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REPORT
115–361

# IMPEDING NORTH KOREA'S ACCESS TO FINANCE ACT OF 2017

OCTOBER 23, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HENSARLING, from the Committee on Financial Services, submitted the following

# R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 3898]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3898) to require the Secretary of the Treasury to place conditions on certain accounts at United States financial institutions with respect to North Korea, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Impeding North Korea's Access to Finance Act of 2017".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) On June 1, 2016, the Department of the Treasury's Financial Crimes Enforcement Network announced a Notice of Finding that the Democratic People's Republic of Korea is a jurisdiction of primary money laundering concern due to its use of state-controlled financial institutions and front companies to support the proliferation and development of weapons of mass destruction (WMD) and ballistic missiles.

(2) The Financial Action Task Force (FATF) has expressed serious concerns with the threat posed by North Korea's proliferation and financing of WMD, and has called on FATF members to apply effective counter-measures to protect

their financial sectors from North Korean money laundering, WMD proliferation financing, and the financing of terrorism.

(3) In its February 2017 report, the U.N. Panel of Experts concluded that—

(A) North Korea continued to access the international financial system in support of illicit activities despite sanctions imposed by U.N. Security Council Resolutions 2270 (2016) and 2321 (2016);

(B) during the reporting period, no member state had reported taking actions to freeze North Korean assets; and

(C) sanctions evasion by North Korea, combined with inadequate compliance by member states, had significantly negated the impact of U.N. Security Council resolutions.

(4) In its September 2017 report, the U.N. Panel of Experts found that—

(A) North Korea continued to violate financial sanctions by using agents acting abroad on the country's behalf;

(B) foreign financial institutions provided correspondent banking services to North Korean persons and front companies for illicit purposes;

(C) foreign companies violated sanctions by maintaining links with North Korean financial institutions; and

(D) North Korea generated at least $270 million during the reporting period through the violation of sectoral sanctions.

(5) North Korean entities engage in significant financial transactions through foreign bank accounts that are maintained by non-North Korean nationals, thereby masking account users' identity in order to access financial services.

(6) North Korea's sixth nuclear test on September 3, 2017, demonstrated an estimated explosive power more than 100 times greater than that generated by its first nuclear test in 2006.

(7) North Korea has successfully tested submarine-launched and intercontinental ballistic missiles, and is rapidly progressing in its development of a nuclear-armed missile that is capable of reaching United States territory.

**SEC. 3. CONDITIONS WITH RESPECT TO CERTAIN ACCOUNTS AND TRANSACTIONS AT UNITED STATES FINANCIAL INSTITUTIONS.**

(a) CORRESPONDENT AND PAYABLE-THROUGH ACCOUNTS HELD BY FOREIGN FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary finds knowingly facilitates a significant transaction or transactions or provides significant financial services for a covered person.

(2) PENALTIES.—

(A) CIVIL PENALTY.—A person who violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under this subsection shall be subject to a civil penalty in an amount not to exceed the greater of—

(i) $250,000; or

(ii) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(B) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, a violation of regulations prescribed under this subsection shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) RESTRICTIONS ON CERTAIN TRANSACTIONS BY UNITED STATES FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to prohibit a United States financial institution, and any person owned or controlled by a United States financial institution, from knowingly engaging in a significant transaction or transactions with or benefitting any person that the Secretary finds to be a covered person.

(2) CIVIL PENALTY.—A person who violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under this subsection shall be subject to a civil penalty in an amount not to exceed the greater of—

(A) $250,000; or

(B) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

**SEC. 4. OPPOSITION TO ASSISTANCE BY THE INTERNATIONAL FINANCIAL INSTITUTIONS AND THE EXPORT-IMPORT BANK.**

(a) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

**"SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERNMENT THAT FAILS TO IMPLEMENT SANCTIONS ON NORTH KOREA.**

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director at the international financial institutions (as defined under section 1701(c) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision of financial assistance to a foreign government, other than assistance to support basic human needs, if the President determines that, in the year preceding consideration of approval of such assistance, the government has knowingly failed to prevent the provision of financial services to, or freeze the funds, financial assets, and economic resources of, a person described under subparagraphs (A) through (E) of section 7(2) of the Impeding North Korea's Access to Finance Act of 2017.

"(b) WAIVER.—The President may waive subsection (a) for up to 180 days at a time with respect to a foreign government if the President reports to Congress that—

"(1) the foreign government's failure described under (a) is due exclusively to a lack of foreign government capacity;

"(2) the foreign government is taking effective steps to prevent recurrence of such failure; or

"(3) such waiver is vital to the national security interests of the United States.".

(b) EXPORT-IMPORT BANK.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following:

"(14) PROHIBITION ON SUPPORT INVOLVING PERSONS CONNECTED WITH NORTH KOREA.—The Bank may not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the export of a good or service to a covered person (as defined under section 7 of the Impeding North Korea's Access to Finance Act of 2017).".

**SEC. 5. TREASURY REPORTS ON COMPLIANCE, PENALTIES, AND TECHNICAL ASSISTANCE.**

(a) QUARTERLY REPORT.—

(1) IN GENERAL.—Not later than 120 days following the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

(A) a list of financial institutions that, in the period since the preceding report, knowingly facilitated a significant transaction or transactions or provided significant financial services for a covered person, or failed to apply appropriate due diligence to prevent such activities;

(B) a list of any penalties imposed under section 3 in the period since the preceding report; and

(C) a description of efforts by the Department of the Treasury in the period since the preceding report, through consultations, technical assistance, or other appropriate activities, to strengthen the capacity of financial institutions and foreign governments to prevent the provision of financial services benefitting any covered person.

(2) FORM OF REPORT; PUBLIC AVAILABILITY.—

(A) FORM.—The report required under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) PUBLIC AVAILABILITY.—The unclassified portion of such report shall be made available to the public and posted on the website of the Department of the Treasury.

(b) TESTIMONY REQUIRED.—Upon request of the Committee on Financial Services of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, the Under Secretary of the Treasury for Terrorism and Financial Intelligence shall testify to explain the effects of this Act, and the amendments made by this Act, on North Korea's access to finance.

(c) INTERNATIONAL MONETARY FUND.—Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end the following:

**"SEC. 1629. SUPPORT FOR CAPACITY OF THE INTERNATIONAL MONETARY FUND TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM.**

"The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to support the use of the administrative budget

of the Fund for technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism.".

(d) NATIONAL ADVISORY COUNCIL REPORT TO CONGRESS.—The Chairman of the National Advisory Council on International Monetary and Financial Policies shall include in the report required by section 1701 of the International Financial Institutions Act (22 U.S.C. 262r) for the fiscal year following the date of the enactment of this Act a description of—

(1) the activities of the International Monetary Fund in the most recently completed fiscal year to provide technical assistance that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism, and the effectiveness of the assistance; and

(2) the efficacy of efforts by the United States to support such technical assistance through the use of the Fund's administrative budget.

**SEC. 6. SUSPENSION AND TERMINATION OF PROHIBITIONS AND PENALTIES.**

(a) SUSPENSION.—The President may suspend, on a case-by-case basis, the application of any provision of this Act, or provision in an amendment made by this Act, for a period of not more than 180 days at a time if the President certifies to Congress that—

(1) the Government of North Korea has—

(A) committed to the verifiable suspension of North Korea's proliferation and testing of WMD, including systems designed in whole or in part for the delivery of such weapons; and

(B) has agreed to multilateral talks including the Government of the United States, with the goal of permanently and verifiably limiting North Korea's WMD and ballistic missile programs; or

(2) such suspension is vital to the national security interests of the United States, with an explanation of the reasons therefor.

(b) TERMINATION.—

(1) IN GENERAL.—On the date that is 30 days after the date on which the President makes the certification described under paragraph (2)—

(A) section 3, subsections (a) and (b) of section 5, and section 6(a) of this Act shall cease to have any force or effect;

(B) section 73 of the Bretton Woods Agreements Act, as added by section 4(a), shall be repealed; and

(C) section 2(b)(14) of the Export-Import Bank Act of 1945, as added by section 4(b), shall be repealed.

(2) CERTIFICATION.—The certification described under this paragraph is a certification by the President to the Congress that—

(A) the Government of North Korea—

(i) has ceased to pose a significant threat to national security, with an explanation of the reasons therefor; or

(ii) is committed to, and is taking effective steps to achieving, the goal of permanently and verifiably limiting North Korea's WMD and ballistic missile programs; or

(B) such termination is vital to the national security interests of the United States, with an explanation of the reasons therefor.

**SEC. 7. DEFINITIONS.**

For purposes of this Act:

(1) TERMS RELATED TO NORTH KOREA.—The terms "applicable Executive order", "Government of North Korea", "North Korea", "North Korean person", and "significant activities undermining cybersecurity" 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).

(2) COVERED PERSON.—The term "covered person" means the following:

(A) Any designated person under an applicable Executive order.

(B) Any North Korean person that facilitates the transfer of bulk cash or covered goods (as defined under section 1027.100 of title 31, Code of Federal Regulations).

(C) Any North Korean financial institution.

(D) Any North Korean person employed outside of North Korea, except that the Secretary of the Treasury may waive the application of this subparagraph for a North Korean person that is not otherwise a covered person and—

(i) has been granted asylum or refugee status by the country of employment; or

(ii) is employed as essential diplomatic personnel for the Government of North Korea.

(E) Any person acting on behalf of, or at the direction of, a person described under subparagraphs (A) through (D).

(F) Any person that knowingly employs a person described under subparagraph (D).

(G) Any person that facilitates the import of goods, services, technology, or natural resources, including energy imports and minerals, or their derivatives, from North Korea.

(H) Any person that facilitates the export of goods, services, technology, or natural resources, including energy exports and minerals, or their derivatives, to North Korea, except for food, medicine, or medical supplies required for civilian humanitarian needs.

(I) Any person that invests in, or participates in a joint venture with, an entity in which the Government of North Korea participates or an entity that is created or organized under North Korean law.

(J) Any person that provides financial services, including through a subsidiary or joint venture, in North Korea.

(K) Any person that insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned, controlled, commanded, or operated by a North Korean person.

(L) Any person providing specialized teaching, training, or information or providing material or technological support to a North Korean person that—

(i) may contribute to North Korea's development and proliferation of WMD, including systems designed in whole or in part for the delivery of such weapons; or

(ii) may contribute to significant activities undermining cybersecurity.

(3) FINANCIAL INSTITUTION DEFINITIONS.—

(A) FINANCIAL INSTITUTION.—The term "financial institution" means a United States financial institution or a foreign financial institution.

(B) FOREIGN FINANCIAL INSTITUTION.—The term "foreign financial institution" has the meaning given that term under section 1010.605 of title 31, Code of Federal Regulations.

(C) NORTH KOREAN FINANCIAL INSTITUTION.—The term "North Korean financial institution" includes—

(i) any North Korean financial institution, as defined in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9202);

(ii) any financial agency, as defined in section 5312 of title 31, United States Code, that is owned or controlled by the Government of North Korea;

(iii) any money transmitting business, as defined in section 5330(d) of title 31, United States Code, that is owned or controlled by the Government of North Korea;

(iv) any financial institution that is a joint venture between any person and the Government of North Korea; and

(v) any joint venture involving a North Korean financial institution.

(D) UNITED STATES FINANCIAL INSTITUTION.—The term "United States financial institution" has the meaning given the term "U.S. financial institution" under section 510.310 of title 31, Code of Federal Regulations.

(4) KNOWINGLY.—The term "knowingly" with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

Amend the title so as to read:

A bill to impose secondary sanctions with respect to North Korea, strengthen international efforts to improve sanctions enforcement, and for other purposes.

## PURPOSE AND SUMMARY

On October 2, 2017, Representative Andy Barr introduced H.R. 3898 the "Impeding North Korea's Access to Finance Act of 2017." This legislation would impose secondary sanctions with respect to North Korea and require the Secretary of the Treasury to place conditions on the correspondent and payable-through accounts of foreign financial institutions that knowingly do business with "cov-

ered persons," a category that encompasses virtually anyone that facilitates North Korean trade and investment, acquires hard currency for the Kim Jong-Un regime, or provides other support for North Korea's weapons and cyber-hacking programs. In addition, the bill would require the U.S. to oppose assistance by the international financial institutions for countries that knowingly fail to stop providing financial services for enablers of North Korea's illicit activities.

H.R. 3898 includes waiver authorities that incentivize North Korean behavioral change, particularly the suspension of its testing and proliferation of weapons of mass destruction (WMD), and a commitment to permanently limit its WMD and ballistic missile programs. Waiver provisions further incentivize third countries to strictly enforce North Korean sanctions, and to take corrective action in cases where sanctions enforcement has fallen short. Finally, reporting requirements in this legislation call for quarterly implementation updates from the Secretary of the Treasury, enhancing congressional oversight over the Treasury Department's efforts to cut off North Korea's access to finance.

## BACKGROUND AND NEED FOR LEGISLATION

The Democratic People's Republic of Korea (DPRK) has conducted six nuclear tests since 2006, and successfully tested an intercontinental ballistic missile (ICBM) on July 4 and July 28, 2017. This missile—dubbed the "Hwasong-14"—had an estimated range sufficient to reach Alaska, and potentially the East Coast of the United States. Moreover, the Defense Intelligence Agency has reportedly concluded that North Korea could miniaturize a nuclear device to fit inside its missiles, and may be able to design a reentry vehicle to support a nuclear warhead by late 2018. Developing an effective reentry vehicle would cross a significant threshold for Pyongyang, as it would represent the ability to wage a nuclear attack on the continental United States.

North Korea's nuclear ambitions may be traced to as early as 1959, when the DPRK signed an agreement with the Soviet Union, and later China, to cooperate on nuclear research. Under Kim Il-Sung, the North Koreans went on to pursue nuclear weapons in the 1970s, yet these plans were discouraged by both the USSR and China. The Soviets eventually convinced North Korea to join the Nuclear Non-Proliferation Treaty (NPT) in 1985, which bound Pyongyang to refrain from developing nuclear weapons of its own.

Despite signing on to the NPT, North Korea blocked international inspections required under the treaty, and threatened to withdraw from the NPT in the 1990s. This crisis led to the Agreed Framework of 1994, where the U.S. committed to providing energy assistance and, in collaboration with Japan and South Korea, constructing two proliferation-resistant nuclear power reactors in exchange for Pyongyang suspending its plutonium production under international monitoring. Although the North froze its production facilities, the Agreed Framework began to break down in the ensuing years, especially following the DPRK's 1998 launch of the Taepodong-1 long-range missile over Japan. In 2002, the George W. Bush Administration accused North Korea of violating the Agreed Framework by producing highly enriched uranium, a violation that the North Koreans reportedly admitted to. Reactor construction

and energy assistance were subsequently put on hold, after which North Korea expelled international inspectors, and ultimately withdrew from the NPT in January 2003.

As a result, 2003 saw the Agreed Framework give way to the establishment of the Six Party Talks, a series of negotiations involving the U.S., China, Japan, Russia, and North and South Korea. Although the Talks may have served as a useful forum for the U.S. to discuss policy with regional actors, they also led to several false dawns. In 2005, North Korea implemented a freeze on plutonium production, only to test its first nuclear device in 2006. Another tentative plan to verifiably denuclearize in 2007 led to the easing of U.S. sanctions the following year, including the removal of North Korea from the state sponsors of terrorism list. In the end, however, Pyongyang restarted its nuclear program as President Bush prepared to leave office.

Bad-faith commitments by the DPRK continued under the Obama Administration, with North Korea agreeing in 2012 to suspend nuclear and long-range missile testing and open its Yongbyon reactor to inspections from the International Atomic Energy Agency (IAEA), only to launch a long-range rocket a few weeks later and proceed with its third nuclear test the next year—the most powerful yet—in February 2013. This test led to a unanimous United Nations Security Council vote for new sanctions targeting North Korean trade and financial services.

Two additional nuclear tests were held in January and September 2016, with the latter registering an explosion 10 times greater than North Korea's initial test a decade earlier. The January test prompted the UN to call for members to inspect all cargo originating from or destined for North Korea. The September test was followed by UN Security Council Resolution 2321, which banned most coal, iron, and other mineral exports from the DPRK to UN member states. Resolution 2321 also called on member countries to close their representative offices, subsidiaries, and bank accounts in North Korea unless they were required to deliver humanitarian assistance. In addition, UN members were called upon to de-register North Korean vessels, and to prohibit public and private financial support for trade with the country.

Following the two test launches of the Hwasong-14 in July 2017, the UN Security Council passed Resolution 2371 on August 5, a set of sanctions that completely banned North Korean coal, mineral, and seafood exports, and prohibited additional laborers from employment abroad. Within weeks, Pyongyang launched a ballistic missile over Japan, and followed this with its sixth nuclear test on September 3, 2017.

North Korea's sixth nuclear test demonstrated an estimated explosive power in excess of 100 kilotons, which would make it over 100 times more powerful than the DPRK's first nuclear test from 2006, and far more devastating than the 15 kiloton bomb that was dropped on Hiroshima.

A week following the September 2017 nuclear test, the UN Security Council approved Resolution 2375, which, among other provisions, banned North Korean textile exports and capped foreign countries' petroleum exports to the DPRK. The impact of this latest sanctions round quickly appeared uncertain, however: shortly after passage of the Resolution, North Korean Foreign Minister Ri Yong

Ho threatened that the North might test a hydrogen bomb over the Pacific Ocean and shoot down U.S. strategic bombers. In early October, a Russian lawmaker who had returned from a visit to Pyongyang revealed that the North was preparing to test another ICBM that could reach the United States.

It is clear that North Korea sanctions have thus far been unable to thwart the country's nuclear ambitions. There are several reasons for this failure:

*Limited Reach of Primary Sanctions*—Previous sanctions have targeted North Korean relationships with the outside world that may not be essential for Pyongyang. This includes sanctions prohibiting trade and investment between the U.S. and DPRK (i.e. "primary sanctions"). Since the end of the Korean War in 1953, economic relations between the two countries have been nearly nonexistent, with the temporary exception of aid provided to address the North Korean famine in the 1990s, and to reward Pyongyang intermittently for suspending its nuclear program. Therefore, while primary sanctions are extensive, their impact may be limited.

*Deficient Sanctions Enforcement*—Although UN members are bound to implement sanctions imposed by UN Security Council Resolutions, such implementation has been uneven, either because sanctions may not be written into national laws, or because enforcement of those laws is deficient. As the UN Panel of Experts noted in a February 2017 report:

> "Despite expanded financial sanctions adopted by the Security Council in resolutions 2270 (2016) and 2321 (2016), the Democratic People's Republic of Korea has continued to access the international financial system to support its activities. Financial networks of the Democratic People's Republic of Korea have adapted to these sanctions, using evasive methods to maintain access to formal banking channels and bulk cash transfers to facilitate prohibited activities. At the time of writing, Democratic People's Republic of Korea circumvention techniques and inadequate compliance by Member States are combining to significantly negate the impact of the resolutions."

In a July 2017 hearing before the Financial Services Committee, William Newcomb, a former member of the UN Panel of Experts, testified:

> "Over the past decade, the record of implementation by Member States is a poor one. It was not unusual to find that even several members of the Security Council had not implemented sanctions. Typically it took many years following adoption of a resolution before reports of its implementation rose to the fifty percent mark."

According to Newcomb, UN members cannot plausibly claim ignorance of the Resolutions' requirements; although continued efforts to educate countries on their provisions are important, compelling those countries to take action may be necessary. As Newcomb stated in his testimony:

> "While outreach will remain essential, particularly to explain the growing complexity of sanctions as new Resolu-

> tions are adopted, positive and negative incentives are needed to encourage more Member States to act."

*North Korean Use of Foreign Nationals*—The DPRK has sought to evade sanctions through the use of brokers and front companies abroad, notably in China and Southeast Asia, which act on behalf of North Korean persons. At a hearing before the Committee on September 13, 2017, David Albright, President of the Institute for Science and International Security, outlined how non-North Korean nationals have been crucial for the DPRK's procurement activities:

> When [North Korea] could no longer base its operations in Europe in the early 2000s, it shifted its operations to China, where many procurement operations for its nuclear program have been centered since then. Operating in China and Hong Kong, it has acquired a wide range of goods from Chinese companies and middlemen, as well as from U.S., Japanese, and European subsidiaries, which have been deceived into thinking they were selling to Chinese end users. North Korean entities often contract with private Chinese and Hong Kong trading companies and sometimes manufacturing companies to acquire these goods, either from Chinese suppliers or subsidiaries of Western or Japanese suppliers in China. Although China is improving its export control laws, Beijing has not done an adequate job of enforcing its laws and sanctions against illegal exports and retransfers to North Korea.

The challenge posed by front companies was echoed in a September 2017 report by the UN Panel of Experts, which noted:

> "Financial institutions in numerous Member States wittingly and unwittingly have provided correspondent banking services to front companies and individual of the Democratic People's Republic of Korea engaged in prohibited activities. Moreover, foreign companies maintain links with financial institutions of the country established as subsidiaries or joint ventures in violation of the resolutions."

Despite the DPRK's use of non-North Korean persons, its trading activities should nonetheless be detectable. As C4ADS, a nonprofit research organization, concluded in its 2017 report, Risky Business: A System-Level Analysis of the North Korean Proliferation Financing System: "By being centralized, limited, and ultimately vulnerable, North Korean overseas networks are, by their nature, ripe for disruption." Drawing on open-source data, C4ADS mapped such networks, and concluded that targeting key non-North Korean nationals, particularly in China, could significantly undermine the DPRK's procurement and financing efforts. According to the C4ADS report:

> "Although to date economic coercion has been ineffective in persuading North Korea to abandon its pursuit of nuclear weapons, this does not mean it cannot work. On the contrary, targeted enforcement actions against key nodes within the system can have the effect of impacting multiple networks across multiple countries simultaneously, removing key functions, such as individuals or entities spe-

> cialized in illicit finance and procurement, who cannot be easily replaced. Each action can individually increase the cost and complexity of sanctions evasion for North Korea but if applied against a number of these key nodes simultaneously, they could, in theory, cause the entire overseas system to collapse."

In the absence of sufficient enforcement measures taken against these trading entities by their home countries, H.R. 3898 would punish foreign financial institutions that conduct business with them, and help foreign governments ensure that their financial sectors cannot be exploited by North Korean efforts to evade sanctions.

At the same time, H.R. 3898 reflects the principle that secondary sanctions should include significant flexibility for the President to advance U.S. foreign policy goals. As Adam Szubin, Director of the Treasury Department's Office of Foreign Assets Control under the George W. Bush administration, and Acting Under Secretary for Terrorism and Financial Intelligence under the Obama administration, testified on September 7, 2017 before the Senate Committee on Banking, Housing, and Urban Affairs:

> "[Sanctions] are meant to incentivize behavioral change. For that inducement to work, the targets of sanctions must see that the President has the ability to lighten or remove the pressure. That is, those that conduct our nation's foreign affairs must have discretion over how and when sanctions are eased or removed."

Consequently, this legislation's waiver authorities are designed to provide sanctions relief in response to realistic behavioral change on the part of North Korea and other affected countries. In addition, the application of any provision may be suspended if the President reports to Congress that a waiver is vital to national security interests.

In summary, the DPRK's rapid development of both nuclear weapons and vehicles for their delivery calls for forceful secondary sanctions premised on a limited number of clear and achievable goals, incentives for foreign countries to eliminate business benefitting North Korea, and appropriate discretion for the President to maximize the effectiveness of these tools.

## HEARINGS

On July 19, 2017, the Monetary Policy and Trade Subcommittee held a hearing on matters relating to H.R. 3898 entitled, "Restricting North Korea's Access to Finance." On September 13, 2017, the Monetary Policy and Trade Subcommittee held an additional hearing on a discussion draft of H.R. 3898 entitled, "A Legislative Proposal to Impede North Korea's Access to Finance."

## COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on October 11, 2017, and ordered H.R. 3898 to be reported favorably to the House as amended by a recorded vote of 56 yeas to 0 nays (Recorded vote no. FC–73), a quorum being present. Before the motion

to report was offered, the Committee adopted an amendment in the nature of a substitute offered by Mr. Barr by voice vote.

## COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 56 yeas to 0 nays (Record vote no. FC–73), a quorum being present.

Record vote no. FC-73

| Representative | Yea | Nay | Present | Representative | Yea | Nay | Present |
|---|---|---|---|---|---|---|---|
| Mr. Hensarling | X | | | Ms. Maxine Waters (CA) | X | | |
| Mr. McHenry | X | | | Mrs. Carolyn B. Maloney (NY) | X | | |
| Mr. King | X | | | Ms. Velázquez | X | | |
| Mr. Royce (CA) | X | | | Mr. Sherman | X | | |
| Mr. Lucas | X | | | Mr. Meeks | X | | |
| Mr. Pearce | | | | Mr. Capuano | X | | |
| Mr. Posey | X | | | Mr. Clay | | | |
| Mr. Luetkemeyer | X | | | Mr. Lynch | X | | |
| Mr. Huizenga | X | | | Mr. David Scott (GA) | X | | |
| Mr. Duffy | X | | | Mr. Al Green (TX) | X | | |
| Mr. Stivers | X | | | Mr. Cleaver | X | | |
| Mr. Hultgren | X | | | Ms. Moore | | | |
| Mr. Ross | X | | | Mr. Ellison | X | | |
| Mr. Pittenger | X | | | Mr. Perlmutter | X | | |
| Mrs. Wagner | X | | | Mr. Himes | X | | |
| Mr. Barr | X | | | Mr. Foster | X | | |
| Mr. Rothfus | X | | | Mr. Kildee | X | | |
| Mr. Messer | X | | | Mr. Delaney | X | | |
| Mr. Tipton | X | | | Ms. Sinema | X | | |
| Mr. Williams | X | | | Mrs. Beatty | X | | |
| Mr. Poliquin | X | | | Mr. Heck | X | | |
| Mrs. Love | X | | | Mr. Vargas | X | | |
| Mr. Hill | X | | | Mr. Gottheimer | X | | |
| Mr. Emmer | X | | | Mr. Gonzalez (TX) | X | | |
| Mr. Zeldin | X | | | Mr. Crist | X | | |
| Mr. Trott | X | | | Mr. Kihuen | | | |
| Mr. Loudermilk | X | | | | | | |
| Mr. Mooney (WV) | X | | | | | | |
| Mr. MacArthur | X | | | | | | |
| Mr. Davidson | X | | | | | | |
| Mr. Budd | X | | | | | | |
| Mr. Kustoff (TN) | X | | | | | | |
| Ms. Tenney | X | | | | | | |
| Mr. Hollingsworth | X | | | | | | |

## COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

## PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

## NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, October 20, 2017.*

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3898, the Impeding North Korea's Access to Finance Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jacob Fabian.

Sincerely,

KEITH HALL,
*Director.*

Enclosure.

*H.R. 3898—Impeding North Korea's Access to Finance Act of 2017*

H.R. 3898 would expand federal sanctions and reporting requirements related to commercial transactions and interactions with North Korea. The bill would require the Secretary of the Treasury to issue regulations that prohibit or strictly limit correspondent accounts maintained in the United States by certain foreign financial institutions. (Correspondent accounts allow banks to send money to each other internationally and are essential for banks to access for-

eign financial systems and for customer payments.) The affected institutions would include any institution that knowingly facilitates transactions or provides significant financial services for individuals or entities in the world that transact with persons in North Korea.

Additionally, the bill would instruct the U.S. executive directors of international financial institutions (for example, the International Monetary Fund, the Asian Development Bank, or similar institutions) to support the denial of financial assistance to foreign governments that do not comply with the bill and, in the case of the International Monetary Fund, to support the use of administrative funds to prevent money laundering and the financing of terrorism. The bill also would require the Secretary of the Treasury to regularly report on the sanctions and other activities covered by the bill.

On the basis of information about the costs of similar activities, CBO estimates that administering the sanctions and implementing the reporting requirements under H.R. 3898 would cost the Department of the Treasury less than $500,000 over the 2018–2022 period; such spending would be subject to the availability of appropriated funds.

Enacting H.R. 3898 would increase the number of people and entities that would be subject to civil or criminal penalties. Penalties are recorded in the budget as revenues and a portion of those penalties can be spent without further appropriation. Pay-as-you-go procedures apply to this bill because enacting H.R. 3898 would affect direct spending and revenues. However, CBO estimates that implementing the additional sanctions in H.R. 3898 would affect very few people or entities because of the broad scope of restrictions that exist under current law and executive orders that address financial and other interactions with North Korea. Thus enacting the bill would have insignificant effects on both revenues and direct spending, CBO estimates.

CBO estimates that enacting H.R. 3898 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3898 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jacob Fabian. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis, and John McClelland, Assistant Director for Tax Analysis.

## FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995.

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

## EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

## DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

## DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5, (115th Congress), the following statement is made concerning directed rulemakings: H.R. 3898 requires the Secretary of the Treasury to prescribe regulations to implement the conditions and prohibitions described in Section 3(a) and (b) of the Act.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Sec. 1: Short title*

This Act may be cited as the Impeding North Korea's Access to Finance Act of 2017.

*Sec. 2: Findings*

Congressional findings make note of the following:

- The Treasury Department has found North Korea to be a "jurisdiction of primary money laundering concern," due to its use of state-controlled banks and front companies to support the development of weapons of mass destruction (WMD) and ballistic missiles.
- The Financial Action Task Force (FATF) has called on its members to apply effective counter-measures to protect their financial sectors from North Korean money laundering, WMD proliferation financing, and the financing of terrorism.
- The UN Panel of Experts' report from February 2017 concluded that North Korea continued to access the international financial system in spite of UN sanctions. In addition, the report found that no UN member state had reported taking actions to freeze North Korean assets; and a combination of sanctions evasion

by the country as well as inadequate enforcement by foreign countries had undermined the effectiveness of UN sanctions.

- A September 2017 report from the UN Panel again determined that North Korea continued to violate financial sanctions through the use of agents abroad; foreign financial institutions provided correspondent banking services to North Korean persons and front companies for illicit purposes; foreign companies maintained sanctionable links with North Korean financial institutions; and North Korea generated at least $270 million through the violation of UN sectoral sanctions since the February 2017 report.
- North Korea maintains access to financial services through non-North Korean nationals who help mask the identity of bank accounts' end users.
- North Korea's sixth nuclear test on September 3, 2017 had an estimated explosive power more than 100 times greater than that generated by its first test in 2006.
- North Korea has successfully tested submarine-launched and intercontinental ballistic missiles, and is rapidly progressing in its development of a nuclear-armed missile that can reach U.S. territory.

*Sec. 3: Conditions with respect to certain accounts and transactions at United States financial institutions*

*Correspondent and Payable-Through Accounts*

Within 45 days of enactment, the Secretary of the Treasury shall issue regulations to prohibit, or impose strict conditions on, the opening or maintaining of a foreign financial institution's correspondent or payable-through account(s) at a U.S. financial institution if the foreign financial institution knowingly facilitates a significant transaction or provides significant financial services for a covered person.

A person that violates or attempts to violate these sanctions would be subject to civil penalties not to exceed $250,000, or twice the amount of the transaction that is the basis of the violation, whichever is greater. In addition, criminal penalties of not more than $1 million in fines, or imprisonment of up to 20 years, would be imposed on persons who willfully commit or attempt to commit a violation.

*Transactions by U.S. financial institutions*

Within 45 days of enactment, Treasury would also be required to prohibit any U.S. financial institution, or a person owned or controlled by it, from engaging in a significant transaction with or benefitting any person that the Secretary finds to be a covered person.

Violators of this subsection would be subject to civil penalties not to exceed $250,000, or twice the amount of the transaction that is the basis of the violation, whichever is greater.

A covered person, as defined further under Sec. 7, denotes the following:

A. Any person designated by an applicable Executive order with respect to North Korea;

B. Any North Korean person that facilitates the transfer of bulk cash or covered goods (jewels, precious metals, and precious stones);

C. Any North Korean financial institution;

D. Any North Korean person employed outside of North Korea (with discretion for the Secretary to exempt defectors granted asylum or refugee status, or essential North Korean diplomatic personnel, provided they do not otherwise qualify as a covered person);

E. Any person acting on behalf of, or at the direction of, a person described under A through D;

F. Any person that knowingly employs a person described under D;

G. Any person that facilitates the import of goods, services, technology, or natural resources, including energy imports and minerals, or their derivatives, from North Korea;

H. Any person that facilitates the export of goods, services, technology, or natural resources, including energy exports and minerals, or derivatives, to North Korea, except for food, medicine, or medical supplies required for civilian humanitarian needs;

I. Any person that invests in, or participates in a joint venture with, an entity in which the Government of North Korea participates, or an entity that is created or organized under North Korean law;

J. Any person that provides financial services, including through a subsidiary or joint venture, in North Korea;

K. Any person that insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned, controlled, commanded or operated by a North Korean person; or

L. Any person providing specialized teaching, training, or information to a North Korean person that 1) may contribute to North Korea's development and proliferation of WMD, including systems designed in whole or in part for the delivery of such weapons; or 2) may contribute to significant activities undermining cybersecurity.

*Sec. 4: Opposition to assistance by the international financial institutions and the Export-Import Bank*

This section would require the U.S. Executive Director at the international financial institutions to oppose assistance to a foreign government if the President determines that, in the year prior to considering approval of the assistance, the government knowingly failed to prevent the provision of financial services to, or failed to freeze the funds, financial assets, and economic resources of, a covered person described under subparagraphs (A) through (E) of Section 7(2).

The President may waive this provision for up to 180 days upon reporting to Congress that the foreign government's failure is due solely to a lack of capacity, or that the government is taking effective steps to prevent the failure's recurrence. The President may also issue a waiver upon determining that it is vital to U.S. national security interests.

In addition, this section would require the Export-Import Bank to deny assistance for the export of goods or services to a covered person.

*Sec. 5: Treasury reports on compliance, penalties, and technical assistance*

No later than 120 days after enactment, and every 90 days thereafter, the Secretary of the Treasury would be required to submit a report to the Financial Services Committee and Senate Committee on Banking, Housing, and Urban Affairs that includes:

- A list of financial institutions that knowingly facilitated a transaction, or provided significant financial services to, a covered person; or that failed to exercise appropriate due diligence to prevent such activities;
- A list of any penalties imposed in the reporting period; and
- A description of Treasury's efforts–through consultations, technical assistance, or other appropriate activities–to strengthen financial institutions and foreign countries' capacity to prevent the provision of financial services benefitting a covered person.

This report shall be made public on the Treasury Department's website.

Upon request by the Financial Services Committee or Senate Committee on Banking, Housing, and Urban Affairs, the Under Secretary of the Treasury for Terrorism and Financial Intelligence would be required to provide testimony on the effects of H.R. 3898 with respect to North Korea's access to finance.

This section would also require the U.S. Executive Director at the IMF to support the Fund's use of its administrative budget for technical assistance on anti-money laundering and combatting the financing of terrorism.

*Sec. 6: Suspension and termination of prohibitions and penalties*

The President may suspend any provision, on a case-by-case basis, for up to 180 days at a time upon certifying to Congress that the Government of North Korea has:

- Committed to the verifiable suspension of North Korea's proliferation and testing of WMD, including delivery systems for such weapons; and
- Has agreed to multilateral talks including the U.S. government, with the goal of permanently and verifiably limiting North Korea's WMD and ballistic missile programs.

The President may also suspend any provision upon certifying to Congress that the waiver is vital to U.S. national security interests, with an explanation of the reasons therefor.

*Sunset*

H.R. 3898's provisions would expire 30 days after the President certifies to Congress that the Government of North Korea:

- Has ceased to pose a significant threat to national security, with an explanation of the reasons therefor; or
- Is committed to, and is taking effective steps to achieving, the goal of permanently and verifiably limiting its WMD and ballistic missile programs.

The President may also sunset the Act by certifying to Congress that its termination is vital to U.S. national security interests, with an explanation of the reasons therefor.

*Sec. 7: Definitions*

This section defines terms consistent with appropriate statutes and regulations, and includes a definition of covered persons.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

## BRETTON WOODS AGREEMENTS ACT

* * * * * * *

***SEC. 73. OPPOSITION TO ASSISTANCE FOR ANY GOVERNMENT THAT FAILS TO IMPLEMENT SANCTIONS ON NORTH KOREA.***

*(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director at the international financial institutions (as defined under section 1701(c) of the International Financial Institutions Act) to use the voice and vote of the United States to oppose the provision of financial assistance to a foreign government, other than assistance to support basic human needs, if the President determines that, in the year preceding consideration of approval of such assistance, the government has knowingly failed to prevent the provision of financial services to, or freeze the funds, financial assets, and economic resources of, a person described under subparagraphs (A) through (E) of section 7(2) of the Impeding North Korea's Access to Finance Act of 2017.*

*(b) WAIVER.—The President may waive subsection (a) for up to 180 days at a time with respect to a foreign government if the President reports to Congress that—*

*(1) the foreign government's failure described under (a) is due exclusively to a lack of foreign government capacity;*

*(2) the foreign government is taking effective steps to prevent recurrence of such failure; or*

*(3) such waiver is vital to the national security interests of the United States.*

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## EXPORT-IMPORT BANK ACT OF 1945

* * * * * * *

SEC. 2. (a)(1) There is hereby created a corporation with the name Export-Import Bank of the United States which shall be an agency of the United States of America. The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and

services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. In connection with and in furtherance of its objects and purposes, the Bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock, through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the Bank. The Bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publications of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44, United States Code, whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, United States Code, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5, United States Code. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities. The Bank is hereby authorized to use all of its assets and all moneys which have been or may thereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the Bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2) In order for the Bank to be competitive in all of its financing programs with countries whose exports compete with United States exports, the Bank shall establish a program that—

(A) provides medium-term financing where necessary to be fully competitive—

(i) at rates of interest to the customer which are equal to rates established in international agreements;

(ii) in amounts up to 85 percent of the total cost of the exports involved; and

(iii) with principal amounts of not more than $25,000,000; and

(B) enables the Bank to cooperate fully with the Secretary of Commerce and the Administrator of the Small Business Administration to develop a program for purposes of disseminating information (using existing private institutions) to small business concerns regarding the medium-term financing provided under this paragraph.

(3) ENHANCEMENT OF MEDIUM-TERM PROGRAM.—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

(A) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

(B) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

(C) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

(D) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

(b)(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters, including countries the governments of which are not members of the Arrangement (as defined in section 10(h)(3)). The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing.

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's man-

date to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives, that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President, after consultation with the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism (including, when relevant, a foreign nation's lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement of the Foreign Cor-

rupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979, environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (including child labor), should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations. Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.

(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways or promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(D) It is further the policy of the United States to foster the delivery of United States services in international commerce. In exercising its powers and functions, the Bank shall give full and equal consideration to making loans and providing guarantees for the export of services (independently, or in conjunction with the export of manufactured goods, equipment, hardware or other capital goods) consistent with the Bank's policy to neutralize foreign subsidized credit competition and to supplement the private capital market.

(E)(i)(I) It is further the policy of the United States to encourage the participation of small business in international commerce.

(II) In exercising its authority, the Bank shall develop a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small businesses.

(ii) It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 2(a) of the Small Business Act that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise".

(iii) In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

(I) shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

(II) among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than

100 employees, and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.)

(iv) The Director appointed to represent the interests of small business under section 3(c) of this Act shall ensure that the Bank carries out its responsibilities under clauses (ii) and (iii) of this subparagraph and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 3 of the Small Business Act) which shall be not less than 25 percent of such authority for each fiscal year. From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 3(i)(1).

(vi) The Bank shall utilize the amount set-aside pursuant to clause (v) of this subparagraph to offer financing for small business exports on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause (vi) shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

(vii)(I) The Bank shall utilize a part of the amount set aside pursuant to clause (v) to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 103 of the Small Business Investment Act of 1958), or other financing institutions or entities in order to finance small business exports.

(II) Financing under this clause (vii) shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) To the maximum extent practicable, the Bank shall delegate to the consortia or other financing institutions or entities the authority to approve financing under this clause (vii).

(IV) In the administration of the program under this clause (vii), the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

(viii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote small business exports and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies and private industry.

(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies,

export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

(x) The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank's small business programs.

(F) Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than $100,000.

(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 3 of the Support For East European Democracy (SEED) Act of 1989).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 3 of the Support For East European Democracy (SEED) Act of 1989).

(iv) In carrying out clause (iii), the Bank shall—

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

(I) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of enactment of this subparagraph, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.

(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.

(K) The Bank shall promote the export of goods and services related to renewable energy sources.

(L) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979 within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.

(M) Not later than 2 years after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, the Bank shall implement policies—

(i) to accept electronic documents with respect to transactions whenever possible, including copies of bills of lading, certifications, and compliance documents, in such manner so as not to undermine any potential civil or criminal enforcement related to the transactions; and

(ii) to accept electronic payments in all of its programs.

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

(A) IN GENERAL.—The Bank in the exercise of its functions shall not guarantee, insure, extend credit, or participate in the extension of credit—

(i) in connection with the purchase or lease of any product by a Marxist-Leninist country, or agency or national thereof; or

(ii) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Marxist-Leninist country.

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term "Marxist-Leninist country" means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

(I) Democratic People's Republic of Korea.

(II) Democratic Republic of Afghanistan.

(III) People's Republic of China.

(IV) Republic of Cuba.

(V) Socialist Republic of Vietnam.

(VI) Tibet.

(C) PRESIDENTIAL DETERMINATION THAT A COUNTRY HAS CEASED TO BE MARXIST-LENINIST.—If the President determines that any country on the list contained in subparagraph (B)(ii) has ceased to be a Marxist-Leninist country (within the definition of such term in subparagraph (B)(i)), such country shall not be treated as a Marxist-Leninist country for purposes of

this paragraph after the date of such determination, unless the President subsequently determines that such country has again become a Marxist-Leninist country.

(D) PRESIDENTIAL DETERMINATION RELATING TO FINANCING IN THE NATIONAL INTEREST.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a country, agency, or national described in clause (i) or (ii) of subparagraph (A) (in connection with transactions described in such clauses) if the President determines that such guarantees, insurance, or extensions of credit are in the national interest.

(ii) SEPARATE DETERMINATION FOR CERTAIN TRANSACTIONS.—The President shall make a separate determination under clause (i) for each transaction described in clause (i) or (ii) of subparagraph (A) for which the Bank would extend a loan in an amount equal to or greater than $50,000,000.

(iii) REPORT OF CLAUSE (i) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (i) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the first transaction involving the country, agency, or national for which such determination is made after the date of the enactment of the Export-Import Bank Amendments of 1974, unless a report of a determination with respect to such date of enactment.

(iv) REPORT OF CLAUSE (ii) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (ii) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the transaction for which such determination is made.

(3) Except as provided by the fourth sentence of this paragraph, no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds $100,000,000, or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3

days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) in the case of a loan or financial guarantee—

(i) a brief description of the purposes of the transaction;

(ii) the identity of the party or parties requesting the loan or financial guarantee;

(iii) the nature of the goods or services to be exported and the use for which the goods or services are to be exported; and

(iv) in the case of a general guarantee or insurance facility—

(I) a description of the nature and purpose of the facility;

(II) the total amount of guarantees or insurance; and

(III) the reasons for the facility and its methods of operation; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.

(4)(A) If the Secretary of State determines that—

(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

(v) any person knowingly aids or abets, after the date of enactment of the National Defense Authorization Act for Fiscal Year 1997, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the

Bank stating such determination and identifying each country or person the Secretary determines has so acted.

(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over that person with respect to the imposition of the prohibition contained in subparagraph (C).

(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

(I) reliable information indicates that—

(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

(bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

(II) the prohibition would have a serious adverse effect on vital United States interests.

(F) For purposes of this paragraph:

(i) The term "country" has the meaning given to "foreign state" in section 1603(a) of title 28, United States Code.

(ii) The term "knowingly" is used within the meaning of the term "knowing" in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2(h)(3)).

(iii) The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(iv) The term "nuclear-weapon state" has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(v) The term "non-nuclear-weapon state" has the meaning given the term in section 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

(vi) The term "nuclear explosive device" has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236; 108 Stat. 521).

(vii) The term "unsafeguarded special nuclear material" has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A), or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility. The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 490(e) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country; and

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(e) of the Foreign Assistance Act of 1961); and

(iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25–day period referred to in such clause.

(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of internationally recognized human rights).

(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the foreign military sales program) may be used under section 4 of such Act.

(G) As used in subparagraphs (B), (C), (D), and (F), the term "defense articles or services" means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

(I) the Bank determines that—

(aa) the defense articles or services are nonlethal; and

(bb) the primary end use of the defense articles or services will be for civilian purposes; and

(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.

(7) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 7 of this Act for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to

countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(8) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the Nation's balance of trade in deciding whether or not to provide assistance under this subsection.

(9)(A) The Board of Directors of the Bank shall, in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee, take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

(iii) The advisory committee shall terminate on the date on which the authority of the Bank expires under section 7.

(C) The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to—

(i) improve its working relationships with the African Development Bank, the African Export-Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph; and

(ii) coordinate closely with the United States Foreign Service and Foreign Commercial Service, and with the overall strategy of the United States Government for economic engagement with Africa pursuant to the African Growth and Opportunity Act.

(D) Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek to qualify a greater

number of appropriate African entities for participation in programs of the Bank.

(10)(A) The Bank shall not, without a specific authorization by law, guarantee, insure, or extend credit (or participate in the extension of credit) to—

(i) assist specific countries with balance of payments financing; or

(ii) assist (as the primary purpose of any such guarantee, insurance, or credit) any country in the management of its international indebtedness, other than its outstanding obligations to the Bank.

(B) Nothing contained in subparagraph (A) shall preclude guarantees, insurance, or credit the primary purpose of which is to support United States exports.

(11) PROHIBITION RELATING TO ANGOLA.—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease-fire and a dialogue with the opposition armed forces;

(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

(C) has demonstrated progress in its respect for, and protection of—

(i) the freedom of the press;

(ii) the freedom of speech;

(iii) the freedom of assembly;

(iv) the freedom of association (including the right to organize for political purposes);

(v) internationally recognized worker rights; and

(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph. This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.

(12) PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILE SYSTEMS.—If the President of the United States determines

that the military or Government of the Russian Federation has transferred or delivered to the People's Republic of China an SS–N–22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, the President of the United States shall notify the Bank of the transfer or delivery as soon as practicable. Upon receipt of the notice and if so directed by the President of the United States, the Board of Directors of the Bank shall not give approval to guarantee, insure, extend credit, or participate in the extension of credit in connection with the purchase of any good or service by the military or Government of the Russian Federation.

(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.

*(14) PROHIBITION ON SUPPORT INVOLVING PERSONS CONNECTED WITH NORTH KOREA.—The Bank may not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the export of a good or service to a covered person (as defined under section 7 of the Impeding North Korea's Access to Finance Act of 2017).*

(c)(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

(3) TRANSFERABILITY OF GUARANTEES.—

(A) IN GENERAL.—With respect to medium-term and long-term obligation insured or guaranteed by the Bank after the date of the enactment of the Export-Import Bank Act Amendments of 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.

(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.

(d)(1) In carrying out its responsibilities under this Act, the Bank shall work to ensure that United States companies are afforded an equal and nondiscriminatory opportunity to bid for insurance in connection with transactions assisted by the Bank.

(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than $25,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A).

(5) DEFINITIONS.—For purposes of this section—

(A) the term "United States insurance company"—

(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

(B) the term "fair and open competitive opportunity" means, with respect to the provision of insurance by a United States insurance company, that the company—

(i) has received notice of the opportunity to provide such insurance; and

(ii) has been evaluated for such opportunity on a nondiscriminatory basis.

(e) LIMITATION ON ASSISTANCE WHICH ADVERSELY AFFECT THE UNITED STATES.—

(1) IN GENERAL.—The Bank may not extend any direct credit of financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

(A) the Bank determines that—

(i) the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold; or

(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce a commodity in addition to, or other than, the commodity specified in the application and whether the production of the additional commodity may cause substantial injury to United States producers of the same, or a similar or competing, commodity.

(2) OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.—

(A) ORDERS.—The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930; or

(ii) a determination under title II of the Trade Act of 1974.

(B) AFFIRMATIVE DETERMINATION.—Within 60 days after the date of the enactment of this paragraph, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

(C) COMMENT PERIOD.—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days) with regard to loans or guarantees reviewed pursuant to subparagraph (B) or (D).

(D) CONSIDERATION OF INVESTIGATIONS UNDER TITLE II OF THE TRADE ACT OF 1974.—In making any determination under paragraph (1) for a transaction involving more than $10,000,000, the Bank shall consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President of the United States, the United States Trade Representative, the Committee on Finance of the Senate, or the Committee on Ways and

Means of the House of Representatives, or by the International Trade Commission on its own motion.

(E) ANTI-CIRCUMVENTION.—The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of an order or determination referred to in subparagraph (A).

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar, or competing commodity.

(4) DEFINITION.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.

(5) DESIGNATION OF SENSITIVE COMMERCIAL SECTORS AND PRODUCTS.—Not later than 120 days after the date of the enactment of this Act, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.

(6) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.

(7) PROCEDURES TO REDUCE ADVERSE EFFECTS OF LOANS AND GUARANTEES ON INDUSTRIES AND EMPLOYMENT IN UNITED STATES.—

(A) CONSIDERATION OF ECONOMIC EFFECTS OF PROPOSED TRANSACTIONS.—If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of—

(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and

(ii) the views of the public and interested parties.

(B) NOTICE AND COMMENT REQUIREMENTS.—

(i) IN GENERAL.—If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A) and (B) of paragraph (1). In addition, the Bank shall seek comments on the economic effects from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(ii) CONTENT OF NOTICE.—The notice shall include appropriate, nonproprietary information about—

(I) the country to which the goods involved in the transaction will be shipped;

(II) the type of goods being exported;

(III) the amount of the loan or guarantee involved;

(IV) the goods that would be produced as a result of the provision of the loan or guarantee;

(V) the amount of increased production that will result from the transaction;

(VI) the potential sales market for the resulting goods; and

(VII) the value of the transaction.

(iii) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

(I) IN GENERAL.—If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

(II) MATERIAL CHANGE DEFINED.—As used in subclause (I), the term "material change", with respect to an application, includes—

(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

(C) REQUIREMENT TO ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee to which this section applies, the staff of the Bank shall provide in writing to the Board

of Directors the views of any person who submitted comments pursuant to subparagraph (B).

(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

(E) MAINTENANCE OF DOCUMENTATION.—The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.

(F) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

(G) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.

(f) AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY PARTY INVOLVED IN THE TRANSACTION.—In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction or any party involved in the transaction has committed an act of fraud or corruption in connection with the transaction.

(g) PROCESS FOR NOTIFYING APPLICANTS OF APPLICATION STATUS.—The Bank shall establish and adhere to a clearly defined process for—

(1) acknowledging receipt of applications;

(2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and

(3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

(h) RESPONSE TO APPLICATION FOR FINANCING; IMPLEMENTATION OF ONLINE LOAN REQUEST AND TRACKING PROCESS.—

(1) RESPONSE TO APPLICATIONS.—Within 5 days after the Bank receives an application for financing, the Bank shall notify the applicant that the application has been received, and shall include in the notice—

(A) a request for such additional information as may be necessary to make the application complete;

(B) the name of a Bank employee who may be contacted with questions relating to the application; and

(C) a unique identification number which may be used to review the status of the application at a website established by the Bank.

(2) WEBSITE.—Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and (J) of subsection (b)(1) to establish, and thereafter to maintain, a website through which—

(A) Bank products may be applied for; and

(B) information may be obtained with respect to—

(i) the status of any such application;

(ii) the Small Business Division of the Bank; and

(iii) incentives, preferences, targets, and goals relating to small business concerns (as defined in section 3(a) of the Small Business Act), including small business concerns exporting to Africa.

(i) DUE DILIGENCE STANDARDS FOR LENDER PARTNERS.—The Bank shall set due diligence standards for its lender partners and participants, which should be applied across all programs consistently. To minimize or prevent fraudulent activity, the Bank should require all delegated lenders to implement "Know your customer practices".

(j) NON-SUBORDINATION REQUIREMENT.—In entering into financing contracts, the Bank shall seek a creditor status which is not subordinate to that of all other creditors, in order to reduce the risk to, and enhance recoveries for, the Bank.

(k) PROHIBITION ON DISCRIMINATION BASED ON INDUSTRY.—

(1) IN GENERAL.—Except as provided in this Act, the Bank may not—

(A) deny an application for financing based solely on the industry, sector, or business that the application concerns; or

(B) promulgate or implement policies that discriminate against an application based solely on the industry, sector, or business that the application concerns.

(2) APPLICABILITY.—The prohibitions under paragraph (1) apply only to applications for financing by the Bank for projects concerning the exploration, development, production, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source involved.

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## INTERNATIONAL FINANCIAL INSTITUTIONS ACT

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### TITLE XVI—HUMAN WELFARE

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***SEC. 1629. SUPPORT FOR CAPACITY OF THE INTERNATIONAL MONETARY FUND TO PREVENT MONEY LAUNDERING AND FINANCING OF TERRORISM.***

*The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to support the use of the administrative budget of the Fund for technical assistance*

*that strengthens the capacity of Fund members to prevent money laundering and the financing of terrorism.*

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## ADDITIONAL VIEWS

The alarming, rapid acceleration in the scale and range of North Korea's nuclear and long-range missile programs, including the launch of an intercontinental ballistic missile in July that appeared to have the range to hit major U.S. cities, followed by an announcement in September that North Korea had tested a hydrogen bomb, have led many lawmakers to believe that a new policy towards North Korea involving a maximum pressure campaign of financial isolation is the best chance we have to resolve this situation peacefully. Such a strategy must entail a massive, immediate and qualitatively different level of pressure, the likes of which the North Koreans have yet to experience, and which could threaten Kim Jong-un's very hold on power.

H.R. 3898 calls for just such a U.S. policy approach to North Korea, one that also draws us away from a military-first response. The legislation takes a page from the Iran sanctions playbook by mandating the use of powerful secondary sanctions, which were widely credited with ultimately forcing Iran to the negotiating table.

In the context of North Korea, an American program of secondary sanctions wouldn't just ban U.S. companies from doing business with North Korea, it would also force companies, individuals, banks and governments to make a choice: stop doing business with North Korea and its enablers or lose access to the United States financial system.

Although we saw in the Iran context just how powerful this approach can be when carefully fashioned as part of a broad coalition, we must remember that sanctions alone are not a strategy. Sanctions are a tool, and in order for them to work, they must be linked to a broader strategic effort, with a high level of skill in their design and implementation, and with a clear understanding of the policy goals we are trying to achieve. While much attention has been given to the work done by the Treasury Department, and the Office of Foreign Assets Control (OFAC) in particular, and our intelligence agencies, in terms of getting effective, crippling sanctions in place on Iran, the diplomatic outreach needed to make those sanctions work and to make them stick was equally important.

According to Adam Szubin, who formerly served as the Under Secretary of the Treasury for Terrorism and Financial Crimes, when Congress considered a series of secondary sanction measures in 2010 aimed at containing Iran's nuclear program, the Administration was staffed and ready to immediately deploy senior officials to every corner of the world upon passage. What followed was a massive and sustained effort involving hundreds of thousands of hours of visits to different capitals everywhere from Azerbaijan to Singapore to ensure that bankers, traders and regulators were en-

forcing the sanctions in a tough and meaningful way.[1] The result was the most effective sanctions campaign the world had ever seen.

Today, there is widespread recognition that any successful strategy to isolate and pressure North Korea must not only entail the effective implementation of sanctions, but also a similarly active, global engagement by the United States, including complex negotiations with North Korea, skilled policy coordination with our allies, and careful diplomacy with China.

It is extremely concerning, therefore, that President Trump has shown virtually no appetite for the type of diplomatic engagement necessary to secure concessions from North Korea, or made a serious or concerted effort to enlist China and other key players to do their part to isolate the Kim regime.

In fact, President Trump's reckless threats, his promise of "fire and fury," his vow to destroy the Kim regime, his name-calling, warmongering, and rejection of diplomacy directly contradict his leading cabinet officials who continue to stress the importance of imposing pressure on the Kim regime. It also demonstrates a commander-in-chief who lacks the discipline and the capacity to convince our allies to join us in dealing with the North Korean threat.

Given the high-stakes objectives; the lack of a unified, coherent policy from the executive branch; and concern about U.S. credibility on the global stage, we view this legislation as an opportunity for Congress to show that the voice of America still matters, that the United States is committed to policy consistency, and that the world should not view the Trump doctrine as a broader signal of American unreliability.

MAXINE WATERS.
ED PERLMUTTER.
VICENTE GONZALEZ.
EMANUEL CLEAVER.
AL GREEN.
GWEN MOORE.
BRAD SHERMAN.
NYDIA M. VELÁZQUEZ.
STEPHEN F. LYNCH.
MICHAEL E. CAPUANO.

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[1] Testimony of Adam J. Szubin, Senate Banking Subcommittee on National Security and International Trade and Finance hearing titled *"Secondary Sanctions against Chinese Institutions: Assessing their Utility for Constraining North Korea"* (May 10, 2017).