

(4) *Technology controlled under ECCN 1E355.* Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[67 FR 37982, May 31, 2002, as amended at 69 FR 42865, July 19, 2004]

**§ 742.19 Anti-terrorism: North Korea.**

(a) *License Requirements.* (1) All items on the Commerce Control List (CCL) (i.e., with a designation other than EAR99) that are controlled for anti-terrorism reasons require a license for export or reexport to North Korea. This includes all items on the CCL containing AT column 1 or AT column 2 in the Country Chart column of the License requirements section of an ECCN; and ECCNs 0A986, 0A988, 0A999, 0B986, 0B999, 0D999, 1A999, 1B999, 1C995, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999. See also part 746 of the EAR.

(2) The Secretary of State has designated North Korea as a country whose Government has repeatedly provided support for acts of international terrorism.

(3) In support of U.S. foreign policy on terrorism-supporting countries, BIS maintains two types of anti-terrorism controls on the export and reexport of items described in Supplement 2 to part 742.

(i) Items described in paragraphs (c)(1) through (c)(5) of Supplement No. 2 to part 742 are controlled under section 6(j) of the Export Administration Act, as amended (EAA), if destined to military, police, intelligence or other sensitive end-users.

(ii) Items described in paragraphs (c)(1) through (c)(5) of Supplement No 2 to part 742 destined to non-sensitive end-users, as well as items described in paragraph (c)(6) through (c)(45) to all end-users, are controlled to North Korea under section 6(a) of the EAA. License applications for items reviewed under section 6(a) controls will also be reviewed to determine the applicability of section 6(j) controls to the transaction. When it is determined that an export or reexport could make a sig-

nificant contribution to the military potential of North Korea, including its military logistics capability, or could enhance North Korea's ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license. (See Supplement No. 2 to part 742 for more information on items controlled under sections 6(a) and 6(j) of the EAA and § 750.6 of the EAR for procedures for processing license applications for items controlled under EAA section 6(j).)

(b) *Licensing policy.* (1) Applications for export and reexport to all end-users in North Korea of the following items will generally be denied:

(i) Items controlled for chemical and biological weapons proliferation reasons to any destination. These items contain CB Column 1, CB Column 2, or CB Column 3 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(ii) Items controlled for missile proliferation reasons to any destination. These items have an MT Column 1 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iii) Items controlled for nuclear weapons proliferation reasons to any destination. These items contain NP Column 1 or NP Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(iv) Items controlled for national security reasons to any destination. These items contain NS Column 1 or NS Column 2 in the Country Chart column of the "License Requirements" section of an ECCN on the CCL.

(v) Military-related items controlled for national security reasons to any destination. These items contain NS Column 1 in the Country Chart column of the "License Requirements" section in an ECCN on the CCL and are controlled by equipment or material entries ending in the number "18."

(vi) All aircraft (powered and unpowered), helicopters, engines, and related spare parts and components. Such items contain an NS Column 1, NS Column 2, MT Column 1, or AT Column 1 in the Country Chart column of the "License Requirements" section of

an ECCN on the CCL. (Not including parts and components for safety-of-flight, which will be reviewed on a case-by-case basis in accordance with paragraph (b)(2) of this section).

(vii) Cryptographic, cryptoanalytic, and crypto-logic items controlled any destination. These are items that contain an NS Column 1, NS Column 2, AT Column 1 or AT Column 2 in the Country Chart column of the “License Requirements” section of an ECCN on the CCL.

(viii) Submersible systems controlled under ECCN 8A992.

(ix) Scuba gear and related equipment controlled under ECCN 8A992.

(x) Pressurized aircraft breathing equipment controlled under ECCN 9A991.

(xi) Explosives detection equipment controlled under ECCN 2A983.

(xii) “Software” (ECCN 2D983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(xiii) “Technology” (ECCN 2E983) specially designed or modified for the “development”, “production” or “use” of explosives detection equipment controlled by 2A983.

(xiv) Commercial charges and devices controlled under ECCN 1C992.

(xv) Computer numerically controlled machine tools controlled under ECCN 2B991.

(xvi) Aircraft skin and spar milling machines controlled under ECCN 2B991.

(xvii) Semiconductor manufacturing equipment controlled under ECCN 3B991.

(xviii) Digital computers with an Adjusted Peak Performance (APP) exceeding 0.0004 Weighted TeraFLOPS (WT).

(xix) Microprocessors with a processing speed of 0.5 GFLOPS or above .

(xx) Ammonium nitrate, including certain fertilizers containing ammonium nitrate, controlled under ECCN 1C997.

(xxi) Technology for the production of Chemical Weapons Convention (CWC) Schedule 2 and 3 Chemicals controlled under ECCN 1E355.

(2) Applications for export and reexport to North Korea of all other items described in paragraph (a) of this sec-

tion, and not described by paragraph (b)(1) of this section, will generally be denied if the export or reexport is destined to a military end-user or for military end-use. Applications for non-military end-users or for non-military end-uses will be considered on a case-by-case basis. Applications to export or reexport humanitarian items intended for the benefit of the North Korean people; items in support of United Nations humanitarian efforts; and agricultural commodities and medical devices will generally be approved.

(3) Applications for export and reexport to North Korea of items described in paragraphs (c)(12), (c)(24), (c)(34), (c)(37), (c)(38), and (c)(45) of Supplement No. 2 to part 742 will generally be denied if the export or reexport is destined to nuclear end-users or nuclear end-uses. Applications for non-nuclear end-users or for non-nuclear end-uses, excluding items described in (c)(24)(iv)(A) of Supplement No. 2 to part 742, will be considered on a case-by-case basis.

(4) License applications for items reviewed under section 6(a) controls will also be reviewed to determine the applicability of section 6(j) controls to the transaction. When it is determined that an export or reexport could make a significant contribution to the military potential of North Korea, including its military logistics capability, or could enhance North Korea’s ability to support acts of international terrorism, the Secretaries of State and Commerce will notify the Congress 30 days prior to issuance of a license.

[65 FR 38151, June 19, 2000, as amended at 66 FR 36682, July 12, 2001; 68 FR 16212, Apr. 3, 2003; 70 FR 54628, Sept. 16, 2005; 71 FR 20885, Apr. 24, 2006; 72 FR 3725, Jan. 26, 2007; 72 FR 62532, Nov. 5, 2007]

#### SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

NOTE: Exports and reexports of items in performance of contracts entered into before the applicable contract sanctity date(s) will be eligible for review on a case-by-case basis or other applicable licensing policies that were in effect prior to the contract sanctity date. The contract sanctity dates set forth in