

Obama Administration Eases Sanctions on Sudan

On January 13, 2017, the Treasury Department, citing an executive order issued by President Obama on the same day, announced the issuance of a general license, effectively lifting most sanctions against Sudan. The general license became effective on January 17, 2017, upon publication in the Federal Register.

Sudan General License

Under the general license, all transactions prohibited under the Sudanese Sanctions Regulations (SSR), as well as transactions prohibited by Executive Orders 13067 and 13412, are authorized. This means that U.S. persons are now authorized to transact business in Sudan and with the Government of Sudan. More specifically, U.S. persons may:

- Export U.S. goods to Sudan;
- Import Sudanese goods to the United States;
- Engage in transactions involving property in which the Government of Sudan has an interest;
- Engage in previously prohibited transactions relating to Sudan's petroleum and petrochemical industries, including the provision of oilfield services and oil and gas pipelines;
- Grant or extend credits or loans to the Government of Sudan;
- Engage in transactions relating to the transportation of cargo between the United States and Sudan, including transshipment through Sudan; and
- Facilitate transactions between third countries and Sudan.

In addition, all property of the Government of Sudan that had previously been blocked pursuant to the SSR is now unblocked.

Exports of agricultural commodities, medicine, and medical devices remain subject to the requirement that exports or re-exports of these commodities to Sudan must be shipped within 12 months of the execution of the export or re-export contract.

Executive Order

While the general license became effective upon publication, the executive order revokes the existing prohibitions as of July 12, 2017. It thus appears that the next six months are intended to be a grace period to ensure that Sudan continues to make progress in the areas of human rights and counterterrorism.

In this regard, according to the January 13 executive order, the sanctions are being revoked in response to "Sudan's positive actions over the past six months." These include a reduction in offensive military activity, continued cessation of hostilities in conflict areas in Sudan, such as Darfur, improvement of humanitarian access throughout Sudan, and cooperation with the United States in addressing regional conflicts and terrorism.

However, the executive order directs the State Department, in consultation with other U.S. agencies, to report within the next six months, and every year thereafter, on whether Sudan has sustained the positive actions that led to the easing of sanctions. This suggests that the sanctions could remain in place but be suspended by the general license as long as Sudan continues to meet human rights and counterterrorism goals. If the United States determines that Sudan is not making sufficient progress in these areas and the conditions in the executive order are not met, the sanctions can be reinstated simply by revoking the general license.

Outlook

There is considerable controversy surrounding the lifting of Sudanese sanctions. The executive



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order provides for the revocation of sanctions but does not terminate the national emergency that formed the basis for levying sanctions in the first place. Sudan remains on the U.S. government's list of state sponsors of terrorism, and President Omar al-Bashir is still wanted by the International Criminal Court for war crimes. A number of human rights organizations have voiced concern that the Sudanese government is continuing to commit human rights abuses in Darfur and elsewhere and is supporting the conflict in the neighboring Republic of South Sudan.

The timing of the announcement is also somewhat controversial in that President Obama has less than one week in office. While it is unclear whether the Trump administration will continue the sanctions policy set out in the executive order, it has been reported that the Trump transition team was apprised of the action and did not object.

Persons interested in trading with Sudan should continue to exercise caution. Exporters will still need to comply with the Export Administration Regulations and any licensing requirements therein. Of perhaps greater concern, the general license does not affect trade restrictions under the Darfur Sanctions Regulations or the South Sudan Sanctions Regulations. Despite the easing of the SSR and the strictures of Executive Orders 13067 and 13412, other executive orders (such as Executive Order 13400, relating to the conflict in Darfur) remain in effect. Numerous Sudanese individuals and entities remain on the Specially Designated Nationals and Blocked Persons List (SDN list) under Executive Order 13400 and others relating to terrorism, weapons proliferation, activities in South Sudan, etc. The property of these persons remains blocked, and transactions with these persons are still prohibited.

Should you have any questions regarding U.S. policy with regards to Sudan or other sanctions programs, please do not hesitate to contact a member of Cozen O'Connor's Transportation & Trade Department.