

**AMENDMENT TO RULES COMM. PRINT 116–19**  
**OFFERED BY MR. SHERMAN OF CALIFORNIA**

At the appropriate place in subtitle E of title XII,  
insert the following:

1 **SEC. 12 \_\_\_\_ . NORTH KOREA SMUGGLING ENFORCEMENT**  
2 **ACT.**

3 Title II of the North Korea Sanctions and Policy En-  
4 hancement Act of 2016 (22 U.S.C. 9221 et seq.) is amend-  
5 ed by inserting after section 205 the following new section:

6 **“SEC. 205A. ADDITIONAL DUE DILIGENCE WITH RESPECT**  
7 **TO LISTED HIGH-RISK VESSELS AND PER-**  
8 **SONS.**

9 “(a) IDENTIFICATION OF HIGH-RISK VESSELS.—Not  
10 later than 60 days after the date of the enactment of this  
11 section, and every 30 days thereafter, the President shall  
12 publish in the Federal Register a list of each vessel with  
13 respect to which reasonable grounds exist to believe that  
14 such vessel has, after March 2, 2016—

15 “(1) entered North Korean territorial water or  
16 a North Korean port, other than to deliver food or  
17 humanitarian assistance to the people of North  
18 Korea;

1           “(2) been operated by a master or by crew  
2 members who are nationals of North Korea;

3           “(3) been owned, controlled, registered, or in-  
4 sured, whether directly or indirectly, by the Govern-  
5 ment of North Korea or by any designated person;

6           “(4) been involved in any activities prohibited  
7 pursuant to any applicable United Nations Security  
8 Council resolution or described in section 104(a), in-  
9 cluding by transporting cargo in violation of such a  
10 resolution or participated in transferring cargo that  
11 would be in violation of such a resolution between  
12 ships on open waters;

13           “(5) operated without the use of a properly in-  
14 stalled and operational maritime navigation safety  
15 communications system standardized by the Inter-  
16 national Telecommunication Union, adopted by the  
17 International Maritime Organization, that—

18           “(A) automatically provides vessel informa-  
19 tion, including the vessel’s identity, type, posi-  
20 tion, course, speed, navigational status, and  
21 other safety-related information, to appro-  
22 priately equipped shore stations, other ships,  
23 and aircraft;

1           “(B) automatically receives such informa-  
2           tion from similarly-fitted ships, and monitors  
3           and tracks ships; and

4           “(C) automatically exchanges data with  
5           shore-based facilities.

6           “(6) met two or more of the risk factors de-  
7           scribed in subsection (b).

8           “(b) RISK FACTORS.—The risk factors described in  
9           this subsection are the following with respect to a vessel  
10          that has entered North Korean territorial water after  
11          March 2, 2016:

12          “(1) The vessel was physically altered to con-  
13          ceal or disguise its name or any identifying number.

14          “(2) The vessel was re-registered or re-named  
15          on three or more occasions in any three-year period  
16          subsequent to such entry.

17          “(3) The vessel is registered in Sierra Leone,  
18          Dominica, Tanzania, Fiji, Tuvalu, Kiribati, Niue,  
19          Cambodia, Belize, Jamaica, Mongolia, Kiribati,  
20          Togo, the Comoros, the People’s Republic of China,  
21          or any other jurisdiction that the President deter-  
22          mines has failed to implement sufficient vessel reg-  
23          istration due diligence regulations to prevent the  
24          Government of North Korea, or persons acting on  
25          its behalf, from accessing global commercial and fi-

1       nancial systems to evade any sanctions imposed pur-  
2       suant to this Act.

3           “(4) The vessel was owned or controlled by a  
4       person registered in Hong Kong, the Seychelles, the  
5       British Virgin Islands, the Republic of the Marshall  
6       Islands, the People’s Republic of China, or any other  
7       jurisdiction that the President determines has failed  
8       to implement sufficient corporate registration due  
9       diligence regulations to prevent the Government of  
10      North Korea, or persons acting on its behalf, from  
11      accessing global commercial and financial systems to  
12      evade any sanctions imposed pursuant to this Act.

13          “(5) The incorporation documents of any per-  
14      son who owns or controls the vessel have misstated,  
15      or have withheld or concealed from the public, infor-  
16      mation about its business operations, or about the  
17      identities and nationalities of any of its beneficial  
18      owners, shareholders, officers, and directors.

19          “(6) The vessel has transported any high-risk  
20      cargo on three or more occasions through a high-risk  
21      port.

22          “(c) SANCTIONS IMPOSED.—No vessel listed pursu-  
23      ant to subsection (a) may enter or operate in the navigable  
24      waters of the United States or transfer cargo in any port  
25      or place under the jurisdiction of the United States.

1           “(d) IDENTIFICATION OF HIGH-RISK PERSONS.—Not  
2 later than 90 days after the date of the enactment of this  
3 section, and every 30 days thereafter, the President shall  
4 publish in the Federal Register a list of each person with  
5 respect to which reasonable grounds exist to believe that  
6 such person has—

7                   “(1) after March 2, 2016, owned or controlled  
8 a vessel listed pursuant to subsection (a); or

9                   “(2) after the date of the enactment of this sec-  
10 tion—

11                           “(A) insured such a listed vessel;

12                           “(B) provided vessel registration, bun-  
13 kering, freight, cargo handling, or port services  
14 that facilitated three or more shipments by such  
15 listed vessels; or

16                           “(C) provide corporate registration services  
17 to a person described in paragraph (1).

18           “(e) ADDITIONAL LICENSING REQUIREMENTS FOR  
19 LISTED VESSELS AND PERSONS.—

20                   “(1) MANDATORY REQUIREMENTS.—Not later  
21 than 120 days after the date of the enactment of  
22 this section, the President shall require the following  
23 enhanced due diligence measures with respect to ves-  
24 sels and persons listed pursuant to subsection (a) or  
25 subsection (d):

1           “(A) A license issued by the Office of For-  
2           foreign Assets Control of the Department of the  
3           Treasury for any transaction that involves a  
4           listed vessel or a listed person.

5           “(B) Any transaction or proposed trans-  
6           action that involves a listed vessel or a listed  
7           person shall be deemed a suspicious transaction  
8           for purposes of the reporting of suspicious  
9           transactions under section 5318(g) of title 31,  
10          United States Code.

11          “(C) The Secretary of the Treasury shall  
12          be instructed to require domestic financial insti-  
13          tutions and domestic financial agencies to take  
14          all of the special measures described in section  
15          5318A(b) of title 31, United States Code, with  
16          respect to a listed vessel or a listed person.

17          “(D) Any transaction that involves a listed  
18          vessel or a listed person shall be treated as a  
19          ‘willful’ or ‘reckless’ violation of any applicable  
20          regulation promulgated pursuant to chapter 53  
21          of title 31, United States Code, for purposes of  
22          determining the amount of any civil monetary  
23          penalty or the appropriateness of any adminis-  
24          trative action in response to such transaction.

1           “(2) DISCRETIONARY REQUIREMENTS.—Not  
2 later than 120 days after the date of the enactment  
3 of this section, the President may also require the  
4 following enhanced due diligence measures with re-  
5 spect to vessels and persons listed pursuant to sub-  
6 section (a) or subsection (d):

7           “(A) The enhanced security targeting re-  
8 quirements described in subsection 205(c), with  
9 respect to any cargo entering the United States  
10 through a land, sea, or air port that originates  
11 from a port that has discharged, transferred,  
12 imported, or exported three or more shipments  
13 involving listed vessels or listed persons.

14           “(B) An importer that is a listed person  
15 shall maintain additional records of any trans-  
16 action involving a listed vessel that—

17           “(i) identify biographical information  
18 about each person who owns, controls, op-  
19 erates, or maintains a beneficial ownership  
20 interest in, the vessel or any cargo carried  
21 by the vessel;

22           “(ii) include records of any registra-  
23 tion, insurance, repair, maintenance, or  
24 bunkering services received by the vessel;  
25 and

1                   “(iii) includes any invoices, bills of  
2                   lading, receipts, wire transfer records, and  
3                   other documents describing any cargo car-  
4                   ried by the vessel.

5           “(f) WAIVERS.—

6                   “(1) WAIVER THROUGH SHIPPING REGISTRY  
7                   DUE DILIGENCE.—The President may waive the list-  
8                   ing of a vessel that would otherwise be listed due to  
9                   meeting the risk factor described in subsection  
10                  (b)(3), or the listing of a person pursuant to sub-  
11                  section (d)(2)(B), if the President certifies to the ap-  
12                  propriate congressional committees that the govern-  
13                  ment of the country with which the relevant vessel  
14                  is registered—

15                   “(A) has agreed to authorize United States  
16                   naval or coast guard vessels to board any vessel  
17                   registered under the flag of such country on the  
18                   high seas upon notification by appropriate  
19                   United States officials to such government de-  
20                   scribing reasonable grounds to believe that the  
21                   vessel is engaged in an activity in violation of  
22                   an applicable United Nations Security Council  
23                   resolution or is operating without the use of the  
24                   maritime navigation safety communications sys-  
25                   tem described in subsection (a)(5);



1           “(B) is monitoring vessels registered under  
2           the flag of such country and has committed to  
3           informing appropriate United States officials if  
4           any such vessel is operating without the use of  
5           the maritime navigation safety communications  
6           system described in subsection (a)(5);

7           “(C) has terminated the registration of any  
8           vessel otherwise listed pursuant to subsection  
9           (a) that was registered under the flag of such  
10          country and implemented measures to avoid the  
11          registration of any other such vessel in the fu-  
12          ture;

13          “(D) has implemented effective measures  
14          to fulfill the cargo inspection requirements de-  
15          scribed in applicable United Nations Security  
16          Council resolutions; and

17          “(E) has agreed to cooperate and share in-  
18          formation with the United States and with  
19          United Nations Panels of Experts established  
20          under applicable United Nations Security Coun-  
21          cil resolutions in order to enable the effective  
22          enforcement of such resolutions.

23          “(2) WAIVER THROUGH TRANSPARENCY IN  
24          CORPORATE REGISTRATIONS.—The President may  
25          waive the listing of a vessel that would otherwise be

1 listed due to meeting the risk factor described in  
2 subsection (b)(4) if the President certifies to the ap-  
3 propriate congressional committees that the govern-  
4 ment of the country with which the relevant vessel  
5 is registered—

6 “(A) implemented adequate due diligence  
7 and Know-Your-Customer regulations to pre-  
8 vent misuse of the government’s corporate reg-  
9 istry by the Government of North Korea or by  
10 persons acting on its behalf for the activities  
11 described in sections 104(a) or 104(b) or to  
12 evade any prohibition under section 104(f); and

13 “(B) is cooperating and sharing informa-  
14 tion with the United States and with United  
15 Nations Panels of Experts established under  
16 applicable United Nations Security Council res-  
17 olutions in order to enable the effective enforce-  
18 ment of such resolutions.

19 “(3) WAIVER THROUGH DUE DILIGENCE AND  
20 SUFFICIENCY OF CARGO INSPECTIONS BY PORTS.—  
21 The President may waive the listing of a vessel that  
22 would otherwise be listed due to meeting the risk  
23 factor described in subsection (b)(6) if the President  
24 certifies to the appropriate congressional committees  
25 that the director of the high-risk port concerned has

1       ensured compliance with the cargo inspection,  
2       search, and seizure requirements of all applicable  
3       United Nations Security Council resolutions.

4           “(4) GENERAL WAIVER AUTHORITY.—The  
5       President may waive the listing of any vessel or per-  
6       son if the President certifies to the appropriate con-  
7       gressional committees that such vessel or person no  
8       longer poses a significant risk of evasion or at-  
9       tempted evasion with regard to—

10           “(A) any provision of this Act;

11           “(B) any provision of chapter 53 of title  
12       31, United States Code;

13           “(C) an applicable Executive Order; or

14           “(D) an applicable United Nations Secu-  
15       rity Council Resolution.

16       “(g) DEFINITIONS.—In this section:

17           “(1) HIGH-RISK CARGO.—The term ‘high-risk  
18       cargo’ means—

19           “(A) fish, crustaceans, molluscs, and other  
20       seafood, classifiable under chapter 3 of the  
21       Harmonized Tariff Schedule of the United  
22       States (HTS);

23           “(B) ores or concentrates, classifiable  
24       under chapter 26 of the HTS;

1           “(C) coal, classifiable under chapter 27 of  
2 the HTS;

3           “(D) petroleum, oil, mineral fuels, mineral  
4 oils, and other petroleum products, classifiable  
5 under chapter 27 of the HTS;

6           “(E) base metals, including iron, copper,  
7 lead, vanadium, gold, silver, or rare earth min-  
8 erals, classifiable under any of chapters 72  
9 through 83 of the HTS;

10          “(F) industrial machinery, classifiable  
11 under chapters 84 or 85 of the HTS; and

12          “(G) transportation vehicles, including in-  
13 dustrial and commercial vehicles, passenger ve-  
14 hicles, and aircraft, classifiable under any of  
15 chapters 86 though 89 of the HTS.

16          “(2) HIGH-RISK PORT.—The term ‘high-risk  
17 port’ means—

18           “(A) Bayuquan, Dandong, Dalian,  
19 Longkou, Nantong, Penglai, Rizhao, Shanghai,  
20 Qingdao, and Yingkou, in China;

21           “(B) Abadan, Bandar-e-Abbas, and  
22 Khorramshahr, in Iran;

23           “(C) Nakhodka, Vanino, Kholmsk, and  
24 Vladivostok, in Russia;

25           “(D) Latakia and Tartous, in Syria;

1                   “(E) Rangoon, also known as Yangon, in  
2                   Burma; and

3                   “(F) any other port the President deter-  
4                   mines to be deficient—

5                   “(i) in its due diligence efforts to in-  
6                   spect cargo in transit to or from North  
7                   Korea; and

8                   “(ii) in its efforts to prevent violations  
9                   of applicable United Nations Security  
10                  Council resolutions.”.

