To continue restrictions against and prohibit diplomatic recognition of the Government of North Korea, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2011

Ms. ROS-LEHTINEN (for herself, Ms. BERKLEY, Mr. ROYCE, Mr. BURTON of Indiana, Mr. JOHNSON of Ohio, Mr. RIVERA, Mr. MANZULLO, Ms. FOXX, and Mrs. ELLMERS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To continue restrictions against and prohibit diplomatic recognition of the Government of North Korea, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “North Korea Sanctions and Diplomatic Nonrecognition Act of 2011”.

SEC. 2. FINDINGS.

Congress finds the following:
(1) North Korean negotiators in the Six-Party diplomatic process did not act in good faith by their refusal to agree to a transparent verification process for denuclearization consistent with “international standards”, including provisions for nuclear sampling, following North Korea’s removal on October 11, 2008, from the list of state sponsors of terrorism maintained by the Department of State.

(2) International press reports indicate that North Korea has continued to provide support to Iran in the areas of missile technology and nuclear development and has provided Iran’s surrogates, Hezbollah and Hamas, with both missile technology and training in tunneling techniques with which to attack Israel, an ally of the United States.

(3) International press reports indicate that North Korea was engaged for a number of years in assistance to Syria in the construction of a nuclear reactor in the Syrian desert which was destroyed in a strike by Israeli forces on September 6, 2007.

(4) North Korean negotiators continue to refuse to address in a humane and sincere manner the issue of the abduction of civilians of Japan and the Republic of Korea, both allies of the United States, as well as the abductions of citizens from a number
of other countries, including France, Lebanon, Romania, and Thailand.

(5) Defectors coming out of North Korea have provided testimony that United States permanent resident, Reverend Kim Dong-shik, the spouse and father of United States citizens, was tortured and murdered inside North Korea after his abduction by Pyongyang’s agents on the Chinese border in January 2000 and that his remains are currently being held at a military facility inside North Korea.

(6) Congress authoritatively expressed its view, in section 202(b)(2) of the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7832(b)(2)) that “United States nonhumanitarian assistance to North Korea shall be contingent on North Korea’s substantial progress” on human rights improvements, release of and accounting for abductees, family reunification, reform of North Korea’s labor camp system, and the decriminalization of political expression, none of which has occurred.

(7) Congress further authoritatively expressed its view, in section 2 of the North Korean Human Rights Reauthorization Act of 2008 (Public Law 110–346) that “human rights and humanitarian conditions inside North Korea are deplorable” and
that “North Korean refugees remain acutely vulner-
able”.

(8) Congress has determined that any missile
test or launch conducted by North Korea would be
in direct violation of United Nations Security Coun-
cil resolution 1695, adopted on July 16, 2006, which
“condemns the multiple launches by the DPRK
(North Korea) of ballistic missiles on July 5 2006
local time”, and United Nations Security Council
Resolution 1718, adopted on October 9, 2006, which
“demands that the DPRK (North Korea) not con-
duct any further nuclear test or launch of a ballistic
missile” and “decides that the DPRK shall suspend
all activities related to its ballistic missile pro-
gramme and in this context re-establish its pre-exist-
ing commitments to a moratorium on missile launch-
ing”, and further determines that the resulting sanc-
tions imposed under such resolution 1718 would
again come into full effect following a missile test or
launch.

(9) Congress has further determined that a re-
turn by North Korea to the Six-Party diplomatic
process following any missile test or launch by
Pyongyang must include a firm and transparent
commitment to the complete, verifiable and irrevers-
ibe dismantlement of all of North Korea’s nuclear programs, including those derived both from plutonium as well as highly enriched uranium.

(10) Japanese press reports have indicated that a delegation of approximately fifteen Iranian missile experts arrived in North Korea in March 2009 “to help Pyongyang prepare for a rocket launch”, including senior officials with the Iranian rocket and satellite producer Shahid Hemmat Industrial Group, and that they brought with them a letter from their President Mahmoud Ahmadinejad to North Korean leader Kim Jong-Il stressing the importance of cooperating on space technology.

(11) North Korea, in defiance of the international community’s efforts to end nuclear proliferation and in violation of its international obligations, conducted a second underground nuclear test on May 25, 2009 (local time), in violation of United Nations Security Council Resolution 1718, which resulted in the passage of United Nations Security Council Resolution 1874 on June 12, 2009, which imposed additional sanctions and inspection requirements with regard to North Korea.

(12) North Korea, according to Western press reports, transshipped missile parts, used to run
Iran’s solid fuel ballistic missile program, to Tehran via Air Iran flights which landed in Beijing, China in 2007.

(13) Press reports in March 2011 indicated that opposition forces in Libya, when they took positions from Qaddafi forces, discovered North Korean weapons caches, including rockets and anti-aircraft guns, unpacked from crates labeled “bulldozer parts,” which would represent a clear violation of United Nations sanctions.

SEC. 3. CONTINUATION OF RESTRICTIONS AGAINST THE GOVERNMENT OF NORTH KOREA.

(a) FINDING.—Congress finds that subsequent to the decision of the Secretary of State on October 11, 2008, to rescind the designation of North Korea as a state sponsor of terrorism, North Korea has committed acts that can be defined as international terrorism or as highly provocative, including—

(1) the dispatch of a covert team of two North Korean military-trained agents to South Korea with orders to assassinate North Korean defector Hwang Jang-yop who were apprehended by South Korean officials in April 2010;

(2) complicity in the sinking of the South Korean naval vessel Cheonan on March 26, 2010,
which resulted in the deaths of 46 South Korean naval personnel;

(3) the shipment of weapons by North Korea, seized in Bangkok in December 2009, which were bound for delivery to foreign terrorist organizations Hezbollah and Hamas, according to a statement made by Israeli Foreign Minister Avigdor Lieberman in Tokyo on May 12, 2010;

(4) the sudden and unprovoked bombardment by North Korean artillery of the civilian-populated South Korean island of Yeonpyeong-do on November 23, 2010, which resulted in the deaths of two South Korean civilians and two Republic of Korea (ROK) marines; and

(5) the sentencing by Seoul Central District Court in January 2011 of North Korean agent Ri Dong Sam to 10 years in prison for impersonating a refugee in August 2010 to enter South Korea under orders to assassinate leading North Korean defector Hwang Jang Yop.

(b) CONTINUATION OF RESTRICTIONS.—Notwithstanding the decision by the Secretary of State on October 11, 2008, to rescind the designation of North Korea as a state sponsor of terrorism, and in light of the congressional finding described in subsection (a), restrictions
against the Government of North Korea that were im-
posed by reason of a determination of the Secretary of
State that the Government of North Korea is a state spon-
sor of terrorism, as well as sanctions against the Govern-
ment of North Korea (including sanctions that ban the
importation into the United States of North Korean prod-
ucts and goods), that are in effect as of the date of the
enactment of this Act shall remain in effect, and shall not
be lifted, unless the President makes the certification de-
scribed in subsection (c).

(c) CERTIFICATION.—The certification referred to in
subsection (b) is a certification to Congress containing a
determination of the President that the Government of
North Korea—

(1) is no longer engaged in the illegal transfer
of missile or nuclear technology, particularly to the
governments of Iran, Syria, or any other state spon-
sor of terrorism, or to Burma;

(2) is no longer engaged in training in combat
operations or tunneling, or harboring, supplying, fi-
nancing, or supporting in any way—

(A) Hamas, Hezbollah, the Japanese Red
Army, or any member of such organizations;

(B) any organization designated by the
Secretary of State as a foreign terrorist orga-
zation in accordance with section 219(a) of the
Immigration and Nationality Act (8 U.S.C.
1189(a)); and

(C) any person included on the annex to
Executive Order 13224 (September 21, 2001)
and any other person identified under section 1
of that Executive Order whose property and in-
terests are blocked by that section (commonly
known as a “specially designated global ter-
rorist”);

(3) is no longer engaged in the counterfeiting of
United States currency “supernotes”;

(4) is no longer engaged in the international
trafficking of illicit narcotics into the United States,
Japan, Australia, or other allied countries of the
United States;

(5) has returned the last remains of United
States permanent resident, Reverend Kim Dong-
shik, to his United States citizen widow, family, and
church members, so that he may be provided with a
proper Christian burial in Chicago;

(6) has released the Japanese nationals recog-
nized as abduction victims by the Government of
Japan as well as abduction victims recognized by the
Government of the Republic of Korea;
(7) has released an estimated 600 surviving South Korean POWs, and any other surviving POWs from the Korean War, who have been held in North Korea against their will and in violation of the Armistice Agreement since hostilities ended in July 1953;

(8) has made concrete provisions for unrestricted family reunification meetings for those individuals among the two-million strong Korean-American community who maintain family ties with relatives inside North Korea;

(9) has opened the North Korean penal system, including the gulag of concentration camps holding an estimated 200,000 political and religious prisoners, to unrestricted and regular visits by representatives of the International Committee of the Red Cross (ICRC);

(10) has made provision for unrestricted and regular access by representatives of the United National High Commissioner for Refugees to refugees forcibly repatriated to North Korea to determine their general health and welfare;

(11) has made concrete provisions for unrestricted contact, including direct communications and meetings, between representatives of inter-
national and South Korean religious organizations, including Christians and Buddhists, and their co-believers inside North Korea; and

(12) has offered apologies to the government and people of the Republic of Korea for the deaths that North Korea inflicted due to the unprovoked attacks on the South Korean naval vessel Cheonan on March 26, 2010, and on the island of Yeonpyeong-do on November 23, 2010.

(d) Sense of Congress.—It is the sense of Congress that, in light of the congressional finding described in subsection (a), the Secretary of State should redesignate North Korea as a state sponsor of terrorism immediately upon the date of the enactment of this Act.

(e) State Sponsor of Terrorism Defined.—In this section, the term “state sponsor of terrorism” means any country the government of which the Secretary of State determines has repeatedly provided support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or any other provision of law.
SEC. 4. CONTINUATION OF DIPLOMATIC NONRECOGNITION
OF NORTH KOREA.

(a) FINDING.—Congress finds that the United States
did not grant diplomatic recognition to North Korea upon
its establishment as a client regime of the former Soviet
Union in 1948. The United States has consistently contin-
ued to withhold such formal diplomatic recognition during
the 61 years since the sudden and unprovoked attack by
North Korean forces on the Republic of Korea on June
25, 1950, an attack which led directly to the Korean War
and the deaths of over 36,000 United States military per-
sonnel as well as at least 2,000,000 Koreans and over
3,000 soldiers from Allied countries.

(b) CONTINUATION OF DIPLOMATIC NONRECOGNI-
TION.—No funds may be expended for the establishment
of a United States diplomatic presence in North Korea,
including an Embassy, Consulate, or liaison office, until
such time as the President certifies to Congress that the
Government of North Korea has met all of the bench-
marks specified in section 3.

SEC. 5. INTERNATIONAL RESPONSE TO A NORTH KOREAN
MISSILE LAUNCH OR NUCLEAR TEST.

In the case of the launch of a missile, rocket, or other
airborne object by North Korea or the conducting of a nu-
clear test in violation of United Nations Security Council
Resolutions 1695, 1718, and 1874, the President shall in-
struct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States to secure adoption of a United Nations Security Council resolution condemning North Korea’s action as a violation of United Nations Security Council Resolutions 1695, 1718, and 1874 and requiring the implementation of comprehensive sanctions and an inspection regime against North Korea.