



Memorandum

VIA EMAIL

Date: July 12, 2011

To: Clients and Friends

From: Stanley J. Marcuss

Re: Export Controls, Economic Sanctions and the New Republic of South Sudan

Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004
Tel (202) 508-6000
Fax (202) 508-6200
www.bryancave.com

The U.S. Commerce Department has welcomed the new Republic of South Sudan to the family of nations to which export controls apply by recognizing that it is no longer to be treated as part of Sudan. It will now have its own separate designation on the Commerce Country Chart and be placed in Country Group B for license exception and other purposes.

OFAC, in the meanwhile, has indicated, not surprisingly, that the new Republic of South Sudan will not be subject to existing sanctions against Sudan. Such sanctions will continue to have an effect in the new state, however, because OFAC has made it clear that the sanctions against Sudan will continue to prohibit U.S. persons from dealing in property and interests in property of the government of Sudan, performing services that benefit Sudan or the government of Sudan, engaging in transactions relating to the petroleum or petrochemical industry in Sudan and participating in exports to or imports from the Republic of South Sudan that transit Sudan.

Says OFAC, by way of example, that U.S. companies will continue to be prohibited from providing services to the petroleum industry in the Republic of South Sudan if those services benefit the government of Sudan or “relate to” the petroleum industry in Sudan. They will also be prohibited from exporting petroleum or petrochemical products through Sudan from the Republic of South Sudan. OFAC also says that U.S. persons may not engage in transactions involving the oil industry in the Republic of South Sudan if the latter makes payments to Sudan from the sale of South Sudanese petroleum.

Given the Republic of South Sudan’s dependence on Sudan for imports and exports due to its landlocked geography, these restrictions could prove to be formidable. Continued dependence on OFAC’s beneficence in issuing licenses for work in South Sudan is an inevitable result.