

Client Alert

International Trade & Litigation Practice Group

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OFAC Issues General License Authorizing Most Transactions with Sudan

On January 13, 2017, President Obama signed Executive Order 13761 (“E.O. 13761”), “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions.” Effective July 12, 2017, E.O. 13761 provides for the permanent revocation of sanctions imposed by E.O. 13067 and E.O. 13412, provided the Government of Sudan sustains certain recent “positive actions.” E.O. 13761 would effectively end the United States’ comprehensive embargo against Sudan in July of this year.

In addition, effective January 17, 2017, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), has issued a general license authorizing all transactions prohibited by the Sudanese Sanctions Regulations (“SSR”), including those transactions involving property in which the Government of Sudan has an interest. Transactions with any party listed as a Specially Designated Nationals (“SDNs”) under E.O. 13400 or the South Sudan sanctions, however, remain prohibited. SDNs listed under E.O. 13400 were listed as a result of their involvement in the conflict in Sudan’s Darfur region.

OFAC’s general license will authorize U.S. persons to process transactions involving persons in Sudan; to engage in imports and exports that were previously prohibited by the SSR (although a separate licensing requirement may apply to goods and technology subject to the Export Administration Regulations (“EAR”) as described below); and to engage in transactions involving property in which the Government of Sudan has an interest.

Specifically, as a result of the general license:

- (i) all property and interests in property blocked under the SSR will be unblocked;
- (ii) trade between the United States and Sudan that was previously prohibited by the SSR will be authorized;
- (iii) 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; and

For more information, contact:

Christine E. Savage
+1 202 626 5541
csavage@kslaw.com

Jeffrey M. Telep
+1 202 626 2390
jtelep@kslaw.com

Mark Wasden
+1 202 626 5529
mwasden@kslaw.com

Betere M. Gizaw
+1 202 626 8974
bgizaw@kslaw.com

Clint Long
+1 202 626 2622
clong@kslaw.com

Elizabeth E. Owerbach
+1 202 626 9223
eowerbach@kslaw.com

King & Spalding
Washington, D.C.
1700 Pennsylvania Avenue, NW
Washington, D.C. 20006-4707
Tel: +1 202 737 0500
Fax: +1 202 626 3737

www.kslaw.com

(iv) U.S. persons will no longer be prohibited from facilitating transactions between Sudan and third countries, to the extent previously prohibited by the SSR.

Certain Transactions with Sudan Remain Prohibited or Restricted

While E.O. 13761 fundamentally alters the United States-Sudan relationship, certain transactions remain either strictly prohibited or significantly restricted by the United States.

Transactions with SDNs listed under E.O. 13400 remain prohibited. Exports or reexports of agricultural commodities, medicine, or medical devices: (i) to the Government of Sudan, (ii) to any individual or entity in Sudan, or (iii) to any person in a third country purchasing specifically for resale to any of the foregoing, must be shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport. This is a statutory restriction found in the Trade Sanctions Reform and Export Enhancement Act of 2000. Thus, it can only be lifted by Congress.

Finally, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") has issued a new review policy for license applications for Sudan for exports involving civil aviation and railroads. BIS will continue to require a license for the export or re-export to Sudan of nearly all other goods, technology, or software subject to the EAR that are specified on the Commerce Control List, and will continue to maintain its general policy of denial for applications to export or reexport most controlled items when intended for any end-user or end-use in Sudan.

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