

108TH CONGRESS  
1ST SESSION

# S. 145

To prohibit certain assistance to North Korea or the Korean Peninsula Development Organization, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 13, 2003

Mr. KYL (for himself, Mr. MCCAIN, Mr. SESSIONS, and Mr. BAYH) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To prohibit certain assistance to North Korea or the Korean Peninsula Development Organization, 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 Democ-  
5       racy Act of 2003”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) Under the Agreed Framework of October  
9       21, 1994, North Korea committed to—

1 (A) freeze and eventually dismantle its  
2 graphite-moderated reactors and related facili-  
3 ties;

4 (B) implement the North-South Joint Dec-  
5 laration on the Denuclearization of the Korean  
6 Peninsula, which prohibits the production, test-  
7 ing, or possession of nuclear weapons; and

8 (C) allow implementation of its IAEA safe-  
9 guards agreement under the Treaty on the  
10 Non-Proliferation of Nuclear Weapons (NPT)  
11 for nuclear facilities designated under the  
12 Agreed Framework and any other North Ko-  
13 rean nuclear facilities.

14 (2) The General Accounting Office has reported  
15 that North Korea has diverted heavy oil received  
16 from the United States-led Korean Peninsula En-  
17 ergy Development Organization for unauthorized  
18 purposes in violation of the Agreed Framework.

19 (3) On April 1, 2002, President George W.  
20 Bush stated that he would not certify North Korea's  
21 compliance with all provisions of the Agreed Frame-  
22 work.

23 (4) North Korea has violated the basic terms of  
24 the Agreed Framework and the North-South Joint  
25 Declaration on the Denuclearization of the Korean

1 Peninsula by pursuing the enrichment of uranium  
2 for the purpose of building a nuclear weapon and by  
3 “nuclearizing” the Korean peninsula.

4 (5) North Korea has admitted to having a cov-  
5 ert nuclear weapons program and declared the  
6 Agreed Framework nullified.

7 (6) North Korea has announced its intention to  
8 restart the 5-megawatt reactor and related repro-  
9 cessing facility at Yongbyon, which were frozen under  
10 the Agreed Framework, and has expelled the IAEA  
11 personnel monitoring the freeze.

12 (7) North Korea has announced its intention to  
13 withdraw from the Treaty on the Non-Proliferation  
14 of Nuclear Weapons, done at Washington, London,  
15 and Moscow on July 1, 1968 (21 UST 483).

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) **AGREED FRAMEWORK.**—The term “Agreed  
19 Framework” means the Agreed Framework Between  
20 the United States of America and the Democratic  
21 People’s Republic of Korea, signed in Geneva on Oc-  
22 tober 21, 1994, and the Confidential Minute to that  
23 agreement.

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

1           (3) KEDO.—The term “KEDO” means the  
2           Korean Peninsula Energy Development Organiza-  
3           tion.

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

6           (5) NPT.—The term “NPT” means the Treaty  
7           on the Non-Proliferation of Nuclear Weapons done  
8           at Washington, London, and Moscow, July 1, 1968  
9           (22 UST 483).

10 **SEC. 4. SENSE OF CONGRESS REGARDING THE AGREED**  
11 **FRAMEWORK AND THE NORTH KOREAN NU-**  
12 **CLEAR WEAPONS PROGRAM.**

13       It is the sense of Congress that—

14           (1) the Agreed Framework is, as a result of  
15           North Korea’s own illicit and deceitful actions over  
16           several years and recent declaration, null and void;

17           (2) North Korea’s pursuit and development of  
18           nuclear weapons—

19                (A) is of grave concern and represents a  
20                serious threat to the security of the United  
21                States, its regional allies, and friends;

22                (B) is a clear and present danger to  
23                United States forces and personnel in the re-  
24                gion and the United States homeland; and

1 (C) seriously undermines the security and  
2 stability of Northeast Asia; and

3 (3) North Korea must immediately come into  
4 compliance with its obligations under the Treaty on  
5 the Non-Proliferation of Nuclear Weapons and other  
6 commitments to the international community by—

7 (A) renouncing its nuclear weapons and  
8 materials production ambitions;

9 (B) dismantling its nuclear infrastructure  
10 and facilities;

11 (C) transferring all sensitive nuclear mate-  
12 rials, technologies, and equipment (including  
13 nuclear devices in any stage of development) to  
14 the IAEA forthwith; and

15 (D) allowing immediate, full, and unfet-  
16 tered access by IAEA inspectors to ensure that  
17 subparagraphs (A), (B), and (C) have been  
18 fully and verifiably achieved; and

19 (4) any diplomatic solution to the North  
20 Korean crisis—

21 (A) should take into account that  
22 North Korea is not a trustworthy negoti-  
23 ating partner;

1 (B) must achieve the total dismantlement of North Korea's nuclear weapons  
 2 ment of North Korea's nuclear weapons  
 3 and nuclear production capability; and

4 (C) must include highly intrusive  
 5 verification requirements, including on-site  
 6 monitoring and free access for the investigation of all sites of concern, that are no  
 7 less stringent than those imposed on Iraq  
 8 pursuant to United Nations Security  
 9 Council Resolution 1441 (2002) and previous  
 10 corresponding resolutions.  
 11

12 **SEC. 5. PROHIBITION ON UNITED STATES ASSISTANCE**  
 13 **UNDER THE AGREED FRAMEWORK.**

14 No department, agency, or entity of the United  
 15 States Government may provide assistance to North Korea  
 16 or the Korean Peninsula Energy Development Organization under the Agreed Framework.  
 17

18 **SEC. 6. LIMITATIONS ON NUCLEAR COOPERATION.**

19 (a) RESTRICTION ON ENTRY INTO FORCE OF NUCLEAR COOPERATION AGREEMENT AND IMPLEMENTATION OF THE AGREEMENT.—Section 822(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations  
 20 CLEAR COOPERATION AGREEMENT AND IMPLEMENTATION OF THE AGREEMENT.—Section 822(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations  
 21 TION OF THE AGREEMENT.—Section 822(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations  
 22 ral James W. Nance and Meg Donovan Foreign Relations  
 23 Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(b)(7) of Public Law 106–113; 113  
 24 acted by section 1000(b)(7) of Public Law 106–113; 113  
 25 Stat. 1501A–472) is amended to read as follows:

1 “(a) IN GENERAL.—

2 “(1) RESTRICTIONS.—Notwithstanding any  
3 other provision of law or any international agree-  
4 ment, unless or until the conditions described in  
5 paragraph (2) are satisfied—

6 “(A) no agreement for cooperation (as de-  
7 fined in section 11 b. of the Atomic Energy Act  
8 of 1954 (42 U.S.C. 2014 b.)) between the  
9 United States and North Korea may become ef-  
10 fective;

11 “(B) no license may be issued for export  
12 directly or indirectly to North Korea of any nu-  
13 clear material, facilities, components, or other  
14 goods, services, or technology that would be  
15 subject to such agreement;

16 “(C) no approval may be given for the  
17 transfer or retransfer directly or indirectly to  
18 North Korea of any nuclear material, facilities,  
19 components, or other goods, services, or tech-  
20 nology that would be subject to such agreement;

21 “(D) no license may be issued under the  
22 Export Administration Act of 1979 for the ex-  
23 port to North Korea of any item or related  
24 technical data which, as determined under sec-  
25 tion 309(c) of the Nuclear Non-Proliferation

1 Act of 1978, could be of significance for nuclear  
2 explosive purposes or the production of nuclear  
3 materials;

4 “(E) no license may be issued under sec-  
5 tion 109 b. of the Atomic Energy Act of 1954  
6 for the export to North Korea of any compo-  
7 nent, substance, or item that is subject to a li-  
8 cense requirement under such section;

9 “(F) no approval may be granted, under  
10 the Export Administration Act of 1979 or sec-  
11 tion 109 b.(3) of the Atomic Energy Act of  
12 1954, for the retransfer to North Korea of any  
13 item, technical data, component, or substance  
14 described in subparagraph (D) or (E); and

15 “(G) no authorization may be granted  
16 under section 57 b.(2) of the Atomic Energy  
17 Act of 1954 for any person to engage, directly  
18 or indirectly, in the production of special nu-  
19 clear material (as defined in section 11 aa. of  
20 the Atomic Energy Act of 1954) in North  
21 Korea.

22 “(2) CONDITIONS.—The conditions referred to  
23 in paragraph (1) are that—

24 “(A) the President determines and reports  
25 to the Committee on International Relations of



1 the House of Representatives and the Com-  
2 mittee on Foreign Relations of the Senate  
3 that—

4 “(i) North Korea has come into full  
5 compliance with its safeguards agreement  
6 with the IAEA (INFCIRC/403), and has  
7 taken all steps that have been deemed nec-  
8 essary by the IAEA in this regard;

9 “(ii) North Korea has permitted the  
10 IAEA full access to—

11 “(I) all additional sites and all  
12 information (including historical  
13 records) deemed necessary by the  
14 IAEA to verify the accuracy and com-  
15 pleteness of North Korea’s initial re-  
16 port of May 4, 1992, to the IAEA on  
17 all nuclear sites and material in North  
18 Korea; and

19 “(II) all nuclear sites deemed to  
20 be of concern to the IAEA subsequent  
21 to that report;

22 “(iii) North Korea has consistently  
23 and verifiably taken steps to implement the  
24 Joint Declaration on Denuclearization, and  
25 is in full compliance with its obligations

1 under numbered paragraphs 1, 2, and 3 of  
 2 the Joint Declaration on Denuclearization;

3 “(iv) North Korea does not have ura-  
 4 nium enrichment or nuclear reprocessing  
 5 facilities, and is making no progress to-  
 6 ward acquiring or developing such facili-  
 7 ties;

8 “(v) North Korea does not have nu-  
 9 clear materials or nuclear weapons and is  
 10 making no effort to acquire, develop, test,  
 11 produce, or deploy such weapons; and

12 “(vi) the transfer, approval, licensing,  
 13 or authorization of any of such materials,  
 14 components, facilities, goods, services,  
 15 technologies, data, substances or produc-  
 16 tion to, for or in North Korea is in the na-  
 17 tional interest of the United States; and

18 “(B) there is enacted into law a joint reso-  
 19 lution stating in substance the approval of Con-  
 20 gress of such action.”.

21 (b) CONFORMING AMENDMENT.—Section 822(b) of  
 22 such Act is amended by striking “subsection (a)” and in-  
 23 serting “subsection (a)(1)”.

1 **SEC. 7. APPLICATION OF UNITED STATES SANCTIONS.**

2 (a) AUTHORITY TO IMPOSE ADDITIONAL UNITED  
3 STATES SANCTIONS AGAINST NORTH KOREA.—The  
4 President is authorized to exercise any of his authorities  
5 under the Foreign Assistance Act of 1961, the Arms Ex-  
6 port Control Act, the International Emergency Economic  
7 Powers Act, or any other provision of law to impose full  
8 economic sanctions against North Korea, or to take any  
9 other appropriate action against North Korea, including  
10 the interdiction of shipments of weapons, weapons-related  
11 components, materials, or technologies, or dual-use items  
12 traveling to or from North Korea, in response to the ac-  
13 tivities of North Korea to develop nuclear weapons in vio-  
14 lation of North Korea's international obligations.

15 (b) PROHIBITION ON AVAILABILITY OF FUNDS FOR  
16 EASING OF SANCTIONS AGAINST NORTH KOREA.—None  
17 of the funds appropriated under any provision of law may  
18 be made available to carry out any sanctions regime  
19 against North Korea that is less restrictive than the sanc-  
20 tions regime in effect against North Korea immediately  
21 prior to the September 17, 1999, announcement by the  
22 President of an easing of sanctions against North Korea.

23 **SEC. 8. PURSUIT OF MULTILATERAL MEASURES.**

24 The President should take all necessary and appro-  
25 priate actions to obtain—

1           (1) international condemnation of North Korea  
 2       for its pursuit of nuclear weapons and serious  
 3       breach of the Treaty on the Non-Proliferation of  
 4       Nuclear Weapons and other international obliga-  
 5       tions, and

6           (2) multilateral diplomatic and economic sanc-  
 7       tions against North Korea that are at least as re-  
 8       strictive as United Nations Security Council Resolu-  
 9       tion 661 concerning Iraq.

10 **SEC. 9. TREATMENT OF REFUGEES FROM NORTH KOREA.**

11       (a) SENSE OF CONGRESS.—It is the sense of Con-  
 12       gress that the United States should begin immediately to  
 13       work with other countries in the region to adopt a policy  
 14       with respect to refugees from North Korea that would—

15           (1) guarantee all such refugees safe arrival in  
 16       a country of first asylum in which the refugees  
 17       would stay on a temporary basis; and

18           (2) promote burden-sharing of refugee costs be-  
 19       tween countries by providing for the resettlement of  
 20       the refugees from the country of first asylum to a  
 21       third country.

22       (b) ELIGIBILITY FOR REFUGEE STATUS.—

23           (1) IN GENERAL.—In the case of an alien who  
 24       is a national of North Korea, the alien may estab-  
 25       lish, for purposes of admission as a refugee under

1 section 207 of the Immigration and Nationality Act,  
2 that the alien has a well-founded fear of persecution  
3 on account of race, religion, nationality, membership  
4 in a particular social group, or political opinion by  
5 asserting such a fear and asserting a credible basis  
6 for concern about the possibility of such persecution.

7 (2) NOT TREATED AS NATIONAL OF SOUTH  
8 KOREA.—For purposes of eligibility for refugee sta-  
9 tus under section 207 of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1157), or for asylum under  
11 section 208 of such Act (8 U.S.C. 1158), a national  
12 of North Korea shall not be considered a national of  
13 the Republic of Korea.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
15 are authorized to be appropriated such sums as may be  
16 necessary to carry out this section.

17 **SEC. 10. INCREASED BROADCASTING BY RADIO FREE ASIA.**

18 (a) IN GENERAL.—In making grants to Radio Free  
19 Asia, the Broadcasting Board of Governors shall ensure  
20 that Radio Free Asia increases its broadcasting with re-  
21 spect to North Korea to 24 hours each day.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
23 are authorized to be appropriated such sums as may be  
24 necessary to carry out this section.

1 **SEC. 11. SENSE OF CONGRESS.**

2 It is the sense of Congress that the United States,  
3 in conjunction with the Republic of Korea and other allies  
4 in the Pacific region, should take measures, including mili-  
5 tary reinforcements, enhanced defense exercises and other  
6 steps as appropriate, to ensure—

7 (1) the highest possible level of deterrence  
8 against the multiple threats that North Korea poses;  
9 and

10 (2) the highest level of readiness of United  
11 States and allied forces should military action be-  
12 come necessary.

13 **SEC. 12. PRESIDENTIAL REPORT.**

14 Not later than 180 days after the date of enactment  
15 of this Act, the President shall submit a report to Con-  
16 gress regarding his actions to implement the provisions of  
17 this Act.

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