

114TH CONGRESS  
2D SESSION

# H. R. 5208

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2016

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

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## A BILL

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

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 State  
5 Sponsor of Terrorism Designation Act of 2016”.

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

8 (a) FINDINGS.—Congress finds the following:

9 (1) The Government of North Korea has har-  
10 bored members of the Japanese Red Army since a

1 1970 hijacking and continues to harbor the sur-  
2 viving hijackers to this day.

3 (2) North Korea bombed Korean Airlines Flight  
4 858 in November 1987, killing 115 people, and car-  
5 ried out the Rangoon bombing of 1983, killing 21  
6 people, including 13 senior South Korean officials  
7 and two members of the Presidential Guard.

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

19 (4) Of the three states currently on the list of  
20 State Sponsors of Terrorism, both Iran and Syria  
21 are designated as State Sponsors of Terrorism for  
22 their support of Hamas and Hezbollah. The Depart-  
23 ment of State's 2005, 2007, 2010, 2012, and 2013  
24 "Country Reports" all cited Iran and Syria for sup-  
25 plying weapons to Hezbollah through Syrian terri-

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

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

8 (6) In December 2009, a North Korean arms  
9 shipment aboard an Ilyushin Il-76 cargo plane was  
10 discovered and seized by authorities of the Govern-  
11 ment of Thailand. The cargo, which was marked as  
12 consisting of oil-drilling equipment, contained 35  
13 tons of rockets, surface-to-air missiles (MANPADS),  
14 explosives, rocket-propelled grenades, and other  
15 weaponry. A similar shipment was impounded in the  
16 United Arab Emirates a few months earlier in July  
17 2009. A third shipment was intercepted by the  
18 Israeli government in the Eastern Mediterranean in  
19 November 2009. According to published media re-  
20 ports, United States and Israeli intelligence agencies  
21 concluded that the shipments were destined for Ira-  
22 nian-backed terrorists, including Hezbollah, Hamas,  
23 and the Quds Force. Another large quantity of ship-  
24 ments to both Hamas and Hezbollah, is believed to  
25 have been transferred unnoticed.

1           (7) In June of 2010, Major Kim Myong-ho and  
2           Major Dong Myong-gwan of North Korea's Recon-  
3           naissance General Bureau pled guilty in a South Ko-  
4           rean court to attempting to assassinate Hwang  
5           Jang-yop, a North Korean dissident in exile, on the  
6           orders of Lieutenant General Kim Yong-chol, the  
7           head of North Korea's Reconnaissance General Bu-  
8           reau. The court sentenced each defendant to 10  
9           years in prison.

10           (8) On July 16, 2010, in the case of Calderon-  
11           Cardona v. Democratic People's Republic of Korea  
12           (case number 08-01367), the United States District  
13           Court for the District of Puerto Rico found that the  
14           Government of North Korea provided material sup-  
15           port to the Japanese Red Army, designated as a  
16           Foreign Terrorist Organization between 1997 and  
17           2001, in furtherance of a 1972 terrorist attack at  
18           Lod Airport, Israel that killed 26 people, including  
19           17 Americans.

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

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

1 4 years in prison for attempting to assassinate Park  
2 Sang-hak, a North Korean dissident in exile.

3 (11) In December 2012, according to South  
4 Korean press reports, South Korean prosecutors de-  
5 termined that North Korean agents assassinated  
6 Kim Chang-hwan, a human rights activist helping  
7 North Korean refugees, in Dandong, China in Au-  
8 gust 2011, using a poisoned needle.

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

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

18 (14) On April 18, 2013, Michael Flynn, the Di-  
19 rector of the Defense Intelligence Agency testified  
20 that Syria's liquid-propellant missile program de-  
21 pends on essential foreign equipment and assistance,  
22 primarily from North Korean entities. Further state-  
23 ments by United States Government officials report  
24 that North Korea helped Syria build the Al Kibar  
25 nuclear reactor, which Israel destroyed in 2007, and

1 could have been used to produce plutonium for nu-  
2 clear weapons.

3 (15) In the case of Chaim Kaplan v. Hezbollah  
4 (case number 09–646), a United States district  
5 court found in 2014 that North Korea materially  
6 supported terrorist attacks by Hezbollah, a des-  
7 ignated Foreign Terrorist Organization, against  
8 Israel in 2006.

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

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

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

3               (18) On December 16, 2015, the “Guardians of  
4       Peace” sent a message to Sony Pictures, to “clearly  
5       show it to you at the very time and places ‘The  
6       Interview’ be shown . . . how bitter fate those who  
7       seek fun in terror should be doomed to”. The mes-  
8       sage further stated, “The world will be full of fear”,  
9       “[. . .] Remember the 11th of September 2001”,  
10       and “We recommend you to keep yourself distant  
11       from the places at that time.”. The threat caused  
12       theaters across the United States to cancel showings  
13       of “The Interview” and caused Sony Pictures to  
14       cancel the release of the film in theaters.

15              (19) On December 19, 2015, the Federal Bu-  
16       reau of Investigation concluded that North Korea  
17       was responsible for the cyber attack on Sony Pic-  
18       tures Entertainment and the threat against the  
19       movie theaters, and that the “Guardians of Peace”  
20       was a unit of North Korea’s Reconnaissance General  
21       Bureau, its foreign intelligence service.

22              (20) In March 2015, the South Korean govern-  
23       ment publicly accused North Korea of responsibility  
24       for a December 2014 cyber attack against multiple  
25       nuclear power plants in South Korea, stated that the

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

4 (21) On April 13, 2015, the U.S. District Court  
5 for the District of Columbia, in the matter of Kim  
6 v. Democratic People's Republic of Korea (case  
7 number 13-7147), awarded Rev. Kim's family  
8 \$330,000,000 in compensatory and punitive dam-  
9 ages against the Government of North Korea for the  
10 kidnapping, torture, and murder of Rev. Kim.

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

16 (23) On October 22, 2015, Ambassador Sung  
17 Kim, Special Representative for North Korea Policy  
18 with the U.S. Department of State, testified before  
19 the House Foreign Affairs Subcommittee on Ter-  
20 rorism, Nonproliferation, and Trade that North Ko-  
21 rea's "conduct poses a growing threat to the United  
22 States, our friends in the region, and the global non-  
23 proliferation regime" and Ms. Hilary Batjer John-  
24 son, Deputy Coordinator for Homeland Security,  
25 Screening, and Designations with the U.S. Depart-



1       ment of State noted that “weapons transfers that  
2       violate nonproliferation or missile control regimes  
3       could be a relevant factor for consideration, depend-  
4       ing on the circumstances, consistent with the statu-  
5       tory criteria for designation as a state sponsor of  
6       terrorism”.

7               (24) North Korea was designated a State Spon-  
8       sor of Terrorism on January 20, 1988, for repeat-  
9       edly providing support of acts of international ter-  
10      rorism.

11              (25) However, on October 11, 2008, North Ko-  
12      rea’s designation as a State Sponsor of Terrorism  
13      was rescinded, following commitments by the Gov-  
14      ernment of North Korea to completely, verifiably,  
15      and irreversibly dismantle its nuclear weapons pro-  
16      gram.

17              (26) Consequences of a State Sponsors of Ter-  
18      rorism designation include a ban on arms-related ex-  
19      ports and sales; restrictions on exports of dual-use  
20      items; restrictions on foreign assistance; financial  
21      sanctions against transactions with the designated  
22      government; imposition of miscellaneous trade and  
23      other restrictions; and potential liability in United  
24      States courts for acts that fall within the terrorism  
25      exception of the Foreign Sovereign Immunities Act.

1 The Criminal Code also prohibits financial trans-  
2 actions by United States persons with the govern-  
3 ments of State Sponsors of Terrorism listed states.  
4 Issuers of securities must disclose in their public fil-  
5 ings any investments in states whose governments  
6 sponsor terrorism. Finally, a designation requires  
7 United States representatives to oppose any benefits  
8 or extensions of credit to the listed states by inter-  
9 national financial institutions.

10 (b) SENSE OF CONGRESS.—It is the sense of the  
11 Congress that North Korea meets the criteria for designa-  
12 tion as a state sponsor of terrorism and should be so des-  
13 ignated.

14 (c) REPORT; DETERMINATION OR JUSTIFICATION.—

15 (1) IN GENERAL.—Not later than 90 days after  
16 the date of the enactment of this Act, the President  
17 shall submit to the appropriate congressional com-  
18 mittees a report that finds, with respect to each of  
19 the acts described in paragraphs (1) to (23) of sub-  
20 section (a), whether—

21 (A) the Government of North Korea, in-  
22 cluding any agents or instrumentalities of the  
23 Government of North Korea, directly or indi-  
24 rectly, committed, conspired to commit, at-  
25 tempted, aided, or abetted such act; and

1           (B) such act constitutes support for inter-  
2           national terrorism.

3           (2) DETERMINATION OR JUSTIFICATION.—If  
4           the Secretary finds that the Government of North  
5           Korea, including any agents or instrumentalities of  
6           the Government of North Korea, directly or indi-  
7           rectly, committed, conspired to commit, attempted,  
8           aided, or abetted any of the acts described in para-  
9           graphs (1) to (22) of subsection (a), and that any  
10          such act constitutes support for international ter-  
11          rorism, the Secretary of State shall also submit to  
12          the appropriate congressional committees—

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

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

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

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

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
7 TEES.—The term “appropriate congressional com-  
8 mittees” means—

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

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

13 (2) NORTH KOREA.—The term “North Korea”  
14 means the Democratic People’s Republic of Korea.

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

1       has repeatedly provided support for acts of inter-  
2       national terrorism.

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