etc.” Mejia specifically requested copies of applicable agreements with DPRK. As a follow-up to Mejia's interest in reviewing the agreement, Shkurtaj forwarded a copy of the SBAA to her.<sup>327</sup>

Over the course of several months in 2005, Shkurtaj also interfaced with Cheryl-Lynne Kulasingham, of UNDP's Office of Audit and Performance Review (OAPR), Regional Audit Service Centre. In February 2005, Shkurtaj introduced himself to Kulasingham via email. He explained that he had not received any handover from his predecessor and was therefore finding it “a bit difficult to find all informations and put the pieces together.” Shkurtaj asked Kulasingham, “Can you please indicate to me if there is any planned audit for this year??”<sup>328</sup>

In response, Kulasingham indicated that there was no planned audit for 2005, as an audit had been conducted in 2004. Kulasingham clarified that there would be a desk review to check on UNDP-DPRK's implementation of audit recommendations from the prior year. Thereafter, in October 2005, Shkurtaj again contacted the UNDP auditor. Shkurtaj indicated that he was anticipating the auditor's desk review as a follow-up to earlier recommendations. On October 25, 2005, Kulasingham responded to Shkurtaj and indicated that a desk review would be carried out the following month focusing “on issues raised in the audit report.” Kulasingham further noted “We are also in the process of preparing our audit work plan for 2006”; and she specifically asked Shkurtaj to identify any critical circumstances that he

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<sup>326</sup> Timo Pakkala interview (Jan. 10, 2008); Paul Brewah interview (Dec. 17, 2007).

<sup>327</sup> Julie Anne Mejia email to Artjon Shkurtaj (July 12, 2005); Artjon Shkurtaj email to Julie Anne Mejia (July 14, 2005).

<sup>328</sup> Cheryl-Lynne Kulasingham email to Artjon Shkurtaj (Oct. 24, 2005) (including email thread beginning on Oct. 1, 2004).

thought warranted an audit. Available records indicate that Shkurtaj did not respond to the email.<sup>329</sup>

According to Kulasingham, she and Shkurtaj briefly discussed the auditing process in October 2005 at a regional training meeting in Bangkok. Kulasingham told Shkurtaj that he should put any concerns that he has regarding UNDP-DPRK in writing so that she could raise any matters with OAPR. According to Kulasingham, she did not receive additional information from Shkurtaj. Nor did she herself follow up with Shkurtaj any further.<sup>330</sup>

In December 2005, Shkurtaj again addressed questions about the “special circumstances” in the DPRK to UNDP’s Office of Treasury. He explained to Mejia that in the DPRK “use of hard currency towards all local payments (Salaries, DSA, Travel Claims, maintenance, etc.) is prevailing without proper structure.” Shkurtaj raised the question because he claimed that local currency was accumulating in UNDP’s bank account, and Shkurtaj expressed a preference for using such local currency to pay office rent. As UNDP’s Treasurer, Mejia endorsed the proposal and requested assistance from Michael O’Hara (Deputy Director, Office of Planning and Budgeting). O’Hara in turn encouraged Shkurtaj to “bring down your non-convertible currency account balance” and to “proceed to cover as many costs as you can from it.” Shkurtaj expressed his appreciation to Mejia and indicated that the increased use of local currency in DPRK would “be a signal of change towards the right direction.” Shkurtaj reiterated his thanks for Mejia’s attention and support.<sup>331</sup>

According to Shkurtaj, in late December 2005 while in New York City for the holidays, he had a discussion with David Lockwood (Deputy Regional Director for UNDP-RBAP). Shkurtaj recalls a heated discussion during which he raised questions about the SBAA agreement between UNDP and DPRK. Shkurtaj claims that he told Lockwood of concerns that national staff members were performing core functions. According to Shkurtaj, Lockwood said, “Don’t rock the boat.” Lockwood has no recollection of any such meeting with Shkurtaj and recalls that during this period, he was primarily occupied with tsunami relief efforts in Southeast Asia.<sup>332</sup>

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<sup>329</sup> Cheryl-Lynne Kulasingham email to Artjon Shkurtaj (Oct. 24, 2005) (including email thread beginning on Oct. 1, 2004).

<sup>330</sup> Cheryl-Lynne Kulasingham interview (Apr. 17, 2008).

<sup>331</sup> Artjon Shkurtaj email to Julie Anne Mejia (Dec. 14, 2005); Julie Anne Mejia email to Michael O’Hara (Dec. 12, 2005); Michael O’Hara email to Artjon Shkurtaj (Dec. 14, 2005).

<sup>332</sup> Artjon Shkurtaj interview (Nov. 29, 2007); David Lockwood interview (Jan. 10, 2008).

## **D. Shkurtaj's Application for ALD-Based Assignment in DPRK (September 2005 through April 2006)**

### **1. Initial Selection of Shkurtaj**

In September 2005, Ri Hung Sik, Secretary General of DPRK's National Coordinating Committee (NCC-UNDP), acknowledged agreement with UNDP-DPRK that project funding was warranted for the post of Operations Manager through 2007. Thereafter, Jovita Domingo, HR Business Advisor for the RBAP, informed Pakkala that a staff position could be created and requested from Pakkala appropriate terms of reference. Domingo further informed Pakkala that the position must be posted, and the hiring process must occur on a competitive basis. Domingo noted Shkurtaj's eligibility for the position.<sup>333</sup>

The selection process for Operations Manager required a two-step process. The first step was for headquarters to review candidates and prepare a "long list." A second step required the Country Office, i.e., UNDP-DPRK, to create a short list of candidates to be interviewed.<sup>334</sup> In December 2005, UNDP posted a vacancy announcement for the Operations Manager position in UNDP-DPRK. In response, UNDP received 174 applications. UNDP headquarters thus created a long list of 29 applicants which included Shkurtaj.<sup>335</sup>

On February 17, 2006, in relation to a separate hiring matter, Domingo explained the hiring process to Shkurtaj in an email that she copied to Pakkala and Bhatia as well. In this email, Domingo noted that an immediate supervisor cannot participate as a member of the interview panel.<sup>336</sup>

Pakkala and Bhatia prepared a short list of candidates for the Operations Manager position. According to Bhatia, Shkurtaj came out slightly higher than the other candidates that they reviewed. By March 17, 2006, Pakkala and Bhatia had completed their interview process and selected Shkurtaj for the Operations Manager position. As a result, Shkurtaj was in a position to continue service as an Operations Manager—this time, as a staff employee of

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<sup>333</sup> Jovita Domingo email to Timo Pakkala (Sept. 13, 2005); Jovita Domingo email to Timo Pakkala (Sept. 15, 2005).

<sup>334</sup> Jovita Domingo interview (Dec. 6, 2007).

<sup>335</sup> UNDP vacancy announcement re: DPRK Operations Manager (undated) (indicating the vacancy was advertised on Dec. 7, 2005 with an application deadline of Dec. 20, 2005); Vineet Bhatia interview (Dec. 5, 2007).

<sup>336</sup> Jovita Domingo email to Artjon Shkurtaj (Feb. 17, 2006).

UNDP under a 200 series project-funded contract as opposed to a consultant operating under an SSA contract.<sup>337</sup>

On March 30, 2006, Shkurtaaj sent an email to Domingo informing her that he had been selected for the Operations Manager position. Domingo responded on April 4, 2006 congratulating Shkurtaaj. Domingo noted that she was not involved in the decision itself which had been “handled locally.”<sup>338</sup>

## **2. Performance Concerns and Poor Interpersonal Skills**

Notwithstanding the decision to hire Shkurtaaj for the UNDP staff position, Pakkala and Bhatia had reservations about Shkurtaaj as a candidate. Pakkala and Bhatia noted concerns about Shkurtaaj's interpersonal skills. There are numerous accounts of Shkurtaaj engaging in rude conduct toward the international and national staff in DPRK. As Shkurtaaj's immediate supervisor, Bhatia addressed these concerns about Shkurtaaj's conduct with Shkurtaaj on several occasions. In connection with the decision to hire Shkurtaaj, Bhatia reiterated to Shkurtaaj the need for Shkurtaaj to improve his interpersonal skills and relations with international and national staff members. While Pakkala and Bhatia noted their concerns about Shkurtaaj's temperament and interpersonal skills, both noted that he was technically proficient and thus suitable for the Operations Manager position.<sup>339</sup>

As examples of Shkurtaaj's failing interpersonal skills, witnesses noted that Shkurtaaj frequently got into fights with a member of the national staff, Li Kum Sun, the Finance Officer. Witnesses recalled that Shkurtaaj used abusive language. In one instance, Shkurtaaj requested a member of the national staff to thwart efforts by an international staff member to extend a visa. Shkurtaaj's efforts to impede the visa application process were in response to the international member's opposition to Shkurtaaj's abusive behavior.<sup>340</sup>

On March 2, 2006, a United Nations Country Team Meeting was held. Shkurtaaj, Bhatia, and Pakkala, among others, were in attendance. Among the issues raised during the meeting was the use of hard currency for local payments. The group agreed to gather further

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<sup>337</sup> Vineet Bhatia interview (Dec. 5, 2007); Timo Pakkala email to Jovita Domingo (Mar. 17, 2006) (attaching interview report and information re short-listed candidates); Jovita Domingo email to Timo Pakkala (Mar. 23, 2006); Sonia Thakur notes (undated) (summarizing selection process).

<sup>338</sup> Artjon Shkurtaaj email to Jovita Domingo (Mar. 30, 2006); Jovita Domingo email to Artjon Shkurtaaj (Apr. 4, 2006).

<sup>339</sup> Vineet Bhatia interview (Jan. 15, 2008); Timo Pakkala interview (Jan. 10, 2008).

<sup>340</sup> Vineet Bhatia interview (Jan. 15, 2008); Vijay Thapa interview (Nov. 21, 2007).

details and information on the ongoing practices used by each agency. The group agreed to discuss the matter further in subsequent meetings.<sup>341</sup>

On March 15, 2006, Pakkala and Bhatia informed Shkurtaj that he had been appointed as the Safe and Petty Cash Custodian effective immediately. Pakkala explained “Your responsibility specifically relates to the Pyongyang safe and petty cash and is established to meet the miscellaneous expenditures to operate the office.” Correspondingly, Pakkala and Bhatia notified Li Kum Sun, the local staff member serving as the Finance Officer, that she was “hereby advised to handover [her] current roles as the Safe and Petty Cash Custodian to Mr. Tony Shkurtaj, Operations Manager, effective immediately.” Pakkala explained that the decision was necessary “to ensure proper segregation of roles and responsibilities in the Finance and Administration Sections.”<sup>342</sup>

By letter dated March 20, 2006, Pakkala advised Ri Hung Sik of the DPRK’s NCC-UNDP that Pakkala would be extending the terms of Shkurtaj’s service and the service of two other members of the international staff. Pakkala asked for Ri Hung Sik’s “concurrence to the above contract extensions.” On April 12, 2006, Ri Hung Sik responded to Pakkala’s request, noting that he would inform Pakkala of the government’s position as to Shkurtaj “in due course.” At the same time and by contrast, Ri Hung Sik agreed to extend the term of service for one of the staff members and later the second.<sup>343</sup>

### **3. Flaws in the Hiring Process**

On April 13, 2006, UNDP altered its course with respect to the hiring of Shkurtaj for the Operations Manager position. Domingo informed Pakkala that on April 12, 2006, she had reviewed the minutes of the hiring process and discovered irregularities. Domingo explained that the interview panel, consisting of Pakkala and Bhatia, was improperly constituted because under “corporate policy and practice” Bhatia should not have participated in the interview process and final decision. As Shkurtaj’s immediate supervisor, Bhatia should have recused himself. Furthermore, Domingo noted that because a female

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<sup>341</sup> Minutes of United Nations Country Team Meeting (Mar. 2, 2006).

<sup>342</sup> Timo Pakkala memo to Artjon Shkurtaj (Mar. 15, 2006); Timo Pakkala memo to Li Kum Sun (Mar. 15, 2006). This appointment of Shkurtaj as the Safe and Petty Cash Custodian stands in contrast to the UNDP Safe Contents Count Record indicating that Shkurtaj’s signed as custodian on “5/8/05.” UNDP Safe Contents Count Record (8/5/08).

<sup>343</sup> Timo Pakkala letter to Ri Hung Sik (Mar. 20, 2006); Ri Hung Sik letter to Timo Pakkala (Apr. 12, 2006).

candidate met a UNDP threshold competency score, Pakkala and Bhatia should have selected the female candidate. Recognizing that Shkurtaaj had already been informed of his selection for the position, Domingo agreed “to the issuance of an ALD contract to Tony Shkurtaaj for a period of one year” on the condition that “the post should be readvertised again after this period.”<sup>344</sup>

Pakkala responded that same day noting that he was surprised by Domingo’s position and suggested that Domingo was fully apprised of the fact that Bhatia would likely be involved in the process. Pakkala further noted that he thought the better policy would be to allow a direct supervisor to participate in the process “as he/she knows best what the job entails.” Domingo apologized “for the misunderstanding” but offered no means by which to validate the process. (In March 2006, Navarro was visiting UNDP’s Pyongyang office and was thus available to participate in the interview process in lieu of Bhatia.)<sup>345</sup>

During a conference in Colombo in late April 2006, Pakkala met in person with Garcia, Navarro, and Domingo and discussed the circumstances surrounding Shkurtaaj’s service as Operations Manager. Pakkala mentioned that he had concerns about Shkurtaaj’s behavior in the DPRK office and thought it better that Shkurtaaj not be hired. Shortly after the conference, Pakkala and Domingo revisited the issue in an exchange of emails on May 3 and 5, 2006. Pakkala noted that while Shkurtaaj had been selected, “due to developments since then, he can not be given the contract.” Pakkala asked for assistance from Domingo in assembling another short list of candidates. Pakkala specifically noted, “I hope that UNDP will identify another assignment for Tony [Shkurtaaj] and make full use of his strong competencies in Atlas and finance as well as his knowledge of UNDP operations procedures.” Pakkala proposed a three-month ALD position for Shkurtaaj. Domingo responded by contemplating an ALD position for the minimum six-month period.<sup>346</sup>

According to Pakkala, at some point in May 2006, he spoke with Shkurtaaj about the circumstances of his continued service at UNDP-DPRK. Pakkala told Shkurtaaj that his interpersonal skills had increasingly become a problem. Pakkala further mentioned that the DPRK government had raised concerns about Shkurtaaj and his treatment of the national staff.

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<sup>344</sup> Jovita Domingo email to Timo Pakkala (Apr. 13, 2006).

<sup>345</sup> Timo Pakkala email to Jovita Domingo (Apr. 12, 2006); Jovita Domingo email to Timo Pakkala (Apr. 12, 2006); Napoleon Navarro interview (Jan. 8, 2008).

<sup>346</sup> Timo Pakkala interview (Mar. 10, 2008); Timo Pakkala email to Jovita Domingo (May 3, 2006); Jovita Domingo email to Timo Pakkala (May 5, 2006).

Pakkala similarly told Bhatia that he (Pakkala) had met with Ri Hung Sik, who mentioned that the government was complaining about the manner in which Shkurtaaj had been treating the national staff.<sup>347</sup>

In short, as of early May 2006, it was clear that Shkurtaaj was not going to serve as Operations Manager for UNDP-DPRK on a long-term basis. Pakkala and Domingo, however, fully intended to assist Shkurtaaj in finding another suitable position. It is equally clear that Shkurtaaj was himself interested in working elsewhere within UNDP, preferably in New York where he could be closer to his family. Shkurtaaj expressed his appreciation to Pakkala and Bhatia for their assistance in helping him obtain an ALD-based contract and supporting his efforts to find a new position.<sup>348</sup>

**E. Shkurtaaj's Complaints to UNDP and Non-UNDP Officials and Responses Received (May 2006)**

On approximately May 6, 2006, Shkurtaaj arrived in New York for a training program geared toward Operations Managers.<sup>349</sup> While in New York, Shkurtaaj became exceedingly outspoken in his complaints about UNDP's operations in the DPRK. Shkurtaaj addressed his criticisms to a variety of different persons from Bhatia, his immediate supervisor, to Ambassador Mark Wallace of the Permanent Mission of the United States to the UN (U.S. Mission).

For example, by email dated May 16, 2006, Shkurtaaj claimed to Pakkala as follows:

I am being given a PNG [*persona non grata*], because I fought and stood tall against corruption and illegal use of UN's money and mandate. I would do the same everywhere. I would appreciate that you and Vineet not to penalize me and my family as well. I gave 19 months to that office making significant changes. The least I ask is to be given the equal chance so I can apply and be hired by the organization in other places.

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<sup>347</sup> Timo Pakkala interviews (Nov. 1, 2007 & Mar. 10, 2008); Vineet Bhatia interview (Jan. 15, 2008).

<sup>348</sup> Timo Pakkala email to Jovita Domingo (May 3, 2006); Jovita Domingo email to Timo Pakkala (May 5, 2006); Artjon Shkurtaaj email to Jens Wandel (July 7, 2007) (noting that given the length of time he had spent in North Korea, he was ready to be closer to his family); Artjon Shkurtaaj email to Timo Pakkala (May 26, 2006).

<sup>349</sup> The training program ran from May 8, 2006 through May 19, 2006.



Shkurtaj requested Pakkala's assistance in obtaining an ALD-based position. Pakkala responded noting that he could provide Shkurtaj a six-month ALD contract with the understanding that it may need to be discontinued earlier depending on the circumstances.<sup>350</sup>

During this same period, Shkurtaj raised complaints with UNDP's Treasury Office. He claims to have met with Mejia at some point between May 7 and May 11, 2006 to raise concerns about UNDP's operations in DPRK. Shkurtaj also claims to have met Darshak Shah, UNDP's Comptroller, during this same time period. Shah, however, has stated "categorically" that he has never met with Shkurtaj on the issue of UNDP-DPRK or any other subject matter.<sup>351</sup>

Shkurtaj explained his concerns in an email to Mejia dated May 19, 2006, where he noted verbatim as follows:

Following our meeting last July 2005, as well as our communications in December 2005 in regard of the use of hard currency vis-à-vis local currency, I have tried to follow the financial rules and regulations as well as UNDP SBAA with DPRK (see attached), but without any results.

Still, after a year, the situation is that Government exclusively wants HARD currency, while we are piling GLOC contributions in KPW. What concerns me the most is that even tentative by myself to at least pay the Government institutions and individuals by EFT (bank transfer to their respective bank accounts), whereby minimizing CASH transactions - have failed. The Government and individuals wants CASH and wants it in hard currency.

Salaries, overtime, local DSA, meal allowance, office maintenance, various bills, are being paid in full in hard currency (Euro), living us with no choice but to accumulate "un-wanted non-convertible KPW".

Shkurtaj then proposed several options for Mejia's consideration. (Shkurtaj forwarded Navarro a copy of his email to Mejia, but did not forward it to his supervisors in the Country

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<sup>350</sup> Artjon Shkurtaj email to Timo Pakkala (May 16, 2006); Timo Pakkala email to Artjon Shkurtaj (May 25, 2006); Timo Pakkala interview (Jan. 10, 2008). It should be noted that in his responsive email, Pakkala did not take issue with Shkurtaj's reference to "being given a PNG." In his interviews with the Panel, however, Pakkala stated that Shkurtaj was not designated a PNG, but rather DPRK officials were merely complaining about his treatment of the national staff. Timo Pakkala interview (Jan. 10, 2008).

<sup>351</sup> Artjon Shkurtaj interview (Nov. 29, 2007); Darshak Shah interview (Apr. 8, 2008).

Office, i.e., Pakkala and Bhatia. Navarro responded to Shkurtaj noting that the email was a “solid piece,” though “too hard hitting for our supervisors.”<sup>352</sup>

Mejia responded to Shkurtaj on May 23, 2006, in effect restating the position that she articulated in December 2005, i.e., that “the terms of the SBAA should be observed” and that “best practice [is] that use of cash should be minimized to the extent feasible.” Mejia further suggested to Shkurtaj that if efforts to minimize the use of cash and hard currency fail, Shkurtaj should work with the UN’s Office of Legal Affairs and the UNDP Office of Legal Procurement Services (OLPS) to prepare a *note verbale* to the DPRK, urging observance of the SBAA.<sup>353</sup>

Shkurtaj raised his concerns with others as well, including: (1) Christopher Burnham, who at the time served as the UN’s Under Secretary-General for Management (Peter Smith, Burnham’s Special Assistant, also met with Shkurtaj in May 2006); and (2) Ambassador Mark Wallace of the United States Permanent Mission to the UN. In his meetings with Burnham and Smith, Shkurtaj relayed concerns about UNDP’s management of cash and reliance on local staff. Smith recalls that Shkurtaj also raised concerns about counterfeit currency. In response, Burnham felt compelled to pass Shkurtaj’s information along to the U.S. Mission.<sup>354</sup>

## **F. Shkurtaj Returns to UNDP-DPRK** **(June 2006 through September 2006)**

### **1. Shkurtaj’s Role During Interim Period**

On May 29, 2006, Shkurtaj returned to the DPRK, where he continued his service as Operations Manager and continued efforts to find another position within UNDP. As of June 1, 2006, Shkurtaj was operating under a six-month ALD contract, affording him the status of a UNDP staff member. Shkurtaj continued his service as Operations Manager in the DPRK until September 26, 2006. In this role, Shkurtaj continued to address concerns that he had about UNDP’s operations in the DPRK and worked with Bhatia in an effort to improve the

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<sup>352</sup> Artjon Shkurtaj email to Julie Anne Mejia (May 19, 2006). The Panel notes that it has not changed any typographical errors that appear in the text of the emails and documents cited in this Chapter or anywhere else in the Report. Napoleon Navarro email to Artjon Shkurtaj (May 19, 2006).

<sup>353</sup> Julie Anne Mejia email to Artjon Shkurtaj (May 23, 2006).

<sup>354</sup> Peter Smith interview (Nov. 27, 2007); United States Senate Permanent Subcommittee on Investigations, “United Nations Development Program: A Case Study of North Korea”, Staff Report (Jan. 24, 2008) (noting that “[i]n May 2006, Mr. Shkurtaj spoke privately about his concerns with Ambassador Mark Wallace”).

situation. Shkurtaj also assisted in preparations for an upcoming audit of operations in the DPRK.<sup>355</sup>

In June 2006, Shkurtaj raised concerns about a National Execution (NEX) proposal on which Pakkala and Christian Lemaire were working. (Lemaire had formerly served as a Resident Representative for UNDP-DPRK and was in Pyongyang on a temporary basis to assist Pakkala.) On June 19, 2006, Shkurtaj notified Navarro of Pakkala's proposal, questioning the propriety of proposing the creation of a NEX management support unit and claiming that the DPRK government was already interfering with UNDP's operations. Shkurtaj notified Navarro by email, without copying Pakkala. Shkurtaj attached a Power Point presentation that Pakkala and Lemaire reviewed with the DPRK government. In his email to Navarro, Shkurtaj reiterated his concerns about hard currency payments and indicated that he had already raised his concerns about the NEX proposal with Pakkala.<sup>356</sup>

By email dated June 19, 2006, Navarro responded to Shkurtaj, thanking him for raising the matter and noting that the decision was ultimately the Resident Representative's to make. Navarro noted that it was not feasible for RBAP to be running the Country Office from New York.<sup>357</sup>

Navarro also forwarded Shkurtaj's June 19<sup>th</sup> email concerning the NEX proposal to Garcia. Navarro explained to Garcia that Pakkala's proposal may not be a problem as long as it was implemented with the support of the Country Office. Navarro further stated, "I personally do no[t] want to be swayed by the alarmist tone of Tony." Navarro also offered Garcia his opinion on Pakkala's proposal and advised that "we should be ok." In response, Garcia asked Navarro to call Pakkala and caution Pakkala on the potential ramifications of the NEX proposal.<sup>358</sup>

In updating Shkurtaj on the circumstances, Navarro explained to Shkurtaj that he would be calling Pakkala and that "[w]hile I will try to manage the situation as best as possible, I do not see how you cannot be hit after the phone call." Navarro intended his reference to "being hit" as a warning to Shkurtaj that Pakkala may be upset since Shkurtaj

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<sup>355</sup> Letter of Appointment (June 1, 2006) (noting ALD status and duty station in Pyongyang, DPRK); *see e.g.*, Artjon Shkurtaj email to Timo Pakkala (July 7, 2006).

<sup>356</sup> Artjon Shkurtaj email to Napoleon Navarro (June 19, 2006); Christian Lemaire interview (Jan. 24, 2008) (noting that Shkurtaj did not voice concerns about the proposal); Timo Pakkala interview (Mar. 10, 2008).

<sup>357</sup> Napoleon Navarro email to Artjon Shkurtaj (June 19, 2006).

<sup>358</sup> Napoleon Navarro email to Romulo Garcia (June 19, 2006); Napoleon Navarro email to Artjon Shkurtaj (June 19, 2006).

was reporting matters to RBAP in New York without Pakkala's knowledge. Ultimately, the proposal became a moot point, because the DPRK government never acted on it.<sup>359</sup>

As another example of Shkurtaj's work for UNDP-DPRK during his interim assignment as Operations Manager, on July 7, 2006, Shkurtaj assisted in preparations for an upcoming audit. He reviewed voucher payments and reported his preliminary findings to Bhatia as follows:

1. No receipt from any government institution on funds transferred or payment rendered to them for any given project;
2. Use of check-cash instead of bank-transfer or non-cash-check is at 83% of all payments;
3. Checks addressed to other institutions or individuals are still being cashed from our driver as per instructions of Finance.

Given that:

1. UNDP have no access to Foreign Trade Bank for ensuring and enforcing check cashing methods;
2. UNDP have no access to any Government Institution, to ensure that checks written to government counterparts or NPDs or third parties on behalf of government institutions are actually handed over to final destination;
3. UNDP International staff are not allowed to make any bank transactions, even for checks issued to ourselves (monthly salaries);<sup>360</sup>

In response, Bhatia requested Shkurtaj to prepare a draft circular on a policy for payments and provided Shkurtaj specific guidance on how the circular should be prepared.<sup>361</sup>

## **2. Handover to Paul Brewah**

During Shkurtaj's final period of service in the DPRK, i.e., June through September 2006, efforts were underway to find a new Operations Manager and to ensure a proper handover. In late May 2006, efforts resumed to select an Operations Manager. To avoid the procedural problems that occurred with respect to Shkurtaj, Domingo provided a short list of candidates from the original applicant pool to Pakkala for his consideration. Paul Brewah, an Operations Manager in Armenia, was among the list of candidates. Pakkala then suggested

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<sup>359</sup> Napoleon Navarro email to Artjon Shkurtaj (June 19, 2006); Napoleon Navarro interview (Jan. 8, 2008).

<sup>360</sup> Artjon Shkurtaj email to Timo Pakkala (July 7, 2006).

<sup>361</sup> Vineet Bhatia email to Artjon Shkurtaj (July 24, 2006); Vineet Bhatia interview (Dec. 5, 2007)

three candidates for Domingo to interview, including Brewah. Following interviews by Headquarters, on June 26, 2006, Pakkala confirmed the selection of Brewah for the Operations Manager position. In connection with the selection of Brewah, Pakkala noted the need “to manage the transition with adequate time for [Shkurtaĵ’s] reassignment.”<sup>362</sup>

As explained below, Shkurtaĵ indeed secured a consultancy position with UNDP’s Centre for Business Solutions (CBS), which commenced on September 27, 2006. On September 19, 2006, Brewah arrived in Pyongyang. (Before leaving Pyongyang, Shkurtaĵ worked with Brewah and assisted him in the handover process.) After several days of orientation, on September 25, 2006, Brewah and Shkurtaĵ reviewed the contents of UNDP’s safe. At that time, Brewah learned that the contents of the safe included \$3500 USD in defaced counterfeit currency. Brewah and Shkurtaĵ discussed the counterfeit currency in the Country Office safe. According to Brewah, Shkurtaĵ told him that that there was nothing that could be done about the issue and that the counterfeit currency had been in the safe for many years. On September 25, 2006, Brewah signed a report concerning the contents of the safe. On September 25, 2006, Shkurtaĵ left the UNDP-DPRK office and traveled to New York to begin his new position as a consultant for CBS.<sup>363</sup>

#### **G. Shkurtaĵ’s Consultancy Position with CBS** **(September 27, 2006 through March 26, 2007)**

On July 3, 2006, UNDP announced a vacancy for the position of Team Leader (Finance Management) within CBS. On July 7, 2006, Shkurtaĵ expressed an interest in the position in an email to Jens Wandel, Director of CBS. Shkurtaĵ explained to Wandel that after an extended period of time in the DPRK in which he had not seen his family “more than 3 times in the past 2 yrs.” he was looking for work in the United States where his family was located. Shkurtaĵ’s expression of interest touched off a series of emails and discussions, which led to Shkurtaĵ securing a consultancy position with CBS. In extending the consultancy offer to Shkurtaĵ, Vee Kun Lee, CBS’ Operations Manager, explained that CBS

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<sup>362</sup> Jovita Domingo email Timo Pakkala (May 31, 2006); Timo Pakkala email to Jovita Domingo (May 31, 2006); Timo Pakkala email to Sonia Thakur (June 26, 2006).

<sup>363</sup> Paul Brewah interview (Dec. 17, 2007); Vineet Bhatia email to Li Kum Sun (Sept. 27, 2006); UNDP Safe Contents Count Record (Aug. 5, 2005) (bearing Artjon Shkurtaĵ’s signature dated “5/8/05” and Paul Brewah’s signature dated Sept. 25, 2006); Artjon Shkurtaĵ email to Timo Pakkala (Sept. 21, 2006) (noting departure date of Sept. 25, 2006).

was operating in a “TIGHT budget situation.” Shkurtaaj responded noting, “I fully understand and agree with the offer.”<sup>364</sup>

Shkurtaaj was not hired for CBS’s Team Leader position, but was instead offered the consultancy position. According to the consulting agreement and terms of reference, Shkurtaaj agreed to analyze and make recommendation on specified operational matters for CBS. On July 28, 2006, via email and electronic signature, Shkurtaaj agreed to the consultancy arrangement as an SSA with CBS. Notwithstanding his entry into the consultancy agreement, Shkurtaaj continued to pursue the Team Leader position, which would have afforded him a longer duration of employment and the benefits of being on staff with UNDP.<sup>365</sup>

Consideration for the Team Leader position continued into August 2006. CBS received just three applicants in response to the posting. Though he was not a Certified Public Accountant (CPA), as the vacancy announcement expressly required, Shkurtaaj was short-listed. After interviews occurred on August 18, 2006, two finalists, including Shkurtaaj, emerged. On August 28, 2006, the other candidate was selected because of her CPA credential.<sup>366</sup>

On September 21, 2006, Shkurtaaj noted for Pakkala and Bhatia the start date for his position with CBS and his departure date from Pyongyang. Shkurtaaj further requested that upon arrival in New York his ALD contract “be terminated on the 29<sup>th</sup> in order for my new contract in NY to start from there.” Bhatia similarly confirmed that the cut-off date for Shkurtaaj’s ALD-based contract (and thus the cut-off for his UNDP staff position) was set for September 29, 2006.<sup>367</sup>

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<sup>364</sup> UNDP Job Description (undated) (announcing Team Leader position within BOM/CBS); Artjon Shkurtaaj email to Jens Wandel (July 7, 2006); Vee Kun Lee email to Artjon Shkurtaaj (July 25, 2006) (emphasis in original); Vee Kun Lee interview (Jan. 16, 2008); Artjon Shkurtaaj email to Vee Kun Lee (July 25, 2006).

<sup>365</sup> Vee Kun Lee email to Artjon Shkurtaaj (July 25, 2006); Contract for Consultant (SSA) (undated) (bearing signature of Artjon Shkurtaaj and date of July 28, 2006); Artjon Shkurtaaj email to Luiana Matechi (July 27, 2006) (attaching signed SSA agreement); Vee Kun Lee email to Jens Wandel (July 28, 2006) Given the twelve-hour time difference between Pyongyang and New York City, Shkurtaaj sent his email with the SSA attachment on July 28, 2006, but Matechi received it on July 27, 2006.

<sup>366</sup> Vee Kun Lee email to Naoto Yamamoto (July 24, 2006); Vee Kun Lee email to Jens Wandel (July 28, 2006); Michael Emery email to Jens Wandel (Aug. 3, 2006); Jens Wandel memo to Michael Emery (Aug. 28, 2006).

<sup>367</sup> Artjon Shkurtaaj email to Timo Pakkala (Sept. 21, 2006); Vineet Bhatia email to Morris Sun (Sept. 27, 2006) (copying Shkurtaaj).

By the terms of Shkurtaĵ's agreement with CBS, on September 27, 2006, he began his consultancy work. On December 26, 2006, Shkurtaĵ's consultancy contract was extended through March 26, 2007. In December 2006, Wandel revisited concerns about CBS's budgetary constraints. Wandel informed Shkurtaĵ that it was unlikely that there would be any further extensions to his contract after March 2007. Wandel encouraged Shkurtaĵ to apply for other positions within UNDP. According to a "Note for the File" that Wandel prepared on March 5, 2007, Shkurtaĵ "was advised by Wandel on Wednesday January 31 [2007] that we regrettably would not have the funds to extend his SSA contract beyond the current duration, i.e., 26 March 2007." According to Wandel, the non-renewal of Shkurtaĵ's contract with CBS was a decision that he made solely on the basis of CBS' needs and budgetary restraints.<sup>368</sup>

#### **H. Shkurtaĵ's Search for Another UNDP Position** **(August 2006 through January 2007)**

As noted, Shkurtaĵ was advised from the outset that his consultancy position with CBS was on a short-term basis because of budgetary constraints. After being hired to provide services for CBS, Shkurtaĵ sought several different positions within UNDP. On August 9, 2006, Shkurtaĵ applied for a Regional Operations Specialist post in Bratislava. On December 14, 2006, Garcia provided a letter of reference supporting Shkurtaĵ and describing him as an "outstanding" candidate. On January 4, 2007, Shkurtaĵ learned that he had been short-listed for the position, and he was thereafter interviewed on January 10, 2007. Shkurtaĵ was the fourth ranked candidate and not recommended for the position. The interview panelists "felt that Mr. Shkurtaĵ has the appropriate knowledge and practical experience but he was not able to explain or demonstrate them at the required level and this is considered by the panel as a serious problem." On March 16, 2007, Shkurtaĵ was advised that his application was not accepted.<sup>369</sup>

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<sup>368</sup> Contract for Consultant (undated) (bearing Artĵon Shkurtaĵ's electronic signature dated July 28, 2006); Contract for Consultant (undated) (bearing Artĵon Shkurtaĵ's original signature and dated Dec. 22, 2006); Jens Wandel interviews (Nov. 21, 2007 and Apr. 11, 2008).

<sup>369</sup> Artĵon Shkurtaĵ email to Maria Novak (Aug. 9, 2006); Romulo Garcia letter to Artĵon Shkurtaĵ (Dec. 14, 2006) (serving as letter of reference for Shkurtaĵ's job applications); Maria Novak email to Artĵon Shkurtaĵ (Jan. 5, 2006); UNDP Selection Process and Interview Panel Minutes (undated); Maria Novak email to Artĵon Shkurtaĵ (Mar. 16, 2007). It should be noted that a regional procurement post opened up in Bratislava in approximately May 2007. Shkurtaĵ applied, but was not hired.

In the fall of 2006, Shkurtaj also applied for a position as a regional procurement officer for the Regional Bureau for Latin American Countries. Shkurtaj was not short-listed for the position due to lack of experience in comparison to the applicant who was awarded the job. Shkurtaj did not have the requisite ten years of experience in procurement. Moreover, as Operations Manager in the DPRK, Shkurtaj did not handle the procurement volume to the same extent as the person hired.<sup>370</sup>

### **I. External Inquiries and Reports re: UNDP-DPRK** **(August 2006 through February 2007)**

Shkurtaj, as noted, met with the United States Permanent Mission to the UN on the subject of DPRK in May 2006. Several months later, the U.S. Mission raised questions about counterfeit currency in the DPRK as is apparent from an email from James Provenzano, then the Director of OLPS. Specifically, on September 1, 2006, Provenzano advised Navarro that he was “informally approached by someone in the U.S. Mission inquiring about use of U.S. dollars in DPRK.” He further noted that the “Americans are concerned particularly about counterfeit currency coming out from DPRK.”<sup>371</sup>

In November 2006, officials from the U.S. Mission inquired regarding payments being made in the DPRK in the form of Euros and asked further about UNDP policies and instructions on currency use. On December 5, 2006, Laura Munisteri from UNDP’s Office of Treasury, responded noting as follows:

Local program-related activities are paid using bank transfers, and checks are used for 'service costs' (rent utilities etc.). No cash payments are made in Euros. Vendors abroad are paid in Euros using bank transfers from UNDP Headquarters' Euro accounts.

The '*County Office Funding*' section of the UNDP *Treasury Policies and Procedures* document details guidelines for the Treasury Cash Management Unit which has responsibility for oversight of funding of country offices. Please note that UNDP N. Korea is funded 'directly' from UNDP Headquarters in New York rather than using the 'self-replenishment' method through a Zero Balance Account (ZBA).<sup>372</sup>

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<sup>370</sup> Krishan Batra email to Peri Johnson (May 29, 2007).

<sup>371</sup> James Provenzano email to Napoleon Navarro (Sept. 1, 2006); James Provenzano interview (Nov. 26, 2007).

<sup>372</sup> Laura Munisteri email to David Ibsen (Dec. 5, 2006).



On January 16, 2007, Ambassador Wallace forwarded a letter to Ad Melkert, UNDP's Associate Administrator. UNDP had provided the U.S. Mission access to three internal audit reports concerning UNDP's operations in the DPRK. Wallace, as noted previously, had also received information from Shkurtaj by this time. In his letter to Melkert, Wallace noted several concerns about UNDP-DPRK. He stated:

Unfortunately, because of the actions of the DPRK government and the complicity of UNDP, at least since 1998 the UNDP DPRK program has been systematically perverted for the benefit of the Kim Jong Il regime—rather than the people of North Korea. The UNDP DPRK program has for years operated in blatant violation of UN rules, served as a steady and large source of hard currency and other resources for the DPRK government with minimal or no assurance that UNDP funds and resources are utilized for legitimate development activities.

Wallace urged Melkert “to immediately institute a full independent and outside forensic audit of the DPRK country program.”<sup>373</sup>

On January 19, 2007, the media began reporting on UNDP's operations in the DPRK. In a *Fox News* article entitled, “U.S. State Department Reveals North Korea's Misuse of U.N. Development Program Funds and Operations,” George Russell reported portions of the January 16<sup>th</sup> letter from Wallace and some of Wallace's allegations. Similarly, in an article entitled, “U.N. Cash for Kim,” the *Wall Street Journal* alleged that “money for programs designed to benefit North Korea's poor appears to have been used instead to sustain the government.”<sup>374</sup>

That same day, UN Secretary-General Ban Ki Moon was reported to have called for an “urgent, system-wide and external inquiry” as to the circumstances in the DPRK and elsewhere where U.N. funds are at stake.<sup>375</sup> Thereafter, on January 25, 2007, the UN Comptroller's Office requested a full audit by the UN's Board of Auditors, focusing on the UNDP's compliance with applicable policies in the DPRK and ensuring that program funds were spent in accordance with intended purposes.<sup>376</sup>

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<sup>373</sup> Mark Wallace letter to Ad Melkert (Jan. 16, 2007).

<sup>374</sup> “U.S. State Department Reveals North Korea's Misuse of U.N. Development Program Funds and Operations,” *Fox News*, Jan. 19, 2007, [www.foxnews.com](http://www.foxnews.com); “Cash for Kim,” *Wall Street Journal*, Jan. 19, 2007, p. A14; *see also* “United Nations Dictators Program,” *Wall Street Journal*, Jan. 19, 2007, p. A15.

<sup>375</sup> “U.S. State Department Reveals North Korea's Misuse of U.N. Development Program Funds and Operations,” *Fox News*, Jan. 19, 2007, [www.foxnews.com](http://www.foxnews.com).

<sup>376</sup> Report of the Board of Auditors (May 31, 2007).

**J. Further Efforts to Address Financial Management and Currency Issues and the Discontinuation of UNDP Operations in DPRK (August 2006 through February 2007)**

While external inquiries regarding UNDP-DPRK began to mount, UNDP officials continued to consider issues in the DPRK concerning hard currency as well as the more recently raised issues concerning counterfeit currency. In order to respond to the various external inquiries, UNDP officials relied extensively on Shkurtaj to help them understand the circumstances. Navarro and Garcia spoke with Shkurtaj at length in August and December 2006 as well as in January 2007. Through multiple meetings, Shkurtaj assisted Navarro and Garcia in their responses to questions raised by the U.S. Mission on a range of subjects including the use of hard currency and UNDP's monitoring of projects in the DPRK.<sup>377</sup>

**1. Addressing Use of Hard Currency**

UNDP headquarters continued to encourage operations in the DPRK to move towards compliance with the SBAA. On October 31, 2006, Mejia advised Pakkala of recent discussions at headquarters "regarding financial management practices in the Pyongyang office" and asked for his cooperation in "ensuring that UNDP's Financial Regulations & Rules, as well as the terms of the SBAA, are observed." Mejia further encouraged the UNDP-DPRK "to utilize all local currency received as expeditiously as possible for local currency disbursements consistent with UNDP's guidelines."<sup>378</sup>

Relatedly, during a UN Country Team Meeting in Pyongyang on November 22, 2006, the group discussed instructions from UNDP's Treasury Office that the Country Office make payment in local currency instead of Euro. The group agreed that some payments could be made in local currency. The team agreed that Pakkala should address the issue with the government after consultations with the UN agencies and UNDP headquarters.<sup>379</sup>

It is quite evident from this chronology that UNDP headquarters was not ignoring the concerns that Shkurtaj and others raised, particularly the issue of hard currency use in the DPRK. On the other hand, despite repeated discussion on the subject, UNDP did not send a *note verbale* to the DPRK government. As noted, Mejia had suggested that the RBAP work

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<sup>377</sup> Napoleon Navarro interview (Oct. 30, 2007); Romulo Garcia interview (Oct. 30, 2007). In December 2006, Navarro was on leave and Garcia thus relied on Shkurtaj heavily. Napoleon Navarro interview (Jan. 8, 2008).

<sup>378</sup> Julie Anne Mejia email to Timo Pakkala (Oct. 30, 2006).

<sup>379</sup> Minutes of UN Country Team Meeting (Nov. 22, 2006).

with legal counsel from UNDP and the UN to prepare a *note verbale* outlining the key issues and requesting compliance with the SBAA. Navarro discussed this step with Provenzano, who suggested a layered approach beginning with a letter to Pakkala instructing him to tell the DPRK government that the use of hard currency was unacceptable. If Pakkala's efforts failed, then UNDP's legal counsel would prepare a letter to the DPRK government and escalate the matter further.<sup>380</sup>

According to Provenzano, he was well aware from discussions with RBAP officials that a *note verbale* was warranted. In fact, on RBAP's behalf, Navarro repeatedly questioned Provenzano via email about whether and when his office would prepare a *note verbale*. According to Provenzano, Shah discouraged Provenzano from issuing a *note verbale*, because Shah was in the process of meeting with the U.S. Mission on the subject of the DPRK. Shah, on the other hand, denies advising Provenzano not to issue a *note verbale*. In the end, despite concerns about the DPRK's noncompliance with the terms of the SBAA and Mejia's advice that a *note verbale* was an appropriate next step, UNDP did not generate any such official communication to the DPRK government.<sup>381</sup>

Nevertheless, by December 2006, at least some progress had been made. Brewah addressed financial management questions directly in a meeting with representatives of the Foreign Trade Bank (FTB) and other UN agencies such as UNICEF and WHO. FTB officials agreed to issue a new banking policy by the end of December 2006 that would facilitate payment to local vendors and staff in local currency. On December 19, 2006, Pakkala notified Ri Hung Sik of developments regarding the use of hard currency and ongoing efforts to pay salaries for local staff and local goods and services in convertible Won.<sup>382</sup>

By February 16, 2007, UNDP had taken its stance a step further. Following directives from UNDP's Executive Board, UNDP-DPRK placed specific conditions on the 2007—2009 Programme in the DPRK, requiring that all local payments be made in convertible and non-convertible Won. Euros were to be used solely for payments to

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<sup>380</sup> Julie Anne Mejia email to Artjon Shkurtaj (May 23, 2006); Napoleon Navarro interview (Jan. 8, 2008); Julie Anne Mejia interview (Nov. 20, 2007); James Provenzano interview (Nov. 26, 2007).

<sup>381</sup> James Provenzano interview (Nov. 26, 2007); Napoleon Navarro interview (Jan. 8, 2008); Napoleon Navarro emails to James Provenzano (July 5, Aug. 9 and Sept. 1, 2006); Darshak Shah statement (May 19, 2008).

<sup>382</sup> Paul Brewah email to Timo Pakkala (Dec. 14, 2006); Timo Pakkala letter to Ri Hung Sik (Dec. 19, 2006).

international staff and for international travel. Other international agencies aspired to follow UNDP's lead.<sup>383</sup>

## **2. Addressing Counterfeit Currency at the Country Office**

On August 10, 2006, Suzanne Bishopric of the UN Secretariat forwarded a request for information to Mejia in an email entitled, "Counterfeit currency allegations: North Korea." Bishopric's email noted as follows:

We have been told that some DPRK banks may have given international organizations operating in North Korea, including the UN, counterfeit USD currency.

Can you advise us if UNDP uses USD in North Korea? Has UNDP had any experience with the receipt of counterfeit US currency in North Korea?

Do you fund any travel by North Korean officials?

Mejia's assistant responded that same day asking that Ben Velasco, Treasury Associate, forward a request for information from the Country Office. Velasco promptly sent an email to Shkurtaj which was nearly identical to the inquiry received from Bishopric.<sup>384</sup>

When Velasco sent the email to Shkurtaj, Shkurtaj was in New York. The email made its way to Bhatia by Pakkala who was copied. Bhatia followed up with Shkurtaj a few days later, asking Shkurtaj to confirm that he had responded to Velasco's inquiry. Shkurtaj indicated that he would reply upon his return to the DPRK. According to Velasco, he had no further contact with Shkurtaj until he (Shkurtaj) returned to New York in the fall 2006. The two then discussed the matter further, at which point Shkurtaj told Velasco that there was no issue with counterfeit currency in the DPRK.<sup>385</sup>

In October 2006, Brewah brought the presence of counterfeit currency in the Country Office's safe to the attention of Pakkala and Bhatia. Pakkala claims to have known nothing about the counterfeit until Brewah told him about it. Bhatia similarly claims to have first

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<sup>383</sup> Minutes of UN Country Team Meeting (Feb. 16, 2007).

<sup>384</sup> Suzanne Bishopric email to Julie Anne Mejia (Aug. 10, 2006); Julie Anne Mejia (via Gilda Hokum Ortega) email to Laura Munisteri (Aug. 10, 2006) (email then forwarded to Ben Velasco); Ben Velasco email to Artjon Shkurtaj (Aug. 10, 2006).

<sup>385</sup> Timo Pakkala email to Vineet Bhatia (Aug. 13, 2006); Artjon Shkurtaj email to Vineet Bhatia (Aug. 13, 2006); Ben Velasco interview (Apr. 11, 2008). The dates referenced in this footnote and corresponding paragraph in the text refer to time and date in New York.

learned of the counterfeit at this point in time. After Bhatia learned of the counterfeit currency in the safe, he asked Brewah to follow up with Li Kum Sun, the Finance Officer.<sup>386</sup>

On October 29, 2006, Li Kum Sun addressed the matter by email with Samar Singha, a UNDP staff member who previously served in the DPRK office. In a reply email to Li Kum Sun, Singha recalled as follows:

So far I can remember, I have prepared a Note to the File on this subject but unfortunately I do not have a copy with me. It was a consultant (probably Egyptian), who worked for one of the project in DPR Korea back in end 1995 or beginning of 1996. After finishing his consultancy he went back to his home country. Few months later he had sent us these counterfeit US Dollar bills (most likely US\$ 3,000 or US\$ 3,500 - sorry, I can not remember the correct amount) claiming that he had received them from the Foreign Trade Bank (sorry I may not be accurate in remembering the correct name of the bank). However, he could not provide us with any receipt from the bank matching this amount. Upon query the bank informed us that the consultant had done some transaction with them but they did not give him that much cash.<sup>387</sup>

In addition, Brewah contacted Shkurtaj in an email dated October 30, 2006. Brewah explained to Shkurtaj, “We have some US dollar counterfeit notes held in the safe.” Brewah asked Shkurtaj for a “note to the file.” Shkurtaj responded by explaining to Brewah that a note to the file already existed and helped Brewah locate the file.<sup>388</sup>

In February 2007, Pakkala, Bhatia and Brewah again addressed the issue of the counterfeit currency. Pakkala asked Brewah, “Could you remind me when did we discover this cash in the safe? I recall that it was found late last year after you had arrived.” Brewah reminded Pakkala of their exchange in October 2006 as follows:

It was sometime in October after my arrival when I informed you that this amount was in the safe Tony handed over to me on the day of his departure with no detail discussion. You were surprised as you did not have any prior information on this case. We then decided to look into the matter further. I spoke to Li Kum Sun about it and she contacted Samar Singha. I also called Tony and asked about the details. He referred me to the file on the case which we found subsequently. This was in early November.<sup>389</sup>

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<sup>386</sup> Timo Pakkala interview (Jan. 10, 2008); Paul Brewah interview (Dec. 17, 2007).

<sup>387</sup> Paul Brewah interview (Dec. 17, 2007); Li Kum Sun email to Samar Singha (Oct. 29, 2006); Samar Singha email to Li Kum Sun (Oct. 31, 2006).

<sup>388</sup> Paul Brewah email to Artjon Shkurtaj (Oct. 30, 2006); Artjon Shkurtaj email to Paul Brewah (Oct. 30, 2006); Paul Brewah email to Artjon Shkurtaj (Oct. 31, 2006).

<sup>389</sup> Timo Pakkala email to Paul Brewah (Feb. 8, 2007); Paul Brewah email to Timo Pakkala (Feb. 8, 2007).

That same month, UNDP's Headquarters requested that the counterfeit bills be sent to UNDP's Treasury Office. According to Brewah, he and Bhatia then counted the money, packaged it, and sent it to UNDP Headquarters via Beijing.<sup>390</sup>

### **3. UNDP Suspends Operations in DPRK**

On March 1, 2007, UNDP suspended its operations in DPRK. At a January 25, 2007 meeting, UNDP's Executive Board resolved to enforce conditions that would require the government of DPRK to, among other items, end its receipt of payments in hard currency and end local staff hiring practices over which the government may have exerted undue control. Unable to reach an agreement with the government, UNDP withdrew its staff members from DPRK. By March 2007, UNDP had suspended programs and operations.<sup>391</sup>

#### **K. Shkurtaj's Claims & UNDP's Responses** **(February 2007 through May 2007)**

##### **1. Shkurtaj's Urgent Note dated January 31, 2007**

On January 31, 2007, Shkurtaj forwarded an "Urgent Note" to Kemal Dervis, UNDP's Administrator, in which he proposed various steps to safeguard information in the UNDP-DPRK. Shkurtaj's stated objective was "to preserve information in order that the 'external review' directed by the Secretary-General may take place properly, and without the loss of critical information."<sup>392</sup>

On February 1, 2007, Akiko Yuge, UNDP's Assistant Administrator and Director, Bureau of Management, and other UNDP officials met with Shkurtaj to review the concerns and proposals that he raised in his January 31<sup>st</sup> "Urgent Note." Yuge thanked Shkurtaj for making himself available to the UN Board of Auditors and invited Shkurtaj to provide any additional information that he may wish to share. Yuge also stated that she expected Shkurtaj to cooperate and assist in UNDP's review of the circumstances as he was still working for UNDP. On February 5, 2007, Yuge sent an email to Shkurtaj, thanking him for meeting with UNDP officials, noting that his concerns "are taken very seriously," and stating

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<sup>390</sup> Paul Brewah interview (Dec. 17, 2007).

<sup>391</sup> "UNDP announces suspension of operations in DPR Korea," UNDP News Room, Mar. 2, 2007, [undp.org/go/newsroom/2007/march/dprk-update-20070301](http://undp.org/go/newsroom/2007/march/dprk-update-20070301); Paul Brewah interview (Dec. 17, 2007).

<sup>392</sup> Artjon Shkurtaj note to Kemal Dervis (Jan. 31, 2007).

further that “the specific issues that you raised are being addressed.” Yuge attached to her email a copy of a “Note to the File” outlining the discussions that occurred between them on February 1st.<sup>393</sup>

On February 5, 2007, Pakkala met in New York with UNDP officials from RBAP as well as the offices of the Treasurer and Comptroller. The participants resolved that “no records relating to DPRK CO should be destroyed in order for the audit to have full access to existing information.” RBAP officials expressed concerns that the DPRK government may not cooperate in efforts to audit operations at the Country Office. The group further agreed to restrict bank signatories to designated international staff and to further restrict access to ATLAS, UNDP’s financial and administrative program, to “four current international staff members.” (This last step had the effect of restricting Shkurtaĵ’s access to ATLAS; until then, he had continued to have access to DPRK operations through ATLAS, even after his departure in September 2006.)<sup>394</sup>

## **2. Shkurtaĵ’s Complaints on February 17, 2007**

On February 17, 2007, Shkurtaĵ responded to Yuge’s email of February 5<sup>th</sup> with a lengthy discussion of numerous complaints and concerns. Shkurtaĵ explained that “the purpose of [his] message is to bring to your attention that after 12 days, none of the actions that I proposed in my letter to the Administrator dated 31 January 2007 has been implemented.” Shkurtaĵ asserted that UNDP had engaged in actions that were “retaliatory and extrajudicial in nature.” Shkurtaĵ raised a number of allegations about UNDP’s actions, including the following:

- Unfair restrictions placed on Shkurtaĵ’s access to ATLAS that he claimed was necessary for his current work for CBS;
- Interference with his applications for UNDP vacancies;
- Interference with the work of the Board of Auditors;
- Retaliation against him “by placing [him] as the target of an unjustified and extrajudicial investigation.”

Shkurtaĵ demanded a meeting with Kemal Dervis, UNDP’s Administrator.<sup>395</sup>

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<sup>393</sup> Note to the File re meeting with Artĵon Shkurtaĵ (Feb. 1, 2007).

<sup>394</sup> Nuno Queiros email to David Lockwood (Feb. 6, 2007).

<sup>395</sup> Artĵon Shkurtaĵ email to Akiko Yuge (Feb. 17, 2007).

On February 27, 2007, Yuge responded to Shkurtaj, again by email. Yuge's response is set forth below:

Reference is made to your email of 17 February 2007 on the subject "Actions by UNDP Inconsistent with the Secretary-General's Intention for an Immediate External Inquiry into UNDP/DPRK (North Korea)".

As indicated in my email to you dated 5 February 2007, UNDP is taking action in a planned manner with regard to the UNDP Country Office in DPRK. This includes addressing the specific issues that you raised, and necessary measures have been taken to safeguard the data in DPRK.

Related to the above point, we have taken appropriate actions and revised Atlas approval rights for Country Office personnel in accordance with our policies. In this regard, since you no longer perform any functions for the DPRK Country Office, your related Atlas rights were revoked. You should discuss the need for Atlas access for your current tasks with your current supervisor, who is accountable for requesting those rights.

Finally, let me assure you that you are not under investigation by any UNDP authority. Furthermore, you are eligible to [apply] for any positions in UNDP that your current contract permits.<sup>396</sup>

On March 11, 2007, the *Chicago Tribune* published an article entitled, "Did UN Agency Serve as ATM for North Korea?" The article was predicated on information from "a UN official with extensive knowledge of the program" and quoted the source as stating, "At the end, we were being used completely as an ATM machine for the regime. We were completely a cash cow, the only cash cow in town. The money was going to the regime whenever they wanted it."<sup>397</sup>

### **3. Responding to United States Authorities in March 2007**

On March 22, 2007, Shkurtaj advised a range of UNDP officials in New York that he had "been requested from US Authorities to meet and discuss with them on counterfeit currency." Shkurtaj requested "immediate clearance and respective guidance (if any) for myself to meet with US Secret Service and Authorities." Peri Johnson, then Senior Legal Counsel for OLPS, attempted to arrange for Shkurtaj to meet with outside counsel in

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<sup>396</sup> Akiko Yuge email to Artjon Shkurtaj (Feb. 27, 2007).

<sup>397</sup> "Did UN Agency Serve as ATM for North Korea?" *Chicago Tribune*, Mar. 11, 2007, [www.chicagotribune.com](http://www.chicagotribune.com).



preparation for the meeting with United States authorities. Shkurtaj rejected OLPS's invitation. He further asked for advice on "what my rights are" and contemplated going forward "with his own arrangements."<sup>398</sup>

Johnson responded to Shkurtaj advising him of his privileges and immunities and the Secretary-General's right to waive such rights in the interests of justice. Johnson further explained that UNDP is cooperating voluntarily with the United States' investigation and encouraged Shkurtaj to do the same. Johnson reiterated UNDP's interest in having counsel present on behalf of the UNDP and the UN during any meeting between Shkurtaj and United States authorities. Johnson further sought to confirm a meeting with Shkurtaj the following day. However, no such meeting occurred.<sup>399</sup>

Following this initial exchange between OLPS and Shkurtaj, UNDP took a slightly different approach. Since Shkurtaj did not accept OLPS's offer to provide legal counsel, UNDP's Office of Human Resources asked whether Shkurtaj would agree to meet with UNDP's counsel to "to help in their representation of UNDP." No such meeting occurred.<sup>400</sup>

On March 23, 2007, *Fox News* reported on the UNDP's operations in the DPRK. The article entitled, "U.N.: Behind the Scandal in Pyongyang," focused in part on a UN Country Team meeting in December 2005 during which UN agency representatives (which necessarily would include Shkurtaj) discussed "a deep concern ... that all their activities might be illegal." The internet-based article contained numerous links to copies of UNDP documents, including spreadsheets on disbursements, the SBAA, and minutes from Country Team Meetings. The article offered a behind-the-scenes perspective on the UNDP-DPRK office and noted that "[s]ources familiar with U.N. activities supplied the bulk of the information about the meeting in this article."<sup>401</sup>

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<sup>398</sup> Artjon Shkurtaj email to Akiko Yuge (Mar. 22, 2007); Peri Johnson email to Artjon Shkurtaj (Mar. 22, 2007); Artjon Shkurtaj email to Peri Johnson (Mar. 22, 2007).

<sup>399</sup> Peri Johnson email to Artjon Shkurtaj (Mar. 22, 2007) (attaching memorandum addressing the United States' request for an interview and attaching Section 20 of the Convention on the Privileges and Immunities of the United Nations); Akiko Yuge email to Artjon Shkurtaj (Apr. 25, 2007) (noting OLPS failed attempts to arrange a meeting with Shkurtaj in Mar. 2007).

<sup>400</sup> Sonia Thakur email to Artjon Shkurtaj (Mar. 23, 2007); Akiko Yuge email to Artjon Shkurtaj (Apr. 25, 2007) (noting OLPS failed attempts to arrange a meeting with Artjon Shkurtaj in Mar. 2007).

<sup>401</sup> "U.N.: Behind the Scandal in Pyongyang," *Fox News*, Mar. 23, 2007, [www.foxnews.com](http://www.foxnews.com).

#### **4. Further Efforts to Arrange a Meeting with Shkurtaj**

Another exchange occurred between Shkurtaj and UNDP officials in April 2007. Shkurtaj sent an email notifying Ad Melkert, UNDP's Associate Administrator, that he was concerned about the safekeeping of records from UNDP's offices in Pyongyang, particularly since UNDP had suspended operations in the DPRK and, according to Shkurtaj, the government was requiring the remaining international staff members to depart the country. Shkurtaj expressed concerns that UNDP was not doing enough to preserve the integrity of UNDP-DPRK records in a manner sufficient to allow for a meaningful review by the UN Board of Auditors. Shkurtaj also referenced the fact that when he had raised these concerns in February 2007, he was working "under a standard short term agreement (SSA)."<sup>402</sup>

On April 25, 2007, Yuge responded to Shkurtaj's email to Melkert. Yuge noted difficulties in arranging a meeting with Shkurtaj in March and attempted again to have Shkurtaj meet with outside counsel, OAPR, OLPS, and the UN's Office of Legal Affairs (OLA). Yuge suggested a meeting at 11:00 a.m. the following day. On the morning of April 26, 2007, Shkurtaj responded, "I believe it would not be appropriate for me and you to have UNDP's outside counsel and representatives from OAPR and OLPS present in this informal meeting." Shkurtaj proposed instead his own terms whereby he would be represented by Staff Council and Yuge would be accompanied by just "one other management representative." Shkurtaj next purportedly emailed Yuge from a nearby restaurant, where he was waiting to meet Yuge and was accompanied by Staff Council.<sup>403</sup>

Efforts to effectuate a meeting continued still further over the next several weeks. In this regard, Shkurtaj wrote to Melkert. Referring to the potential meeting with Yuge on April 26<sup>th</sup>, Shkurtaj accused Yuge of failing "to either respond or come to the meeting." He further claimed that he did not want to meet with Yuge, alleging that she "acted in bad faith by scheduling and then breaking a meeting." Shkurtaj thus proposed meeting with Melkert to address his concerns.<sup>404</sup>

In his response to Shkurtaj on May 7, 2007, Melkert again reiterated UNDP's position, namely that Shkurtaj should meet with OAPR and OLPS. (In this latest response,

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<sup>402</sup> Artjon Shkurtaj email to Ad Melkert (Apr. 19, 2007).

<sup>403</sup> Akiko Yuge email to Artjon Shkurtaj (Apr. 25, 2007); Artjon Shkurtaj email to Akiko Yuge (Apr. 26, 2007); Artjon Shkurtaj's email to Akiko Yuge (Apr. 26, 2007).

<sup>404</sup> Artjon Shkurtaj email to Ad Melkert (Apr. 30, 2007).

however, UNDP did not suggest having outside counsel present.) Melkert stated that he would be sure “to be briefed personally without delay” and that such a meeting would “provide [Shkurtaj] with the opportunity to share everything that is relevant.”<sup>405</sup>

At some point in the winter/spring of 2007, Shkurtaj and Kemal Dervis, UNDP’s Administrator, had a short impromptu meeting that UNDP’s Staff Council arranged. During the meeting, Shkurtaj told Dervis that he had numerous documents revealing wrongdoing in connection with UNDP’s operations in the DPRK. Dervis encouraged Shkurtaj to provide the documents to UNDP and not elsewhere. Shkurtaj said that he did not trust UNDP. He purportedly confirmed that he had begun speaking with the U.S. Mission many months ago.<sup>406</sup>

##### **5. Shkurtaj’s Further Claims of Retaliation by UNDP (May 2007)**

In May 2007, Shkurtaj resumed claims of retaliation by the UNDP, this time in the context of certain vacancies to which he claims to have unsuccessfully applied. Shkurtaj addressed his concerns to his application in August 2006 for the position of Regional Operations Specialist for Bratislava. As explained above, while Shkurtaj was short listed for the position and interviewed on January 10, 2007, the panel reviewing his application determined that he was not the best candidate. Management from UNDP’s Regional Bureau of Europe and Commonwealth of Independent States subsequently decided to cancel the position. Several months later, on May 4, 2007, Shkurtaj applied for a procurement officer position that arose in Bratislava. That same day and in a subsequent email dated May 16, 2007, Shkurtaj claimed that he was selected for the Regional Operations Specialist Position before the post was cancelled and questioned why a Russian language component was added to the job description. He claimed that the circumstances revealed “discriminatory and racist” treatment and “retaliat[ion] for cooperating in a investigation for North Korean Operations.”<sup>407</sup>

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<sup>405</sup> Ad Melkert email to Artjon Shkurtaj (May 7, 2007). Approximately nineteen minutes later, Sallepann Kandasamy from UNDP-OAPR emailed Shkurtaj to set up a meeting which would include OAPR’s “legal advisor as well. Sallepann Kandasamy email to Artjon Shkurtaj (May 7, 2007).

<sup>406</sup> Artjon Shkurtaj interview (Dec. 6, 2007); Kemal Dervis interview (May 13, 2008); Dimitri Samaras interview (May 14, 2008).

<sup>407</sup> Artjon Shkurtaj email to James Provenzano (May 4, 2007); Artjon Shkurtaj email to Krishan Batra (May 16, 2007).

On May 29, 2007, Shkurtaĵ again claimed that the UNDP had mistreated him and engaged in illegal conduct. Shkurtaĵ stated, “I was fired from the UN system and continued to be retaliated for providing evidence of wrongdoing miss-management and criminal conduct in the UNDP-DPRK.” His email to OAPR alleges as follows:

Since 2005 I reported misconduct through my chain of command, including Kemal Dervis, Ad Melkert, Akiko Yuge, Darshak Shah, David Lockwood, Julie Anne Mejia, and Staff Union, but when no action was taken to cease such misconduct and criminal behaviours ... I reported such misconduct to an entity outside of the established internal mechanisms....

The misconduct I reported was the violation of multiple rules and regulations by the United Nations Development Programme with respect to UNDP’s Operations in the Democratic People’s Republic of Korea (DPRK). In multiple occasions I informed UNDP in writing that its practices were contrary to the rules and regulations of the Organization. These practices include receipt and non-disclosure of counterfeit currencies, the payment to the Government of DPRK in hard currency, as well as the management of UNDP programs by Government officials of the DPRK, and other related violations.

Shkurtaĵ proceeded to claim that it was incumbent upon UNDP and the UN to protect him from retaliation for raising these concerns. He further alleged that UNDP afforded him no such protections.<sup>408</sup>

On June 5, 2007, Johnson responded to Shkurtaĵ’s claims of retaliation in regards to his “non-selection for posts to which you have applied.” Johnson noted Shkurtaĵ’s references to discrimination, racism, and retaliation, but informed him that he had not provided evidence to substantiate his claims. Johnson explained that UNDP had afforded Shkurtaĵ opportunities to meet with OAPR and OLPS “so that proper and independent investigation of such allegations could be undertaken.” However, Shkurtaĵ did not avail himself of these opportunities. Johnson then once again invited Shkurtaĵ to meet with OAPR so that he could share any information that he had to support his claims. No such meeting occurred.<sup>409</sup>

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<sup>408</sup> Artjon Shkurtaĵ email to Ivan Foo (May 29, 2007). It should be noted that Shkurtaĵ’s email and allegations were in response to Ivan Foo’s request on behalf of OAPR for any information that Shkurtaĵ may have with respect to the \$3500 in counterfeit currency.

<sup>409</sup> Peri Johnson email to Artjon Shkurtaĵ (June 5, 2007).

**L. Report from the UN Board of Auditors**  
**(May 31, 2007)**

As noted above, in January 2007, the Secretary-General through the UN's Office of the Comptroller requested that the UN Board of Auditors review the circumstances surrounding operations by UNDP, UNFPA, UNOPS, and UNICEF in the DPRK. The ensuing audit team commenced its review on March 19, 2007. The audit team focused on three primary areas: (1) foreign currency transactions, including hard currency payments to national staff; (2) staff hiring practices; and (3) the UN agencies' access to and ability to review local projects. The audit team did not review issues concerning counterfeit currency held in the safe of UNDP's Pyongyang office.<sup>410</sup>

The audit team interviewed Shkurtaj and numerous UN agency personnel. The team gathered and reviewed documents and background papers and additionally "verif[ied] evidence of findings previously raised by internal audit departments of the various entities." The audit was based on personnel and documents that the UN agencies made available in New York. "No on-site validation of results was performed during this phase." According to the UN Board of Auditors, "[a]ll four entities cooperated with the Board, making documents, personnel and explanations available as requested."<sup>411</sup>

Regarding the audit team's interview of Shkurtaj, UNDP had initial concerns that it would not be able to make Shkurtaj available to the audit team, because his consultancy agreement with CBS was set to expire on March 26, 2007. Thus, in March 2007, UNDP's Executive Office considered continuing "a contractual relationship between UNDP and Mr. Shkurtaj, after the period that his current SSA expires, in order that he would be available to the United Nations Board of Auditors." UNDP considered paying Shkurtaj at the same rate that he was paid under the nearly expired CBS contract. In a document entitled "Strictly Confidential Legal Opinion -- Note to Ms. Yuge," Provenzano offered an opinion on behalf of OLPS as to the propriety of any such contract. Ultimately, the concept of entering into a new contractual relationship with Shkurtaj never materialized, because Shkurtaj's interview

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<sup>410</sup> Report of the Board of Auditors (May 31, 2007).

<sup>411</sup> Report of the Board of Auditors (May 31, 2007).

with the Board of Auditors occurred before the end of his contract period with CBS. UNDP did not raise the idea of the new contract with Shkurtaj.<sup>412</sup>

On May 31, 2007, the Board of Auditors issued its report. The Board summarized its conclusions as follows:

- “In respect of local staff hiring, personnel were hired by UNDP, UNFPA and UNICEF through a government agency of DPRK, contrary to relevant instructions and procedures.” Among the conclusions with respect to local staff hiring, the Board noted that UNDP paid local staff salaries to the government of DPRK, as opposed to the local staff members directly. Such payments were made in convertible Won and Euros.<sup>413</sup>
- “In respect of foreign currency transactions, local payments made in foreign currencies were without requisite authority in the case of UNDP, UNFPA and UNOPS.” The Board explained concerns that UNDP “made some payments to local suppliers and local staff (including allowances) in foreign currency contrary to the [SBAA].” The Board noted that applicable rules and regulations “were not sufficiently comprehensive in dealing with DPRK country office payments in local and foreign currencies.”<sup>414</sup>
- “In respect of free access to local projects, the Board obtained evidence that project visits had taken place, but were done under the supervision of the DPRK authorities.”<sup>415</sup>

#### **M. Review by the UN Ethics Office**

By July 2007, the UN’s Ethics Office was reviewing Shkurtaj’s claims of retaliation by the UNDP and his invocation of UN policies on protecting whistleblowers. With the advice of outside counsel, UNDP’s OLPS conducted an internal investigation of the claims and, on August 2, 2007, submitted a report to Robert Benson, the Director of the UN’s Ethics Office. UNDP requested that the Ethics Office decline consideration of Shkurtaj’s claims. UNDP took the position that UN policies on the protection of whistleblowers do not govern UNDP actions. UNDP further claimed that because Shkurtaj’s claims were addressed to the

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<sup>412</sup> James Provenzano note to Akiko Yuge (undated) (attached to James Provenzano email to Akiko Yuge (Mar. 13, 2007); *see also* Statement of Tegegnetwork Gettu (Apr. 15, 2008) (noting that he explained to the Board of Auditors that UNDP would be willing to provide resources to Shkurtaj to ensure that he continued to be available to the Board of Auditors and noting further that the Board of Auditors responded by informing Gettu that they had already spoken with Shkurtaj). James Provenzano’s legal opinion to Akiko Yuge ultimately became the source of some controversy in September 2007, when the memo was leaked to the media. The memo was dubbed by a media outlet as a “secret legal memo” and construed as a request by James Provenzano to rehire Shkurtaj at a time when he was likely to be questioned in connection with the Board of Auditors’ review. “Secret Legal Memo Urges U.N. Development Office to Rehire Whistleblower,” *Fox News*, Sept. 12, 2007, [www.foxnews.com](http://www.foxnews.com); James Provenzano interview (Nov. 26, 2007).

<sup>413</sup> Report of the Board of Auditors (May 31, 2007).

<sup>414</sup> Report of the Board of Auditors (May 31, 2007).

<sup>415</sup> Report of the Board of Auditors (May 31, 2007).

“non-renewal” of a consultancy agreement, as opposed to a staff position with UNDP, the Ethics Office had no jurisdiction to review Shkurtaĵ’s case.<sup>416</sup>

In addition to claiming that the Ethics Office lacked jurisdiction to review the Shkurtaĵ matter, UNDP explained to the Ethics Office its determination that there was no substantive merit to Shkurtaĵ’s claims. UNDP maintained that the discontinuation of Shkurtaĵ’s consultancy arrangement with CBS reflected budgetary considerations and the “legitimate exercise of administrative procedure.” Regarding UNDP job postings through which Shkurtaĵ sought employment, UNDP contended that “a fair and transparent process was carried out pursuant to UNDP’s recruitment policies, based on the competencies of the posts and the skills and experience of the candidates.” UNDP further contended that Shkurtaĵ failed to report his concerns about UNDP-DPRK in good faith, because he unjustifiably circumvented proper reporting lines by bringing his claims to outside authorities.<sup>417</sup>

On August 17, 2007, the UN Ethics Office released its views regarding the Shkurtaĵ matter. Benson first stated that as a “purely legal” matter, “the Ethics Office does not have the jurisdiction to address a request for protection from retaliation in relation to cases arising from the UNDP.” Benson urged UNDP to submit to the jurisdiction of the Ethics Office. Despite having no jurisdiction to review the matter, Benson nevertheless noted that on the basis of information provided to the Ethics Office a prima facie case of retaliation had been established. Benson’s reference to a “prima facie case” of retaliation reflected his view that enough evidence existed to warrant further investigation of Shkurtaĵ’s claims. The reference, however, was not intended to be a determination that retaliation had occurred. Shkurtaĵ requested further review of the Ethics Office’s decision, and his request remains pending.<sup>418</sup>

#### **N. Appointment of External Independent Investigative Review Panel**

On September 11, 2007, Dervis announced the appointment of an external review team to review among other items the claim that UNDP retaliated against Shkurtaĵ because of comments that he had made about UNDP’s operations in the DPRK. According to Dervis:

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<sup>416</sup> UNDP Analysis: Ethics Office Review re: Mr. Artĵon Shkurtaĵ (Aug. 2, 2007).

<sup>417</sup> UNDP Analysis: Ethics Office Review re: Mr. Artĵon Shkurtaĵ (Aug. 2, 2007).

<sup>418</sup> Robert Benson letter to Kemal Dervis (Aug. 17, 2007); Robert Benson meeting (Oct. 31, 2007); Miouly Pongon email to Peri Johnson (Apr. 30, 2008) (noting pending case before the Joint Appeals Board).

UNDP is determined to leave no stone unturned in getting answers to all of the allegations that have been raised about its operations in DPRK, and is confident that the combination of the [Board of Auditors] process and the external review will do so. The UN Secretary-General has welcomed and encouraged this approach.<sup>419</sup>

The External Independent Investigative Review Panel (Panel) was thus constituted and its terms of reference subsequently established.

#### **IV. ANALYSIS**

##### **A. Analysis of Shkurtaj's Allegations and Reports of Wrongdoing**

Since as early as May 2006, Shkurtaj has claimed that UNDP retaliated against him in various ways for reporting his concerns about UNDP's operations in the DPRK.<sup>420</sup> A threshold question is whether, in fact, Shkurtaj's complaints amount to reports of perceived wrongdoing so as to trigger application of policies protecting such persons from retaliation. The Panel concludes that in the course of his duties and areas of oversight, Shkurtaj in fact reported conduct and facts about UNDP operations in the DPRK that required resolution and may well have been in violation of UNDP policies as well as applicable agreements with the DPRK. Shkurtaj was not the first to unearth these issues. However, in part because of special circumstances existing in the DPRK, issues remained unresolved, and Shkurtaj highlighted them for further consideration by his supervisors in the Country Office and by UNDP Headquarters.

##### **1. Hard Currency Payments**

Since 2005, Shkurtaj has consistently expressed concerns about hard currency payments to the DPRK and the national staff.<sup>421</sup> (See Chapter 2 for a discussion of the term "hard currency".) Similarly, Shkurtaj repeatedly raised concerns about the degree to which the DPRK impeded UNDP's access to the Foreign Trade Bank, where UNDP's local bank

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<sup>419</sup> UNDP Press Release (Sept. 11, 2007).

<sup>420</sup> Artjon Shkurtaj email to Timo Pakkala (May 16, 2006) (claiming that *the DPRK* was punishing him for standing tall against corruption and asking Pakkala and Bhatia not to do the same); *see also* Artjon Shkurtaj email to Akiko Yuge (Feb. 17, 2007) (claiming that UNDP's treatment of him was "retaliatory and extrajudicial in nature"); Artjon Shkurtaj email to Ivan Foo (May 29, 2007) (asking UNDP to protect him from retaliation).

<sup>421</sup> *See, e.g.*, Artjon Shkurtaj email to Julie Anne Mejia (July 12, 2005); Artjon Shkurtaj email to Timo Pakkala (Dec. 12, 2005) (noting hard currency payments to DPRK local staff); Artjon Shkurtaj email to Julie Anne Mejia (May 19, 2006) (noting concerns about hard currency payments and potential violation of SBAA).



accounts were held, by requiring Li Kum Sun to handle all transactions with the bank.<sup>422</sup> Shkurtaaj had good reason to raise these concerns to his superiors within the UNDP. In doing so, he encouraged UNDP to ensure compliance with its own policies and its applicable agreements with the DPRK. In fact, UNDP Headquarters, notably Garcia and Navarro, expressly encouraged Shkurtaaj to highlight his concerns so that UNDP could address them.<sup>423</sup>

In Chapter 2 of the Report, the Panel has set forth its analysis and conclusions with respect to item 1 of the Panel's Terms of Reference regarding payments, which are incorporated by reference into this Chapter.

## **2. Defaced Counterfeit Currency at the Country Office**

Shkurtaaj would have been fully justified in raising concerns about the presence of defaced counterfeit currency in the Country Office's safe. In this regard, while Shkurtaaj was well aware of the counterfeit currency in the safe, during his tenure as Operations Manager, he never specifically raised concerns about the issue with UNDP Headquarters or his superiors. For example, Shkurtaaj never mentioned the counterfeit currency to Ben Velasco, Treasury Associate, when Velasco noted that questions were being asked by the UN.<sup>424</sup> Nor did he express any real concern about the counterfeit currency in his discussions with Brewah during the handover process.<sup>425</sup> He conveniently produced to the U.S. Mission a purported email dated August 11, 2006 in which he claimed to have previously flagged the counterfeit currency issue. But, as noted below, the Panel is reluctant to place any reliance on this document, because it has not been located by the UNDP nor the Panel and each purported recipient denies receiving it. Moreover, the purported August 11<sup>th</sup> email does not fit within the sequence of emails occurring at that time.<sup>426</sup> The point is that while Shkurtaaj would have

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<sup>422</sup> Artjon Shkurtaaj email to Abu Selim (Apr. 22, 2005).

<sup>423</sup> See e.g., Napoleon Navarro email to Timo Pakkala (July 12, 2005) (noting that RBAP regarded Shkurtaaj's service in the DPRK as necessary to ensure that the Country Office "was, is and will be in order"); Napoleon Navarro email to Artjon Shkurtaaj (June 16, 2006) (thanking Shkurtaaj on behalf of Garcia for raising concerns about a proposal by the Resident Representative which could have had the effect of giving undue authority to the DPRK government; proposal was for a NEX management support unit that the DPRK rejected anyway).

<sup>424</sup> Ben Velasco interview (Apr. 11, 2008).

<sup>425</sup> Paul Brewah interview (Dec. 17, 2007); see also Timo Pakkala interview (Jan. 10, 2008) Pakkala explained to the Panel that he did not learn of the presence of counterfeit currency in the safe until Brewah told him in October 2006.

<sup>426</sup> See, *supra*, Section IV.F below for a discussion of the Aug. 11, 2006 email.

been justified in reporting the existence of the counterfeit currency, a fact of which he was well aware, he did not do so.

In Chapter 5, the Panel has addressed the issues raised in item 4 of the Terms of Reference, which call upon the Panel to review the facts relating to counterfeit currency that came into the custody of UNDP's office in Pyongyang. The Panel incorporates by reference the discussion set forth in Chapter 5.

### **3. Other Concerns Raised by Shkurtaj**

Shkurtaj raised other concerns about UNDP's operations in the DPRK. At various points, Shkurtaj flagged concerns about issues such as the international staff's lack of access to the DPRK's Foreign Trade Bank, insufficient project monitoring, and the degree to which the DPRK government monitored and controlled UNDP's operations. Shkurtaj did not, however, pursue these matters as consistently or with the same persistence as he did with respect to the issue of hard currency payments.<sup>427</sup> (See Chapters 2 and 3 for a discussion of these concerns.)

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In short, the Panel concludes that Shkurtaj raised legitimate concerns about UNDP's operations in the DPRK particularly with respect to hard currency payments being made to the DPRK. To be sure, Shkurtaj was not revealing problems that were unknown to UNDP officials. Nevertheless, by confronting his superiors and bringing his concerns to UNDP Headquarters, Shkurtaj was shining a spotlight on serious issues that required UNDP to act in a meaningful way. At a minimum, Shkurtaj was reporting potential violations of policy and procedure. As such, he can fairly be described as someone who has reported compliance concerns and who thus is entitled to protection from retaliation. For purposes of the discussion that follows, the Panel has treated him accordingly.

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<sup>427</sup> Artjon Shkurtaj email to Abu Selim (Apr. 22, 2005) (noting concerns about international staff's lack of access to FTB); Artjon Shkurtaj email to Napoleon Navarro (June 19, 2006) (noting concerns about interference by the DPRK government and lack of adequate reporting on projects.)

## **B. Analysis of UNDP's Response to Shkurtaj's Allegations**

Having established that Shkurtaj raised legitimate concerns about hard currency payments to the DPRK, the next question is whether in fact UNDP was responsive to Shkurtaj's complaints. The Panel concludes that UNDP's reaction to Shkurtaj's complaints, while not exhaustive, was reasonable under the circumstances.

To begin with, UNDP officials at the Country Office level did not ignore Shkurtaj's complaints. Rather, in UN Country Team meetings, UN agency representatives, including UNDP staff, discussed the hard currency issues and expressed concerns about the circumstances. (In fact, payment to the DPRK in hard currency was not an issue unique to UNDP, but rather an issue that concerned other UN agencies as well). Specifically, on December 8, 2005, operations managers representing the UN Country Team met and discussed a range of matters, including the need to make local payments in local currency.<sup>428</sup> Discussions continued on March 2, 2006, during which the UN Country Team discussed the use of hard currency in financial transactions and agreed to collect information on the subject for subsequent discussions.<sup>429</sup> At a UN Country Team meeting on April 13, 2006, the group again discussed the issue and acknowledged the practice of hard currency payments. However, there was no consensus on a course of action until later in the year.<sup>430</sup> Relatedly, during a UN Country Team meeting on May 25, 2006, UN agency representatives agreed to "move toward a situation where UN agencies can directly hire national staff," another area of Shkurtaj's concern, in contrast to the existing practice in which the DPRK provided the national staff, thus requiring payment to the DPRK. (Notably, these discussions were ongoing as of May 2006, when Shkurtaj brought his concerns to the UN and the U.S. Mission.)<sup>431</sup>

At the UNDP Headquarters level, officers from RBAP and Treasury encouraged Shkurtaj to monitor and minimize the use of hard currency payments to the DPRK. Email

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<sup>428</sup> Minutes of Operations Managers' Team Meeting in DPRK (Dec. 8, 2005) (attaching spreadsheet on hard currency payments being made by UN agencies in the DPRK); *see also* Minutes of Operations Managers' Team Meeting in DPRK (Jan. 24, 2006).

<sup>429</sup> Minutes of United Nations Country Team Meeting (Mar. 2, 2006).

<sup>430</sup> Minutes of United Nations Country Team Meeting (Apr. 13, 2006); Timo Pakkala email to Julie Anne Mejia (Dec. 4, 2006) (noting that UN Country Team had discussed the issues regarding payments in Euro "extensively" and had reached agreement on methods to reduce such payments). Pakkala, at this point, was welcoming an audit mission to the DPRK. *Id.*

<sup>431</sup> Minutes of UN Country Team Meeting (May 25, 2006).

correspondence makes abundantly clear that on behalf of RBAP, Navarro and Garcia gratefully received updates from Shkurtaj on the circumstances that the Country Office was confronting.<sup>432</sup>

On behalf of the Treasury Office, Mejia similarly monitored the circumstances in the DPRK with the benefit of Shkurtaj's updates. For example, in December 2005, Shkurtaj alerted UNDP Headquarters that the Country Office was accumulating local currency and advised Headquarters that he wanted to use such currency toward the payment of items that UNDP had previously paid with hard currency. Mejia noted that she "endorse[d] Shkurtaj's proposal" and enlisted further support from Headquarters to assist him. In an email dated December 12, 2005, Shkurtaj indeed expressed his appreciation for the responsiveness of UNDP Headquarters: "[T]hanks for your support.... [This] will be a signal of change toward the right direction."<sup>433</sup>

Nine months later, Shkurtaj again expressed his appreciation to various representatives of UNDP Headquarters for their support of his work in the DPRK. In an email dated September 21, 2006, Shkurtaj addressed Mejia, Velasco, and Darshak Shah, Director and Comptroller of UNDP's Office of Finance and Administration. Shkurtaj was winding down his service as Operations Manager in the DPRK and expressed the following: "I take this opportunity to thank you for the past two year cooperation and support."<sup>434</sup>

Headquarters did not, however, exhaust all available alternatives until February 2007, when it set clearly defined conditions for the DPRK on the use of hard currency. (As noted above, in March 2007, this resulted in an impasse that caused the suspension of the UNDP-DPRK programs and office altogether.) One avenue in particular that the UNDP did not pursue is the issuance of a *note verbale*. In May 2006, UNDP's Treasury Office suggested that if UNDP-DPRK could not make further progress toward a reduction in hard currency

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<sup>432</sup> Napoleon Navarro email to Romulo Garcia (July 12, 2005) (noting that: (1) Navarro had "a good talk" with Shkurtaj; (2) Shkurtaj had been raising operations issues at UNDP-DPRK; and (3) remarking in reference to Shkurtaj, "dont you just love this guy"); Napoleon Navarro email to Timo Pakkala (July 12, 2005) (noting that RBAP liked Shkurtaj for the DPRK Country Office, "precisely to ensure that the house was, is, and will be in order"); Napoleon Navarro email to Artjon Shkurtaj (May 26, 2005) (noting Shkurtaj's "excellent suggestions" for how to improve UNDP-DPRK's staff understanding and use of Atlas); *see also* Napoleon Navarro email to Artjon Shkurtaj (June 19, 2006) (expressing appreciation for providing information on initiatives by the Resident Representative);

<sup>433</sup> Artjon Shkurtaj email to Timo Pakkala (Dec. 12, 2005) (copying Julie Anne Mejia); Julie Anne Mejia email to Michael O'Hara (Dec. 12, 2005); Artjon Shkurtaj email to Julie Anne Mejia (Dec. 14, 2005); Michael O'Hara email to Artjon Shkurtaj (Dec. 14, 2005); Artjon Shkurtaj email to Julie Anne Mejia (Dec. 12, 2005).

<sup>434</sup> Artjon Shkurtaj email to Julie Anne Mejia (Sept. 21, 2006).

payments, Shkurtaj should work with the Office of Legal and Procurement Services (OLPS) and legal counsel for the UN with a view toward the issuance of a *note verbale* to the DPRK government. On behalf of RBAP, Navarro was a proponent of this idea and accordingly pushed OLPS' James Provenzano on several occasions to act on Treasury's recommendation. Navarro's efforts were unavailing.<sup>435</sup>

In short, at the local and headquarters levels, UNDP considered the information that Shkurtaj raised and the challenges that the Country Office was facing. In response, UNDP proposed solutions and encouraged efforts to address issues that Shkurtaj identified. The circumstances appear to have warranted OLPS' issuance of a *note verbale*, which never materialized. However, the evidence reveals that UNDP otherwise responded to concerns that Shkurtaj raised.

### **C. Did Shkurtaj in Good Faith Notify Authorities Outside UNDP?**

In May 2006, Shkurtaj circumvented UNDP reporting channels and brought his concerns about UNDP operations in the DPRK to Ambassador Mark Wallace of the U.S. Mission.<sup>436</sup> A relevant question is whether Shkurtaj's decision to disclose UNDP internal matters to outside authorities was proper. The Panel does not question Shkurtaj's genuine belief that operations in the DPRK were inconsistent with UNDP policies and the SBAA. However, Shkurtaj's decision to report his concerns to outside parties, such as the U.S. Mission, was not made in good faith.

The context in which Shkurtaj disclosed UNDP matters to external authorities reveals his poor judgment. As of May 2006, representatives of the Country Office were actively considering problems associated with the UNDP-DPRK's practices. Minutes of UN Country Team meetings in December 2005 and January, March, April, and May 2006 bear this out. Moreover, UNDP's Treasury Office and the RBAP were well aware of the hard currency issue and proposing solutions. Shkurtaj, moreover, had seen firsthand that the Treasury Office was capable of providing him meaningful assistance. He acknowledged as much in his December 12, 2005 email to Mejia. Under these circumstances, the Panel concludes that

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<sup>435</sup> Julie Anne Mejia email to Artjon Shkurtaj (May 23, 2006); Napoleon Navarro emails to James Provenzano (July 5, Aug. 9, & Sept. 1, 2006); Napoleon Navarro interview (Jan. 8, 2008); James Provenzano interview (Nov. 26, 2007).

<sup>436</sup> United States Senate Permanent Subcommittee on Investigations, "United Nations Development Program: A Case Study of North Korea", Staff Report (Jan. 24, 2008).

Shkurtaj did not exhaust internal processes and, as of May 2006, had no basis to turn to outside authorities.<sup>437</sup>

It bears emphasis that when Shkurtaj met with the U.S. Mission, UNDP had rejected his application for a staff position in DPRK as Operations Manager.<sup>438</sup> By May 3, 2006, before Shkurtaj's trip to New York, Shkurtaj knew about the adverse decision and was searching for a new position within UNDP.<sup>439</sup> As discussed below, the circumstances surrounding the hiring process were particularly aggravating, because Shkurtaj initially received notice that his application had been approved, before a human resources business advisor discovered that the hiring process was flawed. Shkurtaj thus traveled to New York in May 2006 against the backdrop of an unsuccessful and recent bid for a staff position, a position he had held for over a year as a UNDP consultant. Within the next several weeks, he met with the U.S. Mission.

**D. Did UNDP Retaliate Against Shkurtaj for Reporting Concerns  
re: UNDP-DPRK?**

Shkurtaj asserts that in response to his complaints about UNDP's operations in the DPRK, the UNDP retaliated against him. He claims specifically that UNDP denied him employment opportunities and failed to renew his contract to provide services for the Centre for Business Solutions (CBS). The Panel concludes that while UNDP mishandled the hiring

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<sup>437</sup> Minutes of Operations Managers' Team Meeting in DPRK (Dec. 8, 2005) (attaching spreadsheet on hard currency payments being made by UN agencies in the DPRK); Minutes of Operations Managers' Team Meeting in DPRK (Jan. 24, 2006); Minutes of UN Country Team Meeting (Mar. 2, 2006); Minutes of UN Country Team Meeting (Apr. 13, 2006); Minutes of UN Country Team Meeting (May 25, 2006); Julie Anne Mejia email to Artjon Shkurtaj (May 23, 2006); Napoleon Navarro email to Artjon Shkurtaj (May 19, 2006) (commenting that Shkurtaj's email to Mejia dated May 19, 2007 regarding hard currency was "a solid piece"); Artjon Shkurtaj email to Julie Anne Mejia (Dec. 12, 2005) (noting Mejia's support for his efforts to reduce payments in hard currency).

<sup>438</sup> Timo Pakkala email to Jovita Domingo (Mar. 17, 2006) (noting Pakkala's selection of Shkurtaj for the position); Jovita Domingo email to Timo Pakkala (Apr. 13, 2006) (noting flaw in the selection of Shkurtaj and requesting that post be readvertised). The Panel notes that it has reviewed discrepant versions of the UNCT Minutes regarding the April 13, 2006 meeting: one version provided by the U.S. Mission which had been provided by Shkurtaj; and one from UNDP. The former includes an expanded discussion on Shkurtaj's role in trying to change hard currency practices.

<sup>439</sup> Artjon Shkurtaj email to Richard Oliver (May 3, 2006) (referencing interest in Senior Advisor position with UNDP); Artjon Shkurtaj email to Vineet Bhatia (May 5, 2006) (forwarding email correspondence regarding Shkurtaj's efforts to obtain the Senior Advisor position); Artjon Shkurtaj email to Timo Pakkala (May 16, 2006) (noting applications for "many jobs" and requesting that Pakkala support an ALD-based contract).

process for the Operations Manager position in March and April 2006, Shkurtaĵ's claims of retaliation are without merit.

### **1. Reversal of Shkurtaĵ's Selection for Operations Manager Post**

In September 2005, UNDP and the DPRK agreed to make the Operations Manager post a project-funded staff-level position. Thereafter, a hiring process including an open posting for the position in December 2005 ensued that resulted in the initial selection of Shkurtaĵ. By March 17, 2006, Pakkala and Bhatia had selected Shkurtaĵ for the position and accordingly notified Jovita Domingo, Human Resources Business Advisor for UNDP's Office of Human Resources. On April 13, 2006, Domingo found a flaw in the process and determined that, as Shkurtaĵ's immediate supervisor, Bhatia improperly participated in the selection process. Domingo also determined, based on the scoring and weighted consideration for gender, that a female candidate should have been hired. By May 3, 2006, Shkurtaĵ was aware that, in fact, he needed to be searching for another position within UNDP. (Further factual detail regarding this time period is set forth in Section III of this Chapter).<sup>440</sup>

The key issue is whether at the time Domingo determined that the selection process was flawed and Bhatia and Pakkala accepted her decision as such, anyone was motivated by a desire to punish Shkurtaĵ for his complaints about UNDP-DPRK. The Panel is troubled by several facts it has been able to establish. First, between March 17, 2006 and April 13, 2006, the DPRK government complained to Pakkala about Shkurtaĵ's interpersonal skills and his treatment of the national staff. In fact, when Pakkala sent Ri Hung Sik a letter on March 20, 2006, requesting NCC-UNDP's concurrence with Shkurtaĵ's continued role as Operations Manager, Ri Hung Sik expressed hesitation in a responsive letter dated April 12, 2006. Second, Domingo did not determine that the process was flawed until nearly four weeks after Pakkala's initial selection of Shkurtaĵ. Circumstantially, this sequence of events is consistent

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<sup>440</sup> Jovita Domingo email to Timo Pakkala (Sept. 13, 2005); Timo Pakkala email to Jovita Domingo (Mar. 17, 2006) (attaching report on selection process); Jovita Domingo email to Timo Pakkala (Apr. 13, 2006); Artjon Shkurtaĵ email to Richard Oliver (May 3, 2006) (seeking position elsewhere within UNDP).

with the idea that in response to concerns raised by the DPRK government, Pakkala changed his mind about hiring Shkurtaaj, after which Domingo invalidated the selection process.<sup>441</sup>

The Panel is unable to conclude, however, that the reversal of the initial selection of Shkurtaaj was retaliatory. According to Domingo, no one told her that representatives of the DPRK had complained about Shkurtaaj, and nothing other than an objectively flawed process motivated her decision. On these points, she was unequivocal. Domingo stated further that in her position as Human Resources Business Advisor, she periodically reverses selection decisions and identifies flaws in selection processes. She thus explained that her treatment of Shkurtaaj's application was not a unique event.<sup>442</sup>

In addition, Pakkala's email in response to Domingo's reversal is consistent with what Domingo told the Panel, i.e., that Pakkala did not influence her decision. Pakkala stated to Domingo: "My apologies for not being aware of the procedure... Wish you had advised us earlier." He then questioned the efficacy of the hiring practices. From this email, there is no indication of possible collusion between Pakkala and Domingo. Moreover, Domingo's email to Shkurtaaj on February 17, 2006 (copied to Pakkala and Bhatia), reveals a consistency in her approach to hiring practices and, in particular, her insistence that a direct supervisor refrain from participating in the interview process.<sup>443</sup>

Still further, as of April 13, 2006, Shkurtaaj had not been particularly outspoken about his frustrations with UNDP's response to concerns that he raised. He had certainly identified concerns, which indeed RBAP and the Treasury Office shared. However, while Shkurtaaj's colleagues noted concerns about his poor interpersonal skills, there is no evidence that Shkurtaaj's complaints had upset Pakkala or anyone involved in the selection process. It was only *after* this unfortunate confusion in the selection process and *after* Shkurtaaj learned that he needed to look for another UNDP position, that Shkurtaaj began to more aggressively pursue his complaints about UNDP, i.e., during his travels to New York in May 2006.<sup>444</sup>

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<sup>441</sup> Timo Pakkala interviews (Nov. 1, 2007 & Mar. 10, 2008) (noting that DPRK government had raised concerns about Shkurtaaj); Vineet Bhatia interview (Jan. 15, 2008) (same); Ri Hung Sik letter to Timo Pakkala (noting need for further consideration of request for concurrence regarding Shkurtaaj's continued service in the DPRK; request from Pakkala was necessary because the post was project-funded).

<sup>442</sup> Jovita Domingo interview (Apr. 30, 2008).

<sup>443</sup> Timo Pakkala email to Jovita Domingo (Apr. 13, 2006); Jovita Domingo email to Artjon Shkurtaaj (regarding a different UNDP-DPRK post) (Feb. 17, 2006).

<sup>444</sup> Artjon Shkurtaaj email to Julie Anne Mejia (May 19, 2006); United States Senate Permanent Subcommittee on Investigations, "United Nations Development Program: A Case Study of North Korea", Staff Report (Jan. 24, 2008) (noting Shkurtaaj's meeting with U.S. Mission in May 2006).



The Panel has struggled with the sequence of events in March and April 2006 and notes clear communication failures between Domingo, Pakkala, and Bhatia. Nevertheless, the decision to reverse the initial selection of Shkurtaaj was not a retaliatory measure designed to punish Shkurtaaj for complaining about UNDP-DPRK.

Apart from Domingo's reversal of the selection process, the Panel has considered the related question regarding why Pakkala lost interest in Shkurtaaj as a potential candidate. Following the reversal of Shkurtaaj's selection, Pakkala told Domingo that "due to developments since [the initial selection of Shkurtaaj], he can not be given the contract." Pakkala told the Panel that his change of position reflected increased concerns about Shkurtaaj's interpersonal skills and his mistreatment of the national staff. Input from the NCC-UNDP confirming Shkurtaaj's poor relations with the national staff may also have contributed to Pakkala's loss of confidence in Shkurtaaj.<sup>445</sup>

Pakkala's statements to the Panel about Shkurtaaj's poor interpersonal skills find ample corroboration in other evidence that the Panel has gathered. In connection with Shkurtaaj's selection, Pakkala and Bhatia prepared a selection report in which they noted that Shkurtaaj's skills were "weaker on people management and team work." Other witnesses have noted specific instances of Shkurtaaj's inappropriate and demeaning conduct. Pakkala's predecessor, Selim, also struggled with Shkurtaaj's poor interpersonal skills and Shkurtaaj's propensity to bring his concerns to the attention of RBAP officials, in particular Navarro, without first adequately discussing them with his immediate supervisor.<sup>446</sup>

Pakkala's change in position with respect to Shkurtaaj was not retaliatory. Instead, his position reflected a reasonable determination that Shkurtaaj's poor relations with national and international staff alike had become detrimental to UNDP-DPRK. Pakkala's good faith is evident in the assistance that he provided to Shkurtaaj during Shkurtaaj's search for another position within UNDP, for which Shkurtaaj expressed great appreciation.<sup>447</sup>

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<sup>445</sup> Timo Pakkala email to Jovita Domingo (May 3, 2006); Timo Pakkala interviews (Nov. 1, 2007 & Mar. 10, 2008); Vineet Bhatia interview (Jan. 15, 2008).

<sup>446</sup> Candidate Assessment (Mar. 15, 2006) (noting evaluations of candidates, including Shkurtaaj); Abu Selim interview (Apr. 11, 2008); Artjon Shkurtaaj email to Abu Selim (undated) (attaching "Mission Report ("february 2005")" forwarded to Navarro with blind copy to Garcia); Abu Selim email to Artjon Shkurtaaj (Mar. 14, 2005) (not related to previous footnote, but asking Shkurtaaj to discuss and clear concerns with Selim before raising them externally).

<sup>447</sup> Artjon Shkurtaaj email to Timo Pakkala (May 26, 2006) ("please accept my deepest appreciation and gratitude").

## **2. Non-Renewal of Consultancy Contract with the Centre for Business Solutions**

Shkurtaj claims that he was “fired from the UN system” “for providing evidence of wrongdoing miss-management and criminal conduct in the UNDP-DPRK.”<sup>448</sup> At the outset, the Panel finds that Shkurtaj’s assertion is wrong, because “the UN system” never fired him. Instead, on March 26, 2007, his contract with CBS *expired* by its terms. The Panel has determined that the non-renewal of Shkurtaj’s contract for a third term was not in response to Shkurtaj’s complaints about UNDP-DPRK and thus was not retaliatory.

During negotiations with Shkurtaj, CBS made it abundantly clear that it was offering the first consultancy contract to Shkurtaj on a short term basis. In July 2006, when CBS’s Operations Manager extended the offer to Shkurtaj, he specifically advised Shkurtaj that CBS was “operating in a TIGHT budget situation” and was offering “an initial three month SSA.” Shkurtaj responded noting that he understood and agreed with the offer. While CBS extended Shkurtaj’s service by virtue of a second SSA, budget constraints became a reality as predicted. Jens Wandel, CBS’ Director, advised Shkurtaj accordingly in December 2006 and on January 31, 2007. Wandel has told the Panel in clear and credible terms that the non-renewal of Shkurtaj’s contract for a third term reflected the budgetary constraints about which Shkurtaj was advised of from the very beginning. Available evidence, moreover, establishes that CBS was operating on the understanding that Shkurtaj’s services were on a short term basis.<sup>449</sup>

## **3. Decisions Regarding Shkurtaj’s Applications for Other UNDP Positions**

Shkurtaj maintains that UNDP’s failure to hire him in connection with two vacancies for staff-level positions in Bratislava was retaliatory and discriminatory.<sup>450</sup> A review of the evidence does not support Shkurtaj’s position.

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<sup>448</sup> Artjon Shkurtaj email to Ivan Foo (May 29, 2007); SSA (undated) (bearing Shkurtaj’s signature and dated Dec. 22, 2006).

<sup>449</sup> Vee Kun Lee email to Artjon Shkurtaj (July 25, 2006) (emphasis in original); Artjon Shkurtaj email to Vee Kun Lee (July 25, 2006); SSA (undated) (bearing Shkurtaj’s signature and dated Dec. 22, 2006); Jens Wandel interviews (Nov. 21, 2007 & Apr. 11, 2008); Jens Wandel note to file (Mar. 5, 2007).

<sup>450</sup> Artjon Shkurtaj email to Krishan Batra (May 16, 2007).

Shkurtaj's application for the Operations Specialist position in Bratislava was processed in accordance with UNDP's standard hiring procedures. The position was posted in August 2006. Garcia, Chief of the NE Asia Division of RBAP, in fact supported Shkurtaj's candidacy with a strong recommendation. Shkurtaj was short listed among several candidates that were interviewed on January 10, 2007. Interview reports prepared by the selection panel appear neutral and thorough and indicated Shkurtaj's positive attributes. The selection panel did not regard Shkurtaj as the top ranked candidate, noting in particular that in comparison to other candidates he did not communicate as effectively. According to notes from the interview panel, the top candidate demonstrated superior experience in the area of accounting and excellent communications skills. The panel noted that the top candidate was the strongest candidate in terms of "substantive knowledge" and "advisory and communications skills." Despite having undertaken the interview process and selected a top candidate, by March 16, 2007, Regional Centre for Europe and the Commonwealth of Independent States (RBEC) cancelled the recruitment.<sup>451</sup>

The evidence does not reveal any indication that the ranking of Shkurtaj among the other short-listed candidates was motivated by a desire to retaliate against him for his stance on UNDP-DPRK or by anti-Albanian biases as Shkurtaj has claimed. Shkurtaj appears to rely on the timing of the adverse hiring decision to support his claim. Specifically, Shkurtaj learned that he was denied the position in March 2007, after he had aired his more pointed complaints about UNDP's handling of matters in the DPRK.<sup>452</sup>

Shkurtaj's claim, however, ignores several key points. First, as evidenced by Garcia's letter of recommendation, Shkurtaj's application had support at the headquarters level. Second, the selection panel's remarks and comparative analysis of candidates relates to interviews occurring *before* Shkurtaj's February 2007 complaints. Third, a review of the records surrounding the selection process reveals a thorough, fair, and transparent selection process devoid of any signs of retaliation or discrimination. Fourth, if the selection panel's ranking was retaliatory, one would expect to see a more negative analysis of Shkurtaj.

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<sup>451</sup> Artjon Shkurtaj email to Maria Novak (Aug. 9, 2006) (responding to job posting indicating a start date of Oct. 1, 2006); Romulo Garcia letter of recommendation for Artjon Shkurtaj (Dec. 14, 2006) (serving as letter of reference for Shkurtaj's job applications); Maria Novak email to Artjon Shkurtaj (Jan. 5, 2007); UNDP Selection Process and Interview Panel Minutes (undated); Maria Novak email to Artjon Shkurtaj (Mar. 16, 2007).

<sup>452</sup> Maria Novak email to Artjon Shkurtaj (Mar. 16, 2007).

Instead, the panel's report is balanced and indeed noted that Shkurtaaj had "appropriate knowledge and skill."<sup>453</sup>

Shkurtaaj also challenges UNDP's denial of his application in May 2007 for a position as Regional Chief Procurement Officer in Bratislava. Shkurtaaj's claim is without merit. To support his claim, Shkurtaaj relies on a comparison of the language requirements between the job postings for Operations Specialist and Procurement Officer. Specifically, the job description corresponding with the Operations Specialist position indicated that "a working knowledge of any of the region's languages is a great asset, in particular Russian." The job description for the Procurement Officer position noted a need for "fluency in either English or Russian, with at least a working knowledge of the other." From this subtle distinction, the Panel cannot reasonably infer that UNDP raised the language requirement as a retaliatory or discriminatory measure. A "working knowledge" of Russian was an important factor with respect to each position. Furthermore, the Panel understands that the Procurement Officer position entails review of bidding documents which are predominantly written in Russian.<sup>454</sup>

Leaving aside the language requirement, Shkurtaaj simply was not qualified for the Regional Chief Procurement Officer position in any event. Among the required qualifications was a "minimum ten years professional experience in procurement or procurement related functions." Even assuming that Shkurtaaj's service as Operations Manager for UNDP-DPRK qualifies as procurement-related experience and even accepting as true Shkurtaaj's representations on his curriculum vitae about his other experience, Shkurtaaj fell far short of the ten-year requirement.<sup>455</sup>

To the extent that Shkurtaaj challenges UNDP's decisions with respect to other vacancies to which he applied, the record again fails to demonstrate retaliatory treatment. Instead, the evidence reveals a pattern in which Shkurtaaj applied for positions to which he clearly was not qualified. For example, on July 7, 2006, Shkurtaaj applied for a position as a Team Leader with CBS. The job posting specifically stated that each applicant must be a

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<sup>453</sup> UNDP Selection Process and Interview Panel Minutes (undated).

<sup>454</sup> Artjon Shkurtaaj email to Krishan Batra (May 16, 2007) (complaining of retaliation). *Compare* Vacancy Announcement re Regional Operations Specialist (undated) (noting application deadline of Aug. 29, 2006) with Vacancy Announcement re Regional Chief Procurement Officer (undated) (noting application deadline of May 11, 2007); Krishan Batra email to Peri Johnson (May 17, 2007) (noting that bidding documents are often submitted in Russian).

<sup>455</sup> Vacancy Announcement re Regional Chief Procurement Officer (undated) (noting application deadline of May 11, 2007); Artjon Shkurtaaj Curriculum Vitae (Apr. 2007).

Certified Public Accountant (CPA). Because Shkurtaaj was not a CPA, he cannot now claim retaliation on the basis of CBS' selection of a candidate with such required credentials. Similarly, Shkurtaaj applied for a position as Regional Procurement Officer for the Regional Bureau of Latin American Countries. The posting required a minimum of ten years of experience in the area of procurement. Shkurtaaj, who clearly did not meet the requisite experience criterion, cannot now fairly criticize UNDP for hiring a candidate who met the experience requirement and in any case was vastly more qualified for the job.<sup>456</sup>

Shkurtaaj has failed to advance evidence that UNDP's failure to hire him for these positions was the result of retaliation. To the contrary, the evidence reveals that Shkurtaaj routinely applied for positions without having the requisite qualifications. Considering all of the available evidence and bearing in mind serious concerns about Shkurtaaj's credibility as discussed in more detail below, the Panel concludes that UNDP has not retaliated against Shkurtaaj for his role in criticizing UNDP's operations in the DPRK.

#### **E. Factors Bearing on Credibility**

The Panel has met on three occasions with Shkurtaaj and has endeavored to provide Shkurtaaj a full opportunity to explain his position and his claims of misconduct by UNDP. During these interviews, Shkurtaaj has made numerous allegations, which the Panel has considered against the backdrop of known and incontrovertible facts. Through this process, the Panel has developed serious reservations about Shkurtaaj's overall credibility. Indeed, Shkurtaaj's lack of credibility in light of the facts calls into question the veracity of the claims of misconduct that he advances. Set forth below are several examples of assertions that Shkurtaaj made either to the Panel or to others, which upon close review are believed to be false or, at least, highly misleading.

#### **1. The Signed Special Service Agreements with UNDP's Bureau of Management, Centre for Business Solutions**

Shkurtaaj insists that his service for UNDP's Bureau of Management, Centre for Business Solutions during the period from September 27, 2006 through March 26, 2007 was

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<sup>456</sup> UNDP Job Description (undated) (announcing Team Leader position within BOM/CBS); UNDP Job Description (undated) (announcing Regional Procurement Office vacancy).

not governed by any Special Service Agreements. He claims, moreover, that the SSA contracts that appear to bear his signature are not authentic.<sup>457</sup> For example, referring to SSA agreements with CBS and responding to questions asked by his own lawyer during the interview Shkurtaaj told the Panel as follows:

Shkurtaaj's Counsel: And your [Shkurtaaj's] position, correct me again if I'm mistaken, and your position was that none of those contracts was shown to you and none of them were signed by you?

Shkurtaaj: None.

Shkurtaaj similarly denied signing the SSA contracts in response to questions from the Panel: "We do not recognize those signatures, those are not my signatures, my signature is very, very particular signature."<sup>458</sup> Shkurtaaj's claims in this regard find no support in the evidence.

A review of the circumstances surrounding each of the SSA contracts reveals Shkurtaaj's clear falsehood. On July 25, 2006, CBS informed Shkurtaaj by email that "we would like to offer you an initial three month SSA." Shkurtaaj responded noting, "I agree with the offer." That same day, CBS sent an email to Shkurtaaj stating "[a]ttached is your SSA contract" and asking him to return a signed SSA by email. On July 28, 2006, CBS wrote Shkurtaaj again as a "soft reminder" that he needed to sign and return the SSA. Within approximately six minutes, Shkurtaaj responded with an email stating, "Please find attached the contract—sorry for the delay I thought I sent it already."<sup>459</sup>

The Panel was able to obtain an electronic copy of the SSA contract (a scanned pdf file) that CBS received on July 28, 2006. The properties of the electronic file confirm several key facts. First, the SSA contract was titled "Contract-Shkurtaaj Sept-Nov 2006." Second, it was created by "Administrator [OM]" at 12:35:57 a.m. on July 28, 2006 (reflecting time and date in the DPRK). The reference to "OM" indicates that the Operations Manager, i.e., Shkurtaaj, created the electronic copy in the UNDP-DPRK system upon receipt from CBS.

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<sup>457</sup> SSA (undated) (bearing Shkurtaaj's signature and containing hand-written note in margin explaining term of service, i.e., Sept. 27, 2006 through Dec. 26, 2006); SSA (undated) bearing Shkurtaaj's signature dated Dec. 22, 2006 and covering three month period from Dec. 27, 2006 through Mar. 26, 2007).

<sup>458</sup> Artjon Shkurtaaj interview (Nov. 29, 2007).

<sup>459</sup> Kun Vee Lee email to Artjon Shkurtaaj (July 25, 2006); Artjon Shkurtaaj email to Kun Vee Lee (July 25, 2006); Luiana Matechi email to Artjon Shkurtaaj (July 25, 2006) (attaching proposed SSA); Luiana Matechi email to Artjon Shkurtaaj (July 28, 2006) (reminding Shkurtaaj to forward the signed SSA); Artjon Shkurtaaj email to Luiana Matechi (July 28, 2006) (attaching electronic copy of signed agreement). The references to July 28, 2006 reflect the time and date in Pyongyang.

Third, the creation time is approximately three minutes after CBS sent its email to Shkurtaj and approximately three minutes before CBS received a reply from Shkurtaj's email address. These facts discredit Shkurtaj's assertion that he never signed an SSA contract with CBS.<sup>460</sup>

Equally clear is that Shkurtaj signed in person, on September 27, 2006, the same SSA contract which had previously been electronically signed. Because Shkurtaj did not leave UNDP-DPRK until September 25, 2006, Shkurtaj needed to sign a revised SSA contract to set forth the new dates of his consultancy service, i.e., September 27, 2006 through December 26, 2006.<sup>461</sup> CBS produced to the Panel an original SSA contract bearing what appears to be Shkurtaj's signature. Moreover, CBS' Operations Assistant, James Kanchewa, provided a signed statement to the Panel, explaining that he hand-delivered the contract and "witnessed Mr. Artjon Shkurtaj sign the SSA Contract in my presence on 27 September 2006 when he came to Centre for Business Solutions to take up his SSA duties."<sup>462</sup>

It is undisputed that Shkurtaj served a second and final three-month period of service with CBS during the period from December 26, 2006 through March 26, 2007. In connection with this period of service, Shkurtaj again signed an SSA contract on December 22, 2006. By virtue of Shkurtaj's own statements in an email he sent several months later, it is clear that Shkurtaj was well aware of the SSA's existence. Specifically, on April 19, 2007, Shkurtaj referred to the period of his service for CBS in February 2007 and explained to Ad Melkert, "As you certainly are aware, I was at the time employed by UNDP's Bureau of Management *under a standard short term agreement (SSA)*."<sup>463</sup> Shkurtaj's reference in this email to his SSA contract is consistent with his monthly submission of documents entitled "SSA Time Sheet," each of which bears his signature. Still further, the Panel has reviewed

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<sup>460</sup> Electronic copy of "Contract Shkurtaj Sept.-Nov. 2006" (listing document properties).

<sup>461</sup> Initially, the SSA contract bearing Shkurtaj's signature dated July 28, 2006 contemplated that the contract was due to begin on Sept. 1, 2006. However, Shkurtaj did not leave UNDP-DPRK until Sept. 25, 2006, as a result of which Shkurtaj re-signed the contract on Sept. 27, 2006 and the contract contained a hand-written note indicating a term of service from Sept. 27, 2006 through Dec. 26, 2006. *Compare* SSA (undated) (bearing Shkurtaj's signature dated July 28, 2006 and containing term of service, i.e., Sept. 1, 2006 through Nov. 30, 2006); *with* SSA (undated) (bearing Shkurtaj's signature and containing hand-written note in margin explaining term of service, i.e., Sept. 27, 2006 through Dec. 26, 2006)

<sup>462</sup> SSA (undated) (bearing Shkurtaj's signature and containing hand-written note in margin explaining term of service, i.e., Sept. 27, 2006 through Dec. 26, 2006); James Kanchewa statement of certification of signature (Jan. 17, 2008).

<sup>463</sup> SSA (Dec. 22, 2006); Artjon Shkurtaj email to Ad Melkert (Apr. 19, 2007) [emphasis added]

Atlas records revealing that Shkurtaj was paid as a contractor, not as a UNDP staff member, and that such payments were consistent with the SSA Time Sheets that Shkurtaj submitted.<sup>464</sup>

Not only does Shkurtaj deny signing the SSA contracts with CBS, but he now claims that, in any event, the SSAs were trumped by a one-year ALD pursuant to an agreement that he struck with Jovita Domingo, a UNDP human resources official.<sup>465</sup> His assertion defies the evidence. To begin with, the only ALD contract that Shkurtaj held in 2006 was the six-month agreement that Shkurtaj signed and that was to govern the period from June 1, 2006 through November 30, 2006 for his service as Operations Manager for UNDP-DPRK. There was no such one-year ALD agreement as Shkurtaj claims. Moreover, Pakkala made it clear to Shkurtaj that the six-month ALD was subject to termination in the event that Shkurtaj secured another assignment, which in fact is exactly what happened. Thus, via email to Bhatia, Shkurtaj himself confirmed the termination of the six-month ALD contract effective September 29, 2006. On these facts, it is inconceivable that Shkurtaj could now claim that he was operating under a one-year ALD contract.<sup>466</sup>

In short, Shkurtaj's claims to the Panel that he was unaware of his SSA contracts with CBS and his vehement challenge to the authenticity of the signatures are simply not credible. Nor does Shkurtaj's claim that a one-year ALD contract trumped the SSAs have any merit.<sup>467</sup>

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<sup>464</sup> See, e.g., SSA Time Sheet (Feb. 28, 2007) (bearing Shkurtaj's signature and setting forth time entries for the period from Feb. 1, 2007 through Feb. 28, 2007). The Panel has all timesheets for September-March 2007 and cites the timesheet dated February 28, 2007 by way of example.

<sup>465</sup> Artjon Shkurtaj interview (Nov. 29, 2007). At another point in the interview process, Artjon Shkurtaj claims that he was hired for a two-year staff position, ending in March 2008. Artjon Shkurtaj interview (Nov. 29, 2007).

<sup>466</sup> Timo Pakkala Letter of Appointment to Artjon Shkurtaj (bearing each signature dated June 1, 2006); Timo Pakkala email to Artjon Shkurtaj (May 25, 2006) Artjon Shkurtaj email to Timo Pakkala (Sept. 21, 2006) (noting need to terminate the ALD contract as of Sept. 29, 2006 "in order for my new contract in NY to start from there").

<sup>467</sup> A review of the various samples of Shkurtaj's handwriting calls into question his claims to the Panel still further. Set forth in Appendix 1 are the signatures appearing on the CBS SSA contracts and known samples of Shkurtaj's signature. The Panel has not undertaken a handwriting analysis. When asked by the Panel to provide samples of his signature, Shkurtaj refused. Shkurtaj then stated that he would only agree to provide handwriting exemplars with input from an expert of his choice. Shkurtaj's counsel suggested that even a match would be questionable, because a person can create an electronic signature by using a copy of another's signature. Artjon Shkurtaj interview (Nov. 29, 2007). Hence, the Panel has not endeavored to engage an expert to perform a handwriting analysis but in its judgment, reasonably finds the signatures in these samples to be of the same hand.



## **2. Shkurtaj's Failure to Produce Documents to the Panel**

During the interview process, Shkurtaj repeatedly told the Panel that he had access to critical documents and that he would provide such documents to the Panel in support of his claims. Shkurtaj has not provided any such documents to the Panel despite the Panel's clear and multiple requests. This pattern in which Shkurtaj referred to purported documents, agreed to provide them to the Panel, and then failed to do so, casts doubt on Shkurtaj's credibility and the veracity of his claims. Set forth below are several examples of Shkurtaj's reliance on documents to support his allegations. In each instance, Shkurtaj agreed to provide the documents. Moreover, in each instance, he failed to do so.

- Shkurtaj claimed that in approximately February 2007, Akiko Yuge and Ad Melkert “cleaned up the system” of Atlas, UNDP’s financial reporting system, as a result of which “two point something million dollars disappeared from the system,” specifically the DPRK account. This is of course a most serious accusation, and the Panel asked about Shkurtaj’s proof. Shkurtaj claimed, “I have the movies” and explained a technique whereby one can record what occurs in the Atlas system. Shkurtaj told the Panel that he would set up a laptop along with a projector and play the Atlas recordings for the Panel. No such presentation occurred.<sup>468</sup>
- Regarding the selection process for the Operations Manager post in DPRK in March 2006, Shkurtaj claimed to the Panel that not only was he initially selected for the position at a UNDP staff level, but he received a formal letter of appointment signed by Pakkala and approved by Headquarters. The Panel asked Shkurtaj, “Do you have a copy of that letter you can give us?” Shkurtaj responded that he had a copy of the letter and further stated, “I will provide that to you.”<sup>469</sup>
- In another example and again on the subject of the March 2006 hiring process, Shkurtaj told the Panel that he would provide key documents. At one point, he even claimed that he had a contract for a two-year appointment for the Operations Manager position through March 2008 and that when he received a six-month ALD beginning June 1, 2006, he was surprised. Regarding the documentation, Shkurtaj told the Panel

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<sup>468</sup> Artjon Shkurtaj interview (Dec. 6, 2007).

<sup>469</sup> Artjon Shkurtaj interview (Dec. 6, 2007).

that he sent emails questioning the six-month ALD position. He further stated, “I will provide you [the Panel] with those emails, everything.”<sup>470</sup>

The Panel has repeatedly expressed great interest in reviewing the documentary evidence to which Shkurtaaj referred and which he agreed to provide to the Panel. In subsequent correspondence and during the Panel’s final meeting with Shkurtaaj on April 8, 2008, the Panel revisited its requests that Shkurtaaj provide the documents. By way of background, before the April 8<sup>th</sup> meeting with Shkurtaaj, the Panel had provided Shkurtaaj with recordings of the previous interviews that occurred in November.<sup>471</sup> After confirming that Shkurtaaj had an opportunity to review the recordings, the Panel and Shkurtaaj engaged in the following exchange:

The Panel: So there are a number, I think, of areas in which you said that you would be giving evidence. Have you got any?

Shkurtaaj: No.

The Panel: No?

Shkurtaaj: I will not provide any more evidence.

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The Panel: Please try to listen that we expect that if you have any evidence in support of your case please submit it to the Panel which you last time said you would. But if you choose not to, we cannot force you. But they will certainly help the Panel’s work but it’s your decision. But you yourself said that you were going to send a lot of information. But nothing has come. Nothing has come.<sup>472</sup>

Shkurtaaj’s decision to withhold documents that he previously agreed to provide raises serious questions about whether the documentary evidence even exists and, at a minimum, establishes a significant lack of candor that hinders the Panel’s ability to judge his assertions against the evidence and bears negatively on Shkurtaaj’s overall credibility.

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<sup>470</sup> Artjon Shkurtaaj interview (Nov. 29, 2007).

<sup>471</sup> On April 9, 2008, the Panel provided Shkurtaaj recordings of his December 6, 2007 and April 8, 2008 interviews. Robert Benson of the UN Ethics Office agreed with the Panel to serve as a custodian of a sealed envelope containing the recording of the Shkurtaaj interviews on November 29, 2007 and December 6, 2007 and to return the recordings at the end of the Panel’s review for inclusion in the Panel’s working papers.

<sup>472</sup> Artjon Shkurtaaj interview (Apr. 8, 2008).

### **3. Shkurtaj's Claims re: Procurement of Silk Equipment**

On March 25, 2007, Shkurtaj made numerous allegations with respect to UNDP-DRPK's procurement of silk equipment from a company based in China. Shkurtaj set forth his claims in an email, which the U.S. Mission provided to the Panel. Having reviewed the email and relevant documentary evidence and discussed the matter with the procurement officer handling this particular acquisition, the Panel concludes that Shkurtaj's allegations are highly misleading.

By way of background, in December 2004, the UNDP initiated a two-year project entitled, "Capacity Development for Women-managed Enterprise Networks in DPRK." The implementing partner for this project was the General Bureau for Cooperation with International Organizations (GBCIO) in the DPRK's Ministry of Foreign Trade. The total budget was \$369,000 and covered consultants, staffing, training, and equipment. Equipment line items in the original budget totaled \$60,000.<sup>473</sup>

In 2006, GBCIO and the Internal Economic Development Center (an entity established under the project) requested UNDP to purchase silk equipment for use in a research and development component of the product. Documents from the Country Office indicate that the silk industry had potential for enhancing foreign trade in the DPRK. After a competitive process involving the solicitation of bids from four vendors, analysis of bids against specifications, and a meeting of the Local Committee on Contracts, Assets, and Procurement, a recommendation for contract approval was made to Timo Pakkala, who approved the recommendation on November 29, 2006. The total amount of the recommended contract was \$30,963. Minsource International Ltd (Minsource), of Dandong, China, submitted the lowest bid and was awarded the contract.<sup>474</sup>

Email correspondence reveals that Shkurtaj spoke out against the procurement of the silk equipment. On August 3, 2006, Shkurtaj stated to Pakkala, Bhatia, and Mulualem Zeleke, an in-country Procurement Specialist, as follows:

[I]f the office will follow GBCIO suggestion – this will lead to a 'cooked' procurement. I believe that the timing of the silk procurement has come to re-bid

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<sup>473</sup> Project Document (Dec. 7, 2004).

<sup>474</sup> Minutes of Local Contracts, Assets and Procurement Committee (LCAP) of UNDP DPRK (Nov. 29, 2006); Mulualem Zeleke interview (Dec. 5, 2007).

everything from the beginning. It's very clear that GBCIO wants to corrupt the tender.<sup>475</sup>

Pakkala did not receive Shkurtaĵ's allegations lightly and instead responded that same day in an email to Shkurtaĵ noting:

[S]uch allegations against government counterparts is totally unacceptable. GBCIO is entitled to make suggestions regarding procurement of equipment. It is up to UNDP to advise them of the procedure to be followed. If you continue this type of language in your correspondence, I will have to take appropriate disciplinary action.<sup>476</sup>

On March 25, 2007, the day before Shkurtaĵ's last day as an SSA consultant with CBS, Shkurtaĵ sent an email to a person unknown to the Panel (because of redaction by the U.S. Mission). Shkurtaĵ's email forwarded the above-referenced exchange regarding the silk equipment between Shkurtaĵ and Pakkala on August 3, 2006. The U.S. Mission provided the Panel with a copy of the email which reads as follows:

The government wanted UNDP to pay for some silk equipment-which were not even foreseen in our projects, and wanted us to pay a North Korean Company based in Dandong. Together with Muluaem and vijay, I denounced the way the government was forcing UNDP to accept a company which was not in the list of vendors of UNDP. UNDP approval would have led to US \$300,000 (in USA currency) transferred to a North Korean owned and operated company in Dandong.

Timo is threatening me with disciplinary actions if I would continue to denounce a corrupt decision which would had resulted in transfer of US\$ currency to un-approved and not-certified vendors.<sup>477</sup>

This email contains numerous falsehoods. Contrary to Shkurtaĵ's allegations, the expenditure that was approved was not \$300,000, but rather was \$30,000. Moreover, the equipment was well-within the scope of an approved project, and the contract was awarded to an entity that *was in fact* on the approved list of vendors.<sup>478</sup>

Still further, Shkurtaĵ suggests that he and others, including Muluaem Zeleke, "denounced" the manner in which the DPRK was trying to influence the process. Zeleke,

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<sup>475</sup> Artjon Shkurtaĵ email to Timo Pakkala (Aug. 3, 2006).

<sup>476</sup> Timo Pakkala email to Artjon Shkurtaĵ (Aug. 3, 2006).

<sup>477</sup> Artjon Shkurtaĵ email (Mar. 25, 2007) (recipient of email unknown because of redaction by U.S. Mission).

<sup>478</sup> Project Document (Dec. 7, 2004); Minutes of Local Contracts, Assets and Procurement Committee (LCAP) of UNDP DPRK (Nov. 29, 2006); Muluaem Zeleke interview (Dec. 5, 2007).

however, did not denounce the transaction. Instead, he told the Panel that the procurement was competitively bid. After receiving an initial round of out-of-budget bids, UNDP re-bid the contract, before awarding it to a vendor from the approved list, i.e., Minsource. Contrary to agreeing with Shkurtaaj's position, Zeleke told the Panel that he did not trust Shkurtaaj and noted that Shkurtaaj frequently lied to his superiors. It is particularly ironic that Shkurtaaj would challenge this particular contract award to Minsource. Records reviewed by the Panel reveal that over Shkurtaaj's signature, the Country Office had previously submitted requests for bids to this very company.<sup>479</sup>

It is true as Shkurtaaj suggested in the March 25<sup>th</sup> email that Pakkala threatened him with disciplinary action. However, given the reckless manner in which Shkurtaaj described the circumstances and his unjustifiable claim of corrupt conduct, Pakkala properly warned Shkurtaaj to control himself. In short, the March 25<sup>th</sup> email that Shkurtaaj provided to the U.S. Mission is false and misleading on multiple levels.<sup>480</sup>

#### **4. Miscellaneous Claims and Events Bearing on Shkurtaaj's Credibility**

There are numerous other examples of Shkurtaaj's inconsistent statements and lack of candor. A few examples are set forth here. First, Shkurtaaj made false statements on UN Personal History Forms (P11 forms) that he submitted in connection with various UN and UNDP positions. The P11 forms called upon Shkurtaaj to provide biographical information and to "certify that the statements made by [him] are true, complete and correct to the best of [his] knowledge and belief."

A comparison of his myriad statements regarding his educational background illustrates Shkurtaaj's lack of candor. On one P11 form submitted in 2004, Shkurtaaj stated that in 1995, he received a degree from the Harry T. Fultz Business School in Albania. There is no such school. While there is a secondary school in Albania known as the Harry T. Fultz Community College, this school has no records indicating that Shkurtaaj enrolled as a student

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<sup>479</sup> Mulualem Zeleke interview (Dec. 5, 2007).

<sup>480</sup> Shkurtaaj's reliance on his email in his discussions with the U.S. Mission is problematic for the additional reason that he was no longer Operations Manager in the DPRK when the procurement was finalized, thus removing him from first-hand involvement with the transaction about which he expressed concerns. Relatedly, Shkurtaaj's characterization in the March 25<sup>th</sup> email of there having been a "corrupt decision" is misleading for the further reason that no decision in fact had been made at that point.

in 1995. Moreover, in 1995, the school did not offer courses in business administration.<sup>481</sup> Similarly, in a 2004 P11 form, Shkurtaaj represented that he received a master's degree in public health management from the University of Bari in 1993. However, the University of Bari's records indicate that Shkurtaaj never received any such degree. Moreover, in contradiction of the 2004 P11 form, Shkurtaaj represented on a 1998 P11 form that he received a degree in internal medicine and public health from the University of Tirana in 1994, with no mention of the University of Bari. The University of Tirana has no records indicating that Shkurtaaj completed any courses in this field after 1989. Shkurtaaj's inconsistent, false, and certified statements regarding his educational history raise serious questions about his overall reliability.<sup>482</sup>

Second, Shkurtaaj described for the Panel a discussion on March 26, 2007 with Kemal Dervis, UNDP's Administrator, in which Shkurtaaj denied meeting with U.S. officials. According to Shkurtaaj, Dervis asked him, "Well you went out and you spoke with the Americans; is it true?" Shkurtaaj told him, "I haven't spoken yet, if I do, you will lose your job." Shkurtaaj's statement to Dervis is patently false. Indeed, there is no dispute now that Shkurtaaj had met with U.S. authorities nearly ten months before his March 2007 meeting with Dervis. In fact, Shkurtaaj's statement to the Panel is inconsistent with the recollection of Dervis, who told the Panel that Shkurtaaj admitted to having met with U.S. authorities.<sup>483</sup>

Third, in connection with the Panel's efforts to reimburse Shkurtaaj for travel expenses relating to the interview process, the Panel has consistently maintained that it will reimburse

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<sup>481</sup> Alma Sulstarova letters to UNDP (July 30 & Aug. 2, 2007) (setting forth information provided by Director of Harry T. Fultz Community College re courses and Shkurtaaj lack of enrollment).

<sup>482</sup> Compare P11 Form (undated) (signed form noting present employment as of 1998 thus indicating the date of preparation); P11 (undated) (unsigned print out of form indicating 2002 start date for DESA position); Artjon Shkurtaaj email to Napoleon Navarro (Aug. 10, 2004) (attaching unsigned P11 form). Corso Perfezionamento email to Valarie Mazzurco (July 19, 2007) (indicating that University of Bari has no records of Shkurtaaj's enrollment in master's program in public health); Salvatore Cocco email to Valarie Mazzurco (July 19, 2007) (noting that Shkurtaaj enrolled in a course in medicine and surgery, but never completed requirements for a degree); Alma Mustafaraj note to file (Aug. 2, 2007) (indicating that UNDP representative visited the University of Tirana to gather information regarding Shkurtaaj's enrollment and learned that there are no records confirming Shkurtaaj attendance after 1989).

<sup>483</sup> Artjon Shkurtaaj interview (Dec. 6, 2007); U.S. Senate Permanent Subcommittee on Investigations. "United Nations Development Program: A Case Study of North Korea." Staff Report. (Jan. 24, 2008); Tegegnetwork Gettu statement to the Panel (May 15, 2008); Kemal Dervis interview (May 13, 2008); and Dimitri Samaras interview (May 14, 2008). See also Tegegnetwork Gettu statement (May 4, 2008) (confirming meeting between Shkurtaaj and Dervis during which Shkurtaaj stated that he had spoken with the U.S. authorities about his allegations; statement provided through Peri Johnson Director of UNDP's Legal Support Office in response to inquiry by the Panel on April 30, 2008).

Shkurtaj provided that he supplies proof of his claimed costs for air travel in the form of invoices, boarding passes, or similar such documents (in alignment with usual UNDP procedures for reimbursement). Remarkably, Shkurtaj claimed that he had produced documentation to the Panel verifying his travel. In fact, he has not provided any such documentation despite repeated requests.<sup>484</sup>

## **F. Credibility of Shkurtaj's Recent Allegations of Counterfeit Currency**

Shkurtaj told the Panel that in 2005 and 2006, he repeatedly raised concerns about the presence of the counterfeit currency at the UNDP-DPRK Country Office with UNDP Headquarters and with his superiors at UNDP-DPRK. The Panel has reviewed Shkurtaj's claims on this subject and finds that they conflict with evidence that the Panel has gathered, thus reinforcing the Panel's concerns about Shkurtaj's credibility.

### **1. Purported Email Correspondence with Navarro**

Shkurtaj claims that when he communicated with Headquarters, he used the code "red dots" to refer to the counterfeit currency. He claims that he used the code to avoid alerting the DPRK to the issue in the event that government officials were monitoring his emails. Shkurtaj specifically told the Panel that when he corresponded with Navarro by email, he used the "red dots" reference. Shkurtaj stated, "In all the emails that you will see from everywhere, there are red dots, where I asked people like Navarro, Julie Anne [Mejia] and others what about the red dots, what should I do."<sup>485</sup>

The Panel has undertaken to verify Shkurtaj's purported use of "red dots" as a reference to counterfeit currency. For example, Navarro provided his computer and email archives to the Panel, as a result of which the Panel has located numerous emails between Shkurtaj and Navarro during the relevant period. After an exhaustive search of Navarro's laptop for any email bearing the phrase "red dot" or "red dots," the Panel has found not a single reference to the phrase. The Panel has also reviewed thousands of emails from other

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<sup>484</sup> Artjon Shkurtaj interview (Dec. 6, 2007); Panel letter to Artjon Shkurtaj (Jan. 17, 2008 & Mar. 26, 2008); and Panel letter to George Irving (Apr. 22, 2008).

<sup>485</sup> Artjon Shkurtaj interview (Dec. 6, 2007).

UNDP sources. No email contains the coded language to which Shkurtaaj referred in his interview with the Panel.<sup>486</sup>

## **2. Purported Discussions with Pakkala**

Shkurtaaj claimed that he raised concerns about the \$3,500 counterfeit currency held in the UNDP-DPRK Country Office safe with Selim and Pakkala during the summer of 2005 in connection with Selim's handover of duties to Pakkala. Shkurtaaj further asserts that an argument ensued in which Selim expressed frustration to Shkurtaaj for raising difficult issues at the wrong time. Pakkala, on the other hand, denied that any such conversation occurred during the handover process. Instead, Pakkala recalled that he learned of the presence of counterfeit currency in October 2006, when Shkurtaaj's successor, Brewah, told him about it. Information provided to the Panel by Brewah and Bhatia corroborates Pakkala's recollection.<sup>487</sup>

## **3. Purported Discussions with Headquarters**

Shkurtaaj similarly suggested to the Panel that in May 2006, he decided "enough is enough" and that based on his purported meetings with Mejia, Shah, and Ysaguirre, he believed that "they were not moving on the counterfeit issue." It was at this point, according to Shkurtaaj, that he decided to raise his concerns with external authorities. Shkurtaaj's reference to raising concerns about counterfeit currency in meetings with Mejia, Shah, and Ysaguirre directly conflicts with their own records and statements to the Panel, in which they denied discussing the issue with Shkurtaaj. Instead, these Headquarters officials recall learning about the issue in February 2007 when Pakkala brought it to their attention.<sup>488</sup>

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<sup>486</sup> As noted throughout the Report, the Panel has located and familiarized itself with many emails between Shkurtaaj and Navarro, in which Shkurtaaj raised concerns about UNDP-DPRK. *See, e.g.*, Artjon Shkurtaaj email to Julie Anne Mejia (May 19, 2006) (copying Navarro on concerns about the use of hard currency); Artjon Shkurtaaj email to Napoleon Navarro (June 19, 2006) (noting concerns about Pakkala's NEX-based proposal to the DPRK). The Panel cannot certify review of every email between Navarro and Shkurtaaj, however, because some files were damaged and/or inaccessible.

<sup>487</sup> Artjon Shkurtaaj interview (Nov. 29, 2007); Timo Pakkala interview (Jan. 10, 2008). *See also* Paul Brewah interview (Dec. 17, 2007) (recalling that he told Pakkala about the counterfeit currency shortly after he began service as Operations Manager); Paul Brewah email to Artjon Shkurtaaj (Oct. 30, 2006); Paul Brewah email to Pakkala (Feb. 8, 2007) (recalling that he told Pakkala about the counterfeit currency shortly after he began service as Operations Manager); and Vineet Bhatia interview (Dec. 5, 2007).

<sup>488</sup> Artjon Shkurtaaj interview (Dec. 6, 2007); Julie Anne Mejia interview (Nov. 20, 2007) (noting meeting with Shkurtaaj in July 2005, but making no mention of any meeting on the subject of counterfeit currency); Darshak



The recollections of Pakkala, Mejia, Shah, and Ysaguirre, i.e., that they did not discuss the counterfeit currency issue with Shkurtaaj, are corroborated by clear evidence that Shkurtaaj in fact was not particularly concerned during his tenure about the presence of the counterfeit currency in the safe of the UNDP-DPRK Country Office. Brewah recalled his conversation with Shkurtaaj about the contents of the safe and the presence of the counterfeit currency. During this conversation, Shkurtaaj told Brewah that the counterfeit currency had been there for years and that there was nothing that could be done about it. Consistent with Brewah's recollection, Navarro told the Panel that during a visit to the DPRK in May 2005, Shkurtaaj mentioned the counterfeit currency in the safe. According to Navarro, Shkurtaaj was nonchalant about the subject.<sup>489</sup>

Email correspondence in August 2006 further reveals that Shkurtaaj did not regard the presence of counterfeit currency as a major issue (in contrast to Shkurtaaj's concerns about the use of hard currency). In fact, on August 10, 2006, Ben Velasco, Treasury Associate in UNDP's Office of the Treasury, sent an email to Shkurtaaj asking him if he knew anything about the use of counterfeit currency by DPRK banks. After a couple of days, Bhatia inquired whether Shkurtaaj would be following up with Velasco. With no hint of urgency, Shkurtaaj informed Bhatia and Pakkala that he would address the matter upon his return to the Country Office. Shkurtaaj ultimately waited at least another six weeks to follow up on Velasco's inquiry. This documentary evidence and sequence of events is consistent with witness recollections that Shkurtaaj was not outspoken on the subject of the counterfeit currency until *after* he began claiming retaliation.<sup>490</sup>

#### **4. Purported Email Correspondence**

In considering the credibility of Shkurtaaj's current claims regarding how and when he raised questions about counterfeit currency, the Panel notes the existence of two purported emails dated May 24, 2006 and August 11, 2006. The Panel obtained the documents from

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Shah interview (Apr. 8, 2008) (denying any meeting with Shkurtaaj on the subject of the counterfeit bills or any other subject); Melvin Ysaguirre interview (Apr. 11, 2008) (making no mention of any meetings with Shkurtaaj on the subject of counterfeit currency); and Melvin Ysaguirre statement (May 1, 2008) (chronicling interactions with Shkurtaaj, with no reference to discussing counterfeit currency).

<sup>489</sup> Paul Brewah interview (Dec. 17, 2007); Napoleon Navarro interview (Jan. 8, 2008).

<sup>490</sup> Ben Velasco email to Artjon Shkurtaaj (Aug. 10, 2006); Timo Pakkala email to Vineet Bhatia (Aug. 13, 2006); Vineet Bhatia email to Artjon Shkurtaaj (Aug. 13, 2006); Artjon Shkurtaaj email to Vineet Bhatia (Aug. 13, 2006); Ben Velasco interview (Apr. 11, 2008). Date references in this footnote refer to date in New York.

the U.S. Mission and has confirmed that the U.S. Mission received the documents in hard copy from Shkurtaaj (as opposed to an electronic forward as other emails had been). The Panel has serious reservations about the authenticity of the documents and about placing any reliance on them.<sup>491</sup>

The document dated May 24, 2006 purports to be an email from Shkurtaaj to Mejia in which Shkurtaaj asserted that he had a meeting with Ysaguirre and Navarro. Shkurtaaj asserts in the document that during the meeting, he expressed concerns about “CASH, hard currency use, non-accesss and fake currency.”<sup>492</sup> The document dated August 11, 2006 purports to be an email from Shkurtaaj to Velasco replying to Velasco’s email dated August 10, 2006. The document lists Pakkala, Ysaguirre, and Shah as recipients in addition to Velasco. Regarding counterfeit currency, the document notes as follows:

I have inherited from my predecessor ... an amount of US\$3,500 of fake currency which is currently in the safe.... As of now this office has not received any instructions as to what procedures to follow for the money in the safe.<sup>493</sup>

The Panel cannot conclude that these purported emails are genuine. To begin with, the Panel was unable to independently locate either of the emails in the files and records that it has obtained. Furthermore, each of the recipients of the emails has denied any knowledge of having received them.<sup>494</sup> The Panel, therefore, has no way to confirm the authenticity of the emails other than that Shkurtaaj provided the two documents to the U.S. Mission.

Remarkably, the document dated May 24, 2006 indicates that “Melvin Yseguire” was an intended recipient, revealing that Shkurtaaj misspelled Ysaguirre’s last name. This is of

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<sup>491</sup> Artjon Shkurtaaj email to Julie Anne Mejia (May 24, 2006) (document cited as email, despite questions noted herein about authenticity); Artjon Shkurtaaj email to Ben Velasco (Aug. 11, 2006) (document cited as email, despite questions noted herein about authenticity). A representative of the U.S. Mission has confirmed for the Panel that Shkurtaaj provided the document to the U.S. Mission in hard copy.

<sup>492</sup> Artjon Shkurtaaj email to Julie Anne Mejia (May 24, 2006) (document cited as email, despite questions noted herein about authenticity).

<sup>493</sup> Artjon Shkurtaaj email to Ben Velasco (Aug. 11, 2006) (document cited as email, despite questions noted herein about authenticity).

<sup>494</sup> Julie Anne Mejia statement (May 15, 2008) (noting lack of reply from Shkurtaaj to her email dated May 23, 2006); Darshak Shah statement (May 9, 2008) (noting lack of email correspondence from Shkurtaaj); Darshak Shah interview (Apr. 8, 2008) (noting lack of knowledge of counterfeit currency in the UNDP-DPRK office until February 2007); Melvin Ysaguirre statement (noting lack of receipt of email dated May 24, 2006); Melvin Ysaguirre interview (Apr. 11, 2008) (noting that in response to Velasco email, Velasco learned from Shkurtaaj that there were no issues with counterfeit currency in the DRPK); Ben Velasco interview (Apr. 11, 2008) (denying receipt of purported August 11<sup>th</sup> email); Ben Velasco statement (Apr. 30, 2008) (same); Timo Pakkala interview (Jan. 10, 2008) (noting lack of knowledge of counterfeit currency until October 2006).

particular significance because the document purports to be a reply to recipients of an actual email that Mejia sent to Shkurtaaj with a copy to Ysaguirre on May 23, 2006. Mejia properly spelled the Ysaguirre's last name in her email. If Shkurtaaj used the "reply all" function of his email, he would have captured the correct spelling of the name.

Regarding the document dated August 11, 2006, its authenticity is undermined entirely by Shkurtaaj's own representations to Bhatia and Pakkala. Specifically, on August 13, 2006, Shkurtaaj told Bhatia and Pakkala that he had not yet responded to the August 10<sup>th</sup> email from Velasco and would be unable to do so until he returned to Pyongyang. Had Shkurtaaj in fact sent the purported August 11<sup>th</sup> response to Velasco, he could not have truthfully denied responding to Velasco when he reported to his superiors, Bhatia and Pakkala, in the August 13<sup>th</sup> email.<sup>495</sup>

Furthermore, in the purported August 11<sup>th</sup> email, Shkurtaaj indicates that he has attached an email dated December 12, 2005. However, the copy of the August 11<sup>th</sup> email that Shkurtaaj delivered in hard copy to the U.S. Mission does not include an email dated December 12<sup>th</sup> as an attachment. Instead, Shkurtaaj separately and via email forwarded to the U.S. Mission the December 12<sup>th</sup> email to Julie Anne Mejia.<sup>496</sup>

Under these circumstances, the Panel cannot prudently place any reliance on the purported May 24<sup>th</sup> and August 11<sup>th</sup> emails.

### **G. Applicable Policies and Legal Principles**

The essence of Shkurtaaj claims is that UNDP retaliated against him for raising concerns about the organization's operations in the DPRK. The issue is predominantly a factual one, and the Panel has accordingly avoided reliance on technical legal principles in addressing Shkurtaaj's claims. For a legal framework, the Panel has employed the principles

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<sup>495</sup> Ben Velasco interview (Apr. 11, 2008) (denying receipt of purported Aug. 11<sup>th</sup> email); Ben Velasco email to the Panel (Apr. 30, 2008) (confirming after search of his emails that he was unable to locate the purported Aug. 11<sup>th</sup> email); Melvin Ysaguirre interview (Apr. 11, 2008) (noting that in response to Velasco email, Velasco learned from Shkurtaaj that there were no issues with counterfeit currency in the DRPK); Darshak Shah interview (Apr. 8, 2008) (noting lack of knowledge of counterfeit currency in the UNDP-DPRK office until Feb. 2007); Timo Pakkala interview (Jan. 10, 2008) (noting lack of knowledge of counterfeit currency until Oct. 2006).

<sup>496</sup> Artjon Shkurtaaj email to Ben Velasco (Aug. 11, 2006) (document cited as email, despite questions noted herein about authenticity); Artjon Shkurtaaj email to Julie Ann Mejia (Dec. 12, 2005). A representative of the U.S. Mission told the Panel that Shkurtaaj delivered the August 11<sup>th</sup> purported email in hard copy form and, by contrast, emailed the December 12<sup>th</sup> email to Julie Ann Mejia to the U.S. Mission.

set forth in the Secretary-General's Bulletin dated December 19, 2005 regardless of applicability to UNDP. The Panel has undertaken such an analysis to afford Shkurtaj every benefit of the doubt and to ensure substantive review of his claims. Having analyzed the facts, the Panel notes the following additional factors that as a legal matter impact Shkurtaj's case.

### **1. Applicability of the Secretary-General's Bulletin**

The Secretary-General's Bulletin is inapplicable in this case and the UN Ethics Office has no jurisdiction to review Shkurtaj's claims. UN Procedures for the Promulgation of Administrative Issuances expressly provide that the "Secretary-General's Bulletins shall not unless otherwise stated therein, be applicable to separately administered organs and Programmes of the United Nations." Here, the Secretary-General's Bulletin does not contain any provisions that extend its applicability to the UNDP. On this basis, Robert Benson, Director of the UN's Ethics Office determined that "from a purely legal perspective, the Ethics Office does not have jurisdiction to address a request for protection from retaliation arising from UNDP." (As noted, notwithstanding the inapplicability of the Secretary-General's Bulletin, the Panel has undertaken a full substantive review of Shkurtaj's claims.)<sup>497</sup>

### **2. Governing UNDP Policies**

Governing UNDP policies offer protections and enforcement mechanisms in the context of whistleblower claims, even when a whistleblower performs consultancy work through SSA contracts. The governing policies are set forth in UNDP's Fraud Policy (Fraud Policy) and its Policy on Workplace Harassment, Sexual Harassment, and Abuse of Authority (Abuse of Authority Policy). These provisions operate in tandem to encourage SSA contract-holders to report fraud and abuse. In the event of fraud or abuse of authority, UNDP's policies provide for the imposition of disciplinary measures and other remedies.<sup>498</sup>

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<sup>497</sup> "Procedures for the Promulgation of Administrative Issuances," ST/SGB/2005/21; "Protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigation," ST/SGB/2005/21; Robert Benson letter to Kemal Dervis (Aug. 17, 2007).

<sup>498</sup> UNDP Fraud Policy Statement (2005); "Workplace Harassment, Sexual Harassment & Abuse of Authority," UNDP HR User Guide (2005).

Applicability of the Fraud Policy turns on whether a complainant has alleged conduct that meets the Policy's definition of "fraud." Fraud is defined as follows:

the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her detriment. UNDP aims to address three categories of fraud... (1) Fraud committed to obtain undue financial benefits or entitlements under the Staff Regulations and Rules... (2) Fraud involving third parties, in particular in the context of procurement and financial administration... (3) Fraud committed to cause the Organization to act in a manner other than it would have acted with the full knowledge of the genuine information... Fraud may involve (i) the use of deception such as manipulation, falsification or alteration of accounting records or documentation; (ii) misrepresentation or intentional omissions of events, transactions or other significant information; or (iii) intentional misapplication of accounting principles relating to amount, classification, manner or presentation or disclosure. UNDP is also concerned with preventing thefts.<sup>499</sup>

Here, Shkurtaaj has not reported or complained of any fraudulent conduct. His complaints addressed hard currency payments to the DPRK and noncompliance with the SBAA. There is no indication of undue financial benefits to persons working on UNDP's behalf or of procurement fraud of any kind. Nor was UNDP deceived in anyway as the use of hard currency payments to the DPRK was widely known. There is no evidence of deception, misrepresentation, or intentional misapplication of accounting rules. The Panel finds that the facts relevant to Shkurtaaj's claims do not fall within the definition of "fraud."

Whether the Abuse of Authority Policy applies likewise depends on the policy's definitional language. "Abuse of the authority" is defined as follows:

...imply[ing] the improper use of a position of influence, power or authority by a staff member or non-staff personnel against another staff member or non-staff personnel or a group thereof. This is particularly serious when a staff member or non-staff personnel uses his or her influence, power, or authority to negatively influence the career or employment conditions (including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion) of another staff member or non-staff personnel. It can include a one-time incident or a series of incidents. Abuse of Authority may also consist of conduct that creates a hostile or offensive work environment, which includes, but is not limited to, the use of intimidation, threats, blackmail, or coercion.

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<sup>499</sup> UNDP Fraud Policy Statement (2005), p.2.

In Shkurtaj's case, the analysis begins and ends with the factual discussion set forth above. The facts do not reveal any retaliation or abuse of authority on the part of UNDP.<sup>500</sup>

### **3. UNDP's Recently Issued "Legal Framework"**

On September 20, 2007, UNDP issued a body of rules and procedures entitled UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (UNDP Legal Framework). The UNDP Legal Framework did not supersede the Fraud Policy or the Abuse of Authority Policy. The Panel notes that the Legal Framework's applicability to Shkurtaj's claims is limited by several considerations.<sup>501</sup>

The Legal Framework took effect after the conduct that is the subject of Shkurtaj's claims and, indeed, after UNDP requested that the Panel review this matter. There is no indication that UNDP intended the Legal Framework to apply retroactively. To the contrary, when UNDP's Administrator issued the Legal Framework, he explained that it was to take "immediate" not retroactive effect.<sup>502</sup>

Furthermore, the scope of the Legal Framework's application is expressly limited to "holders of letters of appointment," not "independent contractors working with UNDP under Special Service Agreements (SSA)." Thus, even if the Legal Framework applied retroactively it would only cover conduct occurring during the period from June 1, 2006 through September 29, 2007, i.e., the period during which Shkurtaj served under an ALD-based contract. As explained above, the Panel finds that UNDP did not retaliate against Shkurtaj. This finding is based on a review of evidence that includes activities occurring during the period of Shkurtaj's ALD-based employment with UNDP. Thus, even if UNDP's Legal Framework applied retroactively, Shkurtaj's claims of retaliation are without merit.<sup>503</sup>

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<sup>500</sup> "Workplace Harassment, Sexual Harassment & Abuse of Authority," UNDP HR User Guide (2005), p. 6. It should be noted that the Abuse of Authority Policy also has a provision defining "retaliation." Unlike the abuse of authority provision and for reasons not clear to the Panel, the definition of "retaliation" applies only to staff members, not consultants.

<sup>501</sup> UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (Sept. 20, 2007); Kemal Dervis email to all UNDP staff (Sept. 22, 2007) (updating and expanding previous policies).

<sup>502</sup> Kemal Dervis email to all UNDP staff (Sept. 22, 2007).

<sup>503</sup> UNDP Legal Framework for Addressing Non-Compliance with UN Standards of Conduct (Sept. 20, 2007), Section 2 (defining scope of application).

## **V. CONCLUSION**

For the reasons set forth in this Chapter and on the basis of the accounts of numerous witnesses and extensive documentary evidence, the Panel concludes that UNDP did not retaliate against Shkurtaj for his role in raising concerns about UNDP's operations in the DPRK.

## **VI. RECOMMENDATIONS**

In view of the Panel's findings and analysis set forth in this Chapter as well as observation noted during the course of its investigative review, the Panel offers the following recommendations.

The Panel encourages UNDP to mitigate the practice of filling core Country Office positions such as the Operations Manager post with consultant staff. In addition, the Panel believes that UNDP should endeavor to assign experienced staff to key positions in complicated environments such as the DPRK, rather than assign consultants or staff with less experience.

The Panel recommends that UNDP institute a system for verifying information, in particular experience and educational information provided on Personal History Forms (P11) submitted in relation to applications for employment.

The Panel notes the lack of a system in the UNDP for recording the performance of persons hired under Special Service Agreements and recommends that some procedures be put into place to record and share as appropriate performance of this category of personnel. This will ensure that contractors who have not performed well or have long histories of marginal performance in short term contracts are not able to be hired again and again.

The Panel recommends that UNDP enforce a clear policy on the number of UNDP email accounts a staff member may have, as well as a robust mechanism for assuring compliance with this policy.

The Panel recommends that UNDP review its requirements for maintaining secure email and data systems, with a view towards increasing staff awareness of their responsibilities for maintaining security of passwords and the security of data systems access.

UNDP should examine its exit procedures for employees and contractors who are terminating service in an office, in particular that user rights for central data systems and for email systems are terminated in a timely manner.

Policies for providing protection to whistleblowers and establishing a UNDP Ethics Office can play an important role in ensuring that persons come forward with reports of misconduct without fear of retaliation. Such policies should be implemented in a transparent manner and in such a way as to effectively identify legitimate and frivolous complaints. The Ethics Office should prepare an annual report to the Board summarizing its activities. The functions and results of the Ethics Office should be reviewed after five years.



**APPENDIX 1: ARTJON SHKURTAJ SIGNATURE SPECIMENS**

<p>I the conditions on the reverse side</p> <p>E: </p> <p>Operation Asst BOM/CBS 212</p> <p>SSA Contract with CBS December 27, 2006 – March 26, 2007, signed December 22, 2006</p>	<p>he conditions on the reverse side, and accept</p> <p>DATE: </p> <p>n/Adm Asst/ BOM/CBS 212-906-5630</p> <p>SSA Contract with CBS September 27, 2006 – November 30, 2006, signed September 27, 2006</p>
<p>I hereby authorize the UN to make deductions from my salary to cover premiums at the rate applicable to the coverage requested for eligible family members.</p> <p>Signature Artjon Shkurtaj </p> <p>Date: 01/06/2006</p> <p>UNDP Health Insurance Form, signed June 1, 2006</p>	<p>ion and restoration of prior non-contributory a Fund, Notice of Election to Validate and Noti</p> <p></p> <p>ure of Participant</p> <p>United Nations Joint Staff Pension Fund, signed June 1, 2006</p>
<p></p> <p>Staff Member Signature</p> <p>ALD Letter of Appointment, signed June 1, 2006</p>	<p></p> <p>Approving Officer, signed February 4, 2005</p>

# **Chapter 7**

## **Panel Recommendations**

### **(Terms of Reference Item 6)**

#### **I. TERMS OF REFERENCE**

Under item 6 of its Terms of Reference, the Panel has been asked to make general recommendations based on its review. Recommendations relating to the other items under the Terms of Reference have been set out in the respective chapters and are set forth again below. Additionally, the Panel provides some suggestions which, in the Panel's view, can enhance the effectiveness of the United Nations Development Programme's development mission.

#### **II. GENERAL RECOMMENDATIONS**

**Set forth below are the Panel's general recommendations. Specific recommendations corresponding with Terms of Reference items 1 through 5 are set forth in Chapters 2 through 6.**

- Standard Basic Assistance Agreements with countries should be renegotiated to reflect current needs.
  
- To improve accountability at different levels, governance systems should be strengthened. Communications among various Headquarters offices having leadership, policy making, compliance, or oversight responsibilities should be improved. Periodic reports from Country Directors/Resident Representatives to Regional Bureaus should capture all activities and significant developments in the Country Office. Staff travelling on mission from Headquarters to field or from Country Offices to Headquarters should be mandated to write mission reports for record and follow up.

- UNDP has adopted a programmatic approach for evaluation of country programs. This is a useful tool for evaluating overall impact and also for mobilizing development assistance. However, this approach should not be a substitute for project level evaluation which is critical for ensuring development effectiveness. UNDP should strengthen output and results-oriented monitoring and evaluation of projects and also introduce the practice of asking project managers to write project completion reports.
- The Office of the Director of Evaluation, which reports to the Board, should be strengthened with clearly defined responsibilities. Overlap of internal audit and evaluation function, if any, should be avoided.
- Internal audit Reports should be shared with the Executive Board.
- In the application of hiring policies, merit-based and objective practices should be ensured.
- Career planning for staff should also strive to have a healthy turnover.

## **Chapter 8**

### **Resources and Staffing**

Over the course of the External Independent Investigative Review Panel’s work, the Panel has been assisted by the following professional services firms and staff. The Panel gratefully notes them here.

#### Professional Services Firms

Arnold & Porter LLP

Brian Spears—Levett Rockwood PC

PricewaterhouseCoopers LLP

Robert Half – Accountemps

Dine Adedjouma

Paul Bianco

Michelle Jo-Arencivia

Sherwin Maali

#### Consultants and Staff

Regina Carter

Ji Mi Choi

Bernard Gouveia

Julie Kennedy

Graeme Rea

Mollie Ring

Tarek Rouchdy

## ACKNOWLEDGMENTS

This Report is a product of an independent investigative review carried out by the Panel. The support and cooperation of UNDP offices and staff, as well as other entities, facilitated the independent work of the Panel.

The Panel wishes to acknowledge the cooperation it has received from the Administrator of the United Nations Development Programme, and his staff, in providing the resources and support the Panel required to undertake and complete its work.

The Office of Audit and Investigations (formerly the Office of Audit and Performance Review), which was specifically assigned to coordinate logistics and other support to the Panel, deserves particular recognition. The dedicated work of this staff made administrative arrangements go smoothly. These efforts are all the more appreciated because of the unique nature of the Panel's assignment and the need to ensure the independence of the Panel's work.

Appreciation is also due to staff in various United Nations offices who responded to requests for information and assistance on a variety of issues.

The Panel would like to recognize the cooperation of the Permanent Mission of the United States to the United Nations and specifically, Ambassadors Zalmay Khalilzad and Mark Wallace and their staff for taking time to meet with the Panel and provide information to further the Panel's work.

The Panel also appreciates the cooperation of the Permanent Mission of the Democratic People's Republic of Korea in meeting with the Panel.

The Panel acknowledges the hard work and dedicated service that the staff and consultants performed on its behalf. The Panel emphasizes special recognition and thanks to Ji Mi Choi, the Panel's Project Manager. Ms. Choi's tireless service, dedication to the Panel's mission, and extensive skills greatly enhanced the Panel's work and its ability to produce a quality product. Her professionalism, attention to detail, and overall sense of the Panel's objectives allowed a geographically dispersed panel to work smoothly and fulfill its obligations under its Terms of Reference.

## NAME INDEX

Abu Alam, Yehia	Former Power Engineer, UN Department of Economic and Social Affairs
Achikzad, G. Faruq	UN Resident Coordinator/UNDP Resident Representative, UNDP-DPRK, 1993-1996
Adam, Sara	Operations Manager, UNDP-DPRK, 7/2003 - 1/2005
Benson, Robert	Director, UN Ethics Office
Bertucci, Guido	Director, UN Department of Economic and Social Affairs, Division for Public Administration and Development Management
Bhatia, Vineet	Deputy Resident Representative (Programme and Operations), UNDP-DPRK, 1/2006 - Present
Bishopric, Suzanne	UN Director of Investment Management Services, Joint Staff Pension Fund
Brewah, Paul	Operations Manager, UNDP-DPRK, 9/2006 - Present
Dervis, Kemal	Administrator, UNDP
Domingo, Jovita	Human Resources Business Advisor, Bureau of Management, Office of Human Resources, Business Advisory Services: Asia and the Pacific
Du, Yuexin	Assistant Resident Representative (Programme), UNDP-DPRK, 5/2005 - 3/2007
El-Tanbouli, Hazem	Consultant
Garcia, Romulo	Head, Regional Bureau for Asia and the Pacific (RBAP), North-East Asia and Mekong Division
Gettu, Tegegnework	Director and Chief of Staff, UNDP Office of the Administrator
Gore, Walter	Former Treasurer, UNDP
Hamid, Shirin	Chief Technology Officer, UNDP-OIST
Hessic, Carlyse	Assistant Resident Representative, DPRK-UNDP, 1992 - 1996
Hyder, Masood	UN Resident Coordinator/UNDP Resident Representative, UNDP-DPRK, 8/2002 - 8/2004
Johnson, Peri	Director, UNDP Legal Support Office
Jorgensen, Kirsten	Deputy Resident Representative, UNDP-DPRK, 9/1998 - 12/2001
Kanchewa, James	Operations Assistant, Bureau of Management, Centre for Business Solutions
Kepler, Diane	Chief, Bureau of Management, Office of Finance and Administration, Accounts Division
Khoury, Antoine	Deputy Director, UNDP Office of Audit and Investigations
Kulasingham, Cheryl-Lynne	Office of Audit and Performance Review, Regional Audit Service Center, Malaysia
Kun, Vee Lee	Operations Manager, Bureau of Management, Centre for Business Solutions

Lemaire, Christian	UN Resident Coordinator/UNDP Resident Representative, UNDP-DPRK, 8/1996 - 10/1999
Li, Hung Sik (also, Ri, Hung Sik)	Secretary-General NCC for UNDP, DPRK
Li, Kum Sun	Finance Officer, UNDP-DPRK, 1/1995 - 3/2007
Lockwood, David	Deputy Regional Director, Regional Bureau for Asia and the Pacific
Mejia, Julie Anne	Treasurer, UNDP
Melkert, Ad	Associate Administrator, UNDP
Morton, David	UN Resident Coordinator/UNDP Resident Representative, UNDP-DPRK, 8/1999 - 8/2002
Navarro, Napoleon	Desk Officer DPRK, Regional Bureau for Asia and the Pacific
O'Hara, Michael	Deputy Director, Bureau of Management, Office of Planning and Budgeting
Pakkala, Timo	UN Resident Coordinator/UNDP Resident Representative, UNDP-DPRK, 7/2005 - Present
Pasha, Hafiz	Assistant Secretary-General and Regional Director, Regional Bureau for Asia and the Pacific
Provenzano, James	Director, UNDP Procurement Support Office
Queiros, Nuno	Policy Specialist/Special Assistant to the Director and Comptroller, Bureau of Management, Office of Finance and Administration
Samaras, Dimitri	Chair, Staff Council
Selim, Abu	Country Director, UNDP-DPRK, 11/2001 - 6/2005; Resident Representative a.i. 9/2004 - 6/2005
Shah, Darshak	Director and Comptroller, Bureau of Management, Office of Finance and Administration
Shkurta, Artjon	Operations Manager, UNDP-DPRK, 2/2005 - 8/2006
Singha, Samar	Operations Officer, UNDP-DPRK, 8/1999 - 2/2001
Smith, Peter	Former Special Assistant to Chris Burnham, UN Under-Secretary-General for Management
Thapa, Vijay	Finance Specialist, UNDP-DPRK, 7/2003 - 3/2007
Velasco, Ben	Treasury Associate, Bureau of Management, Office of Finance and Administration
Wandel, Jens	Director, Bureau of Management, Centre for Business Solutions
Ysaguirre, Melvin	Manager, Bureau of Management, Office of Finance and Administration, Cash Management Unit
Yuge, Akiko	Assistant Administrator and Director, Bureau of Management
Zeleke, Mulualem	Procurement Specialist, UNDP-DPRK, 12/2002 - 3/2007

## Acronyms

ACABQ (UN)	Advisory Committee on Administrative and Budget Questions
ALD	Activities of Limited Duration
AREP	Agricultural Recovery and Environmental Protection
ARRP	Agricultural Relief and Rehabilitation Programme
BOM (UNDP)	Bureau of Management
CBS (UNDP)	Centre for Business Solutions
CPAP	Country Programme Action Plan
CTA	Chief Technical Advisor
DESA (UN)	Department for Economic and Social Affairs
DEX	Direct Execution Strategy
DPRK	Democratic People's Republic of Korea
DSA	Daily Subsistence Allowance
EURO	Euro (currency)
FAO (UN)	Food and Agriculture Organisation
FDRC (DPRK)	Flood Damage Rehabilitation Committee
FTB (DPRK)	Foreign Trade Bank
GBCIO (DPRK)	General Bureau for Cooperation with International Organizations
GEF	Global Environment Facility
GIS/RS	Geographic Information Systems and Remote Sensing
GLOC	Government Local Office Contributions
KPW	North Korean Won
MDGs	Millennium Development Goals
MLEP (DPRK)	Ministry of Land and Environment Protection
MYFF	Multi-Year Funding Framework
NCC (DPRK)	National Coordinating Committee
NEX	National Execution Strategy
OAI (UNDP)	Office of Audit and Investigations
OAPR (UNDP)	Office of Audit and Performance Review (now known as OAI)
OFA (UNDP)	Office of Finance and Administration
OIOS (UN)	Office for Internal Oversight Services
OLA (UN)	Office of Legal Affairs
OLPS (UNDP)	Office of Legal Procurement Services (now divided into Office of Procurement Services and Office of Legal Support)
P11	UN Personal History Form
PGTF	Perez-Guerrero Trust Fund
RBAP (UNDP)	Regional Bureau for Asia and the Pacific
RBEC (UNDP)	Regional Bureau for Europe and Commonwealth of Independent States
RBLAC (UNDP)	Regional Bureau for Latin American and the Caribbean



SBAA	Standard Basic Assistance Agreement
SRF	Strategic Results Framework
SSA	Special Services Agreement
TOR	Terms of Reference
UNBOA	UN Board of Auditors
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNIFEM	United Nations Development Fund for Women
UNOPS	United Nations Office for Project Services
USD	U.S. Dollars
WFP (UN)	World Food Programme
WHO (UN)	World Health Organization
WTO (UN)	World Tourism Organization