

Dated: May 23, 2000.

Iain S. Baird,

Deputy Assistant Secretary for Export Administration, Department of Commerce.

Dated: June 9, 2000.

A. Bradley Mims,

Deputy Assistant Secretary for Aviation and International Affairs, Department of Transportation.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Foreign Assets Control Regulations to implement the President's September 17, 1999, determination to ease sanctions against North Korea. This final rule authorizes new financial, trade, and other transactions with North Korea and its nationals. An import notification and approval procedure will be required for all imports from North Korea. This final rule does not unblock assets within U.S. jurisdiction blocked prior to this time, nor does it affect enforcement actions with respect to prior violations of the embargo.

EFFECTIVE DATE: June 19, 2000.

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622-2490, Steve Pinter, Acting Chief of Licensing, tel.: 202/622-2480, or Barbara Hammerle, Deputy Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On September 17, 1999, the President announced his decision to ease economic sanctions against North Korea in order to improve overall relations with North Korea, to support the Agreed Framework, and to encourage North Korea to continue to refrain from testing long-range missiles. Accordingly, the Office of Foreign Assets Control is amending the Foreign Assets Control Regulations, 31 CFR part 500 (the "FACR"), to add § 500.586, authorizing new transactions involving property in which North Korean nationals have an interest. The effect of this amendment is that transactions involving such property coming within the jurisdiction of the United States or into the possession or control of persons subject to the jurisdiction of the United States after June 19, 2000 or in which an interest of North Korea or a national thereof arises after that time, are authorized by general license. Newly authorized transactions include, but are not limited to, exportation to North Korea, new investment, and brokering transactions (except as otherwise restricted under regulations administered by other federal agencies, e.g., the Export Administration Regulations). Importations from North Korea require notification to and approval from the Office of Foreign Assets Control for purposes of compliance with Chapter 7 of the Arms Export Control Act. Property blocked as of June 16, 2000, remains blocked. Reports due under general or specific license must still be filed covering activities prior to the effective date of this rule.

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

As authorized in the APA, the Regulations are being issued without prior notice and public comment. The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget ("OMB") under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, Banking, Foreign investments in U.S., Foreign trade, Securities, North Korea.

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 50 U.S.C. App. 1-44; E.O. 9193, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 3 CFR, 1943-1948 Comp., p. 748.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

2. Section 500.533 is revised to read as follows:

§ 500.533 Exportations, reexportations, and incidental transactions.

(a) All transactions ordinarily incident to the exportation of goods, software, or technology (including technical data) from the United States or reexportation of U.S.-origin goods, software, or technology from a foreign country to any person in a designated foreign country or to the government of a designated foreign country, are hereby authorized, provided that the exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the Export Administration Regulations (15 CFR parts 730-799).

(b) The general license does not authorize the financing of any transaction from a blocked account.

Note to § 500.533: See note to § 500.586(b).

3. Section 500.586 is added to subpart E to read as follows:

§ 500.586 Authorization of new transactions concerning certain North Korean property.

(a) Subject to the limitations in paragraph (b) of this section,

transactions in which North Korea or a national thereof has an interest are authorized where:

(1) The property comes within the jurisdiction of the United States or into the control or possession of a person subject to the jurisdiction of the United States on or after June 19, 2000; or

(2) The interest in the property of North Korea or a North Korean national arises on or after June 19, 2000.

(b)(1) Unless otherwise authorized by the Office of Foreign Assets Control, all property and interests in property of North Korea or its nationals that were blocked pursuant to subpart B of this part as of June 16, 2000, remain blocked and subject to the prohibitions and requirements of this part;

(2)(i) The importation of products into the United States from North Korea requires approval from the Office of Foreign Assets Control. The person seeking to import products into the United States must provide information relevant to the determination whether the product was produced by

(A) A foreign person whose actions triggered import sanctions under sections 73 and 74 of the Arms Export Control Act;

(B) An activity of the government of North Korea relating to the development or production of any missile equipment or technology; or

(C) An activity of the government of North Korea affecting the development or production of electronics, space systems or equipment, and military aircraft.

(ii) Those seeking to import products from North Korea into the United States must submit all available information satisfying the requirements of paragraph

(b)(2)(i) of this section; the name, address, telephone number, facsimile number, and e-mail address of the importer; a description of the product to be imported, including quantity and cost; the name and address of the producer of the product; the name of the location where the product was produced; and the name and address of the North Korean exporter. Requests for import review should be submitted by mail to North Korea Unit, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Annex, Washington, DC 20220. Upon review of the submitted information, the Office of Foreign Assets Control will issue a letter indicating the results of the review to the person seeking to import the product.

(3) Except as authorized by § 500.580 or unless otherwise authorized by the Office of Foreign Assets Control, persons subject to the jurisdiction of the United States are prohibited from engaging in any transfer from the government of North Korea:

(i) Constituting a donation to a person subject to the jurisdiction of the United States; or

(ii) With respect to which a person subject to the jurisdiction of the United States knows (including knowledge based on advice from an agent of the United States Government), or has reasonable cause to believe, that the transfer poses a risk of furthering terrorist acts in the United States.

(4) This section does not affect any open enforcement action initiated by the U.S. government prior to June 19, 2000 or any seizure, forfeiture, penalty, or liquidated damages case that is considered closed in accordance with

U.S. Customs or other agency regulations. This section also does not authorize the importation into the United States of goods that are under seizure or detention by U.S. Customs officials pursuant to Customs laws or other applicable provision of law, until any applicable penalties, charges, duties or other conditions are satisfied. This section does not authorize importation into the United States of goods for which forfeiture proceedings have been commenced or of goods that have been forfeited to the U.S. Government, other than through U.S. Customs disposition by selling at auction.

Note to § 500.586(b): The exportation and reexportation of items may be subject to license application requirements under regulations administered by other federal agencies (see *e.g.*, the Export Administration Regulations administered by the Department of Commerce). Section 500.533 of this part continues to provide authority for transactions incident to the exportation and reexportation of items authorized by the Department of Commerce. It should also be noted that the shipment of strategic goods from a foreign country to North Korea by persons subject to the jurisdiction of the United States remains prohibited by 31 CFR part 505. The application requirements for a specific license relating to such goods are found in 31 CFR 501.801.

Dated: June 13, 2000.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 13, 2000.

Elisabeth A. Bresee,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

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