

## Companies should beware of hidden supply chain dangers – North Korean labor

27 July 2018

On 23 July 2018, several U.S. agencies, including the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Department of Homeland Security (DHS), published [an advisory](#) to highlight sanctions evasion tactics used by North Korea. These evasion tactics could expose businesses, including manufacturers, buyers, and service providers, to sanctions compliance risks under U.S. and United Nations (U.N.) sanctions authorities. The primary risks include inadvertent sourcing of goods, services, or technology from North Korea and the presence of North Korean citizens or nationals, whose labor generates revenue for the North Korean government, in supply chains. Although some North Koreans who have fled North Korea, including refugees and asylum seekers who live and work outside of North Korea, are earning an income to sustain themselves, many North Korean citizens or nationals inside and outside of North Korea are forced to work to generate revenue for the North Korean government. The government reportedly earns hundreds of millions of U.S. dollars per year exporting labor, and uses these earnings to support its weapons programs. Therefore, use of North Korean citizens or nationals as laborers in supply chains may trigger U.S. sanctions, and under the Countering America's Adversaries Through Sanctions Act (CAATSA), there is a rebuttable presumption goods produced by North Korean labor are ineligible for import into the United States. The advisory includes a list of potential indicators to help companies detect the presence of North Korean overseas labor.

Although the advisory focuses on North Korean labor, it also highlights other activities that could result in designation by OFAC, including operating in certain industries in North Korea, engaging in at least one significant importation from or exportation to North Korea, facilitating an abuse or violation of human rights by North Korea, facilitating the exportation of laborers from North Korea, or supplying or purchasing certain goods to or from North Korea or any person acting on behalf of its government.

The advisory also indicates factors of heightened risk of goods, services, and technology with a North Korean nexus, including subcontracting and consignment firms from third-countries that shift work to a North Korean factory without informing customers or other relevant parties. Indeed, some North Korean exporters disguise the origin of goods produced in North Korea by affixing country-of-origin labels that identify a third country. In other cases, North Korean exporters sell goods and raw materials below market price to provide a commercial incentive for the purchase of North Korean goods, or use front companies and aliases to sell information technology services.

Annex 2 to the advisory lists a number of North Korean joint ventures, organized by industry. The report indicates that North Korean firms have established hundreds of joint ventures with partners from various countries in various industries, such as apparel, construction, small electronics, and minerals. Annex 2 includes joint ventures that have operated or are currently operating in North Korea established prior to 2016, and is not comprehensive. Further, inclusion of these entities on the list does not constitute a determination by OFAC that any of the entities meets the designation criteria under any sanctions program. Annex 3 of the advisory provides a non-exhaustive list of countries and jurisdictions at high risk of use of North Korean labor, organized by industry.

Among other actions, we recommend that companies review the advisory carefully and consider (i) if additional due diligence might be required to confirm that supply chain risks related to North Korean forced labor are adequately addressed and (ii) whether the company has taken steps to confirm that it is not conducting activities involving North Korean joint ventures, such as those listed in Annex 2 of the advisory.

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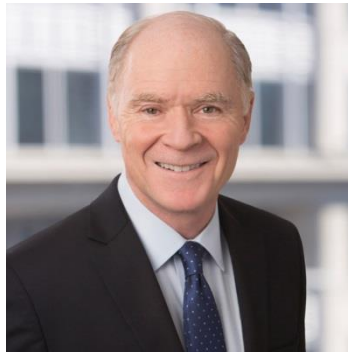
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