

112TH CONGRESS
1ST SESSION

H. R. 1321

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.

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 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) North Korean negotiators in the Six-Party
2 diplomatic process did not act in good faith by their
3 refusal to agree to a transparent verification process
4 for denuclearization consistent with “international
5 standards”, including provisions for nuclear sam-
6 pling, following North Korea’s removal on October
7 11, 2008, from the list of state sponsors of terrorism
8 maintained by the Department of State.

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

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

21 (4) North Korean negotiators continue to refuse
22 to address in a humane and sincere manner the
23 issue of the abduction of civilians of Japan and the
24 Republic of Korea, both allies of the United States,
25 as well as the abductions of citizens from a number

1 of other countries, including France, Lebanon, Ro-
2 mania, and Thailand.

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

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

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

1 that “North Korean refugees remain acutely vulner-
2 able”.

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

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

1 ible dismantlement of all of North Korea’s nuclear
2 programs, including those derived both from pluto-
3 nium as well as highly enriched uranium.

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

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

24 (12) North Korea, according to Western press
25 reports, transshipped missile parts, used to run

1 Iran's solid fuel ballistic missile program, to Tehran
2 via Air Iran flights which landed in Beijing, China
3 in 2007.

4 (13) Press reports in March 2011 indicated
5 that opposition forces in Libya, when they took posi-
6 tions from Qaddafi forces, discovered North Korean
7 weapons caches, including rockets and anti-aircraft
8 guns, unpacked from crates labeled "bulldozer
9 parts," which would represent a clear violation of
10 United Nations sanctions.

11 **SEC. 3. CONTINUATION OF RESTRICTIONS AGAINST THE**
12 **GOVERNMENT OF NORTH KOREA.**

13 (a) FINDING.—Congress finds that subsequent to the
14 decision of the Secretary of State on October 11, 2008,
15 to rescind the designation of North Korea as a state spon-
16 sor of terrorism, North Korea has committed acts that can
17 be defined as international terrorism or as highly provoca-
18 tive, including—

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

24 (2) complicity in the sinking of the South Ko-
25 rean naval vessel Cheonan on March 26, 2010,

1 which resulted in the deaths of 46 South Korean
2 naval personnel;

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

9 (4) the sudden and unprovoked bombardment
10 by North Korean artillery of the civilian-populated
11 South Korean island of Yeonpyeong-do on November
12 23, 2010, which resulted in the deaths of two South
13 Korean civilians and two Republic of Korea (ROK)
14 marines; and

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

21 (b) CONTINUATION OF RESTRICTIONS.—Notwith-
22 standing the decision by the Secretary of State on October
23 11, 2008, to rescind the designation of North Korea as
24 a state sponsor of terrorism, and in light of the congres-
25 sional finding described in subsection (a), restrictions

1 against the Government of North Korea that were im-
2 posed by reason of a determination of the Secretary of
3 State that the Government of North Korea is a state spon-
4 sor of terrorism, as well as sanctions against the Govern-
5 ment of North Korea (including sanctions that ban the
6 importation into the United States of North Korean prod-
7 ucts and goods), that are in effect as of the date of the
8 enactment of this Act shall remain in effect, and shall not
9 be lifted, unless the President makes the certification de-
10 scribed in subsection (c).

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

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

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

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

24 (B) any organization designated by the
25 Secretary of State as a foreign terrorist organi-

1 zation in accordance with section 219(a) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1189(a)); and

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

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

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

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

22 (6) has released the Japanese nationals recog-
23 nized as abduction victims by the Government of
24 Japan as well as abduction victims recognized by the
25 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;

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; and

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

10 (d) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that, in light of the congressional finding described
12 in subsection (a), the Secretary of State should redesi-
13 gnate North Korea as a state sponsor of terrorism imme-
14 diately upon the date of the enactment of this Act.

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

1 **SEC. 4. CONTINUATION OF DIPLOMATIC NONRECOGNITION**
2 **OF NORTH KOREA.**

3 (a) FINDING.—Congress finds that the United States
4 did not grant diplomatic recognition to North Korea upon
5 its establishment as a client regime of the former Soviet
6 Union in 1948. The United States has consistently contin-
7 ued to withhold such formal diplomatic recognition during
8 the 61 years since the sudden and unprovoked attack by
9 North Korean forces on the Republic of Korea on June
10 25, 1950, an attack which led directly to the Korean War
11 and the deaths of over 36,000 United States military per-
12 sonnel as well as at least 2,000,000 Koreans and over
13 3,000 soldiers from Allied countries.

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

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

23 In the case of the launch of a missile, rocket, or other
24 airborne object by North Korea or the conducting of a nu-
25 clear test in violation of United Nations Security Council
26 Resolutions 1695, 1718, and 1874, the President shall in-

1 struct the United States Permanent Representative to the
2 United Nations to use the voice, vote, and influence of the
3 United States to secure adoption of a United Nations Se-
4 curity Council resolution condemning North Korea's ac-
5 tion as a violation of United Nations Security Council Res-
6 olutions 1695, 1718, and 1874 and requiring the imple-
7 mentation of comprehensive sanctions and an inspection
8 regime against North Korea.

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