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114TH CONGRESS
2D SESSION

H. R. 5208

To require a report on the designation of the Democratic People's Republic of Korea as a state sponsor of terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2016

Mr. POE of Texas (for himself and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Foreign Affairs

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A BILL

To require a report on the designation of the Democratic People's Republic of Korea as a state sponsor of terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North Korea State Sponsor of Terrorism Designation Act of 2016".

SEC. 2. REPORT ON DESIGNATION OF NORTH KOREA AS A STATE SPONSOR OF TERRORISM.

(a) FINDINGS.—Congress finds the following:

(1) The Government of North Korea has harbored members of the Japanese Red Army since a

1970 hijacking and continues to harbor the surviving hijackers to this day.

(2) North Korea bombed Korean Airlines Flight 858 in November 1987, killing 115 people, and carried out the Rangoon bombing of 1983, killing 21 people, including 13 senior South Korean officials and two members of the Presidential Guard.

(3) In 2005, a North Korean agent, Ryu Young-Hwa, was convicted in a South Korean court and sentenced to 10 years in prison for his involvement in the kidnapping of the Reverend Kim Dong-shik, a lawful permanent resident of the United States, in 2000. In 2005, then-Senator Barack Obama was among 20 members of the Illinois congressional delegation stating that they would not support the removal of North Korea from the list of state sponsors of terrorism until it provided a full accounting of Rev. Kim's fate.

(4) Of the three states currently on the list of State Sponsors of Terrorism, both Iran and Syria are designated as State Sponsors of Terrorism for their support of Hamas and Hezbollah. The Department of State's 2005, 2007, 2010, 2012, and 2013 ''Country Reports'' all cited Iran and Syria for supplying weapons to Hezbollah through Syrian terri-

tory, and most of them also cited Iran's training of Hezbollah.

(5) In October 2008, a South Korean court convicted Won Jeong-hwa, a North Korean agent, for attempting to assassinate a South Korean military officer in Hong Kong, and sentenced her to 5 years in prison.

(6) In December 2009, a North Korean arms shipment aboard an Ilyushin Il–76 cargo plane was discovered and seized by authorities of the Government of Thailand. The cargo, which was marked as consisting of oil-drilling equipment, contained 35 tons of rockets, surface-to-air missiles (MANPADS), explosives, rocket-propelled grenades, and other weaponry. A similar shipment was impounded in the United Arab Emirates a few months earlier in July 2009. A third shipment was intercepted by the Israeli government in the Eastern Mediterranean in November 2009. According to published media reports, United States and Israeli intelligence agencies concluded that the shipments were destined for Iranian-backed terrorists, including Hezbollah, Hamas, and the Quds Force. Another large quantity of shipments to both Hamas and Hezbollah, is believed to have been transferred unnoticed.

(7) In June of 2010, Major Kim Myong-ho and Major Dong Myong-gwan of North Korea's Reconnaissance General Bureau pled guilty in a South Korean court to attempting to assassinate Hwang Jang-yop, a North Korean dissident in exile, on the orders of Lieutenant General Kim Yong-chol, the head of North Korea's Reconnaissance General Bureau. The court sentenced each defendant to 10 years in prison.

(8) On July 16, 2010, in the case of Calderon-Cardona v. Democratic People's Republic of Korea (case number 08–01367), the United States District Court for the District of Puerto Rico found that the Government of North Korea provided material support to the Japanese Red Army, designated as a Foreign Terrorist Organization between 1997 and 2001, in furtherance of a 1972 terrorist attack at Lod Airport, Israel that killed 26 people, including 17 Americans.

(9) On November 23, 2010, North Korea shelled South Korea's Yeonpyeong Island with at least 50 artillery shells, killing 4, including two civilians, and injuring 22 others.

(10) In November 2012, a South Korean court sentenced An Hak-young, a North Korean agent, to

4 years in prison for attempting to assassinate Park Sang-hak, a North Korean dissident in exile.

(11) In December 2012, according to South Korean press reports, South Korean prosecutors determined that North Korean agents assassinated Kim Chang-hwan, a human rights activist helping North Korean refugees, in Dandong, China in August 2011, using a poisoned needle.

(12) According to a report in the Los Angeles Times, a North Korean agent was suspected in an attempt to assassinate another human rights activist with a poisoned needle in Yanji, China, the following day.

(13) North Korea has committed violent acts directly against its own citizens abroad. In 2013, news reports highlighted an attempt to kidnap a North Korean student in Paris.

(14) On April 18, 2013, Michael Flynn, the Director of the Defense Intelligence Agency testified that Syria's liquid-propellant missile program depends on essential foreign equipment and assistance, primarily from North Korean entities. Further statements by United States Government officials report that North Korea helped Syria build the Al Kibar nuclear reactor, which Israel destroyed in 2007, and

could have been used to produce plutonium for nuclear weapons.

(15) In the case of Chaim Kaplan v. Hezbollah (case number 09–646), a United States district court found in 2014 that North Korea materially supported terrorist attacks by Hezbollah, a designated Foreign Terrorist Organization, against Israel in 2006.

(16) In July 2014, press reports indicated that militants from Hamas, a designated Foreign Terrorist Organization, attempted to negotiate a new arms deal with North Korea for missiles and communications equipment that would have allowed the militants to maintain their armed terrorist attacks against Israel. Security officials announced that the deal between Hamas and North Korea was worth hundreds of thousands of dollars and was handled by a Lebanese-based trading company.

(17) On November 24, 2014, a hacker group that identified itself as the ''Guardians of Peace'' leaked confidential data from the film studio Sony Pictures Entertainment. The data included personal information about Sony Pictures employees, e-mails between employees, information about executive sala-

ries at the company, copies of then-unreleased Sony films, and other information.

(18) On December 16, 2015, the ''Guardians of Peace'' sent a message to Sony Pictures, to ''clearly show it to you at the very time and places 'The Interview' be shown . . . how bitter fate those who seek fun in terror should be doomed to''. The message further stated, ''The world will be full of fear'', ''[. . .] Remember the 11th of September 2001'', and ''We recommend you to keep yourself distant from the places at that time.''. The threat caused theaters across the United States to cancel showings of ''The Interview'' and caused Sony Pictures to cancel the release of the film in theaters.

(19) On December 19, 2015, the Federal Bureau of Investigation concluded that North Korea was responsible for the cyber attack on Sony Pictures Entertainment and the threat against the movie theaters, and that the ''Guardians of Peace'' was a unit of North Korea's Reconnaissance General Bureau, its foreign intelligence service.

(20) In March 2015, the South Korean government publicly accused North Korea of responsibility for a December 2014 cyber attack against multiple nuclear power plants in South Korea, stated that the

attacks were intended to cause a malfunction at the plants' reactors, and described the attacks as acts of ''cyber-terror targeting our country''.

(21) On April 13, 2015, the U.S. District Court for the District of Columbia, in the matter of Kim v. Democratic People's Republic of Korea (case number 13–7147), awarded Rev. Kim's family $330,000,000 in compensatory and punitive damages against the Government of North Korea for the kidnapping, torture, and murder of Rev. Kim.

(22) On May 17, 2015, prosecutors in Seoul announced the arrest and indictment of three South Koreans for conspiring to murder Hwang Jang-yop and other North Korean dissidents in exile, at the behest of the Government of North Korea.

(23) On October 22, 2015, Ambassador Sung Kim, Special Representative for North Korea Policy with the U.S. Department of State, testified before the House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade that North Korea's ''conduct poses a growing threat to the United States, our friends in the region, and the global nonproliferation regime'' and Ms. Hilary Batjer Johnson, Deputy Coordinator for Homeland Security, Screening, and Designations with the U.S. Depart-

ment of State noted that ''weapons transfers that violate nonproliferation or missile control regimes could be a relevant factor for consideration, depending on the circumstances, consistent with the statutory criteria for designation as a state sponsor of terrorism''.

(24) North Korea was designated a State Sponsor of Terrorism on January 20, 1988, for repeatedly providing support of acts of international terrorism.

(25) However, on October 11, 2008, North Korea's designation as a State Sponsor of Terrorism was rescinded, following commitments by the Government of North Korea to completely, verifiably, and irreversibly dismantle its nuclear weapons program.

(26) Consequences of a State Sponsors of Terrorism designation include a ban on arms-related exports and sales; restrictions on exports of dual-use items; restrictions on foreign assistance; financial sanctions against transactions with the designated government; imposition of miscellaneous trade and other restrictions; and potential liability in United States courts for acts that fall within the terrorism exception of the Foreign Sovereign Immunities Act.

The Criminal Code also prohibits financial transactions by United States persons with the governments of State Sponsors of Terrorism listed states. Issuers of securities must disclose in their public filings any investments in states whose governments sponsor terrorism. Finally, a designation requires United States representatives to oppose any benefits or extensions of credit to the listed states by international financial institutions.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that North Korea meets the criteria for designation as a state sponsor of terrorism and should be so designated.

(c) REPORT; DETERMINATION OR JUSTIFICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report that finds, with respect to each of the acts described in paragraphs (1) to (23) of subsection (a), whether—

(A) the Government of North Korea, including any agents or instrumentalities of the Government of North Korea, directly or indirectly, committed, conspired to commit, attempted, aided, or abetted such act; and

(B) such act constitutes support for international terrorism.

(2) DETERMINATION OR JUSTIFICATION.—If the Secretary finds that the Government of North Korea, including any agents or instrumentalities of the Government of North Korea, directly or indirectly, committed, conspired to commit, attempted, aided, or abetted any of the acts described in paragraphs (1) to (22) of subsection (a), and that any such act constitutes support for international terrorism, the Secretary of State shall also submit to the appropriate congressional committees—

(A) a determination that North Korea is a state sponsor of terrorism; or

(B) a detailed justification as to why the conduct described in the report required under paragraph (1) does not meet the legal criteria for such a determination.

(3) INCLUSION.—The report required by paragraph (1) shall also be included in the first annual report required to be submitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) on or after the date of the enactment of this Act.

(d) FORM.—The report required by subsection (c)(1) shall be submitted in unclassified form, but may include a classified annex, if appropriate.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate; and

(B) the Committee on Foreign Affairs of the House of Representatives.

(2) NORTH KOREA.—The term ''North Korea'' means the Democratic People's Republic of Korea.

(3) STATE SPONSOR OF TERRORISM.—The term ''state sponsor of terrorism'' means a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)) (as in effect pursuant to the International Emergency Economic Powers Act), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that

has repeatedly provided support for acts of international terrorism.

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