

Democratic People's Republic of Korea (North Korea) Regulation
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Frequently Asked Questions (FAQs)

1. What does BIS's new regulation on North Korea do?
 - A. Under the new regulation, BIS requires a license for the export or reexport to North Korea of all items subject to the EAR including most items classified as EAR99. BIS does not require a license for food and medicines classified as EAR99.
2. Can I export or reexport food and medicine to North Korea without a license?
 - A. Yes, food and some types of medicines – specifically, those classified as EAR99 – may be exported or reexported to North Korea without a license. Medicines controlled on the Commerce Control List (CCL) require a license for export or reexport to North Korea.
3. What is considered “food?”
 - A. The new regulation adds a definition of “food” to Section 772.1 of the EAR, which applies specifically to exports and reexports to North Korea and Syria. For such purposes, food means items that are consumed by and provide nutrition to humans and animals, and seeds, with the exception of castor bean seeds, that germinate into items that will be consumed by and provide nutrition to humans and animals. Food does not include cigarettes or chewing gum.
4. What is considered “medicine?”
 - A. “Medicines” is defined in Section 772.1 of the EAR to have the same meaning as “drug,” as defined in Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the EAR, medicines include prescription and over the counter drugs for humans and animals. Note that certain medicines, such as vaccines and immunotoxins, are on the CCL.
5. What is the licensing policy for EAR99 items (other than food or medicines) exported or reexported to North Korea?
 - A. BIS will review EAR99 items on a case-by-case basis, except as follows:
 - BIS will generally deny license applications for “luxury goods.”
 - BIS will generally approve license applications for humanitarian assistance items (e.g., blankets, basic footwear, and other items meeting subsistence needs) that are intended for the benefit of the North Korean people.
 - BIS will generally approve license applications for items in support of United Nations humanitarian efforts.
 - BIS will generally approve license applications for agricultural commodities and medical devices that are determined not to be luxury goods. Agricultural commodities are as defined in Section 102 of the Agricultural Trade Act of 1978). Medical devices are as

defined in Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). Note that the general approval policy will not apply to any of these commodities or devices that are determined to be luxury goods.

6. Do U.S.-origin EAR99 items need a license to be reexported to North Korea?

A. Yes, unless they are food or medicines classified as EAR99.

7. Can you give examples of items considered to be “luxury goods?”

A. Examples of “luxury goods” are luxury automobiles, yachts, gems, jewelry, other fashion accessories, cosmetics, perfumes, furs, designer clothing, luxury watches, rugs and tapestries, electronic entertainment software and equipment, recreational sports equipment, tobacco, wine and other alcoholic beverages, musical instruments, art, and antiques and collectible items. Additional examples are set forth in Supplement No. 1 to Part 746 of the EAR.

8. Will BIS publish a list of “luxury goods?”

A. BIS’s new regulation includes an illustrative list of luxury goods in Supplement No. 1 to Part 746. It is an illustrative list only. The Bureau will determine, on a case-by-case basis, whether an item is a luxury good. The U.S. Government may consider the end-use and/or end-user when making this determination. For example, we may not consider an item destined for a humanitarian organization to provide humanitarian assistance to the North Korean people as a luxury good. However, we might consider the same item going to a different end-user as a luxury good, in which case we would not authorize its export.

9. Can you give an example of such a transaction?

A. As an example, the U.S. Government might authorize the export of an SUV to North Korea for a humanitarian organization to distribute medical supplies to rural hospitals, but we would deny the export of that same SUV to North Korea for a government official or for the personal use of a member of North Korea’s elite.

10. How can I determine if my item is a luxury good?

A. You should begin with a review of the illustrative list provided in Supplement No. 1 to Part 746. If you do not know whether your item is a luxury good, you may apply to the Bureau of Industry and Security for guidance pursuant to the Advisory Opinion procedures set forth in Section 748.3 of the EAR. The Bureau will determine, on a case-by-case basis, whether an item is a luxury good. As the U.S. Government will consider the end-use and/or end-user when making this determination, including such information in your Advisory Opinion request will expedite its review.

11. Does the new regulation change the *de minimis* calculation for exports and reexports to North Korea?

A. Yes. Because most EAR99 items are controlled under the new regulation, you must now add the U.S.-origin value of EAR99 parts and components into your calculations when determining the U.S. content of commodities to be exported or reexported to North Korea. Note that the *de minimis* limit is 10% for exports and reexports to a terrorist-supporting country listed in Country Group E:1, including North Korea (see Section 734.4 for *de minimis* information; see Supplement No. 1 to Part 740 for Country Group information).

12. What is the licensing policy for items on the Commerce Control List (CCL) exported or reexported to North Korea?

A. Under the new regulation, BIS continues existing license requirements for items controlled on the CCL. The export or reexport to North Korea of all items on the CCL requires a license. BIS will generally deny license applications for the following items on the CCL:

- arms and related materiel;
- items controlled under the multilateral export control regime control lists (the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group, and the Wassenaar Arrangement);
- items specified in UN documents S/2006/814, S/2006/815 and S/2006/853;
- items that the UN Security Council or the UN Sanctions Committee has determined could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs; and
- items controlled on the CCL for nuclear nonproliferation (NP) and missile technology (MT) reasons, except ECCN 7A103 items.

Other items on the CCL will continue to be reviewed consistent with the policy set forth in Section 742.19(b) of the EAR.

13. Are there any license exceptions available for exports to North Korea?

A. The new regulation makes most license exceptions inapplicable for North Korea. The only license exceptions that remain available (most only in part) for North Korea are:

- Aircraft and Vessels (AVS) (Section 740.15(a)(4)), for civil aircraft on temporary sojourn;
- Baggage (BAG) (Section 740.14(a))for exports of items by individuals leaving the United States as personal baggage;
- Gift Parcels and Humanitarian Donations (GFT) (Section 740.12) for the export or reexport of gift parcels, not containing luxury goods and not exceeding a total value of \$400, by an individual to an individual or a religious, charitable or educational organization, and for the export or reexport by groups or organizations of certain donations to meet basic human needs;
- Governments, International Organizations, and International Inspections under the Chemical Weapons Convention (GOV) (Section 740.11(a), (b)(2)(i) and (b)(2)(ii))for items for personal or official use by personnel and agencies of the U.S. Government, the IAEA, or the European Atomic Energy Community (Euratom);
- Temporary Imports, Exports and Reexports (TMP) (Section 740.9(a)(2)(viii))for items

- for use by the news media; and
- Technology and Software (TSU) (Section 740.13(a) and (b)) for operation technology and software for lawfully exported items and sales technology.

14. Are there restrictions on the use of License Exception GFT for gift parcels and humanitarian donations to North Korea?

A. Yes. In addition to the restrictions set forth within License Exception GFT in Section 740.12 of the EAR, GFT is not available for exports or reexports of luxury goods to North Korea.

15. Why was a new regulation necessary?

A. The new sanctions are part of an international response to North Korea's test of a nuclear device on October 9, 2006. On October 14, the United Nations (UN) Security Council adopted Resolution 1718 (UNSCR 1718) that, among other things, directs UN Member States to prevent the transfer to North Korea of (1) luxury goods; (2) arms and related materiel; and (3) items specified in UN documents S/2006/814, S/2006/815 and S/2006/853, as well as other items that could contribute to North Korea's nuclear-related, ballistic missile-related, and other weapons of mass destruction-related programs.

The new regulation also implements the President's December 7, 2006 directive (published at 72 Fed. Reg. 1899 (Jan. 16, 2007)) that relevant agencies of the U.S. Government take the necessary actions to impose the sanctions described in Section 102(b) of the Arms Export Control Act, as amended (22 U.S.C. § 2799aa-1), also known as the "Glenn Amendment." Section 102(b)(2)(G) of that Act provides that dual-use export control authorities shall be used to prohibit exports of specific goods and technology to any country identified by the President as a non-nuclear country that has detonated a nuclear device. In the new regulation, BIS is applying Glenn Amendment sanctions to items controlled on the CCL for Nuclear Nonproliferation (NP) and Missile Technology (MT) reasons (except for items controlled under ECCN 7A103).

16. Where can I find the text of the regulation?

A. You can find the regulation in the Federal Register at 72 Fed. Reg. 3722, published on January 26, 2007. You can search the Federal Register for that date online at <http://www.gpoaccess.gov/fr/index.html>.

General Licensing

17. What is SNAP-R?

A. SNAP-R is the acronym for BIS's Simplified Network Application Process Redesign. It allows exporters to electronically submit export/reexport license applications, notifications, and commodity classification requests. See the online [information about SNAP-R](#). [insert link]

18. Where can I get forms?

A. You may request forms on-line [insert link] or by contacting the Office of Exporter Services at 202-482-4811. In addition, the Department of Commerce's Commercial Service district offices often have forms. Check your local listing for the locations of Department of Commerce offices.

19. How will I know if BIS has registered my application?

A. You may call BIS's "System for Tracking Export License Applications" (STELA) [insert link] at 202-482-2752 and enter the Application Control Number (it begins with "Z" followed by six digits) for the status of their applications. For applications that have been electronically submitted through BIS's SNAP-R system, you may check on the registration status of your application through the SNAP-R system.

20. What is STELA?

A. STELA is the acronym for BIS's automated System for Tracking Export License Applications. [insert link] It is an automated voice response system that you can access using a touch-tone phone (see question 19).

21. How do I classify my commodity?

A. To classify your product, you should begin with a review of the general characteristics of your item. This will usually guide you to the appropriate category on the CCL. Once the appropriate category is identified, you should match the particular characteristics and functions of your item to a specific Export Control Classification Number (ECCN). (Link to See "Do I Need an ECCN" [insert link] for additional information)

You can also request an official commodity classification from BIS. A commodity classification request requires the submission of an application and technical specifications of your commodity, software or technology to BIS. To submit a classification request use Form BIS-748P or submit via the internet using the Simplified Network Application Process (SNAP-R). Form BIS-748P can be obtained by calling BIS's Exporter Counseling Division, the Western Regional Office, or on-line through this Web site.

22. How do I contact BIS?

A. Your first point of contact with questions regarding export control policies and procedures at BIS is the Office of Exporter Services, Outreach and Education Services Division at 202-482-4811.