

(Pub. L. 114–122, title I, §102, Feb. 18, 2016, 130 Stat. 98.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original “this Act”, meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

#### DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER THE NORTH KOREA SANCTIONS AND POLICY ENHANCEMENT ACT OF 2016

Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Director of National Intelligence[, and] the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State, in consultation with the Secretary of the Treasury, functions and authorities vested in the President by section 103(a) of the North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114–122, 22 U.S.C. 9201 note [22 U.S.C. 9201 et seq.] (the “Act”).

I hereby delegate to the Secretary of State the functions and authorities vested in the President by sections 208(b), 208(c), 401(a), 401(b), and 402. These functions and authorities shall be executed in consultation with the Secretary of the Treasury when affecting actions undertaken by the Department of the Treasury pursuant to authorities delegated herein or pursuant to authorities conferred by the Act.

I hereby delegate to the Secretary of State the functions and authorities vested in the President by section 301 of the Act and direct the Secretary of State to develop, in coordination with other executive departments and agencies, as appropriate, the strategy described in section 202(c) of the Act.

I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by sections 104(a), 104(b), 104(d), 209(b), and 304(b) of the Act.

I hereby delegate to the Secretary of the Treasury the functions and authorities vested in the President by sections 102(a), 104(c), 104(e), and 208(d) of the Act.

I hereby delegate to the Director of National Intelligence, in consultation with the Secretary of State, the functions and authorities vested in the President by section 205(a) of the Act.

I hereby delegate the functions and authorities vested in the President by section 209(a) as follows:

The Secretary of the Treasury, in consultation with the Secretary of State and the Director of National Intelligence, shall have the responsibility for submitting the report described in subsection 209(a)(1) and for providing the information described in subsections 209(a)(2)(A) and (B).

The Director of National Intelligence, in consultation with the Secretary of the Treasury and the Secretary of State, shall have the responsibility for providing the description of significant activities described by subsection 209(a)(1) and the assessment described in subsection 209(a)(2)(C).

The Secretary of State, in consultation with the Secretary of the Treasury and the Director of National Intelligence, shall have the responsibility for providing the strategy described in subsection 209(a)(2)(D).

I hereby delegate to the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Director of National Intelligence the functions and authorities vested in the President by section 404(a) of the Act as may be necessary to carry out the provisions of the Act, including the foregoing delegations.

Any reference herein to provisions of any act related to the subject of this memorandum shall be deemed to

include references to any hereafter-enacted provisions of law that are the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

### § 9213. Reporting requirements

#### (a) Presidential briefings to Congress

Not later than 180 days after February 18, 2016, and periodically thereafter, the President shall provide a briefing to the appropriate congressional committees on efforts to implement this chapter.

#### (b) Report from Secretary of State

Not later than 180 days after February 18, 2016, the Secretary of State shall conduct, coordinate, and submit to Congress a comprehensive report on United States policy towards North Korea that—

(1) is based on a full and complete inter-agency review of current policies and possible alternatives, including with respect to North Korea’s weapons of mass destruction and missile programs, human rights atrocities, and significant activities undermining cybersecurity; and

(2) includes recommendations for such legislative or administrative action as the Secretary considers appropriate based on the results of the review.

(Pub. L. 114–122, title I, §103, Feb. 18, 2016, 130 Stat. 98.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

#### DELEGATION OF FUNCTIONS

Functions and authorities of President under subsec. (a) of this section delegated to Secretary of State, in consultation with Secretary of the Treasury, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

### § 9214. Designation of persons

#### (a) Mandatory designations

Except as provided in section 9228 of this title, the President shall designate under this subsection any person that the President determines—

(1) knowingly, directly or indirectly, imports, exports, or reexports to, into, or from North Korea any goods, services, or technology controlled for export by the United States because of the use of such goods, services, or technology for weapons of mass destruction or delivery systems for such weapons and materially contributes to the use, development, production, possession, or acquisition by any person of a nuclear, radiological, chemical, or biological weapon or any device or system designed in whole or in part to deliver such a weapon;

(2) knowingly, directly or indirectly, provides training, advice, or other services or as-

sistance, or engages in significant financial transactions, relating to the manufacture, maintenance, or use of any such weapon, device, or system to be imported, exported, or reexported to, into, or from North Korea;

(3) knowingly, directly or indirectly, imports, exports, or reexports luxury goods to or into North Korea;

(4) knowingly engages in, is responsible for, or facilitates censorship by the Government of North Korea;

(5) knowingly engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea;

(6) knowingly, directly or indirectly, engages in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, or narcotics trafficking that supports the Government of North Korea or any senior official or person acting for or on behalf of that Government;

(7) knowingly engages in significant activities undermining cybersecurity through the use of computer networks or systems against foreign persons, governments, or other entities on behalf of the Government of North Korea;

(8) knowingly, directly or indirectly, sells, supplies, or transfers to or from the Government of North Korea or any person acting for or on behalf of that Government, a significant amount of precious metal, graphite, raw or semi-finished metals or aluminum, steel, coal, or software, for use by or in industrial processes directly related to weapons of mass destruction and delivery systems for such weapons, other proliferation activities, the Korean Workers' Party, armed forces, internal security, or intelligence activities, or the operation and maintenance of political prison camps or forced labor camps, including outside of North Korea;

(9) knowingly, directly or indirectly, imports, exports, or reexports to, into, or from North Korea any arms or related materiel or any defense article or defense service (as such terms are defined in section 2794 of this title);

(10) knowingly, directly or indirectly, purchases or otherwise acquires from North Korea any significant amounts of gold, titanium ore, vanadium ore, copper, silver, nickel, zinc, or rare earth minerals;

(11) knowingly, directly or indirectly, sells or transfers to North Korea any significant amounts of rocket, aviation, or jet fuel (except for use by a civilian passenger aircraft outside North Korea, exclusively for consumption during its flight to North Korea or its return flight);

(12) knowingly, directly or indirectly, provides significant amounts of fuel or supplies, provides bunkering services, or facilitates a significant transaction or transactions to operate or maintain, a vessel or aircraft that is designated under an applicable Executive order or an applicable United Nations Security Council resolution, or that is owned or controlled by a person designated under an applicable Executive order or applicable United Nations Security Council resolution;

(13) knowingly, directly or indirectly, insures, registers, facilitates the registration of,

or maintains insurance or a registration for, a vessel owned or controlled by the Government of North Korea, except as specifically approved by the United Nations Security Council;

(14) knowingly, directly or indirectly, maintains a correspondent account (as defined in section 9221a(d)(1) of this title) with any North Korean financial institution, except as specifically approved by the United Nations Security Council; or

(15) knowingly attempts to engage in any of the conduct described in paragraphs (1) through (14).

**(b) Additional discretionary designations**

**(1) Prohibited conduct described**

Except as provided in section 9228 of this title, the President may designate under this subsection any person that the President determines—

(A) knowingly engages in, contributes to, assists, sponsors, or provides financial, material or technological support for, or goods and services in support of, any person designated pursuant to—

(i) an applicable United Nations Security Council resolution;

(ii) any regulation promulgated under section 9254 of this title; or

(iii) any applicable Executive order;

(B) knowingly contributed to—

(i) the bribery of an official of the Government of North Korea or any person acting for or on behalf of that official;

(ii) the misappropriation, theft, or embezzlement of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(iii) the use of any proceeds of any activity described in clause (i) or (ii);

(C) knowingly and materially assisted, sponsored, or provided significant financial, material, or technological support for, or goods or services to or in support of, the activities described in subparagraph (A) or (B);

(D) knowingly, directly or indirectly, purchased or otherwise acquired from the Government of North Korea significant quantities of coal, iron, or iron ore, in excess of the limitations provided in applicable United Nations Security Council resolutions;

(E) knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of textiles from the Government of North Korea;

(F) knowingly facilitated a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United Nations Security Council resolution;

(G) knowingly, directly or indirectly, facilitated a significant transfer to or from the Government of North Korea of bulk cash, precious metals, gemstones, or other

<sup>1</sup> So in original. Probably should be "Nations".

stores of value not described under subsection (a)(10);

(H) knowingly, directly or indirectly, sold, transferred, or otherwise provided significant amounts of crude oil, condensates, refined petroleum, other types of petroleum or petroleum byproducts, liquified natural gas, or other natural gas resources to the Government of North Korea (except for heavy fuel oil, gasoline, or diesel fuel for humanitarian use or as excepted under subsection (a)(11));

(I) knowingly, directly or indirectly, engaged in, facilitated, or was responsible for the online commercial activities of the Government of North Korea, including online gambling;

(J) knowingly, directly or indirectly, purchased or otherwise acquired fishing rights from the Government of North Korea;

(K) knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of food or agricultural products from the Government of North Korea;

(L) knowingly, directly or indirectly, engaged in, facilitated, or was responsible for the exportation of workers from North Korea in a manner intended to generate significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;

(M) knowingly conducted a significant transaction or transactions in North Korea's transportation, mining, energy, or financial services industries; or

(N) except as specifically approved by the United Nations Security Council, and other than through a correspondent account as described in subsection (a)(14), knowingly facilitated the operation of any branch, subsidiary, or office of a North Korean financial institution.

## (2) Effect of designation

With respect to any person designated under this subsection, the President may—

(A) apply the sanctions described in section 9224, 9225(c),<sup>2</sup> or 9226 of this title to the person to the same extent and in the same manner as if the person were designated under subsection (a);

(B) apply any applicable special measures described in section 5318A of title 31;

(C) prohibit any transactions in foreign exchange—

(i) that are subject to the jurisdiction of the United States; and

(ii) in which such person has any interest; and

(D) prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments—

(i) are subject to the jurisdiction of the United States; and

(ii) involve any interest of such person.

<sup>2</sup> See References in Text note below.

## (c) Asset blocking

### (1) Mandatory asset blocking

The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of a person designated under subsection (a), the Government of North Korea, or the Workers' Party of Korea, if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

### (2) Discretionary asset blocking

The President may also exercise such powers, in the same manner and to the same extent described in paragraph (1), with respect to a person designated under subsection (b).

## (d) Application to subsidiaries and agents

The designation of a person under subsection (a) or (b) and the blocking of property and interests in property under subsection (c) shall apply with respect to a person who is determined to be owned or controlled by, or to have acted or purported to have acted for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this section.

## (e) Transaction licensing

The President shall deny or revoke any license for any transaction that the President determines to lack sufficient financial controls to ensure that such transaction will not facilitate any activity described in subsection (a) or (b).

## (f) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to any person who violates, attempts to violate, conspires to violate, or causes a violation of any prohibition of this section, or an order or regulation prescribed under this section, to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of such Act (50 U.S.C. 1705(a)).

(Pub. L. 114-122, title I, §104, Feb. 18, 2016, 130 Stat. 99; Pub. L. 115-44, title III, §311(a), (b)(1), (c), Aug. 2, 2017, 131 Stat. 942, 944.)

### REFERENCES IN TEXT

Section 9225, referred to in subsec. (b)(2)(B), was repealed and a new section 925 enacted by Pub. L. 115-44, title III, §314, Aug. 2, 2017, 131 Stat. 946. The sanctions formerly described in section 9225(c) of this title are now contained in section 9225(d) of this title.

The International Emergency Economic Powers Act, referred to in subsec. (c)(1), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

### AMENDMENTS

2017—Subsec. (a)(9). Pub. L. 115-44, §311(a)(1), substituted “or any defense article or defense service (as such terms are defined in section 2794 of this title);” for “; or”

Subsec. (a)(10) to (15). Pub. L. 115-44, §311(a)(2)-(4), added pars. (10) to (14), redesignated former par. (10) as (15), and in par. (15), substituted “(14)” for “(9)”.

Subsec. (b)(1)(A). Pub. L. 115-44, §311(b)(1)(A), substituted “pursuant to—” and items (i) to (iii) for “pursuant to an applicable United Nations Security Council resolution;”.

Subsec. (b)(1)(D) to (N). Pub. L. 115-44, §311(b)(1)(B)-(D), added subpars. (D) to (N).

Subsec. (c). Pub. L. 115-44, §311(c), designated existing text as par. (1), inserted heading, substituted “of a person designated under subsection (a)” for “of a designated person”, and added par. (2).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-44, title III, §311(b)(2), Aug. 2, 2017, 131 Stat. 943, provided that: “The amendments made by paragraph (1) [amending this section] take effect on the date of the enactment of this Act [Aug. 2, 2017] and apply with respect to conduct described in subparagraphs (D) through (N) of section 104(b)(1) of the North Korea Sanctions and Policy Enhancement Act of 2016 [22 U.S.C. 9214(b)(1)], as added by paragraph (1), engaged in on or after such date of enactment.”

#### DELEGATION OF FUNCTIONS

Functions and authorities of President under subsecs. (a), (b), and (d) of this section delegated to Secretary of the Treasury, in consultation with Secretary of State, and functions and authorities under subsecs. (c) and (e) of this section delegated to Secretary of the Treasury, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

### SUBCHAPTER II—SANCTIONS AGAINST NORTH KOREAN PROLIFERATION, HUMAN RIGHTS ABUSES, AND ILLICIT ACTIVITIES

#### § 9221. Determinations with respect to North Korea as a jurisdiction of primary money laundering concern

##### (a) Findings

Congress makes the following findings:

(1) The Under Secretary of the Treasury for Terrorism and Financial Intelligence, who is responsible for safeguarding the financial system against illicit use, money laundering, terrorist financing, and the proliferation of weapons of mass destruction, and has repeatedly expressed concern about North Korea’s misuse of the international financial system—

(A) in 2006—

(i) stated, “Given [North Korea’s] counterfeiting of U.S. currency, narcotics trafficking and use of accounts world-wide to conduct proliferation-related transactions, the line between illicit and licit North Korean money is nearly invisible.”; and

(ii) urged financial institutions world-wide to “think carefully about the risks of doing any North Korea-related business”;

(B) in 2011, stated that North Korea—

(i) “remains intent on engaging in proliferation, selling arms as well as bringing in material”; and

(ii) was “aggressively pursuing the effort to establish front companies.”; and

(C) in 2013, stated—

(i) in reference to North Korea’s distribution of high-quality counterfeit United States currency, that “North Korea

is continuing to try to pass a supernote into the international financial system”; and

(ii) the Department of the Treasury would soon introduce new currency with improved security features to protect against counterfeiting by the Government of North Korea.

(2) The Financial Action Task Force, an intergovernmental body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing, has repeatedly—

(A) expressed concern at deficiencies in North Korea’s regimes to combat money laundering and terrorist financing;

(B) urged North Korea to adopt a plan of action to address significant deficiencies in those regimes and the serious threat those deficiencies pose to the integrity of the international financial system;

(C) urged all jurisdictions to apply countermeasures to protect the international financial system from ongoing and substantial money laundering and terrorist financing risks emanating from North Korea;

(D) urged all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with North Korea, including North Korean companies and financial institutions; and

(E) called on all jurisdictions—

(i) to protect against correspondent relationships being used to bypass or evade countermeasures and risk mitigation practices; and

(ii) to take into account money laundering and terrorist financing risks when considering requests by North Korean financial institutions to open branches and subsidiaries in their respective jurisdictions.

(3) On March 7, 2013, the United Nations Security Council unanimously adopted Resolution 2094, which—

(A) welcomed the Financial Action Task Force’s—

(i) recommendation on financial sanctions related to proliferation; and

(ii) guidance on the implementation of such sanctions;

(B) decided that United Nations member states should apply enhanced monitoring and other legal measures to prevent the provision of financial services or the transfer of property that could contribute to activities prohibited by applicable United Nations Security Council resolutions; and

(C) called upon United Nations member states to prohibit North Korean financial institutions from establishing or maintaining correspondent relationships with financial institutions in their respective jurisdictions to prevent the provision of financial services if such member states have information that provides reasonable grounds to believe that such activities could contribute to—

(i) activities prohibited by an applicable United Nations Security Council resolution; or