

Sudanese sanctions sailing into the sunset



| Tuesday, January 17, 2017

Effective today, January 17, 2017, the Department of the Treasury's Office of Foreign Assets Control (OFAC) has announced the conditional lifting of 20 years of U.S. sanctions against Sudan.¹ This action is occurring in connection with an Executive Order issued by President Barack Obama on January 13, 2017, "Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions," as a result of what the administration has deemed "sustained progress" by the Government of Sudan on a variety of fronts, including: a marked reduction in offensive military activity; a pledge to maintain a cessation of hostilities in conflict areas in Sudan; steps toward improving humanitarian access throughout Sudan; and cooperation with the United States on counterterrorism and addressing regional conflicts.²

The sanctions relief comes primarily in the form of a new "general license" authorizing all transactions currently prohibited by the Sudanese Sanctions Regulations (SSR), and by Executive Orders 13067 and 13412.³ As a result, U.S. persons will generally be able to transact with individuals and entities in Sudan, including transactions involving property of the Government of Sudan. The changes to the SSR mean:

- All property and interests in property blocked pursuant to the SSR will be unblocked.
- All trade between the United States and Sudan that was previously prohibited by the SSR will be authorized.
- All transactions by U.S. persons relating to the petroleum or petrochemical industries in Sudan that were previously prohibited by the SSR will be authorized, including oilfield services and oil and gas pipelines.
- U.S. persons will no longer be prohibited from facilitating transactions between Sudan and third countries, to the extent previously prohibited by the SSR.

Caution is warranted

At this juncture, companies would be advised to adopt a wait-and-see approach with respect to entering into any long term investments or projects in Sudan. The

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general license issued by OFAC is only valid for the next six months. Pursuant to the Executive Order, if the Government of Sudan sustains its positive actions through July 12, 2017, the sanctions provisions in EO's 13067 and 13412 will be permanently revoked. If not, however, the threat remains that the general license will disappear and the sanctions provisions will again be enforced.

In addition, neither the new Executive Order nor OFAC's general license eliminate the need to comply with other applicable provisions of law, including the Export Administration Regulations administered by the Bureau of Industry and Security of the Department of Commerce.⁴ These regulations continue to impose export license requirements on a large number of products and services destined for Sudan. Also, Section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000⁵ continues in effect, meaning that a one-year license limitation is still applicable to exports and reexports of medicine, medical devices, and agricultural commodities to the Sudan, to any individual or entity in Sudan, and to any person in a third country purchasing specifically for resale to Sudan.

Furthermore, a significant number of Sudanese entities and individuals continue to be included on the Specially Designated Nationals List or otherwise blocked under separate Executive Orders. Consequently, it is essential that companies continue to screen all parties to any transaction to ensure no sanctioned parties are involved. Finally, it is important to keep in mind that the general license does not permit transactions that involve South Sudan (which continues to be subject to certain limited U.S. sanctions) or that implicate prohibitions under other OFAC-administered sanctions regulations.

Please contact the attorney listed below for help analyzing the implications of international trade laws on your business, including the changes to the Sudanese sanctions summarized above.

¹ See U.S. Department of Treasury, Press Release, "Treasury to Issue General License to Authorize Transactions with Sudan" (Jan. 13, 2017), *available at* <https://www.treasury.gov/press-center/press-releases/Pages/jl0707.aspx?src=ilaw>.

² See Executive Order, "Recognizing Positive Actions by the Government of Sudan and Providing the Revocation of Certain Sudan-Related Sanctions," *available at* <https://www.whitehouse.gov/the-press-office/2017/01/13/executive-order-recognizing-positive-actions-government-sudan-and>.

³ 31 C.F.R. § 538.540.

⁴ 15 C.F.R. § 730-774.

⁵ 22 U.S.C. 7201 et seq.