

115TH CONGRESS
1ST SESSION

S. 1562

To impose sanctions with respect to the Government of the Democratic People's Republic of Korea and any enablers of the activities of that Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13, 2017

Mr. GARDNER (for himself, Mr. MARKEY, Mr. MENENDEZ, Mr. PORTMAN, Mr. RUBIO, and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To impose sanctions with respect to the Government of the Democratic People's Republic of Korea and any enablers of the activities of that Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North Korean
5 Enablers Accountability Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The Government of the Democratic People’s
2 Republic of Korea has flagrantly defied the inter-
3 national community by illicitly developing its nuclear
4 and ballistic missile programs, in violation of United
5 Nations Security Council Resolutions 1718 (2006),
6 1874 (2009), 2087 (2013), 2094 (2013), 2270
7 (2016), and 2321 (2016).

8 (2) The Government of the Democratic People’s
9 Republic of Korea engages in gross human rights
10 abuses against its own people and citizens of other
11 countries, including the United States and Japan.

12 (3) The United States and its partners are
13 committed to pursuing a peaceful denuclearization of
14 the Democratic People’s Republic of Korea through
15 a policy of maximum pressure and engagement.

16 **SEC. 3. SANCTIONS WITH RESPECT TO THE GOVERNMENT**
17 **OF THE DEMOCRATIC PEOPLE’S REPUBLIC**
18 **OF KOREA AND ITS ENABLERS.**

19 (a) **BLOCKING OF PROPERTY.**—On and after the date
20 that is 90 days after the date of the enactment of this
21 Act, the President shall block and prohibit all transactions
22 in all property and interests in property of a person de-
23 scribed in subsection (d) if such property and interests in
24 property are in the United States, come within the United

1 States, or are or come within the possession or control
2 of a United States person.

3 (b) FACILITATION OF CERTAIN TRANSACTIONS.—

4 The President shall prohibit the opening, and prohibit or
5 impose strict conditions on the maintaining, in the United
6 States of a correspondent account or a payable-through
7 account by a foreign financial institution that the Presi-
8 dent determines has knowingly, on or after the date that
9 is 90 days after the date of the enactment of this Act,
10 conducted or facilitated a significant transaction with re-
11 spect to the importation, sale, or transfer of goods or serv-
12 ices from the Democratic People’s Republic of Korea on
13 behalf of a person described in subsection (d).

14 (c) IMPORTATION, SALE, OR TRANSFER OF GOODS

15 AND SERVICES.—The President shall impose sanctions

16 pursuant to the International Emergency Economic Pow-

17 ers Act (50 U.S.C. 1701 et seq.) with respect to a person

18 if the President determines that the person knowingly, on

19 or after the date that is 90 days after the date of the

20 enactment of this Act, imports, purchases, or transfers

21 goods or services from a person described in subsection

22 (d).

23 (d) PERSONS DESCRIBED.—A person described in

24 this subsection is any of the following:

1 (1) The Government of the Democratic People's
2 Republic of Korea or any political subdivision, agen-
3 cy, or instrumentality of that Government.

4 (2) Any person owned or controlled, directly or
5 indirectly, by that Government.

6 (3) Any person acting or purporting to act, di-
7 rectly or indirectly, for or on behalf of that Govern-
8 ment.

9 (4) The following entities:

10 (A) Dandong Zhicheng Metallic Material.

11 (B) Shandong International Trade co Ltd
12 Hongjian.

13 (C) Xiamen Xiang Yu Shares Co.

14 (D) Sdic Jingmin Putian Ltd.

15 (E) Hangzhou Pei Amoy Trading com-
16 pany.

17 (F) Hunchun xin Times.

18 (G) Rizhao Steel Holding.

19 (H) Shandong Yun Hill Mines.

20 (I) China Dawn Garment (Dalian).

21 (J) Dandong Hao Du Trading co. ltd.

22 (5) Any person affiliated with an entity de-
23 scribed in paragraph (4).

24 (6) Any person affiliated with an entity identi-
25 fied by the Secretary of the Treasury as a major im-

1 porter of goods and services from the Democratic
2 People's Republic of Korea.

3 (e) EXEMPTIONS.—The following activities are ex-
4 empt from sanctions under this section:

5 (1) Activities subject to the reporting require-
6 ments under title V of the National Security Act of
7 1947 (50 U.S.C. 3091 et seq.).

8 (2) Authorized intelligence activities of the
9 United States.

10 (3) Activities necessary to comply with United
11 States obligations under the Agreement between the
12 United Nations and the United States of America
13 regarding the Headquarters of the United Nations,
14 signed at Lake Success June 26, 1947, and entered
15 into force November 21, 1947, the Convention on
16 Consular Relations, done at Vienna April 24, 1963,
17 and entered into force March 19, 1967, or any other
18 international agreement.

19 (4) Activities incidental to the POW/MIA ac-
20 counting mission in the Democratic People's Repub-
21 lic of Korea, including activities by the Defense
22 POW/MIA Accounting Agency and other govern-
23 mental or nongovernmental organizations tasked
24 with identifying or recovering the remains of mem-

bers of the United States Armed Forces in the Democratic People's Republic of Korea.

(f) WAIVERS.—

(1) IN GENERAL.—The President may waive the application of sanctions under this section with respect to a person if the President—

(A) determines that the waiver is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a report on the determination and the reasons for the determination.

(2) HUMANITARIAN WAIVER.—

(A) IN GENERAL.—The President may waive, for renewable periods of not less than 30 days and not more than one year, the application of sanctions under this section if the President submits to the appropriate congressional committees a written determination that the waiver is necessary for humanitarian assistance or to carry out the humanitarian purposes set forth in section 4 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7802).

(B) CONTENT OF WRITTEN DETERMINATION.—A written determination submitted

1 under subparagraph (A) with respect to a waiver
2 er shall include a description of all notification
3 and accountability controls that have been em-
4 ployed in order to ensure that the activities cov-
5 ered by the waiver are humanitarian assistance
6 or are carried out for the purposes set forth in
7 section 4 of the North Korean Human Rights
8 Act of 2004 (22 U.S.C. 7802) and do not entail
9 any activities in North Korea or dealings with
10 the Government of North Korea not reasonably
11 related to humanitarian assistance or those pur-
12 poses.

13 (C) CLARIFICATION OF PERMITTED AC-
14 TIVITIES.—An internationally recognized hu-
15 manitarian organization shall not be subject to
16 sanctions under this section for—

17 (i) engaging in a financial transaction
18 relating to humanitarian assistance or for
19 humanitarian purposes pursuant to a waiver
20 issued under subparagraph (A);

21 (ii) transporting goods or services that
22 are necessary to carry out operations relat-
23 ing to humanitarian assistance or humani-
24 tarian purposes pursuant to such a waiver;
25 or

1 (iii) having merely incidental contact,
2 in the course of providing humanitarian
3 assistance or aid for humanitarian pur-
4 poses pursuant to such a waiver, with indi-
5 viduals who are under the control of a for-
6 eign person subject to sanctions under this
7 section.

8 (g) RULE OF CONSTRUCTION.—A person described in
9 subsection (d) is subject to sanctions under this section
10 without regard to whether the name of the person is pub-
11 lished in the Federal Register or incorporated into the list
12 of specially designated nationals and blocked persons
13 maintained by the Office of Foreign Assets Control of the
14 Department of the Treasury.

15 (h) DEFINITIONS.—In this section:

16 (1) APPROPRIATE CONGRESSIONAL COMMIT-
17 TEES.—The term “appropriate congressional com-
18 mittees” means—

19 (A) the Committee on Foreign Relations
20 and the Committee on Banking, Housing, and
21 Urban Affairs of the Senate; and

22 (B) the Committee on Foreign Affairs and
23 the Committee on Financial Services of the
24 House of Representatives.

1 (2) CORRESPONDENT ACCOUNT; PAYABLE-
 2 THROUGH ACCOUNT.—The terms “correspondent ac-
 3 count” and “payable-through account” have the
 4 meanings given those terms in section 5318A of title
 5 31, United States Code.

6 (3) FOREIGN FINANCIAL INSTITUTION.—The
 7 term “foreign financial institution” has the meaning
 8 given that term in section 561.308 of title 31, Code
 9 of Federal Regulations (or any corresponding similar
 10 regulation or ruling).

11 (4) HUMANITARIAN ASSISTANCE.—The term
 12 “humanitarian assistance” means assistance to meet
 13 humanitarian needs, including needs for food, medi-
 14 cine, medical supplies, clothing, and shelter.

15 (5) KNOWINGLY.—The term “knowingly”, with
 16 respect to conduct, a circumstance, or a result,
 17 means that a person has actual knowledge, or should
 18 have known, of the conduct, the circumstance, or the
 19 result.

20 (6) UNITED STATES PERSON.—The term
 21 “United States person” means—

22 (A) a United States citizen or an alien law-
 23 fully admitted for permanent residence to the
 24 United States; and

1 (B) an entity organized under the laws of
2 the United States or any jurisdiction within the
3 United States, including a foreign branch of
4 such an entity.

5 **SEC. 4. PROHIBITION ON IMPORT OF AND SANCTIONS WITH**
6 **RESPECT TO GOODS MADE WITH NORTH KO-**
7 **REAN LABOR.**

8 (a) PROHIBITION ON IMPORT OF GOODS MADE WITH
9 NORTH KOREAN LABOR.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), any significant goods, wares, articles, or
12 merchandise mined, produced, or manufactured
13 wholly or in part by the labor of nationals or citizens
14 of the Democratic People’s Republic of Korea shall
15 be deemed to be mined, produced, or manufactured,
16 as the case may be, by convict labor, forced labor,
17 or indentured labor under penal sanctions for pur-
18 poses of section 307 of the Tariff Act of 1930 (19
19 U.S.C. 1307) and shall not be entitled to entry at
20 any of the ports of the United States.

21 (2) EXCEPTION.—The prohibition under para-
22 graph (1) shall not apply to goods, wares, articles,
23 or merchandise if the Commissioner of U.S. Cus-
24 toms and Border Protection finds, by clear and con-
25 vincing evidence, that the goods, wares, articles, or

1 merchandise were not produced with trafficked
2 labor, convict labor, forced labor, or indentured labor
3 under penal sanctions.

4 (b) SANCTIONS WITH RESPECT TO PERSONS THAT
5 USE NORTH KOREAN LABOR.—The President shall, pur-
6 suant to the International Emergency Economic Powers
7 Act (50 U.S.C. 1701 et seq.), block and prohibit all trans-
8 actions in property and interests in property of a person
9 that the President determines mines, produces, or manu-
10 factures goods, wares, articles, or merchandise prohibited
11 from entry into the United States under subsection (a),
12 if such property and interests in property are in the
13 United States, come within the United States, or are or
14 come within the possession or control of a United States
15 person.

16 (c) TRAFFICKED LABOR DEFINED.—In this section,
17 the term “trafficked labor” means labor or services pro-
18 cured through the recruitment, harboring, transportation,
19 provision, or obtaining of a person through the use of
20 force, fraud, or coercion for the purpose of subjection to
21 involuntary servitude, peonage, debt bondage, or slavery.

1 **SEC. 5. MANDATORY DISCLOSURE OF INVESTMENTS IN THE**
2 **DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA**
3 **AND OTHER SANCTIONABLE ACTIVITIES.**

4 (a) IN GENERAL.—Not later than 270 days after the
5 date of the enactment of this Act, the Securities and Ex-
6 change Commission shall prescribe regulations requiring
7 each issuer to disclose annually, beginning with the
8 issuer’s first fiscal year that begins after the date on which
9 those regulations are prescribed—

10 (1) any investments in the Democratic People’s
11 Republic of Korea; and

12 (2) any other activities that may be subject to
13 sanctions under section 3 or 4.

14 (b) ISSUER DEFINED.—In this section, the term
15 “issuer” has the meaning given that term in section 3(a)
16 of the Securities Exchange Act of 1934 (15 U.S.C.
17 78c(a)).

○