

under sections 9202, 9214, and 9241 of this title] may be cited as the ‘Korean Interdiction and Modernization of Sanctions Act’.”

SHORT TITLE

Pub. L. 114–122, §1(a), Feb. 18, 2016, 130 Stat. 93, provided that: “This Act [enacting this chapter and amending section 7814 of this title and sections 981, 983, and 1956 of Title 18, Crimes and Criminal Procedure] may be cited as the ‘North Korea Sanctions and Policy Enhancement Act of 2016’.”

Pub. L. 116–92, div. F, title LXXI, §7101, Dec. 20, 2019, 133 Stat. 2244, provided that: “This title [enacting subchapter V of this chapter and sections 262p–13, 286yy, 9221b, and 9221c of this title, amending sections 7103, 9202, 9212, 9214, 9223, 9224, 9228, 9241, and 9251 of this title and section 312 of Title 31, Money and Finance, repealing sections 262p–13 and 286yy of this title, and enacting provisions set out as notes under sections 262p–13, 286yy, and 7101 of this title and section 3305 of Title 12, Banks and Banking] may be cited as the ‘Otto Warmbier North Korea Nuclear Sanctions and Enforcement Act of 2019’.”

RULE OF CONSTRUCTION FOR PUB. L. 115–232

Nothing in Pub. L. 115–232 [see Tables for classification] to be construed to authorize the use of force against North Korea, see section 1295 of Pub. L. 115–232, set out as a note under section 8784 of this title.

§ 9202. Definitions

In this chapter:

(1) Applicable Executive order

The term “applicable Executive order” means—

(A) Executive Order 13382 (50 U.S.C. 1701 note; relating to blocking property of weapons of mass destruction proliferators and their supporters), Executive Order 13466 (50 U.S.C. 1701 note; relating to continuing certain restrictions with respect to North Korea and North Korean nationals), Executive Order 13551 (50 U.S.C. 1701 note; relating to blocking property of certain persons with respect to North Korea), Executive Order 13570 (50 U.S.C. 1701 note; relating to prohibiting certain transactions with respect to North Korea), Executive Order 13619 (50 U.S.C. 1701 note; relating to blocking property of persons threatening the peace, security, or stability of Burma), Executive Order 13687 (50 U.S.C. 1701 note; relating to imposing additional sanctions with respect to North Korea), Executive Order No. 13694 (50 U.S.C. 1701 note; relating to blocking the property of certain persons engaging in significant malicious cyber-enabled activities), or Executive Order No. 13722 (50 U.S.C. 1701 note; relating to blocking the property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea), to the extent that such Executive order—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea; and

(B) any Executive order adopted on or after February 18, 2016, to the extent that such Executive order—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea.

(2) Applicable United Nations Security Council resolution

The term “applicable United Nations Security Council resolution” means—

(A) United Nations Security Council Resolution 1695 (2006), 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016), or 2321 (2016); and

(B) any United Nations Security Council resolution adopted on or after February 18, 2016, that—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea.

(3) Appropriate congressional committees

The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Ways and Means of the House of Representatives.

(4) Designated person

The term “designated person” means a person designated under subsection (a), (b), or (g) of section 9214 of this title for purposes of applying 1 or more of the sanctions described in subchapter I or II with respect to the person.

(5) Foreign person

The term “foreign person” means—

(A) an individual who is not a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity that is not a United States person.

(6) Government of North Korea

The term “Government of North Korea” means the Government of North Korea and its agencies, instrumentalities, and controlled entities.

(7) Humanitarian assistance

The term “humanitarian assistance” means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(8) Intelligence community

The term “intelligence community” has the meaning given such term in section 3003(4) of title 50.

(9) Luxury goods

The term “luxury goods”—

(A) has the meaning given such term in section 746.4(b)(1) of title 15, Code of Federal Regulations;

(B) includes the items listed in Supplement No. 1 to part 746 of such title, and any similar items; and

(C) also includes any items so designated under an applicable United Nations Security Council resolution.

(10) Monetary instruments

The term “monetary instruments” has the meaning given such term in section 5312(a) of title 31.

(11) North Korea

The term “North Korea” means the Democratic People’s Republic of Korea.

(12) North Korean financial institution

The term “North Korean financial institution” means any financial institution that—

(A) is organized under the laws of North Korea or any jurisdiction within North Korea (including a foreign branch of such an institution);

(B) is located in North Korea, except for a financial institution that is excluded by the President in accordance with section 9228(c) of this title;

(C) is owned or controlled by the Government of North Korea, regardless of location; or

(D) is owned or controlled by a financial institution described in subparagraph (A), (B), or (C), regardless of location.

(13) North Korean person

The term “North Korean person” means—

(A) a North Korean citizen or national; or

(B) an entity owned or controlled by the Government of North Korea or by a North Korean citizen or national.

(14) Significant activities undermining cybersecurity

The term “significant activities undermining cybersecurity” includes—

(A) significant efforts to—

(i) deny access to or degrade, disrupt, or destroy an information and communications technology system or network; or

(ii) exfiltrate information from such a system or network without authorization;

(B) significant destructive malware attacks;

(C) significant denial of service activities; and

(D) such other significant activities described in regulations promulgated to implement section 9214 of this title.

(15) South Korea

The term “South Korea” means the Republic of Korea.

(16) United States person

The term “United States person” means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

(Pub. L. 114–122, § 3, Feb. 18, 2016, 130 Stat. 95; Pub. L. 115–44, title III, § 302(a), Aug. 2, 2017, 131 Stat. 940; Pub. L. 116–92, div. F, title LXXI, § 7122(b)(1), Dec. 20, 2019, 133 Stat. 2248.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, 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.

Subchapter I or II, referred to in par. (4), was in the original “title I or II”, meaning titles I and II of Pub. L. 114–122. Title I is classified principally to subchapter I of this chapter. Title II is classified generally to subchapter II of this chapter. For complete classification of titles I and II of Pub. L. 114–122 to the Code, see Tables.

AMENDMENTS

2019—Par. (4). Pub. L. 116–92 substituted “(a), (b), or (g)” for “(a) or (b)”.

2017—Par. (1)(A). Pub. L. 115–44, § 302(a)(1), substituted “Executive Order No. 13694” for “or Executive Order 13694” and inserted “or Executive Order No. 13722 (50 U.S.C. 1701 note; relating to blocking the property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea),” before “to the extent”.

Par. (2)(A). Pub. L. 115–44, § 302(a)(2), substituted “2094 (2013), 2270 (2016), or 2321 (2016)” for “or 2094 (2013)”.

Pars. (5) to (9). Pub. L. 115–44, § 302(a)(3)(A), added par. (5) and redesignated former pars. (5) to (8) as (6) to (9), respectively.

Par. (9)(C). Pub. L. 115–44, § 302(a)(4), added subpar. (C).

Pars. (10) to (12). Pub. L. 115–44, § 302(a)(3)(A), redesignated pars. (9) to (11) as (10) to (12), respectively.

Par. (13). Pub. L. 115–44, § 302(a)(5)(B), added par. (13). Former par. (13) redesignated (14).

Pub. L. 115–44, § 302(a)(3)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Par. (14). Pub. L. 115–44, § 302(a)(5)(A), redesignated par. (13) as (14). Former par. (14) redesignated (15).

Pub. L. 115–44, § 302(a)(3)(A), redesignated par. (13) as (14). Former par. (14) redesignated (15).

Par. (15). Pub. L. 115–44, § 302(a)(5)(A), redesignated par. (14) as (15). Former par. (15) redesignated (16).

Pub. L. 115–44, § 302(a)(3)(A), redesignated par. (14) as (15).

Par. (16). Pub. L. 115–44, § 302(a)(5)(A), redesignated par. (15) as (16).

Statutory Notes and Related Subsidiaries

REGULATORY AUTHORITY

Pub. L. 115–44, title III, § 333, Aug. 2, 2017, 131 Stat. 955, provided that:

“(a) IN GENERAL.—The President shall, not later than 180 days after the date of the enactment of this Act [Aug. 2, 2017], promulgate regulations as necessary for the implementation of this title [see Short Title of 2017 Amendment note set out under section 9201 of this title] and the amendments made by this title.

“(b) NOTIFICATION TO CONGRESS.—Not fewer than 10 days before the promulgation of a regulation under subsection (a), the President shall notify and provide to the appropriate congressional committees [see Definitions note below] the proposed regulation, specifying the provisions of this title or the amendments made by this title that the regulation is implementing.”

RULE OF CONSTRUCTION

Pub. L. 115–44, title III, §332, Aug. 2, 2017, 131 Stat. 954, provided that: “Nothing in this title [see Short Title of 2017 Amendment note set out under section 9201 of this title] shall be construed to limit—

“(1) the authority or obligation of the President to apply the sanctions described in section 104 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9214), as amended by section 311 of this Act, with regard to persons who meet the criteria for designation under such section, or in any other provision of law; or

“(2) the authorities of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).”

AUTHORITY TO CONSOLIDATE REPORTS

Pub. L. 115–44, title III, §331, Aug. 2, 2017, 131 Stat. 954, provided that: “Any reports required to be submitted to the appropriate congressional committees [see Definitions note below] under this title [see Short Title of 2017 Amendment note set out under section 9201 of this title] or any amendment made by this title that are subject to deadlines for submission consisting of similar units of time may be consolidated into a single report that is submitted to appropriate congressional committees pursuant to the earlier of such deadlines. The consolidated reports must contain all information required under this title or any amendment made by this title, in addition to all other elements mandated by previous law.”

DEFINITIONS

Pub. L. 115–44, title III, §302(b), Aug. 2, 2017, 131 Stat. 941, provided that: “In this title [see Short Title of 2017 Amendment note set out under section 9201 of this title]:

“(1) APPLICABLE UNITED NATIONS SECURITY COUNCIL RESOLUTION; LUXURY GOODS.—The terms ‘applicable United Nations Security Council resolution’ and ‘luxury goods’ have the meanings given those terms, respectively, in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9202), as amended by subsection (a).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES; GOVERNMENT OF NORTH KOREA; UNITED STATES PERSON.—The terms ‘appropriate congressional committees’, ‘Government of North Korea’, and ‘United States person’ have the meanings given those terms, respectively, in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9202).

“(3) FOREIGN PERSON; NORTH KOREAN PERSON.—The terms ‘foreign person’ and ‘North Korean person’ have the meanings given those terms, respectively, in paragraph (5) and paragraph (13) of section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9202(5) and 9202(13)), as added by subsection (a).

“(4) PROHIBITED WEAPONS PROGRAM.—The term ‘prohibited weapons program’ means—

“(A) any program related to the development of nuclear, chemical, or biological weapons, and their means of delivery, including ballistic missiles; and

“(B) any program to develop related materials with respect to a program described in subparagraph (A).”

§ 9203. Strategy on North Korea

(a) Report on strategy required

Not later than 90 days after December 12, 2017, the President shall submit to Congress a report setting forth the strategy of the United States with respect to North Korea.

(b) Elements

The report required by subsection (a) shall include the following:

(1) A description and assessment of the primary threats to United States national security interests from North Korea.

(2) A description of known foreign nation, foreign entity, or individual violations of current United Nations sanctions against North Korea, together with parameters for determining whether and on what timeline it serves United States interests to target such violators with unilateral secondary sanctions.

(3) A description of the diplomatic, economic, and trade relationships between China and North Korea and between Russia and North Korea, including trends in such relationships and their impact on the Government of North Korea.

(4) An identification of the diplomatic, economic, and security objectives for the Korean Peninsula and the desired end state in North Korea with respect to the security threats emanating from North Korea.

(5) A detailed roadmap to reach the objectives and end state identified pursuant to paragraph (4), including timelines for each element of the roadmap.

(6) A description of the unilateral and multilateral options available to the United States regarding North Korea, together with an assessment of the degree to which such options would impose costs on North Korea.

(7) A description of the resources and authorities necessary to carry out the roadmap described in paragraph (5).

(8) A description of operational plans and associated military requirements for the protection of United States interests with respect to North Korea.

(9) An identification of any capability or resource gaps that would affect the implementation of the strategy described in subsection (a), and a mitigation plan to address such gaps.

(10) An assessment of current and desired partner contributions to countering threats from North Korea, and a plan to enhance cooperation among countries with shared security interests with respect to North Korea.

(11) Any other matters the President considers appropriate.

(c) Annual updates

The President shall submit to Congress in writing on an annual basis a report describing and assessing progress in the implementation of the strategy described in subsection (a).

(d) Form

The report under subsection (a) and each report under subsection (c) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 115–91, div. A, title XII, §1256, Dec. 12, 2017, 131 Stat. 1682.)

Editorial Notes

CODIFICATION

Section enacted as part of the National Defense Authorization Act for Fiscal Year 2018, and not as part of the North Korea Sanctions and Policy Enhancement Act of 2016 which comprises this chapter.