



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 510

North Korea Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is amending the North Korea Sanctions Regulations to modify a general license that authorizes certain transactions in support of specified humanitarian activities of nongovernmental organizations. Additionally, OFAC is adding general licenses to authorize the following: transactions related to the exportation and reexportation of items authorized by the U.S. Department of Commerce; the provision of certain agricultural commodities, medicine, and medical devices; and certain journalistic activities in North Korea.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Compliance, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC’s website: www.treas.gov/ofac.

Background

On November 4, 2010, OFAC issued the North Korea Sanctions Regulations, 31 CFR part 510 (75 FR 67912, November 4, 2010) (the “Regulations”). Since then, OFAC has amended the Regulations several times. OFAC is now amending the general license at

§ 510.512 of the Regulations, which authorizes certain transactions in support of specified humanitarian activities of nongovernmental organizations (NGOs) in North Korea, to broaden the activities and transactions authorized, including transactions with certain Government of North Korea entities that are necessary for the provision of services authorized by § 510.512, and make other changes. As a condition of the general license, NGOs relying on the authorization must submit a report to the U.S. Department of State no fewer than 30 days before the commencement of their activity indicating that the NGO's activities have been approved by or notified to the Security Council Committee established pursuant to United Nations Security Council resolution 1718 (2006), or that the NGO's activities do not require such an approval or notification. The U.S. Department of State may notify NGOs within the two-week period following submission of the report to inform them that their activities are not authorized by the NGO general license.

Additionally, this rule adds three new general licenses to the Regulations. Section 510.520 authorizes transactions incident to the exportation or reexportation to North Korea of items (commodities, software, or technology) subject to the Export Administration Regulations, 15 CFR parts 730 through 774 (EAR), that have been licensed or otherwise authorized by the U.S. Department of Commerce under the EAR, including on a "No License Required" (NLR) basis due to the availability of an EAR license exception. Section 510.521 authorizes the provision of certain agricultural commodities, medicine, and medical devices (excluding "luxury goods" as described in 15 CFR 746.4(b)(1)) that are not subject to the EAR to North Korea. Section 510.522 authorizes U.S. news reporting organizations and their employees to engage in certain journalistic activities in North Korea, which OFAC authorizes via specific license. Finally, this rule corrects a typographic error in the authority citation.

Public Participation

Because this amendment of the Regulations involves a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, "Regulatory Planning and Review"

(58 FR 51735, October 4, 1993), as amended, and the Administrative Procedure Act (5 U.S.C. 553) 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

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties 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 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 510

Administrative practice and procedure, Agricultural commodities, Aircraft, Banks, banking, Blocking of assets, CAPTA List, Diplomatic missions, Foreign financial institutions, Foreign trade, Imports, Journalistic activities, Medical devices, Medicine, Nongovernmental organizations, North Korea, Patents, Secondary sanctions, Services, Telecommunications, United Nations, Vessels, Workers’ Party of Korea.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 510 as follows:

PART 510—NORTH KOREA SANCTIONS REGULATIONS

1. The authority citation is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c, 9201–9255; Pub. L. 101-410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); Pub. L. 115-44, 131 Stat. 886 (codified in scattered sections of 22 U.S.C.); E.O. 13466, 73 FR 36787, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, 3 CFR, 2010 Comp., p. 242; E.O. 13570, 76 FR 22291, 3 CFR, 2011 Comp., p. 233; E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp.,

p. 259; E.O. 13722, 81 FR 14943, 3 CFR, 2016 Comp., p. 446; E.O. 13810, 82 FR 44705, 3 CFR, 2017 Comp., p. 379.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Revise § 510.512 to read as follows:

§ 510.512 Certain transactions in support of nongovernmental organizations' activities.

(a) Except as provided in paragraph (d) of this section, and subject to the reporting requirements set forth in paragraph (e) of this section, all transactions, including the payment of reasonable and customary taxes, fees, and import duties to, and purchase or receipt of permits, licenses, or public utility services from, the Government of North Korea that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization (NGO) are authorized, provided that the NGO is not a person whose property and interests in property are blocked pursuant to this part.

Note 1 to paragraph (a). The authorization in paragraph (a) of this section includes the exportation or reexportation of items (commodities, software, or technology) not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR) that are ordinarily incident and necessary to activities described in paragraph (b) of this section, except for items described in paragraph (d)(3) of this section. Pursuant to 15 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

(b) The activities referenced in paragraph (a) of this section are non-commercial activities designed to directly benefit the civilian population that fall into one of the following categories:

(1) Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief; food, nutrition, or medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs;

(2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects;

(3) Activities to support education at or below a secondary school level, including combating illiteracy, increasing access to education at the primary or secondary school level, and assisting education reform projects, provided that such education excludes the subjects of math, sciences, technology, engineering, and computer programming;

(4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation;

(5) Activities to support environmental and natural resource protection, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage; and

(6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.

(c) U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process transfers of funds on behalf of U.S. or third-country NGOs, including transfers of funds to or from North Korea, in support of the activities authorized by paragraph (a) of this section.

(d) This section does not authorize the following transactions:

(1) The exportation or reexportation of services to, charitable donations to or for the benefit of, or any other transactions involving the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201, except as ordinarily incident and necessary to an activity authorized in paragraph (a) of this section;

(2) Partnerships or partnership agreements with any military, intelligence, or law enforcement entity owned or controlled by the Government of North Korea, except as necessary to export or import items to or from North Korea that are licensed or otherwise authorized pursuant to this part or pursuant to the EAR; or

(3) Exportation or reexportation of any item that would not be designated as EAR99 if it were located in the United States, unless exempt or authorized.

(e) NGOs relying on the authorization in paragraph (a) of this section must submit a report to the U.S. Department of State via email at DPRK-NGO-GL-Notification-DL@state.gov no fewer than 30 days before commencement of the authorized activity with the following:

(1) *UN Security Council 1718 Committee (“1718 Committee”) report.* (i) If the NGO has received 1718 Committee approval with respect to its activities to be conducted pursuant to this section, a copy of such approval along with the exemption request submitted to the 1718 Committee; or

(ii) If the NGO has not received 1718 Committee approval with respect to its activities to be conducted pursuant to this section, either:

(A) A copy of any 1718 Committee exemption request or notification that has been or will be submitted to the 1718 Committee with respect to the NGO’s activities; or

(B) A detailed explanation of why the NGO’s proposed activities do not require such an exemption or notification, including:

(1) Items the NGO plans to transport to North Korea related to activities described in paragraph (b) of this section, including items for personal use by persons regularly employed by the NGO;

(2) Estimated or actual dollar value of the transaction(s), as determined by the value of goods, services, or contracts;

(3) The parties involved, including any persons owned, controlled, or acting on behalf of the Government of North Korea or the Workers Party of Korea, as well as financial institutions that may be involved in processing such transactions;

(4) The type and scope of activities conducted; and

(5) The dates or duration of the activities.

(2) *U.S. Department of State confirmation.* The U.S. Department of State may notify an NGO within the 2-week period following submission of the report described in this paragraph (e) to inform the NGO that it may not rely upon this section.

(f) Specific licenses may be issued on a case-by-case basis to authorize NGOs or other entities to engage in other activities designed to directly benefit the civilian population, including support for the removal of landmines and economic development projects to directly benefit the civilian population of North Korea.

Note 2 to § 510.512. This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

3. Add § 510.520 to read as follows:

§ 510.520 Transactions ordinarily incident to the exportation or reexportation to North Korea of items licensed or otherwise authorized by the Department of Commerce, and related services.

All transactions ordinarily incident to the exportation or reexportation of items (commodities, software, or technology) to North Korea, including transactions with the Government of North Korea or any other person whose property and interests in property are blocked pursuant to § 510.201, and services provided outside North Korea to install, repair, or replace such items, are authorized, provided that the exportation or reexportation of such items to North Korea is licensed or otherwise authorized by the Department of Commerce.

4. Add § 510.521 to read as follows:

§ 510.521 Exportation or reexportation to North Korea of certain agricultural commodities, medicine, medical devices, and replacement parts and components.

(a) All transactions prohibited by § 510.206 that are related to the exportation or reexportation to North Korea of agricultural commodities, medicine, medical devices, or replacement parts or components for medical devices, in each case that are not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), are authorized, provided that the agricultural commodities, medicine, medical devices, or replacement parts or components:

(1) Would be designated as EAR99 if they were located in the United States;

(2) Are not luxury goods as set forth in 15 CFR 746.4(b)(1), including identified as examples of luxury goods in 17 CFR part 746, supplement no. 1;

(3) Are approved for exportation or reexportation to North Korea by the Security Council Committee established pursuant to United Nations Security Council resolution 1718 (2006), to the extent such approval is required;

(4) Are not exported or reexported to any military, intelligence, or law enforcement purchaser or importer; and

(5) Replacement parts are limited to a one-for-one export or reexport basis (*i.e.*, only one replacement part can be exported or reexported to replace a broken or non-operational part).

Note 1 to paragraph (a). Separate authorization from OFAC is required for export or reexport by a U.S. person to North Korea of items that are not subject to the EAR, other than agricultural commodities, medicine, medical devices, or replacement parts or components for medical devices as described in this paragraph. *See* § 510.512 for a general license authorizing certain transactions by nongovernmental organizations, including exports and reexports of certain items that are not subject to the EAR.

(b) For the purposes of this section, agricultural commodities, medicine, and medical devices are defined as follows:

(1) *Agricultural commodities*. The term *agricultural commodities* means products:

(i) That fall within the term “agricultural commodity” as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) That are intended for ultimate use as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers for the purposes of food production; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine*. The term *medicine* means an item that falls within the definition of the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) *Medical device*. The term *medical device* means an item that:

(i) Falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and

(ii) Is not on the List of Medical Devices Requiring Specific Authorization, which is maintained on OFAC’s website (www.treasury.gov/ofac) on the North Korea Sanctions page.

Note 2 to § 510.521. Pursuant to 17 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

5. Add § 510.522 to read as follows:

§ 510.522 Journalistic activities and establishment of news bureaus in North Korea.

(a) Subject to the conditions set forth in paragraph (b) of this section, news reporting organizations that are United States persons, and individuals who are United States persons regularly employed by news reporting organizations either as journalists (including

photojournalists) or as supporting broadcast or technical personnel, are authorized to engage in the following transactions in North Korea, provided that such transactions are ordinarily incident and necessary to their journalistic activities or the establishment or operation of a news bureau in North Korea:

(1) Hiring and compensating support staff in North Korea (e.g., stringers, translators, interpreters, camera operators, technical experts, freelance producers, or drivers), persons to handle logistics, or other office personnel as needed;

(2) Leasing or renting office space;

(3) Purchasing, leasing, or renting North Korean-origin goods and services (e.g., mobile phones and related airtime), selling such goods when no longer needed to persons other than the Government of North Korea or Worker's Party of Korea, or importing them into the United States;

(4) Renting and using telecommunications facilities in North Korea and paying fees or taxes related to the dissemination of information and transmission of news feeds (e.g., fees for satellite uplink facilities, or live news feeds);

(5) Exporting and reexporting to North Korea, and subsequently reexporting from North Korea, equipment that is not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), and that is ordinarily incident and necessary to journalistic activities, provided that:

(i) Such equipment would be designated as EAR99 if it were located in the United States;

(ii) The exportation or reexportation is approved by the Security Council Committee established pursuant to United Nations Security Council resolution 1718 (2006), to the extent such approval is required; and

(iii) Such equipment remains under the effective control and in the physical possession of the news reporting organization or journalist exporting such equipment while it is in North Korea

and is reexported from North Korea to the United States or a third country when no longer needed for journalistic activities in North Korea; and

(6) Paying for all expenses ordinarily incident and necessary to journalistic activities, including sales or employment taxes to the Government of North Korea.

Note 1 to paragraph (a). This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations. Pursuant to 15 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item (commodities, software, or technology) subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

Note 2 to paragraph (a). See § 510.520 for a general license authorizing transactions ordinarily incident to the exportation or reexportation to North Korea of items that are licensed or otherwise authorized by the Department of Commerce.

(b) For the purposes of this section, the term “news reporting organization” means an entity whose primary purpose is the gathering and dissemination of news to the general public.

Note 3 to § 510.522. As of September 1, 2017, the U.S. Department of State has restricted the use of U.S. passports to travel into, in, or through North Korea. See 22 CFR 51.63. U.S. nationals who wish to travel to or within North Korea for the extremely limited purposes that are set forth in Federal regulations must apply for a passport with a special validation from the Department of State. See *travel.state.gov* for additional details.

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