

111TH CONGRESS
2D SESSION

H. R. 5350

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

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2010

Ms. ROS-LEHTINEN (for herself, Mr. BURTON of Indiana, Mrs. BACHMANN, Mr. PENCE, Mr. MACK, Mr. MANZULLO, Mr. ROYCE, and Mr. ROHR-ABACHER) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To continue restrictions against and prohibit diplomatic recognition of the Government of 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 Sanctions
5 and Diplomatic Nonrecognition Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) North Korean negotiators in the Six-Party
9 diplomatic process did not act in good faith by their

1 refusal to agree to a transparent verification process
2 for denuclearization consistent with “international
3 standards”, including provisions for nuclear sam-
4 pling, following North Korea’s removal on October
5 11, 2008, from the list of state sponsors of terrorism
6 maintained by the Department of State.

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

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

19 (4) North Korean negotiators continue to refuse
20 to address in a humane and sincere manner the
21 issue of the abduction of civilians of Japan and the
22 Republic of Korea, both allies of the United States,
23 as well as the abductions of citizens from a number
24 of other countries, including France, Lebanon, Ro-
25 mania, and Thailand.

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

9 (6) Congress authoritatively expressed its view,
10 in section 202(b)(2) of the North Korean Human
11 Rights Act of 2004 (Public Law 108–333; 22 U.S.C.
12 7832(b)(2)) that “United States nonhumanitarian
13 assistance to North Korea shall be contingent on
14 North Korea’s substantial progress” on human
15 rights improvements, release of and accounting for
16 abductees, family reunification, reform of North Ko-
17 rea’s labor camp system, and the decriminalization
18 of political expression, none of which has occurred.

19 (7) Congress further authoritatively expressed
20 its view, in section 2 of the North Korean Human
21 Rights Reauthorization Act of 2008 (Public Law
22 110–346) that “human rights and humanitarian
23 conditions inside North Korea are deplorable” and
24 that “North Korean refugees remain acutely vulner-
25 able”.

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

19 (9) Congress has further determined that a re-
20 turn by North Korea to the Six-Party diplomatic
21 process following any missile test or launch by
22 Pyongyang must include a firm and transparent
23 commitment to the complete, verifiable and irrevers-
24 ible dismantlement of all of North Korea’s nuclear

1 programs, including those derived both from pluto-
2 nium as well as highly enriched uranium.

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

13 (11) North Korea, in defiance of the inter-
14 national community’s efforts to end nuclear pro-
15 liferation and in violation of its international obliga-
16 tions, conducted a second underground nuclear test
17 on May 25, 2009 (local time), in violation of United
18 Nations Security Council Resolution 1718, which re-
19 sulted in the passage of United Nations Security
20 Council Resolution 1874 on June 12, 2009, which
21 imposed additional sanctions and inspection require-
22 ments with regard to North Korea.

1 **SEC. 3. CONTINUATION OF RESTRICTIONS AGAINST THE**
2 **GOVERNMENT OF NORTH KOREA.**

3 (a) FINDING.—Congress finds that subsequent to the
4 decision of the Secretary of State on October 11, 2008,
5 to rescind the designation of North Korea as a state spon-
6 sor of terrorism, North Korea has committed acts that can
7 be defined as international terrorism or as highly provoca-
8 tive, including—

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

14 (2) complicity in the sinking of the South Ko-
15 rean naval vessel Cheonan on March 26, 2010,
16 which resulted in the deaths of 46 South Korean
17 naval personnel; and

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

24 (b) CONTINUATION OF RESTRICTIONS.—Notwith-
25 standing the decision by the Secretary of State on October
26 11, 2008, to rescind the designation of North Korea as

1 a state sponsor of terrorism, and in light of the congres-
2 sional finding described in subsection (a), restrictions
3 against the Government of North Korea that were im-
4 posed by reason of a determination of the Secretary of
5 State that the Government of North Korea is a state spon-
6 sor of terrorism and that are in effect as of the date of
7 the enactment of this Act shall remain in effect, and shall
8 not be lifted, unless the President makes the certification
9 described in subsection (c).

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

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

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

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

23 (B) any organization designated by the
24 Secretary of State as a foreign terrorist organi-
25 zation in accordance with section 219(a) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1189(a)); and

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

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

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

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

21 (6) has released the Japanese nationals recog-
22 nized as abduction victims by the Government of
23 Japan as well as abduction victims recognized by the
24 Government of the Republic of Korea;

1 (7) has released an estimated 600 surviving
2 South Korean POWs, and any other surviving
3 POWs from the Korean War, who have been held in
4 North Korea against their will and in violation of
5 the Armistice Agreement since hostilities ended in
6 July, 1953;

7 (8) has made concrete provisions for unre-
8 stricted family reunification meetings for those indi-
9 viduals among the two-million strong Korean-Amer-
10 ican community who maintain family ties with rel-
11 atives inside North Korea;

12 (9) has opened the North Korean penal system,
13 including the gulag of concentration camps holding
14 an estimated 200,000 political and religious pris-
15 oners, to unrestricted and regular visits by rep-
16 resentatives of the International Committee of the
17 Red Cross (ICRC);

18 (10) has made provision for unrestricted and
19 regular access by representatives of the United Na-
20 tional High Commissioner for Refugees to refugees
21 forcibly repatriated to North Korea to determine
22 their general health and welfare; and

23 (11) has made concrete provisions for unre-
24 stricted contact, including direct communications
25 and meetings, between representatives of inter-

1 national and South Korean religious organizations,
2 including Christians and Buddhists, and their co-be-
3 lievers inside North Korea.

4 (d) SENSE OF CONGRESS.—It is the sense of Con-
5 gress that, in light of the congressional finding described
6 in subsection (a), the Secretary of State should redesign-
7 nate North Korea as a state sponsor of terrorism imme-
8 diately upon the date of the enactment of this Act.

9 (e) STATE SPONSOR OF TERRORISM DEFINED.—In
10 this section, the term “state sponsor of terrorism” means
11 any country the government of which the Secretary of
12 State determines has repeatedly provided support for acts
13 of international terrorism pursuant to section 6(j) of the
14 Export Administration Act of 1979 (as continued in effect
15 pursuant to the International Emergency Economic Pow-
16 ers Act), section 40 of the Arms Export Control Act, sec-
17 tion 620A of the Foreign Assistance Act of 1961, or any
18 other provision of law.

19 **SEC. 4. CONTINUATION OF DIPLOMATIC NONRECOGNITION**
20 **OF NORTH KOREA.**

21 (a) FINDING.—Congress finds that the United States
22 did not grant diplomatic recognition to North Korea upon
23 its establishment as a client regime of the former Soviet
24 Union in 1948. The United States has consistently contin-
25 ued to withhold such formal diplomatic recognition during

1 the 60 years since the sudden and unprovoked attack by
2 North Korean forces on the Republic of Korea on June
3 25, 1950, an attack which led directly to the Korean War
4 and the deaths of over 36,000 United States military per-
5 sonnel as well as at least 2,000,000 Koreans and over
6 3,000 soldiers from Allied countries.

7 (b) CONTINUATION OF DIPLOMATIC NONRECOGNI-
8 TION.—The diplomatic nonrecognition described in sub-
9 section (a), including restrictions on the establishment of
10 a permanent presence or United States liaison office inside
11 North Korea, shall remain in effect, until such time as
12 the President certifies to Congress that the Government
13 of North Korea has met all of the benchmarks specified
14 in section 3.

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

17 In the case of the launch of a missile, rocket, or other
18 airborne object by North Korea or the conducting of a nu-
19 clear test in violation of United Nations Security Council
20 Resolutions 1695, 1718, and 1874, the President shall in-
21 struct the United States Permanent Representative to the
22 United Nations to use the voice, vote, and influence of the
23 United States to secure adoption of a United Nations Se-
24 curity Council resolution condemning North Korea's ac-
25 tion as a violation of United Nations Security Council Res-

1 olutions 1695, 1718, and 1874 and requiring the imple-
2 mentation of comprehensive sanctions and an inspection
3 regime against North Korea.

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