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CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PROLIFERATION OF WMD AND THEIR DELIVERY SYSTEMS

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF AN EXECUTIVE ORDER THAT TAKES ADDITIONAL STEPS WITH RESPECT TO THE NATIONAL EMERGENCY DECLARED WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS DECLARED BY EXECUTIVE ORDER 12938 ON NOVEMBER 14, 1994, AS AMENDED BY EXECUTIVE ORDER 13094 ON JULY 28, 1998, PURSUANT TO 50 U.S.C. 1622(d)



JULY 11, 2005.—Referred to the Committee on International Relations and ordered to be printed

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To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (IEEPA), I hereby report that I have issued an Executive Order that takes additional steps with respect to the national emergency declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction (WMD) and the means of delivering them, and the measures imposed by that order, as expanded by Executive Order 13094 of July 28, 1998.

This order is designed to combat WMD trafficking by blocking the property of persons that engage in proliferation activities and their support networks. It is intended to advance international cooperative efforts against WMD financing, including with our G–8 partners and through the Proliferation Security Initiative. This order also provides a model for other nations to follow in adopting laws to stem the flow of financial and other support for proliferation activities, as decided in United Nations Security Council Resolution 1540. It further implements a key recommendation of the Silberman-Robb WMD Commission.

Executive Order 12938, as amended, authorizes the Secretary of State to impose certain measures against foreign persons (individuals or entities) determined to have materially contributed to the proliferation efforts of any foreign country, project, or entity of proliferation concern. The measures that the Secretary of State may choose to impose under Executive Order 12938, as amended, are a ban on U.S. Government procurement from the designated foreign person; a ban on U.S. Government assistance to the designated foreign person; and a ban on imports from the designated foreign person.

Recognizing the need for additional tools to defeat the proliferation of WMD, I have signed the new order, which authorizes the imposition of a new measure—blocking—against WMD proliferators and their support networks. This action, sometimes referred to as freezing, will apply to property and interests in property of persons designated under the order and will deny such persons access to the U.S. financial and commercial systems. Modeled after Executive Order 13224 of September 23, 2001, the new order provides broad new authorities to target not only persons engaged in proliferation activities, but also those providing support or services to such proliferators.

In particular, the order blocks the property and interests in property in the United States, or in the possession or control of United States persons, of (1) the persons listed in the Annex to the order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed

to, or pose a risk of materially contributing to, the proliferation of WMD or their means of delivery (including missiles capable of delivering such weapons) by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of, proliferation-related activities or any person blocked pursuant to the order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any blocked person.

In addition, the order amends section 4(a) of Executive Order 12938, as amended, by conforming the criteria for determining that a foreign person has engaged in activity described in that order to the criteria for designations by the Secretary of State set forth in section 1(a)(ii) of the new order. Executive Order 12938, as amended, will continue to be an important tool to combat WMD proliferation.

Actions taken under the order become effective on June 29, 2005. The new order recognizes the need for more robust tools to defeat the proliferation of WMD around the world. The steps that we are undertaking in this new order form yet another part of our evolving response to this challenge.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2005.*

EXECUTIVE ORDER

BLOCKING PROPERTY OF WEAPONS OF MASS DESTRUCTION PROLIFERATORS AND THEIR SUPPORTERS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code,

I, George W. Bush, President of the United States of America, in order to take additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them, and the measures imposed by that order, as expanded by Executive Order 13094 of July 28, 1998, hereby order:

Section 1. (a) Except to the extent provided in section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order;

(ii) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (iii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in paragraph (a)(ii) of this section, or any person whose property and interests in property are blocked pursuant to this order; and (iv) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State,

the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) Any transaction or dealing by a United States person or within the United States in property or interests in property blocked pursuant to this order is prohibited, including, but not limited to, (i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to this order, and (ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(c) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(d) Any conspiracy formed to violate the prohibitions set forth in this order is prohibited.

Sec. 2. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 3. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 12938, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 4. Section 4(a) of Executive Order 12938, as amended, is further amended to read as follows:

"*Sec. 4 Measures Against Foreign Persons.*

(a) Determination by Secretary of State; Imposition of Measures. Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where applicable, if the Secretary of State, in consultation with the Secretary of the Treasury, determines that a foreign person, on or after November 16, 1990, the effective date of Executive Order 12735, the predecessor order to Executive Order 12938, has engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by any person or foreign country of proliferation concern, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State, in consultation with the implementing agency and other relevant

agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities."

Sec. 5. For those persons whose property and interests in property are blocked pursuant to section 1 of this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12938, as amended, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order and, where appropriate, to advise the Secretary of the Treasury in a timely manner of the measures taken.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine, subsequent to the issuance of this order, that circumstances no longer warrant the inclusion of a person in the Annex to this order and that the property and interests in property of that person are therefore no longer blocked pursuant to section 1 of this order.

Sec. 8. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

Sec. 9. (a) This order is effective at 12:01 a.m. eastern daylight time on June 29, 2005.

(b) This order shall be transmitted to the Congress and published in the *Federal Register*.

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2005.*

ANNEX

Korea Mining Development Trading Corporation
Tanchon Commercial Bank
Korea Ryonbong General Corporation
Aerospace Industries Organization
Shahid Hemmat Industrial Group
Shahid Bakeri Industrial Group
Atomic Energy Organization of Iran
Scientific Studies and Research Center

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