



February 2016

President Obama Signs Legislation Tightening North Korea Sanctions

On Feb. 18, 2016, President Obama signed into law the North Korea Sanctions and Policy Enhancement Act of 2016 (H.R. 757) (the Act), a bill tightening U.S. sanctions against North Korea. The legislation imposes strict licensing requirements for the export or reexport to North Korea of any U.S.-origin goods, software, or technology, and grants the President the authority to impose targeted sanctions on persons deemed to engage in certain types of activities related to the Government of North Korea's nuclear proliferation, money laundering, as well as its efforts to undermine cybersecurity.

Stricter Export Licensing Requirements

As a result of the Act, all exports or reexports to North Korea of U.S.-origin items or foreign-made items containing more than 10 percent U.S.-origin content will require an export license from the U.S. Department of Commerce. License applications will be considered under a presumption of denial, although the legislation provides that the U.S. government may issue exemptions from this licensing requirement for transactions involving humanitarian aid and exports to North Korea of non-luxury food products, agricultural products, medicine, or medical devices designated "EAR99" (the lowest level of export control classification). At this time, it is unclear whether or how the U.S. Government will implement these exemptions.

Although Department of Commerce export licenses were required for the export or reexport of most items to North Korea before the signing of the Act, license applications were previously reviewed on a case-by-case basis, instead of under the policy of denial now in effect.

Expansion of Targeted Sanctions

In addition to preexisting sanctions on certain persons engaged in the North Korean arms trade and nuclear proliferation activities, the Act grants the President the authority to impose sanctions on individuals or entities that have, or have

attempted to, knowingly engage or assist in the following:

- > Activities or transactions with the government of North Korea related to proliferation of weapons of mass destruction;
- > Activities related to significant arms or related material;
- > Import or export of luxury goods to or from North Korea;
- > Censorship by the government of North Korea;
- > Serious human rights abuses by the government of North Korea;
- > Money laundering, counterfeiting, or narcotics trafficking involving or supporting the government of North Korea; or
- > Significant activities undermining cyber security in support of the government of North Korea.

In addition, the President may impose sanctions on individuals or entities that have, or have attempted to, engage in, facilitate, or support the following:

- > Transactions in violation of an applicable UN Security Council resolution; or
- > Any conduct prohibited by the UN Security Council or a U.S. Executive Order.

Notably, the Act also permits the President to impose sanctions on those determined to have knowingly contributed to the bribery of a North Korean official or the misappropriation or theft of public funds by or for the benefit of such an official.

Those individuals and entities targeted by the sanctions will be added to the U.S. Government List of Specially Designated Nationals (SDN List), maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). U.S. persons are prohibited from engaging in all transactions with any designated person, and the U.S. government is prohibited from procuring any goods or services from a designated person. At this time, no new individuals or entities have been added to the SDN List under this new authority.

Recognizing the Limitations of Permissible North Korea Activities

The Act tightens the United States' already strict sanctions against North Korea, which, as noted above, included targeted sanctions against dozens of individuals and entities, a license requirement for the export of most U.S.-origin items to North Korea, as well as a prohibition on the import of any goods, services, or technology from North Korea into the United States.

U.S. businesses and individuals interested in or currently pursuing opportunities in North Korea should continue to exercise caution and carefully review all relevant sanctions and export controls provisions to determine whether proposed activities are permissible. It will be critical for U.S. persons doing business with North Korea to consult with their counsel about implementing sanctions and export compliance programs to avoid even inadvertent violations of the relevant laws. All proposed or pending shipments to North Korea should be halted in order to determine whether any U.S. items, individuals, or entities are involved in the transactions. Additionally, U.S. persons should review all their transactions involving North Korea, and screen all parties and entities involved in such transactions against the most up-to-date lists of designated and sanctions individuals and prohibited transactions.

Based in Washington, D.C., and Amsterdam our [Export Controls](#) team advises and represents clients on the full range of international goods, software and technology transfer issues. We have broad experience providing export controls and related regulatory counsel to both U.S. and foreign businesses. Our industry-specific experience includes assisting companies in a wide range of industries such as aerospace, defense, firearms and ammunition, electronics, software and information technology, financial services, food, consumer products, biotechnology, medical device, and engineering services.

This *GT Alert* was prepared by **Kara M. Bombach**, **Cyril T. Brennan** and **Sandra K. Jorgensen**. Questions about this information can be directed to:

- > [Kara M. Bombach](mailto:bombachk@gtlaw.com) | +1 202.533.2334 | bombachk@gtlaw.com
- > [Cyril T. Brennan](mailto:brennanct@gtlaw.com) | +1 202.533.2342 | brennanct@gtlaw.com
- > [Sandra K. Jorgensen](mailto:jorgensens@gtlaw.com) | +1 202.530.8569 | jorgensens@gtlaw.com
- > [Michael X. Marinelli](mailto:marinellimx@gtlaw.com) | +1 512.320.7236 | marinellimx@gtlaw.com
- > [Erik de Bie](mailto:DeBieE@eu.gtlaw.com) | +31 20 30 17 315 | DeBieE@eu.gtlaw.com
- > [Renee A. Latour[‡]](mailto:latourr@gtlaw.com) | +1 202.533.2358 | latourr@gtlaw.com
- > [Sandra D. Gonzalez](mailto:gonzalezsd@gtlaw.com) | +1 512.320.7234 | gonzalezsd@gtlaw.com
- > [Marie-José van der Heijden](mailto:vanderheijdenm@eu.gtlaw.com) | +31 20 30 17 348 | vanderheijdenm@eu.gtlaw.com

‡Admitted to practice only in Virginia. Practice in the District of Columbia limited to matters and proceedings before federal courts and agencies.

Albany +1 518.689.1400	Denver +1 303.572.6500	New York +1 212.801.9200	Shanghai +86 (21) 6391 6633
Amsterdam + 31 (0) 20 301 7300	Fort Lauderdale +1 954.765.0500	Northern Virginia +1 703.749.1300	Silicon Valley +1 650.328.8500
Atlanta +1 678.553.2100	Houston +1 713.374.3500	Orange County +1 949.732.6500	Tallahassee +1 850.222.6891
Austin +1 512.320.7200	Las Vegas +1 702.792.3773	Orlando +1 407.420.1000	Tampa +1 813.318.5700
Boca Raton +1 561.955.7600	London* +44 (0) 203 349 8700	Philadelphia +1 215.988.7800	Tel Aviv^ +972 (0) 3 636 6000
Boston +1 617.310.6000	Los Angeles +1 310.586.7700	Phoenix +1 602.445.8000	Tokyo☿ +81 (0)3 4510 2200
Chicago +1 312.456.8400	Mexico City+ +52 (1) 55 5029.0000	Sacramento +1 916.442.1111	Warsaw~ +48 22 690 6100
Dallas +1 214.665.3600	Miami +1 305.579.0500	San Francisco +1 415.655.1300	Washington, D.C. +1 202.331.3100
Delaware +1 302.661.7000	New Jersey +1 973.360.7900	Seoul∞ +82 (0) 2 369 1000	Westchester County +1 914.286.2900
			West Palm Beach +1 561.650.7900

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. *Operates as Greenberg Traurig Maher LLP. **Greenberg Traurig is not responsible for any legal or other services rendered by attorneys employed by the strategic alliance firms. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ¤Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2016 Greenberg Traurig, LLP. All rights reserved.*