

importation into the United States of North Korean-origin magnesite or magnesia, because the absence of North Korea as a supplier subjects U.S. importers to unreasonably high prices due to otherwise limited foreign sources. Section 500.583 is added to the Regulations to provide that specific licenses may be issued to authorize transactions necessary to establish offices in North Korea of U.S. news organizations and for offices in the United States of North Korean news organizations. Finally, § 500.584 is added to the Regulations to provide that specific licenses may be issued to authorize U.S. persons to participate in certain types of energy sector projects in North Korea with respect to the replacement of existing nuclear reactors with light-water reactor power plants.

Section 525(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Pub. L. No. 103-236, 108 Stat. 474 (the "FRAA"), amended section 5(b)(4) of the Trading with the Enemy Act, 50 U.S.C. App. 5(b)(4) ("TWEA"), to expand the list of items defined as categories of informational materials to include compact discs, CD ROMs, artworks, and news wire feed. In addition, section 5(b)(4) of TWEA, as amended, exempts from the authority granted to the President pursuant to TWEA the authority to regulate or prohibit, directly or indirectly, the exportation or importation, whether commercial or otherwise, of information or informational materials regardless of format or medium of transmission, except exportations that would be controlled pursuant to national security, nonproliferation, or antiterrorism provisions of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2420, or espionage provisions of 18 U.S.C. chapter 37. Section 500.571 of the Regulations is being amended to reflect the exemption from regulation of all transmissions of noncontrolled information over existing telecommunications circuits, including current settlement of telecommunications fees between the United States and North Korea.

Note: The FRAA exemption applies to transmissions of information, not telecommunications facilities and equipment used to transmit information. Exportation from the United States of equipment to enhance gateway-to-gateway telecommunications service with North Korea is subject to licensing requirements of the Department of Commerce, in conjunction with the general license in § 500.533 of the Regulations. Exportation or reexportation of such equipment to North Korea from a third country by a U.S. person requires a specific license from FAC and may also be subject to

Commerce Department licensing provisions set forth in the Export Administration Regulations, 15 CFR parts 768-799.

Section 500.206 is amended to reflect the FRAA exemption that applies to transactions concerning exportation and importation of information and informational materials. The definition of the term "informational materials" contained in § 500.332 is amended to conform the section to amended section 5(b)(4) of TWEA. Conforming amendments are also made to § 500.550, which authorizes transactions related to the importation and exportation of information and informational materials.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of 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.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, Banking, Cambodia, Exports, Fines and penalties, Finance, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Reporting and recordkeeping requirements, Securities, Services, Travel restrictions, Trusts and estates, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as set forth below:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

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

Authority: 50 U.S.C. App. 1-44; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

Subpart B—Prohibitions

2. The section heading and paragraphs (a) and (b) of § 500.206 are revised to read as follows, the words "information or" are added before the words "informational materials" in each place they appear in paragraph (c) of § 500.206, and the word "synchronization" and the comma following it are removed from Example #4 of § 500.206:

§ 500.206 Exemption of information and informational materials.

(a) The importation from any country and the exportation to any country of information or informational materials as defined in § 500.332, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(b) All transactions of common carriers incident to the importation or exportation of information or informational materials, including mail, between the United States and any foreign country designated under § 500.201, are exempt from the prohibitions and regulations of this part.

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Subpart C—General Definitions

3. Section § 500.332 is revised to read as follows:

§ 500.332 Information and informational materials.

(a) For purposes of this part, the term *informational materials* includes, without limitation:

(1) Publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The terms *information* and *informational materials* with respect to U.S. exports do not include items:

(1) that would be controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2420 (1979) (the "EAA"), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, including "software" that is not "publicly available" as these terms are defined in 15 CFR Parts 779 and 799.1 (1994); or

(2) with respect to which acts are prohibited by 18 U.S.C. chapter 37.

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

4. The section heading and paragraph (a) of § 500.550 are revised to read as follows, and the words "information or" are added before the words "informational materials" in each place they appear in the first sentence of paragraph (b) of § 500.550: