

US Economic and Trade Sanctions on North Korea and their Development

Glen Kelley, Jacobson Burton Kelley PLLC
September 2019

For several decades, OFAC's Foreign Assets Control Regulations, promulgated under the Trading with the Enemy Act (*TWEA*) at the time of the Korean War, imposed an embargo on North Korea approaching the comprehensiveness of OFAC's embargo of Cuba.¹

As discussed below, beginning in 2000 these sanctions were largely lifted, and in 2008 they were replaced by a newer set of regulations promulgated under a more recent sanctions statute, the International Emergency Economic Powers Act (*IEEPA*). In 2016 President Obama expanded these sanctions, returning them to almost a full embargo, and President Trump has further expanded them.

(a) Development of the current North Korea sanctions

In June 2000 the United States eased the North Korea sanctions with respect to prospective transactions, in order to support the 1994 Agreed Framework on nuclear non-proliferation and encourage North Korea to continue to refrain from missile testing. 65 Fed. Reg. 38165 (June 19, 2000).

Then, in October 2006, North Korea conducted its first test detonation of a nuclear device, prompting a re-tightening of the sanctions.²

As required under the Arms Export Control Act (*AECA*),³ President George W. Bush directed US government agencies to impose limited additional sanctions on North Korea. While most of the sanctions called for under the AECA were arguably already in place against North Korea,⁴ the determination also triggered an expansion of the export controls administered by the US Bureau of Industry and Security (*BIS*), to the blanket export embargo referred to below. See 72 Fed. Reg. 3722 (January 26, 2007). In the same

¹ This embargo was set out in OFAC sanctions regulations in former 31 C.F.R. Part 500 (revoked in 2011).

² In December 2006 President George W. Bush made a formal determination that such a detonation had occurred. Presidential Determination No. 2007-07 [so in original; it appears this should be numbered 2006-07] (Dec. 7, 2006).

³ Section 102(b) of the AECA (22 U.S.C. § 2799aa-1). There is some question as to what extent Congress can constitutionally impose such a requirement upon the President in the field of foreign affairs.

⁴ Arguably this was true of all of the following sanctions imposed: a general termination of foreign assistance to North Korea, an arms embargo, a termination of US government credit and financial assistance, and a policy of opposing any loan or assistance by international financial institutions.

determination, the President imposed sanctions as provided under the Atomic Energy Act,⁵ barring the export to North Korea of nuclear materials, equipment or technology.

US sanctions then entered another period of being gradually lifted. First, as part of the Six-Party Talks and North Korea's initial progress in revealing and dismantling its nuclear weapons program, in 2008 President Bush lifted the national emergency declared under TWEA.⁶ The limited sanctions then in place (in addition to the separate blanket BIS export embargo and DDTC arms embargo) were continued by President Bush by the declaration of a new national emergency under IEEPA.

These replacement sanctions were implemented by the US Office of Foreign Assets Control (*OFAC*) two years later in 2010 by OFAC's creation of Part 510 of its sanctions regulations.⁷ In 2018 OFAC fully rewrote and reissued these regulations as a new version of Part 510. 83 Fed. Reg. 9182 (March 5, 2018).

In 2008 President Bush had made a determination that North Korea no longer supported terrorism. 73 Fed. Reg. 37351 (July 1, 2008). The final agreed step in relaxing the North Korea sanctions was to remove North Korea from the list of state sponsors of terrorism. The US Secretary of State made the required determination in October 2008, 73 Fed. Reg. 63540 (Oct. 24, 2008). Confusingly, ever since that time, for the purposes of the export controls administered by BIS set out in the US Export Administration Regulations (the *EAR*), North Korea continues to be treated as a terrorism-sponsoring state.

The limited sanctions that had remained in place since 2008 were expanded slightly:

- in 2010, following North Korea's alleged sinking of the Cheonan (a South Korean Navy ship), and in 2011 following the North Korean bombing of South Korea's Yeonpeong Island. Executive Orders 13551 (Aug. 30, 2010) and 13570 (April 18, 2011).
- in 2015 following a dramatic cyber-attack on Sony Pictures, attributed by the United States to the Government of North Korea (*GoNK*) in apparent retaliation for a film mocking North Korean leader Kim Jong-un. Executive Order 13687 (Jan. 2, 2015). These expanded sanctions implement certain provisions of United Nations Security Council Resolutions 1718, 1874, 2087 and 2094.

⁵ Section 129(a) of the Atomic Energy Act (42 U.S.C. § 2158(a)). Before North Korea, these sanctions had been imposed on India and Pakistan (and were subsequently lifted) following their 1998 nuclear tests.

⁶ Presidential Proclamation 8271, 73 Fed. Reg. 36785 (June 26, 2008). As part of implementing this proclamation, after three years OFAC revoked Part 500 of its regulations, which had contained the US sanctions on North Korea since the 1950s. 76 Fed. Reg. 35739 (June 20, 2011).

⁷ EO 13466 (June 26, 2008); 31 C.F.R. Part 510, promulgated in 75 Fed. Reg. 67912 (Nov. 4, 2010).

The sanctions were further expanded by President Obama in March 2016, to include the blocking of the GoNK and the Workers' Party of Korea and all entities they own or control, a blanket export embargo and investment ban for US persons. Executive Order 13722 (Mar. 15, 2016).

This Order in part implemented the North Korea Sanctions and Policy Enhancement Act (*NKSPEA*) that became law in February 2016. NKSPEA sought to expand US sanctions on North Korea, and codified (locked in) the existing sanctions. It includes a list of activities of concern, such as weapons sales to or from North Korea, narcotics trafficking, cyber attacks and serious human rights abuses by the GoNK, and sought to require President Obama to sanction all persons that his Administration determined to have engaged in any of these activities.

The March 2016 Executive Order implemented a particular provision of NKSPEA, codified at 22 U.S.C. § 9214, relating to “mandatory” sanctions on persons engaged in certain activities, by providing the Treasury Department with the authority to add persons to the primary US list of sanctioned parties, the List of Specially Designated Nationals (*SDN List*) after determining they have engaged in those activities.

The Order included the authority to block any person determined “to operate in any industry in the North Korean economy as may be determined” by the Treasury and State Departments. This sanctions measure received significant attention in the press but did not actually result in any new sanctions designations of specific parties.

In August 2017, President Trump signed into law a lengthy bill primarily focused on codifying existing sanctions on Russia, and imposing new ones. This bill, the Countering America's Adversaries Through Sanctions Act (*CAATSA*), also expanded North Korea sanctions, in its Title III, the Korean Interdiction and Modernization of Sanctions Act. In September 2017, President Trump issued Executive Order 13810 (Sept. 20, 2017) (the *September 2017 NK Order*), establishing or expanding a number of other sanctions on North Korea, including some measures similar to those in CAATSA and a number of creative mechanisms, including secondary financial sanctions, to extend the reach of US sanctions. These expanded sanctions are noted below.

In November 2017, the Trump Administration re-designated North Korea as a state sponsor of terrorism. As noted above, the designation of North Korea had been terminated in October 2008.

In March 2018, the US Department of State formally found that the GoNK had used chemical weapons against its own nationals and imposed set of symbolic sanctions overlapping with existing measures, pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. 83 Fed. Reg. 9362 (March 5, 2018).

In July 2018 the US Departments of the Treasury, State and Homeland Security issued a joint advisory on risks for businesses with supply chain links to North Korea, at <https://goo.gl/EGJFCB>, focusing on the risks, prohibitions, and appropriate due diligence

to avoid the US importation of products produced anywhere in the world with prohibited North Korean labor.

(b) What is prohibited?

Government assets blocked: All “property and interests in property” (defined broadly) of the GoNK that come within the United States, or within the possession or control of US persons anywhere in the world, are blocked (frozen).

No US person (or any non-US person that has sufficient contact with the United States) may do business with, engage in any other transaction (including the provision of goods or services of any kind) with, or deal in any property or interest in property of, the GoNK, whether within or outside the United States.

SDN List: In addition, all “property and interests in property” (defined broadly) of persons added to the primary US list of sanctioned parties, the SDN List, that are in the United States, or within the possession or control of US persons anywhere in the world, are blocked. 31 C.F.R. § 510.201. Also blocked is the property and interests in property of any entity that is directly or indirectly majority-owned by one or more SDNs or other blocked persons (a **BBOL Entity**). 31 C.F.R. § 510.411.

No US person (or any non-US person that has sufficient contact with the United States) may do business with, engage in any other transaction (including the provision of goods or services of any kind) with, or deal in any property or interest in property of, any person that is on the SDN List or any BBOL Entity, whether within or outside the United States. It is also generally prohibited to provide or contribute any “funds, goods, or services by, to or for the benefit of”, or to receive any funds, goods or services from, any of these persons.

Since August 2010, the US Treasury Department has been authorized to impose such blocking sanctions on any person determined:

- (a) to have engaged in arms sales to or from North Korea, or military training or other services related to arms exported to or from North Korea;
- (b) to have imported or exported “luxury goods” to or from North Korea;
- (c) to have engaged in money laundering, counterfeiting, cash smuggling or narcotics trafficking involving or supporting the GoNK or any of its senior officials;
- (d) to have materially assisted or supported any of these activities, or to be owned or controlled by, or acting on behalf of any person so designated.

In March 2016 the GoNK and all of its agencies, instrumentalities and controlled entities were blocked, as well as the Workers’ Party of Korea (the **WPK**), Executive Order 13722 (Mar. 15, 2016), and Treasury was also given the authority to block any person determined:

- (e) “to operate in any industry in the North Korean economy as may be determined” by the Treasury and State Departments. In March 2016 they determined that these sanctions cover the “transportation, mining, energy, and financial services industries”;⁸
- (f) to have sold, supplied or transferred to or from North Korea or any person acting for the GoNK or WPK “metal, graphite, coal, or software, where any revenue or goods received may benefit” the GoNK or WPK;
- (g) to have engaged in, facilitated or been responsible for a human rights violation or censorship by the GoNK or WPK;
- (h) to have engaged in the exportation of workers from North Korea;
- (i) to have “engaged in significant activities undermining cybersecurity through the use of computer networks or systems against targets outside North Korea on behalf of” the GoNK or WPK;
- (j) to have materially assisted or supported any of these activities, or to be owned or controlled by, or acting on behalf of any person so designated.

In August 2017, Section 311 of CAATSA added the following to the list of sanctionable activities:

- (k) purchasing certain metals and minerals from North Korea, or selling to North Korea of rocket, aviation or jet fuel;
- (l) supporting the operation and maintenance of vessels and aircraft covered by the sanctions, or insuring or registering North Korean government vessels; and
- (m) maintaining a correspondent account for a North Korean financial institution (this has been prohibited for US banks since November 2016 under a separate “special measure” under US anti-money laundering law).

Section 321(b) of CAATSA added Section 302B to NKSPEA (22 U.S.C. § 9241b), directing the President to impose blocking sanctions on any person determined under Section 302(b)(3) of NKSPEA (22 U.S.C. § 9241b(b)(3)) to “knowingly employ North Korean laborers”, unless the President makes and renews every 180 days a specified certification to US Congress regarding the relevant person.

CAATSA also expanded a provision of NKSPEA giving the President the discretionary authority to impose sanctions on any person engaged in any of a long list of activities. CAATSA Section 311, amending NKSPEA Section 104(b)(1) (22 U.S.C. § 9214(b)(1)).

⁸ Secretary of the Treasury Jacob J. Lew, “Determination Pursuant to Subsection 2(a)(i) of the EO of March 16, 2016”, at <https://bit.ly/1STRIM7>.

Section 1 of the September 2017 NK Order added the following to the list of sanctionable activities:

- (n) operating “in the construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea”;
- (o) owning, controlling or operating any seaport, airport or land port of entry in North Korea;
- (p) engaging in at least one significant importation from or exportation to North Korea of any goods, services, or technology; and
- (q) being a North Korean person, including one that has engaged in commercial activity that generates revenue for the GoNK or the Workers’ Party of Korea”.

Section 3 of the September 2017 NK Order adds a novel provision under which:

- (r) OFAC can block “any foreign bank account” that Treasury determines “to be owned or controlled by a North Korean person, or to have been used to transfer funds in which any North Korean person has an interest”, after which any funds in the US or within the possession or control of a US person that originate from, are destined for or pass through the designated account must be blocked. This provision contains an express facilitation prohibition. OFAC has provided some guidance on this provision in [FAQ 526](#).

The North Korean persons designated as SDNs include:

- **Kim Jong Un**, North Korea’s leader and Chairman of the WPK, among other titles (added to the SDN List in July 2016);
- **KOMID**, the Korea Mining Development Trading Corporation (added 2005);
- **Korea Tangun Trading Corporation**, which procures commodities and technologies for GoNK defense research and development (added 2009);
- **Reconnaissance General Bureau**, the primary GoNK intelligence organization (added 2010);
- **Foreign Trade Bank of the DPRK**, which was then North Korea’s primary foreign exchange bank (added 2013);
- the **Ministry of People's Security**, aka Ministry of Public Security, the **Ministry of People's Security Correctional Bureau**, the **Ministry of State Security**, aka State Security Department, the **Ministry of State Security Prisons Bureau**, aka Ministry of State Security Farm Bureau, and the **Organization and Guidance Department** (all added July 2016);

- **Air Koryo** (added Dec. 2016); and
- the GoNK **Ministry of Labor and State Planning Commission** (added Jan. 2017).

In addition, there are certain historical blocking issues that linger on. All property and interests in property of the GoNK or North Korean nationals that were blocked prior to June 19, 2000 remain blocked. Executive Order 13551 (Aug. 30, 2010).

OFAC export embargo: From March 16, 2016 it has been prohibited under OFAC sanctions to export or reexport to North Korea, directly or indirectly, any goods, services or technology from the United States or by a US person, unless expressly licensed by OFAC.⁹ Because the BIS also maintains an export embargo on North Korea (see the next paragraph), generally a US person would require authorization from both OFAC and BIS for exports to North Korea. See OFAC [FAQ 459](#).

BIS export embargo: The export control regulations administered by BIS continue to restrict the export or reexport without a license to North Korea by any person (with or without any ties to the United States) of essentially all goods, technology or software that is “subject to the EAR”. 15 C.F.R. § 746.4.

This term includes all goods, technology and software that originated in the United States or contains more than 10% (by value) of US components or US content, except certain non-controlled food and medicines. Note that, unlike the sanctions administered by OFAC, the export controls administered by BIS do not broadly restrict the export of services.

Import embargo: It is prohibited to import into the United States, directly or indirectly, any goods, services or technology from North Korea, unless expressly licensed by OFAC.¹⁰

This prohibition is interpreted broadly, as demonstrated in a January 2019 case in which OFAC imposed civil penalties on a US cosmetics company, e.l.f. Cosmetics, Inc. According to the information on the case released by the US government, this company had imported 156 shipments of false eyelash kits from suppliers in China, and without the company’s knowledge, most of these kits happened to include materials that the suppliers had sourced from North Korea. The kits were valued at just under \$4.5 million, and the company agreed to pay to OFAC a civil penalty of just under \$1 million.

Forced labor import embargo: Section 321(b) of CAATSA added Section 302A to NKSPEA (22 U.S.C. § 9241a), to prohibit the import into the United States of “any significant goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens”, unless US Customs

⁹ 31 C.F.R. § 510.206, implementing Executive Order 13722, § 3(a)(i) (Mar. 15, 2016).

¹⁰ This import embargo is set out in 31 C.F.R. § 510.205, implementing Section 1 of EO 13570 (April 18, 2011), which broadened the import embargo set forth until that date in the former North Korea regulations, in former 31 C.F.R. § 500.586(b)(2).

and Border Protection (*CBP*) finds “by clear and convincing evidence” that the relevant items “were not produced with convict labor, forced labor, or indentured labor under penal sanctions” (*forced labor*).

This new provision of NKSPEA built upon the 2016 expansion of Section 307 of the Tariff Act of 1930.¹¹ As expanded, Section 307 broadly prohibits the import of items produced with forced labor.¹² Information regarding this import prohibition and CBP’s implementing regulations are available on the CBP website at <https://www.cbp.gov/trade/programs-administration/forced-labor>. This web page provides Withhold Release Orders (detention orders) issued by CBP when it finds that specific goods from specific manufacturers were produced using forced labor.

In fall 2017, CBP issued additional relevant guidance, including a notice to importers regarding this provision of CAATSA, and guidance on steps importers should take to demonstrate “reasonable care” to avoid prohibited products produced with forced labor.¹³ Note that, while the CBP regulations authorize any person to report to CBP if they have reason to believe items they or others are importing into the US have been produced using forced labor, such reports are not mandatory. 19 C.F.R. § 12.42(b).

We understand that most companies importing goods into the US are taking the view that their compliance responsibilities under Section 307, this provision of CAATSA and NKSPEA referencing Section 307, and the CBP regulations are satisfied by:

- (1) adopting and maintaining reasonable measures to detect the use of forced labor in producing any items they import into the United States, and to document any related due diligence results or assurances; and
- (2) periodically reviewing the list of Withhold Release orders on this CBP website to check whether they might be importing any of the covered items.

Shipping bans: Several dozen North Korean vessels have been added to the SDN List in recent years, and in 2018 OFAC issued, together with the US Department of State and US

¹¹ Section 307 of the Tariff Act of 1930, 19 U.S.C. § 1307, as implemented in CBP regulations at 19 C.F.R. §§ 12.42 - 12.45.

¹² The Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114-125), signed into law in February 2016, had amended Section 307 to delete the words “but in no case shall such provisions be applicable to [items] not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.”

This language had essentially rendered Section 307 ineffective ever since it would otherwise have taken effect in 1932.

¹³ CBP’s November 2017 notice to exporters regarding Section 321(b) of CAATSA is at <https://bit.ly/2nKnLBM>. CBP’s September 2017 guidance regarding reasonable care generally, addressing forced labor at pp. 14-15, is at <https://bit.ly/2mOMEMI>, and this guidance is summarized in a CBP one-pager at <https://goo.gl/HrFhEU>.

Coast Guard, an advisory on deceptive shipping practices used by North Korea to evade sanctions, including altering vessel identification, ship to ship transfers, falsifying shipping documents and disabling or manipulating vessel transponders. OFAC, “Sanctions Risks Related to North Korea’s Shipping Practices” (Feb. 23, 2018), at <https://bit.ly/2BJnoMR>.

Section 315 of CAATSA, enacted in August 2017, generally prohibits the entry or operation in US waters of vessels included on a list of vessels over 300 gross tons owned or operated by the GoNK, by any North Korean person, or by a country not complying with UN sanctions on North Korea. The US Coast Guard maintains this list of vessels that will be denied entry to US ports at <https://www.nvmc.uscg.gov/CAATSA.aspx>. The US Department of Homeland Security has the authority to extend the denial of entry to all vessels registered to any flag state that has registered any of the vessels on the list. This could have a broad impact, if it is implemented by the Trump Administration.

In addition, the OFAC sanctions impose 180 day bans on any aircraft and vessels that have landed/ called at a North Korean port.¹⁴ Any “aircraft in which a foreign person has an interest that has landed at a place in North Korea may land at a place in the United States within 180 days after departure from North Korea.” “No vessel in which a foreign person has an interest that has” (i) “called at a port in North Korea within the previous 180 days” or (ii) “engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, may call at a port in the United States.” Certain emergency stops are authorized.¹⁵

Flag vessels: Under a prohibition added in May 2006, and renewed in Section 2 of Executive Order 13466 (June 26, 2008), US persons are prohibited from owning, leasing, operating, or insuring any vessel flagged by North Korea.

Investment ban: From March 16, 2016 “new investment in” North Korea by a US person has been prohibited.¹⁶

No travel ban: While travel to North Korea is not itself prohibited under US sanction, there are significant practical restrictions including in relation to US travel documents, and the broad range of transactions that would generally be prohibited for a US person to engage in while in North Korea. See OFAC [FAQ 464](#).

Secondary Financial Sanctions: The OFAC regulations incorporate “secondary financial sanctions”, similar to those imposed in relation to Iran and Russia, for any foreign financial institution (*FFI*) that knew or should have known that it “conducted or facilitated any significant transaction” (i) “in connection with trade with North Korea” or (ii) on behalf of any person” blocked under EOs 13551, 13687, 13722, 13382 (for North Korea-related

¹⁴ 31 C.F.R. § 510.208, implementing Section 2 of the September 2017 NK Order.

¹⁵ 31 C.F.R. § 510.218, implementing General License No. 10 (Sept. 21, 2017), at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/nk_gl10.pdf.

¹⁶ 31 C.F.R. § 510.209, implementing Executive Order 13722, § 3(a)(ii) (Mar. 15, 2016).

activities) or the September 2017 NK Order.¹⁷ The penalty for a FFI determined to have carried out such a transaction is either blocking (asset freeze) sanctions on the FFI or prohibiting or imposing strict conditions on US correspondent accounts of the FFI.

FinCEN AML measures: In May 2016 the Financial Crimes Enforcement Network (*FinCEN*), the primary US federal anti-money laundering regulator, designated the entire country of North Korea to be of primary money laundering concern. 81 Fed. Reg. 35441 (June 2, 2016). FinCEN also imposed a “special measure” in November 2016 that prohibits several different types of US financial institutions from maintaining any correspondent account (defined broadly) for any North Korean bank, and requires them to carry out special due diligence to guard against the use by any North Korean bank of correspondent accounts belonging to others. 81 Fed. Reg. 78715 (Nov. 9, 2016).

Similarly, in 2017 FinCEN adopted a “primary money laundering concern” finding and imposed a similar special measure on Bank of Dandong, a small Chinese bank that FinCEN found had acted “as a conduit for illicit North Korean financial activity”.

In an advisory it issued in November 2017, FinCEN described a complex set of transactions used by the GoNK to generate and route funds through a network of business partners and shell companies around the world in order to support its weapons programs. FinCEN Advisory FIN-2017-A008, “Advisory on North Korea’s Use of the International Financial System” (Nov. 2, 2017). The advisory also provided a detailed set of “red flags” that could help assess the risk that cross-border transactions involve improper North Korean financial activities.

Correspondent banking: Under a provision of CAATSA that also relates to correspondent banking, if a US bank learns that a correspondent account they maintain for a non-US bank is being used by the non-US bank to indirectly provide significant financial services to a person added to the SDN List pursuant to NKSPEA, the US bank will be required to ensure that this conduct is terminated. NKSPEA Section 201A, added by CAATSA Section 312. However, the practical impact of this provision is not clear, as most or all North Korea sanctions designations are made pursuant to various executive orders, not pursuant to NKSPEA itself.

SWIFT: In March 2017 SWIFT terminated the access of the last seven North Korean banks that had access to its network, three of them after a UN report relating to North Korean evasion of nuclear weapons-related UN sanctions. SWIFT then terminated the access of the last four (Foreign Trade Bank of the DPRK, Kumgang Bank, Koryo Credit Development Bank and North East Asia Bank) allegedly for noncompliance with its membership criteria, a highly unusual step that was likely the result at least in part of US government pressure.

Facilitation prohibitions: A US person is prohibited from facilitating transactions covered by certain of the prohibitions under the North Korea Sanctions. 31 C.F.R.

¹⁷ 31 C.F.R. §§ 510.210 and 510.519, implementing Section 4 of the September 2017 NK Order.

§§ 510.211 and 510.412. Generally, a US person is prohibited from approving, assisting, financing, guaranteeing or otherwise facilitating any transaction entered into by another person if the regulations would prohibit a US person from entering into such a transaction.

General licenses: In March 2016 OFAC issued general licenses authorizing:

- the provision of goods or services in the US to the GoNK mission to the United Nations, 31 C.F.R. § 510.510;
- certain legal services to blocked North Korean persons, 31 C.F.R. §§ 510.507 and 510.508;
- bank service charges on blocked accounts, 31 C.F.R. § 510.505;
- noncommercial personal remittances, 31 C.F.R. § 510.511;
- the activities of humanitarian and development NGOs in North Korea and related payments, 31 C.F.R. § 510.512;
- payments to third-country diplomatic and consular missions in North Korea;
- mail delivery and phone and email messages, 31 C.F.R. § 510.516;
- intellectual property filings, 31 C.F.R. § 510.517; and
- emergency medical services, 31 C.F.R. § 510.509.

Several other standard general licenses were added to the OFAC Part 510 sanctions regulations when OFAC rewrote and reissued them in 2018.

The first general license was amended in December 2016 to remove the authorization for US banks to maintain accounts for or extend credit to the UN mission, or to its employees, their families or persons forming part of their household, and to require that funds transfers to or from the mission or such individuals be “conducted through an account at a US financial institution specifically licensed by” OFAC.¹⁸

(c) Penalties

OFAC may impose a civil penalty for each violation up to the greater of \$302,584 and twice the amount of the transaction that is the basis of the violation. The potential criminal penalties are up to 20 years in prison and a fine up to the greater of \$1 million and twice the pecuniary gain or loss. Concealment or a false statement to OFAC could give rise to additional criminal penalties of up to 8 years in prison and a \$10,000 fine per violation.

¹⁸ Former General License No. 1A, at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/nk_gl1a.pdf, superseded by 31 C.F.R. § 510.510 when OFAC rewrote the North Korea sanctions regulations in 2018.