

Calendar No. 16113TH CONGRESS
1ST SESSION**S. 298**

To prevent nuclear proliferation in North Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2013

Mr. MENENDEZ (for himself, Mr. CORKER, Mr. CARDIN, Mr. RUBIO, Mrs. FEINSTEIN, Mrs. BOXER, Mr. INHOFE, and Mr. DONNELLY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations of the Senate

FEBRUARY 14, 2013

Reported by Mr. MENENDEZ, with amendments

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A BILL

To prevent nuclear proliferation in North Korea, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North Korea Non-
5 proliferation and Accountability Act of 2013”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) On February 12, 2013, the Government of
4 North Korea declared that it had conducted its third
5 test of a nuclear device, following its first self-de-
6 clared test on October 9, 2006, and its second test
7 on May 25, 2009.

8 (2) United Nations Security Council Resolution
9 1718, adopted on October 14, 2006, condemned the
10 nuclear test proclaimed by North Korea on October
11 9, 2006, in flagrant disregard of its relevant resolu-
12 tions, in particular Security Council Resolution 1695
13 (2006), and demanded that North Korea not con-
14 duct any further nuclear test or launch of a ballistic
15 missile; immediately retract its announcement of
16 withdrawal from the Treaty on the Non-Proliferation
17 of Nuclear Weapons, done at Washington, London,
18 and Moscow July 1, 1968, and entered into force
19 March 5, 1970 (NPT); and return to the NPT and
20 International Atomic Energy Agency (IAEA) safe-
21 guards.

22 (3) United Nations Security Council Resolution
23 1718 further decided that North Korea shall sus-
24 pend all activities related to its ballistic missile pro-
25 gram and in this context re-establish its pre-existing
26 commitments to a moratorium on missile launching;

1 shall abandon all nuclear weapons and existing nu-
2 clear programs in a complete, verifiable, and irre-
3 versible manner; shall act strictly in accordance with
4 the obligations applicable to parties under the NPT
5 and the terms and conditions of its IAEA Safe-
6 guards Agreement; shall provide the IAEA trans-
7 parency measures extending beyond these require-
8 ments, including such access to individuals, docu-
9 mentation, equipments and facilities as may be re-
10 quired and deemed necessary by the IAEA; and shall
11 abandon all other existing weapons of mass destruc-
12 tion (WMD) and its ballistic missile program in a
13 complete, verifiable, and irreversible manner.

14 (4) United Nations Security Council Resolution
15 1718 also required United Nations Member States
16 to prevent—

17 (A) transfers to, and procurement from,
18 North Korea of—

19 (i) items, materials, equipment, goods,
20 and technology listed in the resolution; and

21 (ii) other items, determined by the Se-
22 curity Council or the 1718 Committee,
23 which could contribute to North Korea's
24 nuclear-related, ballistic missile-related, or

1 other weapons of mass destruction-related
2 programs;

3 (B) certain military equipment or tech-
4 nology transfers related to the prohibited items;
5 and

6 (C) the transfer of luxury goods to North
7 Korea.

8 (5) United Nations Security Council Resolution
9 1718 further required United Nations Member
10 States to prevent the entry into and transit through
11 their territories of individuals designated by the Se-
12 curity Council or the 1718 Committee as being re-
13 sponsible for North Korea's ballistic missile-related,
14 nuclear-related, or other weapons of mass destruc-
15 tion-related programs, and the immediate freezing of
16 funds, other financial assets, and economic resources
17 of persons or entities designated by the Security
18 Council or the 1718 Committee as being engaged in
19 or providing support for such programs, or by per-
20 sons or entities acting on their behalf or at their di-
21 rection.

22 (6) On May 25, 2009, the Government of North
23 Korea declared that it had conducted a second test
24 of a nuclear device.

1 (7) United Nations Security Council Resolution
2 1874, adopted on June 12, 2009—

3 (A) decided that North Korea shall aban-
4 don all nuclear weapons and existing nuclear
5 programs in a complete, verifiable, and irrevers-
6 ible manner;

7 (B) authorized and required United Na-
8 tions Member States to seize and dispose of
9 proscribed illicit North Korea items related to
10 its missile, nuclear, and WMD programs identi-
11 fied in inspections called for by the resolution;

12 (C) banned the export to North Korea of
13 all arms and related material other than small
14 arms and light weapons; and

15 (D) decided that Member States shall—

16 (i) prevent the provision of financial
17 services or the transfer to, through, or
18 from their territory of any financial or
19 other assets or resources that could con-
20 tribute to North Korea's nuclear-related,
21 ballistic missile-related, or other WMD-re-
22 lated programs or activities; and

23 (ii) deny fuel or supplies to service the
24 vessels carrying them except where nec-
25 essary on humanitarian grounds.

1 (8) On December 12, 2012, in flagrant defiance
2 of past United Nations Security Council resolutions,
3 the international community, and its Six-Party part-
4 ners, the Government of North Korea launched a
5 three-stage, long-range missile, which overflowed Japa-
6 nese territory near Okinawa and dropped debris into
7 the Yellow Sea, the East China Sea, and waters ad-
8 jacent to the Philippines.

9 (9) The United Nations Security Council adopt-
10 ed Security Council Resolution 2087 on January 22,
11 2013, which condemned North Korea's December
12 12, 2012, missile launch as a breach of Security
13 Council Resolutions 1718 and 1874, demanded that
14 North Korea "abandon all nuclear weapons and ex-
15 isting nuclear programs in a complete, verifiable,
16 and irreversible manner," and expressed the deter-
17 mination of the Security Council "to take significant
18 action in the event of a further DPRK launch or nu-
19 clear test".

20 (10) the transition to the leadership of Kim
21 Jong-Un after the death of Kim Jong-Il has intro-
22 duced new uncertainties, yet the fundamental human
23 rights and humanitarian conditions inside North
24 Korea remain deplorable, thousands of North Kore-
25 ans remain imprisoned in modern-day gulags, North

1 Korean refugees remain acutely vulnerable, and the
2 findings in the North Korean Human Rights Act of
3 2004 (Public Law 108–333; 22 U.S.C. 7801 et
4 seq.), the North Korean Human Rights Reauthoriza-
5 tion Act of 2008 (Public Law 110–346), and the
6 Ambassador James R. Lilley and Congressman Ste-
7 phen J. Solarz North Korea Human Rights Reau-
8 thorization Act of 2012 (Public Law 112–172) re-
9 main substantially accurate today.

10 (11) There has been extensive military coopera-
11 tion between the Governments of North Korea and
12 Iran that dates back to the 1980s.

13 (12) The latest provocative and defiant action
14 by the Government of North Korea represents a di-
15 rect threat to the United States and to our regional
16 allies and partners.

17 **SEC. 3. SENSE OF CONGRESS.**

18 It is the sense of Congress that—

19 (1) the test of a nuclear device by the Govern-
20 ment of North Korea on February 12, 2013, and the
21 missile launch of December 12, 2012, represent fla-
22 grant violations of the sanctions regime created by
23 United Nations Security Council Resolutions 1695
24 (2006), 1718 (2006), and 1874 (2009), the test of
25 the nuclear device on February 12, 2013, is a clear,

1 deliberate, and provocative violation of United Na-
2 tions Security Resolution 2087 (2013), and the Gov-
3 ernment of North Korea continues to defy the
4 United Nations, its Six-Party partners, and the
5 international community;

6 (2) all Member States of the United Nations
7 should immediately implement and enforce sanctions
8 imposed by these resolutions and censure North
9 Korea;

10 (3) the Government of North Korea should
11 abandon and dismantle its provocative ballistic mis-
12 sile and nuclear weapons programs, cease its pro-
13 liferation activities, and come into immediate compli-
14 ance with all United Nations Security Council reso-
15 lutions and its commitments under the 2005 Joint
16 Statement of the Six-Party Talks;

17 (4) restrictions against the Government of
18 North Korea, including sanctions that ban the im-
19 portation into the United States of unlicensed North
20 Korean products and goods, should remain in effect
21 until the Government of North Korea no longer en-
22 engages in activities that threaten the United States,
23 our allies and partners, and global peace and sta-
24 bility;

1 (5) the United States Government should seek
2 a new round of United Nations Security Council
3 sanctions, including the public identification of all
4 North Korean and foreign banks, business, and gov-
5 ernment agencies suspected of conduct that violates
6 United Nations Security Council resolutions, and im-
7 plementing necessary measures to ensure enforce-
8 ment of such sanctions;

9 (6) all United Nations Member States should—

10 (A) further strengthen efforts to prevent
11 the transfer of military and dual-use tech-
12 nologies to North Korea, including an expan-
13 sion of the list of sanctioned materials identi-
14 fied by the United Nations Panel of Experts on
15 North Korea sanctions and the items on the
16 Nuclear Suppliers Group lists;

17 (B) exercise enhanced vigilance including
18 monitoring the activities of their nationals, per-
19 sons in their territories, financial institutions,
20 and other entities with or on behalf of financial
21 institutions in North Korea, or of those that act
22 on behalf or at the direction of financial institu-
23 tions in North Korea, including their branches,
24 representatives, agents, and subsidiaries
25 abroad; and

1 (C) prevent transshipments that relate to
2 North Korean military, missile, and nuclear
3 programs and proliferation activities;

4 (7) the United States Government should ex-
5 plore ~~all appropriate measures for enhanced military~~
6 ~~operations by the United States Armed Forces ap-~~
7 ~~propriate measures by the United States Armed~~
8 ~~Forces~~ in the Asia-Pacific region, including in part-
9 nership with the armed forces of others countries in
10 the region, to safeguard the national interests, secu-
11 rity, and livelihood of the United States and its peo-
12 ple, as well as those of United States allies and part-
13 ners in the region; and

14 (8) the United States Government, acting
15 through its appropriate diplomatic representatives,
16 should secure the agreement of the United Nations
17 Human Rights Council and General Assembly to
18 adopt the recommendations made in the February 1,
19 2013, report of Marzuki Darusman, Special
20 Rapporteur on the situation of human rights in the
21 Democratic People’s Republic of Korea, that an in-
22 quiry mechanism should be established to investigate
23 North Korea’s “grave, widespread and systematic
24 violations of human rights,” as well as to analyze

1 whether crimes against humanity are being per-
2 petrated in North Korea.

3 **SEC. 4. REPORT.**

4 Not later than May 15, 2013, the Secretary of State
5 shall conduct, coordinate, and submit to Congress a com-
6 prehensive report on United States policy towards North
7 Korea based on a full and complete interagency review of
8 current policy and possible alternatives, including North
9 Korea's weapons of mass destruction and missile pro-
10 grams and human rights atrocities. The report shall in-
11 clude recommendations for such legislative or administra-
12 tive action as the Secretary considers appropriate in light
13 of the results of the review.

14 **SEC. 5. RULE OF CONSTRUCTION.**

15 *Nothing in this Act shall be construed as a declaration*
16 *of war or an authorization for the use of force against North*
17 *Korea.*

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