Fact Sheet on US Sanctions against DPRK

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The following document is a fact sheet from the US Treasury Department, Office of Foreign Assets Control, detailing the economic sanctions that apply to the DPRK under US law, and how those sanctions can be revised or repealed.

NORTH KOREA SANCTIONS

Category [Legal Citation]	Description	Repeal/Revise
1. Diplomatic Relations.[U.S. Constitution Note: For a good, general overview of the law regarding state/government recognition, see sections 202-205 of the Restatement 3d, Foreign Relations Law of the U.S. (1986.)]	The U.S. does not currently maintain diplomatic relations with the DPRK.	The establishment of diplomatic relations is a constitutional prerogative of the Executive; no formal congressional approval is required.
2. U.N. 25-mile Travel Limit.[Section 162 of the Foreign Missions Act, 22 U.S.C. 4316; U.N. Headquarters Agreement; Immigration and Nationality Act]	Although the DPRK is a member of the United Nations, the U.N. lawfully restricts the travel of DPRK UN representatives to the HQ District, i.e., a 25-mile radius from Columbus Circle.	The 25-mile limit may be removed or relaxed by the Secretary (in consultation with the FBI and CIA) without the need for congressional approval or consultation.

3. Trade Embargo.[Trading With The Enemy Act ("TWEA"), Pub. L. 65-91, as amended 50 U.S.C. App. 5(b); 31 C.F.R. 510.201 et seq.]	--Empowers President to prohibit/regulate a broad range of financial/property transactions.--Since 12/17/50, President has banned trade absent Treasury (Office of Foreign Asset Controls) license.	Executive may relax or terminate the ban at any time w/o congressional consent or consultation. [But note section 710 of the pending State authorization bill, which, if enacted in its current form, would prohibit any license for trade with the DPRK except pursuant to a presidential determination that the DPRK maintains its status as a member of the 1968 Nuclear Nonproliferation Treaty and is in full compliance with its obligations thereunder.]
4. Exports.[Export Administration Act of 1979 (Pub. L. 96-72. as amended, 50 U.S.C. App. 2404) ("EAA"); 15 C.F.R. Port 700]	Authorizes the President to "prohibit or curtail the export of any goods or technology subject to the jurisdiction of the [U.S.]" absent a license from Commerce.	Executive branch may relax or terminate the ban without congressional consent or consultation.
5. Shipping.[Section 704 of the Defense Production Act of 1950 (pub. L. 81-774, 50 U.S.C. App. 2154); 44 C.F.R. Part 403]	Prohibits owners, owners' agents, and officers from (i) taking to the DPRK any ship or aircraft documented or registered under the laws of the U.S.; and, (ii) from transporting in any such ship goods destined for the DPRK.	Executive may relax or terminate these restrictions without congressional consent or consultation.
6. Most Favored Nation ("MFN").[Title IV of the Trade Act of 1974 (Pub- L. 93-618, 19 U.S.C. 1431)]	As a country the products of which were not eligible for MFN treatment on or before 1/3/75, the DPRK is ineligible for MFN extension, absent...	(i) Presidential determination that the DPRK (as a "non-market country") allows its nationals to emigrate freely (the so-called "Jackson-Vanik" amendment); and, (ii) conclusion of a bilateral trade agreement containing specified provisions.
7. Proliferation(Sections 1701-1704 of the FY '91 National Defense Authorization Act (Pub. L. 101-510, 50 U.S.C. App. 2402 note); 15 C.F.R. Part 700; 22 C.F.R. 120.29 (ITAR), see 58 F._Reg. 39286 (7/22/93)]	-- Amended the Arms Export Control Act (22 U.S.C. 2778) and the Export Administration Act to require sanctions if the President determines that a foreign person knowingly exports, transfers or otherwise engages in trade "of items that contribute to missile proliferation."-- U.S. imposed such sanctions on - two DPRK entities in 1992.	-- Sanctions are for a two-year period.-- President may waive upon a determination that such action is "essential to the national security of the [U.S.]" and so certifies to Congress 20 days prior to issuing the waiver.

8. Terrorism.[Section 6(j) of the Export Administration Act of 1979, as amended by the Anti-Terrorism and Arms Export Amendments Act of 1989, Pub. L. 101-222, 103 Stat. 1892][Note: Section 901 of the Internal Revenue Code. 26 U.S.C. 901(j) would also deny in the case of the DPRK certain tax credits for income and other taxes paid to that country.]	-- DPRK designated a "terrorist country" since 1/20/88 per State determination that it had repeatedly provided support for acts of international terrorism.-- Prohibits certain transactions with DPRK, including direct or indirect export of any munitions list items by USG or any US person (as well as to re-exports by non-U.S. persons).-- Exports of non-munitions list items must be licensed.	-- President may waive the prohibition for a particular transaction if he determines that it is "essential to the national security interests of the [U.S.]," and both consults with and submits a report to Congress 15 days prior to the transaction.-- There are two ways by which a country may get off the "terrorist list," i.e., (i) President certifies to Congress that "there has been a fundamental change in the leadership or policies of the terrorist country, that the government ... is not supporting acts of international terrorism, and that the government has provided assurances that it will not support acts of international terrorism in the future,"; or, (i-i) president submits to Congress for review, 45 days prior to the effective date of the recision, a determination that the government has not supported international terrorism during the preceding 6-month period and has provided assurances that it will not support acts of international terrorism in the future.

THE FOLLOWING ARE POTENTIALLY APPLICABLE ALTHOUGH NO FORMAL DETERMINATION HAS YET BEEN MADE

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9. Foreign Assistance.A. Human Rights.[Section 116 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151n; also covers OPIC insurance, guarantees, or loans, 22 U.S.C. 2199 (i)]	Prohibits assistance to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment..." etc.	"Gross violator" determination is made by the AID Administrator and the Assistant Secretary for HA, who must take into account the extent to which the government has permitted unimpeded investigations of alleged human rights violations by appropriate international organizations, and the extent to which multilateral and security assistance is already restricted to that country by the President or Congress for human rights reasons.
B. Communist States.[Section 620(f) of the FAA (22 U.S.C. 2370 (f))][Note: There are also several other restrictions on assistance that might potentially become applicable to the DPRK that it is not necessary to address now, e.g., sec. 620A of the FAA, 22 U.S.C. 2371 (prohibits assistance to governments supporting int'l terrorism); sec. 620(t) of the FAA (break in diplomatic relations); secs. 523 and 529 of the FY 94 Foreign Ops. Appropriation bill; sec. 543 of the FY '93 FAA (Pub. L. 102-391).]	Prohibits assistance to "any communist country," including the DPRK, except for assistance to schools, libraries, and hospital centers for educational research which are outside the U.S. and are founded/operated by U.S. citizens.	--President may waive upon finding that such assistance is vital to U.S. national security, that the country is not controlled by the international communist conspiracy, and that the assistance will promote the country's independence from international communism.--President may also remove a country for a designated period if he determines that it is in the national interest to do so; one factor to be considered is whether the country is "fostering the establishment of a generally democratic system, with respect for internationally recognized human rights."

10. Security Assistance.[Section 502B of the FAA (22 U.S.C. 2304)]	-- Prohibits security assistance to any country "the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."-- Also prohibits security assistance for the police, domestic intelligence, or similar law enforcement forces of such a country. Moreover, export licenses are prohibited even for crime control and detection instruments and equipment, subject to a presidential waiver in "exceptional circumstances." Id., for IMET.	Assistance may he provided only if the President finds such a "significant improvement in [the] human rights record" that it is in the national interest to lift the prohibition.
11. IFI Lending.(Section 7001 of the International Financial Institutions Act (22 U.S.C. 262d); see also sec. 528 of the FY '94 Foreign Ops Appropriation Act, which contains a similar provision.]	Requires the U.S. Executive Directors of IFI's (e.g., World Bank) to oppose any loan, extension of financial assistance, or technical assistance to any country the government of which engages in "a pattern of gross violations of internationally recognized human rights," or "provides refuge to individuals committing acts of international terrorism by hijacking aircraft."-- U.S. Executive Directors are only authorized to support assistance "directed specifically to programs which serve the basic human needs of the citizens of such country."	*Note*: 22 U.S.C. 262d(f) requires Treasury to consult "in a timely manner" with relevant congressional committees to inform them of "prospective changes in policy direction toward counties [sic] which have or recently have had poor human rights records."22 U.S.C. 262d(c) requires Treasury to report quarterly on all loans considered by the IFI Boards, addressing*inter alia* whether the U.S. opposed, in each instance, assistance on human rights grounds, or changed its voting position for such reasons.
"Gramm Amendment," section 43 of the Bretton Woods Agreement Act, as amended. 22 U.S.C. 286aa.	Requires the Secretary of Treasury to direct the U.S. Executive Director of the IMF "to actively oppose any facility involving use of Fund credit by any Communist dictatorship" unless Treasury certifies to the relevant congressional committees that certain economic criteria are met.	The congressional committees may request that the Secretary of Treasury appear before them to certify and document (or to document in writing) that the requisite conditions have been met. If the Secretary does not appear in response to Congress' invitation, the Executive Director "shall vote against such program."
Gonzalez Amendment, 22 U.S.C. 283r, 284j, 285o.	Requires Secretary of Treasury to instruct Executive Directors to the IBRD and ADB to vote against assistance to any country that has expropriated the property of U.S. nationals.	Unless President determines that (i) an arrangement for proper compensation has been made; (ii) the matter has been submitted to arbitration; or, (iii) good faith settlement negotiations are in progress.

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