

DECLARATON REGARDING NORTH KOREAN LABOR



PREAMBLE

The [Countering America's Adversaries Through Sanctions Act \(CAATSA\)](#), which was signed into law in 2017, restricts entry into the United States of goods made wholly or in part by North Korean labor, wherever located, and imposes property-blocking sanctions on non-U.S. persons that knowingly employ North Korean laborers, subject to limited exceptions.

Section 321(b) of CAATSA amended the North Korea Sanctions and Policy Enhancement Act of 2016 by adding a new Section 302A, which creates a rebuttable presumption that goods made wholly or in part with North Korean labor involve the use of forced labor. More specifically, Section 302A provides that any significant goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part by the labor of North Korean nationals or citizens (located anywhere in the world) are deemed to be prohibited under Section 307 of the Tariff Act of 1930 and will not be entitled to entry at any of the ports of the United States unless the Commissioner of U.S. Customs and Border Protection (CBP) finds, by clear and convincing evidence, that the goods, wares, articles, or merchandise were not produced with convict labor, forced labor, or indentured labor. Prior regulations issued by CBP pursuant to the Tariff Act of 1930 suggest that this import prohibition may apply even where just one component of the merchandise at issue was manufactured by convict labor, forced labor, or indentured labor.

A notable feature of Section 302A is that it creates a presumption that all North Korean labor is forced labor. There is no express carve-out at this point for North Korean defectors, asylum seekers or “stateless” undocumented workers who remain North Korean citizens or nationals, or where North Korean workers in the supply chain receive compensation and hold appropriate work permits, though these certainly could be factors that CBP¹ may consider in evaluating whether any North Korean labor in the supply chain is convict labor, forced labor, or indentured labor.

If CBP finds evidence that reasonably indicates that merchandise being imported was mined, produced, or manufactured, wholly or in part, by the labor of North Korean nationals or citizens, then CBP not only can deny entry of the goods into the United States and seize and require forfeiture of the goods, but also can impose civil monetary penalties against the importer, and send the case to Immigration and Customs Enforcement (ICE) to begin a criminal investigation.

Significantly for non-U.S. companies, Section 321(b) of CAATSA also amended the North Korea Sanctions and Policy Enhancement Act of 2016 by adding a new Section 302B, which blocks the property and interests in property of non-U.S. individuals and entities that the U.S. State Department determines knowingly employ North Korean laborers, subject to limited exceptions.

If a non-U.S. individual or entity becomes subject to such property-blocking sanctions, that individual’s or entity’s assets in the United States or in the possession or control of a U.S. person would be frozen, and it would be virtually impossible for the non-U.S. individual or entity to do business, directly or indirectly, in the United States or with U.S. companies.

¹ [The U.S. Government released “CAATSA Title III Section 321\(b\) FAQs” on April 2, 2018.](#)