

106TH CONGRESS
1ST SESSION

S. 1352

To impose conditions on assistance authorized for North Korea, to impose restrictions on nuclear cooperation and other transactions with North Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 13 (legislative day, JULY 12), 1999

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose conditions on assistance authorized for North Korea, to impose restrictions on nuclear cooperation and other transactions with North Korea, 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 Korea Threat
5 Reduction Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) Under the Agreed Framework of October
2 21, 1994, the Democratic People's Republic of
3 Korea (North Korea) committed to freeze and even-
4 tually dismantle its nuclear program, in exchange for
5 annual deliveries of 500,000 tons of heavy fuel oil,
6 and the construction of two 1,000 megawatt light
7 water nuclear power reactors costing approximately
8 \$5,000,000,000.

9 (2) Reports of continued nuclear activities in
10 North Korea have brought into question North Ko-
11 rea's commitment to abide by the conditions of the
12 1994 Geneva Agreed Framework.

13 (3) North Korea's ongoing development, pro-
14 duction, testing, deployment, and proliferation of
15 ballistic missiles presents a clear and present danger
16 to forward-deployed United States Armed Forces in
17 Asia, United States friends and allies, and the
18 United States.

19 (4) North Korea has become the largest recipi-
20 ent of United States foreign assistance in East Asia,
21 valued at over \$225,000,000 in 1998 alone.

22 (5) North Korea is a major producer of opium
23 and increasingly is involved in illicit narcotics traf-
24 ficking.

1 **SEC. 3. ASSISTANCE FOR THE KOREAN PENINSULA ENERGY**
2 **DEVELOPMENT ORGANIZATION.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—

4 (1) IN GENERAL.—There is authorized to be
5 appropriated for fiscal year 2000 \$55,000,000 for
6 assistance to the Korean Peninsula Energy Develop-
7 ment Organization (KEDO).

8 (2) ADDITIONAL REQUIREMENT.—Assistance
9 under paragraph (1) may be provided notwith-
10 standing any other provision of law (other than sub-
11 sections (b), (c), (d), and (e) of this section).

12 (b) PROHIBITION ON ASSISTANCE TO NUCLEAR RE-
13 ACTOR CONSTRUCTION.—Notwithstanding any other pro-
14 vision of law, none of the funds authorized to be appro-
15 priated by subsection (a), or made available under any
16 other provision of law, may be used to assist the construc-
17 tion of nuclear reactors in North Korea.

18 (c) CONDITIONS FOR RELEASE OF FUNDS.—Not-
19 withstanding any other provision of law, none of the funds
20 authorized to be appropriated by subsection (a), or made
21 available under any other provision of law, may be made
22 available to KEDO, or for assistance to North Korea for
23 purposes related to the Agreed Framework, until the
24 President determines and reports to the Committees on
25 International Relations and Appropriations of the House

1 of Representatives and the Committees on Foreign Rela-
2 tions and Appropriations of the Senate that—

3 (1) the parties to the Agreed Framework have
4 taken and continue to take demonstrable steps to
5 implement the Joint Declaration on
6 Denuclearization in which the Government of North
7 Korea has committed not to test, manufacture,
8 produce, receive, possess, store, deploy, or use nu-
9 clear weapons, and not to possess nuclear reprocess-
10 ing or uranium enrichment facilities;

11 (2) the parties to the Agreed Framework have
12 taken and continue to take demonstrable steps to
13 pursue the North-South dialogue;

14 (3) North Korea is complying with all provi-
15 sions of the Agreed Framework;

16 (4) the effort to can and safely store all spent
17 fuel from North Korea's graphite-moderated nuclear
18 reactors has been successfully concluded;

19 (5) North Korea has not diverted assistance
20 provided by the United States for purposes for
21 which it was not intended;

22 (6) the United States has reached agreement
23 with North Korea satisfying United States concerns
24 regarding suspect underground construction, and

1 North Korea has complied with its obligations under
2 that agreement;

3 (7) North Korea is not seeking to develop or ac-
4 quire the capability to enrich uranium, or any addi-
5 tional capability to reprocess spent nuclear fuel; and

6 (8) the United States has made and is con-
7 tinuing to make significant progress on eliminating
8 the North Korean ballistic missile threat, including
9 its ballistic missile exports.

10 (d) WITHHOLDING OF FUNDS PENDING SOLICITA-
11 TION OF ALL POTENTIAL DONOR GOVERNMENTS TO
12 KEDO.—Amounts appropriated in excess of \$35,000,000
13 pursuant to the authorization of appropriations under sub-
14 section (a) may not be made available to KEDO until the
15 President determines and reports to the Committees on
16 International Relations and Appropriations of the House
17 of Representatives and the Committees on Foreign Rela-
18 tions and Appropriations of the Senate that—

19 (1) the United States has asked all potential
20 donor governments, including Taiwan, to contribute
21 to KEDO;

22 (2) no contributions offered unconditionally by
23 such governments to KEDO have been declined; and

24 (3) even after such contributions are received,
25 KEDO will have financial requirements in fiscal year

1 2000 that can only be met by the provision of more
2 than \$35,000,000 in assistance from the United
3 States.

4 (e) LIMITATION ON USE OF SPECIAL AUTHORI-
5 TIES.—The authority of section 614 of the Foreign Assist-
6 ance Act of 1961 (22 U.S.C. 2364) may not be used to
7 authorize the provision of assistance that cannot be pro-
8 vided due to any prohibition, restriction, or condition on
9 release of funds that is contained in subsection (b), (c),
10 or (d).

11 **SEC. 4. FOOD ASSISTANCE TO NORTH KOREA.**

12 Notwithstanding any other provision of law, none of
13 the funds authorized to be appropriated by section 3(a),
14 or made available under any other provision of law, may
15 be made available for food assistance for North Korea
16 until the President determines and reports to the Commit-
17 tees on International Relations and Appropriations of the
18 House of Representatives and the Committees on Foreign
19 Relations and Appropriations of the Senate that—

- 20 (1) the Government of the Republic of Korea
21 concurs in the delivery and procedures for delivery
22 of United States food assistance to North Korea;
23 (2) previous United States food assistance to
24 North Korea has not been significantly diverted to
25 military use;

1 (3) North Korean military stocks have been ex-
 2 pended to respond to unmet food aid needs in North
 3 Korea;

4 (4) the United Nations World Food Program or
 5 other private voluntary organizations registered with
 6 the United States Agency for International Develop-
 7 ment have been permitted to take and have taken all
 8 reasonable steps to ensure that food deliveries will
 9 not be diverted from intended recipients, including
 10 unannounced, unscheduled, and unsupervised visits
 11 to recipient institutions and farmers' markets by Ko-
 12 rean-speaking monitors affiliated with the United
 13 Nations World Food Program or other private vol-
 14 untary organizations registered with the United
 15 States Agency for International Development; and

16 (5) the United States Government has directly,
 17 and indirectly through appropriate international or-
 18 ganizations, encouraged North Korea to initiate fun-
 19 damental structural reforms of its agricultural sec-
 20 tor.

21 **SEC. 5. RESTRICTIONS ON NUCLEAR COOPERATION WITH**
 22 **NORTH KOREA.**

23 (a) IN GENERAL.—Notwithstanding any other provi-
 24 sion of law or any international agreement, no agreement
 25 for cooperation (as defined in sec. 11 b. of the Atomic

1 Energy Act of 1954 (42 U.S.C. 2014 b.)) between the
2 United States and North Korea may become effective, no
3 license may be issued for export directly or indirectly to
4 North Korea of any nuclear material, facilities, compo-
5 nents, or other goods, services, or technology that would
6 be subject to such agreement, and no approval may be
7 given for the transfer or retransfer directly or indirectly
8 to North Korea of any nuclear material, facilities, compo-
9 nents, or other goods, services, or technology that would
10 be subject to such agreement, until—

11 (1) the President determines and reports to the
12 Committee on International Relations of the House
13 of Representatives and the Committee on Foreign
14 Relations of the Senate that—

15 (A) North Korea has come into full compli-
16 ance with its safeguards agreement with the
17 IAEA (INFCIRC/403), and has taken all steps
18 that have been deemed necessary by the IAEA
19 in this regard;

20 (B) North Korea has permitted the IAEA
21 full access to all additional sites and all infor-
22 mation (including historical records) deemed
23 necessary by the IAEA to verify the accuracy
24 and completeness of North Korea's initial re-

1 port of May 4, 1992, to the IAEA on all nu-
2 clear sites and material in North Korea;

3 (C) North Korea is in full compliance with
4 its obligations under the Agreed Framework;

5 (D) North Korea is in full compliance with
6 its obligations under the Joint Declaration on
7 Denuclearization;

8 (E) North Korea does not have the capa-
9 bility to enrich uranium, and is not seeking to
10 acquire or develop such capability, or any addi-
11 tional capability to reprocess spent nuclear fuel;

12 (F) North Korea has terminated its nu-
13 clear weapons program, including all efforts to
14 acquire, develop, test, produce, or deploy such
15 weapons; and

16 (G) the transfer to North Korea of key nu-
17 clear components, under the proposed agree-
18 ment for cooperation with North Korea and in
19 accordance with the Agreed Framework, is in
20 the national interest of the United States; and

21 (2) there is enacted a joint resolution stating in
22 substance that the Congress concurs in the deter-
23 mination and report of the President submitted pur-
24 suant to paragraph (1).

1 (b) CONSTRUCTION.—The restrictions contained in
 2 subsection (a) shall apply in addition to all other applica-
 3 ble procedures, requirements, and restrictions contained in
 4 the Atomic Energy Act of 1954 and other laws.

5 **SEC. 6. CONTINUATION OF RESTRICTIONS ON TRANS-**
 6 **ACTIONS WITH NORTH KOREA PENDING**
 7 **PROGRESS ON BALLISTIC MISSILE ISSUES.**

8 (a) CONTINUATION OF RESTRICTIONS.—

9 (1) CONTINUATION OF RESTRICTIONS.—All
 10 prohibitions and restrictions on transactions and ac-
 11 tivities with North Korea imposed under section 5(b)
 12 of the Trading with the Enemy Act (as in effect on
 13 July 1, 1977), as set forth in part 500 of title 31,
 14 Code of Federal Regulations as in effect on April 1,
 15 1999, shall remain in effect until the President sub-
 16 mits the determination and report described in sub-
 17 section (b), and—

18 (A) the authority of section 501.803 of
 19 title 31, Code of Federal Regulations (relating
 20 to the authority to modify chapter V of title 31,
 21 Code of Federal Regulations) and other provi-
 22 sions of law may not be used to modify such
 23 prohibitions and restrictions, as in effect on
 24 such date, and

1 (B) no prohibition or restriction on trans-
2 actions or activities set forth in subpart B of
3 part 500 of title 31, Code of Federal Regula-
4 tions, as in effect on April 1, 1999, may be au-
5 thorized after that date, other than those trans-
6 actions and activities specifically authorized
7 under subpart E of such part,
8 until such determination and report are so sub-
9 mitted.

10 (2) REVOCATION OF PRIOR MODIFICATIONS AND
11 AUTHORIZATIONS.—Any modification otherwise pro-
12 hibited under paragraph (1)(A) that is made after
13 April 1, 1999, and before the date of enactment of
14 this Act, and any authorization granted after April
15 1, 1999, and before the date of enactment of this
16 Act, for a transaction or activity otherwise prohib-
17 ited under paragraph (1)(B), shall be revoked as of
18 such date of enactment.

19 (b) TERMINATION OF RESTRICTIONS.—The deter-
20 mination and report referred to in subsection (a) is a de-
21 termination by the President, reported to the Committee
22 on International Relations of the House of Representa-
23 tives and the Committee on Foreign Relations of the Sen-
24 ate, that—

1 (1) North Korea has agreed to institute a total
2 ban on exports of missiles, missile components, and
3 missile technology;

4 (2) there is no credible evidence that North
5 Korea has, during the 1-year period prior to the
6 date of the President's determination, exported mis-
7 siles, missile components, or missile technology;

8 (3) North Korea has terminated its long-range
9 missile program, including all efforts to acquire, de-
10 velop, test, produce, or deploy such missiles;

11 (4) North Korea is in full compliance with its
12 obligations under the Agreed Framework;

13 (5) North Korea is in full compliance with its
14 obligations under the Joint Declaration on
15 Denuclearization;

16 (6) North Korea does not have the capability to
17 enrich uranium, and is not seeking to acquire or de-
18 velop such capability, or any additional capability to
19 reprocess spent nuclear fuel; and

20 (7) North Korea has terminated its nuclear
21 weapons program, including all efforts to acquire,
22 develop, test, produce, or deploy such weapons; and

23 (c) REIMPOSITION OF RESTRICTIONS.—Should the
24 President become aware of information establishing that
25 North Korea—

1 (1) has exported missiles, missile components,
2 or missile technology,

3 (2) is seeking to acquire, develop, test, produce,
4 or deploy long-range missiles,

5 (3) is not in full compliance with its obligations
6 under the Agreed Framework or the Joint Declara-
7 tion on Denuclearization,

8 (4) has the capability to enrich uranium or is
9 seeking to acquire or develop such capability, or ad-
10 ditional capability to reprocess spent nuclear fuel, or

11 (5) is seeking to acquire, develop, test, produce,
12 or deploy nuclear weapons,

13 then the requirements of subsection (a) shall be reimposed
14 notwithstanding any determination and report submitted
15 under subsection (b).

16 **SEC. 7. BALLISTIC MISSILE DEFENSE IN THE ASIA-PACIFIC**
17 **REGION.**

18 (a) **POLICY OF THE UNITED STATES.**—It shall be the
19 policy of the United States to work with friendly govern-
20 ments in the Asia-Pacific region to develop and deploy bal-
21 listic missile defenses capable of countering ballistic mis-
22 sile threats in the region.

23 (b) **JOINT EARLY WARNING SYSTEM.**—Of the funds
24 appropriated to carry out the provisions of section 23 of
25 the Arms Export Control Act for fiscal year 2000, up to

1 \$10,000,000 is authorized to be made available to support
2 the establishment of a joint early warning system in the
3 Asia-Pacific region. Such system shall have as its purpose
4 the continuous sharing of information on missile launches
5 detected by the governments participating in the system,
6 and may include the establishment by such governments
7 of a joint early warning center.

8 **SEC. 8. REFUGEES FROM NORTH KOREA.**

9 (a) POLICY OF THE UNITED STATES.—It shall be the
10 policy of the United States to oppose the involuntary re-
11 turn of North Korean refugees to North Korea, to support
12 the provision of international assistance to such refugees
13 in the People’s Republic of China and other countries of
14 asylum, and to facilitate the resettlement of such refugees
15 in South Korea and other neighboring countries.

16 (b) AUTHORIZATION OF ASSISTANCE FOR REFUGEES
17 FROM NORTH KOREA.—Of the funds appropriated for
18 “Migration and Refugee Assistance” for fiscal year 2000,
19 up to \$30,000,000 is authorized to be made available for
20 assistance to North Korean refugees in the People’s Re-
21 public of China and other countries of asylum, and to sup-
22 port the resettlement of such refugees in South Korea and
23 other neighboring countries.

1 **SEC. 9. REPORT TO CONGRESS ON THE AGREED FRAME-**
2 **WORK.**

3 Not later than 90 days after the date of enactment
4 of this Act, the President shall submit to the Committees
5 on International Relations and Appropriations of the
6 House of Representatives and the Committees on Foreign
7 Relations and Appropriations of the Senate a report on
8 the following:

9 (1) The projected total cost of the two 1000
10 MW(e) light water nuclear reactors that are to be
11 constructed in North Korea pursuant to the Agreed
12 Framework, the portion of this total cost that South
13 Korea and Japan have committed to pay, the poten-
14 tial sources of funding for the portion of this total
15 cost that South Korea and Japan have not com-
16 mitted to pay, and the maximum portion of this
17 total cost, if any, that the President anticipates will
18 be paid by the United States.

19 (2) Of the projected total cost identified in re-
20 sponse to paragraph (1), the portion of this cost
21 that North Korea will be obligated to repay, the like-
22 ly terms upon which such repayment will be re-
23 quired, and the possible sources of revenue from
24 which such repayment will be made.

25 (3) The degree to which North Korea's elec-
26 trical power distribution network will have to be up-

1 graded in order to distribute the electrical power
2 that will be generated by the two 1000 MW(e) light
3 water nuclear reactors that are to be constructed in
4 North Korea pursuant to the Agreed Framework,
5 the projected cost of such upgrades, and the possible
6 sources of funding for such upgrades.

7 (4) The advantages to North Korea of building
8 non-nuclear power plants rather than light water nu-
9 clear power plants, including—

10 (A) the cost saving that could be realized
11 by building non-nuclear electric power plants
12 with a total generation capacity of 2000 MW(e)
13 rather than two light water nuclear power
14 plants with that same capacity;

15 (B) the projected date by which non-nu-
16 clear electric power plants with a total genera-
17 tion capacity of 2000 MW(e) could be com-
18 pleted, compared with the projected date by
19 which two light water nuclear power plants with
20 that same capacity will be completed; and

21 (C) the advantages for electric power dis-
22 tribution that could be realized by building a
23 number of non-nuclear electric power plants
24 with a total generation capacity of 2000 MW(e)

1 rather than two light water nuclear power
2 plants with that same capacity.

3 **SEC. 10. DEFINITIONS.**

4 In this Act:

5 (1) **AGREED FRAMEWORK.**—The term “Agreed
6 Framework” means the “Agreed Framework Be-
7 tween the United States of America and the Demo-
8 cratic People’s Republic of Korea”, signed in Geneva
9 on October 21, 1994, and the Confidential Minute to
10 that Agreement.

11 (2) **IAEA.**—The term “IAEA” means the
12 International Atomic Energy Agency.

13 (3) **KEDO.**—The term “KEDO” means the
14 Korean Peninsula Energy Development Organiza-
15 tion.

16 (4) **NORTH KOREA.**—The term “North Korea”
17 means the Democratic People’s Republic of Korea.

18 (5) **LONG RANGE MISSILE.**—The term “long
19 range missile” means a missile with a range of 1000
20 kilometers or more.

21 (6) **JOINT DECLARATION ON**
22 **DENUCLEARIZATION.**—The term “Joint Declaration
23 on Denuclearization” means the Joint Declaration
24 on the Denuclearization of the Korean Peninsula,

- 1 signed by the Republic of Korea and the Democratic
- 2 People's Republic of Korea on January 1, 1992.

