

DEPARTMENT OF COMMERCE**Bureau of Industry and Security**

15 CFR Parts 732, 738, 740, 742, 746, 772 and 774

[Docket No. 070111012-7017-01]

RIN 0694-AD97

North Korea: Imposition of New Foreign Policy Controls

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In accordance with recent United Nations (UN) Security Council resolutions and the foreign policy interests of the United States, the United States Government is imposing restrictions on exports and reexports of luxury goods to the Democratic People's Republic of Korea (North Korea), and is continuing to restrict exports and reexports of nuclear or missile-related items and other items included on the Commerce Control List (CCL). To this end, the Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to impose license requirements for the export and reexport of virtually all items subject to the EAR to North Korea, except food and medicines not listed on the CCL.

BIS will generally deny applications to export and reexport luxury goods, e.g., 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 including but not limited to rare coins and stamps.

BIS will continue to generally deny applications to export and reexport arms and related materiel controlled on the CCL and items controlled under the multilateral export control regimes (the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group, and the Wassenaar Arrangement). This includes items specified in UN documents S/2006/814, S/2006/815 and S/2006/853. BIS will also generally deny applications to export and reexport other items that the UN determines could contribute to North Korea's nuclear-related, ballistic missile-related, or other weapons of mass destruction-related programs.

BIS will also generally approve applications to export or reexport: non-

food, non-medical humanitarian items (e.g., blankets, basic footwear, heating oil, and other items meeting subsistence needs) intended for the benefit of the North Korean people; items in support of United Nations humanitarian efforts; and agricultural commodities and medical devices that are determined not to be luxury goods.

BIS will review on a case-by-case basis applications to export and reexport all other items subject to the EAR.

DATES: This rule is effective January 26, 2007.

ADDRESSES: Although this is a final rule, BIS welcomes comments, which should be sent by fax to (202) 482-3355, e-mail to publiccomments@bis.doc.gov, or by mail to Jeffery Lynch, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Please refer to regulatory identification number (RIN) 0694-AD974 in all comments, and in the subject line of e-mail comments. Comments on the collection of information should be sent to David Rostker, Office of Management and Budget (OMB) by e-mail to David_Rostker@omb.eop.gov, or by fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Joan M. Roberts, Foreign Policy Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482-4252.

SUPPLEMENTARY INFORMATION:

Background

On July 4, 2006, in defiance of international calls for restraint, the Democratic People's Republic of Korea (North Korea) proceeded with the launch and testing of a series of ballistic missiles. On July 15, 2006, the United Nations (UN) Security Council adopted Resolution 1695 (UNSCR 1695), condemning North Korea for its actions. In UNSCR 1695, the Security Council demanded that North Korea suspend all ballistic missile-related activity and reinstate its moratorium on missile launches. Subsequently, the President signed the North Korea Nonproliferation Act of 2006 (Pub. L. 109-353), which affirmed Congress' statement that it should be the policy of the United States to impose sanctions on persons who supported North Korea's missile or weapons of mass destruction programs.

On October 9, 2006, despite the adoption of UNSCR 1695, and in flagrant disregard of the admonitions of the international community, North Korea conducted a nuclear test. On October 14, 2006, the UN Security Council adopted Resolution 1718

(UNSCR 1718), which condemned the nuclear test and expressed the gravest concern over the challenge such a test constitutes to the Treaty on the Non-Proliferation of Nuclear Weapons, to peace and stability in the region, and to international efforts to strengthen the global nonproliferation regime. Among other things, UNSCR 1718 decides that all UN Member States shall prevent the direct or indirect supply, sale, or transfer to North Korea of: (1) Certain arms and related materiel; (2) items set out in the lists in UN documents S/2006/814, S/2006/815, and S/2006/853 (available at <http://www.un.org/Docs/sc/committees/1718/1718SelEng.htm>), as well as other items identified by the Security Council or the Sanctions Committee established by UNSCR 1718 that could contribute to North Korea's nuclear-related, ballistic missile-related, and other weapons of mass destruction-related programs; and (3) luxury goods. UNSCR 1718 also decides that Member States shall prevent transfers to North Korea of technical training, advice, services, or assistance related to the provision, manufacture, maintenance or use of the items specified above. Furthermore, UNSCR 1718 demands that North Korea, in a verifiable and irreversible manner, abandon nuclear weapons, existing nuclear programs, and all other existing weapons of mass destruction programs. The Resolution also decides that North Korea must suspend all ballistic missile activities, demands that North Korea return to the Treaty on the Non-Proliferation of Nuclear Weapons, and requires that North Korea act in accordance with the terms and conditions of its International Atomic Energy Agency (IAEA) Safeguards Agreement.

On December 7, 2006, in accordance with Section 102(b) of the Arms Export Control Act, as amended (22 U.S.C. 2799aa-1), the President determined that North Korea had detonated a nuclear explosive device. The President directed the relevant agencies and instrumentalities of the United States to take the necessary actions to impose the sanctions described in Section 102(b)(2) of that Act. See 72 FR 1899 (Jan. 16, 2007). 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 so identified by the President.

Changes to Licensing Requirements and Policy

As a result of North Korea's test launch of ballistic missiles in July, 2006, and testing of a nuclear device in October, 2006, and consistent with

UNSCR 1718, the United States is imposing new export and reexport controls on North Korea.

Under this final rule, in accordance with UNSCR 1718 and the foreign policy interests of the United States, the Bureau of Industry and Security (BIS) will require a license for the export and reexport to North Korea of all items subject to the Export Administration Regulations (EAR), except food and medicines that are not on the Commerce Control List (CCL). Although a license is already required to export and reexport to North Korea all items controlled on the CCL for Nuclear Nonproliferation (NP) and Missile Technology (MT) reasons, BIS also will require a license for these items (except for items classified under Export Commodity Classification Number (ECCN) 7A103) in accordance with the President's December 7, 2006 directive regarding implementation of Section 102(b) of the Arms Export Control Act.

Pursuant to new Section 746.4(c) of the EAR, BIS will review license applications for the export or reexport of luxury goods to North Korea under a general policy of denial. This policy of denial applies to, but is not limited to applications to export and reexport luxury goods including, for example: 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, including but not limited to rare coins and stamps. These and similar items have been imported by North Korea for the use and benefit of government officials and their families, rather than for the good of the North Korean people. In new Supplement No. 1 to part 746 of the EAR, BIS will provide further detail regarding the illustrative list of luxury goods set forth in Section 746.4(c). The determination of whether an item is a luxury good will be made on a case-by-case basis. In some cases, the end-use or end-user will be relevant to this determination. For example, an item being exported to a humanitarian organization for purposes of providing humanitarian assistance to the people of North Korea may not be considered a luxury good, but the same item going to a different end-user might be considered a luxury good and might not be approved. Computer laptops and luxury automobiles will be exempted from the general policy of denial if they are being exported or reexported to organizations

legitimately involved in humanitarian relief efforts, other internationally sanctioned efforts, or in the interest of the U.S. Government.

BIS will review under a general policy of approval license applications for the export or reexport of humanitarian items other than food or medicine (e.g., blankets, medical supplies, heating oil, and other items meeting subsistence needs) intended for the benefit of the North Korean people. This policy applies to license applications to export or reexport items in support of UN humanitarian efforts and programs. The general policy of approval also extends to agricultural commodities (as defined in Section 102 of the Agricultural Trade Act of 1978) and medical devices (as defined in Section 201 of the Federal Food, Drug, and Cosmetic Act) that are determined by BIS, in consultation with the interagency license review community, not to be luxury goods. Applications for all other exports and reexports of EAR99 items will be reviewed on a case-by-case basis.

Consistent with UNSCR 1718 and existing U.S. export control policy, BIS will review license applications for arms and related materiel controlled on the CCL and items controlled on the multilateral export control regime control lists (the Missile Technology Control Regime, the Nuclear Suppliers Group, the Australia Group, and the Wassenaar Arrangement) under a general policy of denial. This includes items specified in UN documents S/2006/814, S/2006/815 and S/2006/853. BIS will also generally deny applications to export and reexports other items that the UN Security Council or the Sanctions Committee has determined could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs. In addition, applications to export or reexport items controlled on the CCL for NP and MT reasons (except ECCN 7A103 items) will be reviewed under a general policy of denial. Applications to export or reexport other items on the CCL will be reviewed in accordance with the licensing policy set forth in Section 742.19 of the EAR (Anti-terrorism: North Korea). Section 742.19 is being amended to make technical corrections and also to provide that applications to export or reexport parts and components for safety-of-flight will be reviewed on a case-by-case basis.

License Exceptions

This final rule makes inapplicable for North Korea most license exceptions set forth in part 740 of the EAR. The only license exceptions that remain available

for North Korea, as provided in new Section 746.4(b) are: TMP (15 CFR 740.9(a)(2)(viii) only) for items for use by the news media; GOV (15 CFR 740.11(a), (b)(2)(i), and (b)(2)(ii) only) 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); GFT (15 CFR 740.12) for the export or reexport of gift parcels not containing luxury goods 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; TSU (15 CFR 740.13(a) and (b) only) for operation technology and software for lawfully exported items and sales technology; BAG (15 CFR 740.14 (a) through (d) only) for exports of items by individuals leaving the United States as personal baggage; and AVS (15 CFR 740.15(a)(4) only) for civil passenger aircraft on temporary sojourn.

Other Conforming Changes

Finally, to conform with the above-described changes and to make minor technical corrections, this rule makes limited revisions to Sections 732.1 and 732.3 (Steps for Using the EAR); Supplement No. 1 to Part 738 (the Country Chart); Sections 740.2 and 740.10 (License Exceptions); Sections 742.1 and 742.19 (Control Policy—CCL Based Controls); Section 746.1 (Embargoes and Other Special Controls); Section 772.1 (Definitions of Terms as used in the EAR); and Supplement No. 1 to Part 774 (Commerce Control List) of the EAR.

Expansion of Foreign Policy-Based Export Controls

This rule imposes new export controls for foreign policy reasons. As required by Section 6 of the Export Administration Act of 1979, as amended (the Act), a report on the imposition of these controls was delivered to Congress on January 16, 2007. Although the Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 3, 2006, 71 FR 44551 (Aug. 7, 2006), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Savings Clause

Items that did not require a license prior to the publication of this rule for export or reexport to North Korea and that are on dock for loading, on lighter, laden aboard an exporting carrier or en route aboard a carrier to a port of export

on January 26, 2007, may be exported or reexported without being subject to this rule if the items are exported or reexported before midnight as of February 9, 2007. Any such item not actually exported or reexported before midnight February 9, 2007, may be exported or reexported only if authorized pursuant to this final rule. Exporters holding valid licenses for export or reexport to North Korea prior to January 26, 2007 are authorized to continue shipments pursuant to the terms and conditions of their licenses.

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule contains a collection of information subject to the requirements of the PRA. This collection has previously been approved by OMB under Control Number 0694-0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748. This rule is not expected to result in any change for collection purposes. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the **ADDRESSES** section of this rule.

3. This rule does not contain policies with Federalism implications as this term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public

participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to publiccomments@bis.doc.gov, by fax to (202) 482-3355, or to Jeffery Lynch, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Part 732

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 738

Exports.

15 CFR Part 740

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 746

Exports, Reporting and recordkeeping requirements.

15 CFR Part 772

Exports.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, parts 732, 738, 740, 742, 746, 772, and 774 of the Export

Administration Regulations (15 CFR parts 730 through 799) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for part 732 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

§ 732.1 [Amended]

■ 2. Section 732.1 is amended:

- a. By revising the phrase “Cuba and Iran” in the next to last sentence of paragraph (d)(2) to read “Cuba, Iran, and North Korea”; and
- b. By revising the phrase “Cuba and Iran” in the last sentence of paragraph (d)(3) to read “Cuba, Iran, and North Korea”.

§ 732.3 [Amended]

■ 3. Section 732.3 is amended:

- a. By revising the phrase “Cuba and Iran” in the first sentence of paragraph (d)(4) to read “Cuba, Iran, and North Korea”.
- b. By revising the phrase “Cuba, Iran, Iraq, and Rwanda” in the first sentence of paragraph (i) introductory text to read “Cuba, Iran, Iraq, North Korea, and Rwanda”.

PART 738—[AMENDED]

■ 4. The authority citation for part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

■ 5. Amend the country chart in Supplement 1 to Part 738 by revising the entry for “Korea, North” to read as follows:

SUPPLEMENT NO. 1 TO PART 738.—COMMERCE COUNTRY CHART

[Reason for control]

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control		
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 1	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3
Korea, North	*	*		*		*		*	*		*		*	
	See Sections 742.19 and 746.4 of the EAR to determine whether a license is required in order to export or reexport to this destination.													
	*	*		*		*		*	*		*		*	

PART 740—[AMENDED]

■ 6. The authority citation for part 740 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; Sec. 901–911, Pub. L. 106–387; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

§ 740.2 [Amended]

■ 7. Section 740.2 is amended by revising the phrase “Cuba and Iran” in the first sentence of paragraph (a)(6) to read “Cuba, Iran, and North Korea.”

§ 740.10 [Amended]

■ 8. Section 740.10 is amended by revising the phrase “except the People’s Republic of China (PRC) and North Korea” in the paragraph heading and first sentence of paragraph (b)(2)(iii) to read “except the People’s Republic of China (PRC).”

PART 742—[AMENDED]

■ 9. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec 1503, Pub. L. 108–11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of October 25, 2005, 70 FR 62027 (October 27, 2005); Notice of August 3, 2006, 71 FR 44551 (August 7, 2006).

■ 10. Section 742.1 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 742.1 Introduction.

* * * * *
 (d) * * * If you are exporting or reexporting to Cuba, Iran, or North Korea, you should review part 746 of

the EAR, Embargoes and Other Special Controls.

* * * * *

■ 11. Section 742.19 is amended by revising paragraphs (a)(1) and (a)(3)(ii) and by adding a sentence to the end of paragraph (b)(1)(vi) and to the end of (b)(2) to read as follows:

§ 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.

* * * * *

(3) * * *
 (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 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. (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) * * *

(1) * * *

(vi) * * * (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).

* * * * *

(2) * * * 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.

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PART 746—[AMENDED]

■ 12. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11,117 Stat. 559; 22 U.S.C. 6004; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Presidential Determination 2007–7 of December 7, 2006, 72 FR 1899, January 16, 2007.

§ 746.1 [Amended]

■ 13. Section 746.1 is amended by revising the phrase “Iraq and Rwanda” in paragraph (b) to read “Iraq, North Korea, and Rwanda”.

■ 14. Section 746.4 is added to read as follows:

§ 746.4 North Korea.

(a) Licensing Requirements. As authorized by section 6 of the Export Administration Act of 1979, as amended, and consistent with United Nations Security Council Resolution 1718, a license is required to export or reexport any item subject to the EAR

(see part 734 of the EAR) to the Democratic People's Republic of Korea (North Korea), except food and medicines classified as EAR99 (definitions in part 772 of the EAR). Portions of certain license exceptions, set forth in paragraph (c) of this section, may be available. Exporters should be aware that other provisions of the EAR, including parts 742 and 744, also apply to exports and reexports to North Korea.

(b) Licensing Policy. Items requiring a license are subject to case-by-case review, except as follows:

(1) Luxury Goods. Applications to export or reexport luxury goods, e.g., 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, including but not limited to rare coins and stamps are subject to a general policy of denial. For further information on luxury goods, see Supplement No. 1 to part 746.

(2) Applications to export or reexport arms and related materiel are subject to a general policy of denial. In addition, applications to export or reexport items specified by UN documents S/2006/814, S/2006/815 and S/2006/853 and other items that the UN Security Council or the Sanctions Committee established pursuant to UN Security Council Resolution 1718 has determined could contribute to North Korea's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programs are also subject to a general policy of denial.

(3) Applications to export or reexport items controlled for NP and MT reasons (except ECCN 7A103 items) are subject to a general policy of denial.

(4) Applications to export or reexport humanitarian items (e.g., blankets, basic footwear, heating oil, and other items meeting subsistence needs) intended for the benefit of the North Korean people; items in support of United Nations humanitarian efforts; and agricultural commodities or medical devices items that are determined by BIS, in consultation with the interagency license review community, not to be luxury goods are subject to a general policy of approval.

(5) Other items on the CCL. See Section 742.19(b) of the EAR.

(c) License Exceptions. You may export or reexport without a license if your transaction meets all the applicable terms and conditions of any of the license exception subsections specified

in this paragraph. To determine scope and eligibility requirements, you will need to refer to the sections or specific paragraphs of part 740 (License Exceptions). Read each license exception carefully, as the provisions available for countries subject to sanctions are generally narrow.

(1) TMP for items for use by the news media as set forth in § 740.9(a)(2)(viii) of the EAR.

(2) GOV for items for personal or official use by personnel and agencies of the U.S. Government, the International Atomic Energy Agency (IAEA), or the European Atomic Energy Community (Euratom) as set forth in § 740.11(a), (b)(2)(i), and (b)(2)(ii) of the EAR.

(3) GFT, except that GFT is not available to export or reexport luxury goods as described in this section to North Korea.

(4) TSU for operation technology and software for lawfully exported commodities as set forth in § 740.13(a) and sales technology as set forth in § 740.13 (b) of the EAR.

(5) BAG for exports of items by individuals leaving the United States as personal baggage as set forth in § 740.14(a) through (d) of the EAR.

(6) AVS for civil aircraft as set forth in § 740.15(a)(4) of the EAR.

(d) The Secretary of State has designated North Korea as a country the government of which has repeatedly provided support for acts of international terrorism. For anti-terrorism controls, see Section 742.19 of the EAR.

(e) OFAC maintains controls on certain transactions involving persons subject to U.S. jurisdiction and North Korean entities or any specially designated North Korean national.

■ 15. Supplement No. 1 to part 746 is added to read as follows:

**Supplement No. 1 to Part 746—
Examples of Luxury Goods**

The following further amplifies the illustrative of list luxury goods set forth in § 746.4(c):

- (a) Tobacco and tobacco products
- (b) Luxury watches: Wrist, pocket, and others with a case of precious metal or of metal clad with precious metal
- (c) Apparel and fashion items, as follows:
 - (1) Leather articles
 - (2) Silk articles
 - (3) Fur skins and artificial furs
 - (4) Fashion accessories: Leather travel goods, vanity cases, binocular and camera cases, handbags, wallets, designer fountain pens, silk scarves
 - (5) Cosmetics, including beauty and make-up
 - (6) Perfumes and toilet waters
 - (7) Designer clothing: Leather apparel and clothing accessories

(d) Decorative items, as follows:

- (1) Rugs and tapestries
- (2) Tableware of porcelain or bone china
- (3) Items of lead crystal
- (4) Works of art (including paintings, original sculptures and statuary), antiques (more than 100 years old), and collectible items, including rare coins and stamps
- (e) Jewelry: Jewelry with pearls, gems, precious and semi-precious stones (including diamonds, sapphires, rubies, and emeralds), jewelry of precious metal or of metal clad with precious metal
- (f) Electronic items, as follows:
 - (1) Flat-screen, plasma, or LCD panel televisions or other video monitors or receivers (including high-definition televisions), and any television larger than 29 inches; DVD players
 - (2) Personal digital assistants (PDAs)
 - (3) Personal digital music players
 - (4) Computer laptops
 - (g) Transportation items, as follows:
 - (1) Yachts and other aquatic recreational vehicles (such as personal watercraft)
 - (2) Luxury automobiles (and motor vehicles): Automobiles and other motor vehicles to transport people (other than public transport), including station wagons
 - (3) Racing cars, snowmobiles, and motorcycles
 - (4) Personal transportation devices (stand-up motorized scooters)
 - (h) Recreational items, as follows:
 - (1) Musical instruments
 - (2) Recreational sports equipment
 - (i) Alcoholic beverages: wine, beer, ales, and liquor

PART 772—[AMENDED]

■ 15a. The authority citation for part 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 16. Section 772.1 is amended by adding, in alphabetical order, the definition of "Food" to read as set forth below:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

Food. Specific to exports and reexports to North Korea and Syria, 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 alcoholic beverages.)

* * * * *

PART 774—[AMENDED]

■ 17. The authority citation for part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C.

7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 18. In Supplement No. 1 to part 774, Category 0—“Nuclear Materials, Facilities, and Equipment [and Miscellaneous Items]” is amended by revising the “License Requirements” section of ECCNs 0A018, 0A918, 0A984, 0A985, 0A986, 0A987, 0A988, 0B986, 0E018, 0E918, and 0E984 to read as follows:

0A018 Items on the Wassenaar Munitions List.

License Requirements

Reason for Control: NS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. AT applies to entire entry .. UN applies to entire entry	NS Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *

0A918 Miscellaneous Military Equipment not on the Wassenaar Munitions List

License Requirements

Reason for Control: RS, AT, UN.

Control(s)	Country chart
RS applies to entire entry .. AT applies to entire entry .. UN applies to entire entry	RS Column 2. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *

0A984 Shotguns, barrel length 18 inches (45.72 cm) inches or over; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, FC, UN.

Control(s)	Country chart
FC applies to entire entry .. CC applies to shotguns with a barrel length greater than or equal to 18 in.(45.72 cm), but less than 24 in. (60.96 cm) or buckshot shotgun shells controlled by this entry, regardless of end-user.	FC Column 1. CC Column 1.

Control(s)	Country chart
CC applies to shotguns with a barrel length greater than or equal to 24 in.(60.96 cm), regardless of end-user. CC applies to shotguns with a barrel length greater than or equal to 24 in.(60.96 cm) if for sale or resale to police or law enforcement. UN applies to entire entry	CC Column 2. CC Column 3. Iraq, North Korea, and Rwanda.

* * * * *

0A985 Discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for Control: CC, UN.

Control(s)	Country chart
CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.) UN applies to entire entry	Iraq, North Korea, and Rwanda.

0A986 Shotgun shells, except buckshot shotgun shells, and parts.

License Requirements

Reason for Control: AT, FC, UN.

Control(s)	Country chart
AT applies to entire entry. A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information. FC applies to entire entry .. UN applies to entire entry	FC Column 1. Iraq, North Korea, and Rwanda.

* * * * *

0A987 Optical sighting devices for firearms (including shotguns controlled by 0A984); and parts, n.e.s.

License Requirements

Reason for Control: FC, CC, UN.

Control(s)	Country chart
FC applies to optical sights for firearms, including shotguns described in ECCN 0A984, and related parts. CC applies to entire entry UN applies to entire entry	FC Column 1. CC Column 1. Iraq, North Korea, and Rwanda.

* * * * *

0A988 Conventional military steel helmets as described by 0A018.d.1.; and machetes.

License Requirements

Reason for Control: UN.

Control(s)
UN applies to entire entry. A license is required for conventional military steel helmets as described by 0A018.d.1 to Iraq, North Korea, and Rwanda. A license is required for machetes to Iraq and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

Note: Exports from the U.S. and transshipments to Iran must be licensed by the Department of Treasury, Office of Foreign Assets Control. (See § 746.7 of the EAR for additional information on this requirement.)

* * * * *

0B986 Equipment specially designed for manufacturing shotgun shells; and ammunition hand-loading equipment for both cartridges and shotgun shells.

License Requirements

Reason for Control: AT, UN.

Control(s)
AT applies to entire entry. A license is required for items controlled by this entry to North Korea for anti-terrorism reasons. The Commerce Country Chart is not designed to determine AT licensing requirements for this entry. See § 742.19 of the EAR for additional information.

Control(s)
UN applies to entire entry. A license is required for items controlled by this entry to Iraq, North Korea, and Rwanda. The Commerce Country Chart is not designed to determine licensing requirements for this entry. See part 746 of the EAR for additional information.

* * * * *

0E018 "Technology" for the "development", "production", or "use" of items controlled by 0A018.a through 0A018.c.

License Requirements

Reason for Control: NS, UN, AT.

Control(s)	Country chart
NS applies to entire entry .. UN applies to entire entry	NS Column 1. Iraq, North Korea, and Rwanda.
AT applies to entire entry ..	AT Column 1.

* * * * *

0E918 "Technology" for the "development", "production", or "use" of bayonets.

License Requirements

Reason for Control: RS, UN, AT.

Control(s)	Country chart
RS applies to entire entry .. UN applies to entire entry	RS Column 2. Iraq, North Korea, and Rwanda.
AT applies to entire entry ..	AT Column 1.

* * * * *

0E984 "Technology" for the "development" or "production" of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: CC, UN.

Control(s)	Country chart
CC applies to "technology" for shotguns with a barrel length over 18 in. (45.72 cm) but less than 24 in. (60.96 cm) and shotgun shells, regardless of end-user.	CC Column 1.
CC applies to "technology" for shotguns with a barrel length over 24 in. (60.96 cm), regardless of end-user.	CC Column 2.
CC applies to "technology" for shotguns with a barrel length over 24 in. (60.96 cm) if for sale or resale to police or law enforcement.	CC Column 3.

Control(s)	Country chart
UN applies to entire entry	Iraq, North Korea, and Rwanda.

■ 19. In Supplement No. 1 to part 774, Category 1—"Materials, Chemicals, 'Microorganisms' and 'Toxins'" is amended by revising the "License Requirements" section of ECCNs 1A005, 1B018, 1C018, and 1D018 to read as follows:

1A005 Body armor, and specially designed components therefor, not manufactured to military standards or specifications, nor to their equivalents in performance.

License Requirements

Reason for Control: NS, UN, AT.

Control(s)	Country chart
NS applies to entire entry .. UN applies to entire entry	NS Column 2. Iraq, North Korea, and Rwanda.
AT applies to entire entry ..	AT Column 1.

* * * * *

1B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to equipment for the "production" of rocket propellants.	NS Column 1. MT Column 1.
RS applies to 1B018.a	RS Column 2.
AT applies to entire entry ..	AT Column 1.
UN applies to entire entry	Iraq, North Korea, and Rwanda.

* * * * *

1C018 Commercial Charges and Devices Containing Energetic Materials on the Wassenaar Arrangement Munitions List and Certain Chemicals as Follows (See List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry, except as noted in 1C018.m.	NS Column 1.
MT applies to 1C018.m, except as noted therein.	MT Column 1.
AT applies to entire entry ..	AT Column 1.
UN applies to entire entry	Iraq, North Korea, and Rwanda.

* * * * *

1D018 "Software" specially designed or modified for the "development", "production", or "use" of items controlled by 1B018.

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to "software" for the "development", "production", or "use" of items controlled by 1B018 for MT reasons.	NS Column 1. MT Column 1.
AT applies to entire entry .. UN applies to entire entry	AT Column 1. Iraq, North Korea, and Rwanda.

■ 20. In Supplement No. 1 to part 774, Category 2—"Materials Processing" is amended by revising the "License Requirements" section of ECCNs 2B018, 2D018, and 2E018 to read as follows:

2B018 Equipment on the International Munitions List.

License Requirements

Reason for Control: NS, MT, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to specialized machinery, equipment, and gear for producing rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) and unmanned air vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) usable in systems that are controlled for MT reasons including their propulsion systems and components, and pyrolytic deposition and densification equipment.	NS Column 1. MT Column 1.
RS applies to entire entry .. AT applies to entire entry .. UN applies to entire entry	RS Column 2. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *

2D018 "Software" for the "development", "production" or "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to "software" for equipment controlled by 2B018 for MT reasons. AT applies to entire entry .. UN applies to entire entry	NS Column 1. MT Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *

2E018 "Technology" for the "use" of equipment controlled by 2B018.

License Requirements

Reason for Control: NS, MT, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to "technology" for equipment controlled by 2B018 for MT reasons. AT applies to entire entry .. UN applies to entire entry	NS Column 1. MT Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

■ 21. In Supplement No. 1 to part 774, Category 6—"Sensors and Lasers" is amended by revising the "License Requirements" section of ECCNs 6A002, 6A003, 6E001, and 6E002 to read as follows:

6A002 Optical sensors.

License Requirements

Reason for Control: NS, MT, CC, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. MT applies to optical detectors in 6A002.a.1, a.3, or .e that are specially designed or modified to protect "missiles" against nuclear effects (e.g., Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects), and usable for "missiles". RS applies to 6A002.a.1, a.2, a.3, .c, and .e. CC applies to police-model infrared viewers in 6A002.c. AT applies to entire entry .. UN applies to 6A002.a.1, a.2, a.3 and c.	NS Column 2. MT Column 1. AT Column 1. Iraq, North Korea, and Rwanda. RS Column 1. CC Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

6A003 Cameras.

License Requirements

Reason for Control: NS, NP, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. NP applies to items controlled in paragraphs 6A003.a.2, a.3 and a.4. RS applies to items controlled in 6A003.b.3 and b.4. AT applies to entire entry .. UN applies to items controlled in 6A003.b.3 and b.4.	NS Column 2. NP Column 1. RS Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *

6E001 "Technology" according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 6D992, or 6D993).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN.

Control(s)	Country chart
NS applies to "technology" for items controlled by 6A001 to 6A008, 6B004 to 6B008, 6C002 to 6C005, or 6D001 to 6D003. MT applies to "technology" for items controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, 6B108, 6D001, 6D002, 6D102 or 6D103 for MT reasons. NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225, 6A226 or 6D001 for NP reasons. RS applies to "technology" for equipment controlled by 6A002.a.1, .a.2, .a.3, .c, or .e, 6A003.b.3 or .b.4, or 6A008.j.1. CC applies to "technology" for equipment controlled by 6A002 for CC reasons. AT applies to entire entry .. UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	NS Column 1. MT Column 1. NP Column 1. RS Column 1. CC Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

* * * * *

6E002 "Technology" according to the General Technology Note for the "production" of equipment or materials controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995) or 6C (except 6C992 or 6C994).

License Requirements

Reason for Control: NS, MT, NP, RS, CC, AT, UN.

Control(s)	Country chart
NS applies to "technology" for equipment controlled by 6A001 to 6A008, 6B004 to 6B008, or 6C002 to 6C005. MT applies to "technology" for equipment controlled by 6A002, 6A007, 6A008, 6A102, 6A107, 6A108, 6B008, or 6B108 for MT reasons. NP applies to "technology" for equipment controlled by 6A003, 6A005, 6A202, 6A203, 6A205, 6A225 or 6A226 for NP reasons. RS applies to "technology" for equipment controlled by 6A002.a.1, .a.2, .a.3, .c or .e, 6A003.b.3 or .b.4, or 6A008.j.1. CC applies to "technology" for equipment controlled by 6A002 for CC reasons. AT applies to entire entry .. UN applies to "technology" for equipment controlled by 6A002 or 6A003 for UN reasons.	NS Column 1. MT Column 1. NP Column 1. RS Column 1. CC Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

License Requirement Notes: See § 743.1 of the EAR for reporting requirements for exports under License Exceptions.

■ 22. In Supplement No. 1 to part 774, Category 8—"Marine" is amended by revising the "License Requirements" section of ECCNs 8A018 and 8A918 to read as follows:

8A018 Items on the International Munitions List.

License Requirements

Reason for Control: NS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. AT applies to entire entry .. UN applies to entire entry	NS Column 1. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *
8A918 Marine Boilers.

License Requirements

Reason for Control: RS, AT, UN.

Controls	Country chart
RS applies to entire entry .. AT applies to entire entry .. UN applies to entire entry	RS Column 2. AT Column 1. Iraq, North Korea, and Rwanda.

■ 23. In Supplement No. 1 to part 774, Category 9—“Propulsion Systems, Space Vehicles and Related Equipment” is amended by revising the “License Requirements” section of ECCNs 9A018, 9A991, 9D018, and 9E018 to read as follows:

9A018 Equipment on the Wassenaar Arrangement Munitions List.

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. RS applies to 9A018.a and b. AT applies to entire entry .. UN applies to entire entry	NS Column 1. RS Column 2. AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *
9A991 “Aircraft”, n.e.s., and gas turbine engines not controlled by 9A001 or 9A101 and parts and components, n.e.s.

License Requirements

Reason for Control: AT, UN.

Control(s)	Country chart
AT applies to entire entry .. UN applies to 9A991.a	AT Column 1. Iraq, North Korea, and Rwanda.

License Requirement Notes: There is no de minimis level for foreign-made aircraft described by this entry that incorporate Commercial Standby Instrument Systems (CSIS) that integrate QRS11-00100-100/101 Micromachined Angular Rate Sensors (see § 734.4(a) of the EAR).

* * * * *
9D018 “Software” for the “use” of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. RS applies to 9A018.a and b.	NS Column 1. RS Column 2.

Control(s)	Country chart
AT applies to entire entry .. UN applies to entire entry	AT Column 1. Iraq, North Korea, and Rwanda.

* * * * *
9E018 “Technology” for the “development” of equipment controlled by 9A018.

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	Country chart
NS applies to entire entry .. RS applies to 9A018.a and b. AT applies to entire entry .. UN applies to entire entry	NS Column 1. RS Column 2. AT Column 1. Iraq, North Korea, and Rwanda.

Dated: January 22, 2007.

Christopher A. Padilla,
Assistant Secretary for Export Administration.

[FR Doc. E7-1180 Filed 1-25-07; 8:45 am]

BILLING CODE 3510-33-P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 24 and 111

[USCBP-2006-0035; CBP Dec. 07-01]

RIN 1505-AB62

Fees for Certain Services

AGENCIES: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the rules dealing with customs financial and accounting procedures by revising the fees charged for certain customs inspectional services under section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and incorporates two technical corrections to the existing fee chart.

DATES: Final rule effective April 1, 2007.

FOR FURTHER INFORMATION CONTACT: For information concerning user fee policy and rates, contact Mr. Jerry Petty, Director, Cost Management Division, 1300 Pennsylvania Avenue NW., Room

4.5A, Washington, DC 20229.
Telephone: (202) 344-1317.

SUPPLEMENTARY INFORMATION:

Background

CBP collects fees to pay for the costs incurred in providing customs services in connection with certain activities under the authority of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended, codified at section 19 U.S.C. 58c.

On October 22, 2004, the President signed the American Jobs Creation Act of 2004 (Pub. L. 108-357). Section 892 of the American Jobs Creation Act amended 19 U.S.C. 58c to renew the fees provided under COBRA, which would have otherwise expired March 1, 2005, and to allow the Secretary of the Treasury to increase such fees by an amount not to exceed 10 percent in the period beginning fiscal year 2006 through the period for which fees are authorized by law. Regulations concerning user fees, among other customs revenue functions, are promulgated under the authority of the Secretary of the Treasury pursuant to Treasury Department Order No. 100-16. (See Appendix to 19 CFR Part 0).

On April 24, 2006, CBP published a notice of proposed rulemaking in the **Federal Register** (71 FR 20922) proposing to amend the regulations in accordance with the current statutory provisions by increasing the fees for: (1) Customs services provided in connection with the arrival of certain commercial vessels, commercial trucks, railroad cars, private aircraft and private vessels, passengers aboard commercial aircraft and commercial vessels, and barges or other bulk carrier arrivals, (2) each item of dutiable mail for which a customs officer prepares documentation, and (3) annual customs brokers permits. The comment period ended on May 24, 2006.

Discussion of Comments

A total of six commenters responded to the solicitation of comments on the notice of proposed rulemaking. These comments were received from the recreational boating associations, industry and travel agent products services, carrier/vessel concerns, air transport associations, and other members of the general traveling and importing public. The comments are discussed below.

Comment: One commenter supported the proposed fee increases as appropriate to reflect the costs incurred by the agency for services provided. The commenter also suggested raising the annual maximum fees and each of the