



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538 and 596

Removal of the Sudanese Sanctions Regulations and Amendment of the Terrorism

List Government Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is removing from the Code of Federal Regulations the Sudanese Sanctions Regulations as a result of the revocation of certain provisions of one Executive Order and the entirety of another Executive Order on which the regulations were based. OFAC is also amending the Terrorism List Government Sanctions Regulations to incorporate a general license authorizing certain transactions related to exports of agricultural commodities, medicines, and medical devices, which has, until now, appeared only on OFAC's website.

DATES: Effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control); tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's website (www.treasury.gov/ofac).

Background

Removal of the Sudanese Sanctions Regulations

On November 3, 1997, the President issued Executive Order 13067, "Blocking Sudanese Government Property and Prohibiting Transactions With Sudan" (E.O. 13067), declaring a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the policies and actions of the Government of Sudan. E.O. 13067 blocked all property and interests in property of the Government of Sudan that were in the United States, that thereafter came within the United States, or that thereafter came within the possession or control of United States persons. E.O. 13067 also prohibited: (a) the importation into the United States of any goods or services of Sudanese origin; (b) the exportation or reexportation, directly or indirectly, to Sudan of goods, technology, or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency; (c) the facilitation by a United States person of the exportation or reexportation of goods, technology, or services to or from Sudan; (d) the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan; (e) the grant or extension of credits or loans by any United States person to the Government of Sudan; (f) any transaction by a United States person relating to transportation of cargo to or from Sudan; and (g) any transaction by any United States person, or within the United States that

evaded or avoided, or had the purpose of evading or avoiding, or attempted to violate any of the prohibitions set forth in E.O. 13067.

On July 1, 1998, OFAC issued the Sudanese Sanctions Regulations, 31 CFR part 538 (SSR), as a final rule to implement E.O. 13067. The SSR were amended on various occasions to, among other things, implement further Executive orders and add additional authorizations.

On April 26, 2006, in Executive Order 13400 (E.O. 13400), the President determined that the conflict in Sudan's Darfur region posed an unusual and extraordinary threat to the national security and foreign policy of the United States, expanded the scope of the national emergency declared in E.O. 13067 to deal with that threat, and ordered the blocking of property of certain persons connected to the conflict. On May 28, 2009, OFAC issued the Darfur Sanctions Regulations, 31 CFR part 546 (DSR), as a final rule to implement E.O. 13400. On October 13, 2006, the President issued Executive Order 13412 (E.O. 13412) to take additional steps with respect to the national emergency and to implement the Darfur Peace and Accountability Act of 2006, Pub. L. 109-344, 120 Stat. 1869.

On January 13, 2017, President Obama issued Executive Order 13761, "Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions" (E.O. 13761). In E.O. 13761, President Obama found that the situation that gave rise to the actions taken in E.O.s 13067 and 13412 related to the policies and actions of the Government of Sudan had been altered by Sudan's positive actions over the prior six months. These actions included a marked reduction in offensive military activity, culminating in a pledge to maintain a cessation of hostilities in conflict areas in Sudan, and steps toward the improvement of humanitarian

access throughout Sudan, as well as cooperation with the United States on addressing regional conflicts and the threat of terrorism. Given these developments, and in order to see these efforts sustained and enhanced by the Government of Sudan, President Obama ordered that, effective July 12, 2017, sections 1 and 2 of E.O. 13067 be revoked, and E.O. 13412 be revoked in its entirety, provided that a review before that date determined certain criteria were met.

On July 11, 2017, President Trump issued Executive Order 13804, “Allowing Additional Time for Recognizing Positive Actions by the Government of Sudan and Amending Executive Order 13761” (E.O. 13804). In E.O. 13804, President Trump amended E.O. 13761, extending until October 12, 2017, the review period established by E.O. 13761. This review period provided for the revocation of certain sanctions if the Government of Sudan sustained the positive actions that gave rise to E.O. 13761, including carrying out a pledge to maintain a cessation of hostilities in conflict areas in Sudan; continuing improvement of humanitarian access throughout Sudan; and maintaining its cooperation with the United States on addressing regional conflicts and the threat of terrorism.

On October 11, 2017, the Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, published notice in the Federal Register stating that the Government of Sudan had sustained the positive actions that gave rise to E.O. 13761. That notice also stated that the Secretary of State had provided to the President the report described in section 10 of E.O. 13761, fulfilling the requirement set forth in E.O. 13761, as amended by E.O. 13804, that make effective the revocation of certain economic sanctions related to Sudan. As such, effective October 12, 2017, pursuant to

E.O. 13761, as amended by E.O. 13804, sections 1 and 2 of E.O. 13067 were revoked and E.O. 13412 was revoked in its entirety. As a result of the revocation of these sanctions provisions, U.S. persons are no longer prohibited from engaging in transactions that were previously prohibited solely under the SSR. Consistent with the revocation of these sanctions provisions, OFAC is removing the SSR from the Code of Federal Regulations.

The emergency declared by the President with respect to Sudan in E.O. 13067, and expanded in E.O. 13400, has not been terminated. These authorities remain the basis for the DSR, which remain in effect with respect to Darfur and continues to block the property and interests in property of certain persons connected with the conflict in Darfur.

Pursuant to section 1 of E.O. 13761, as amended by E.O. 13804, the revocation of sections 1 and 2 of E.O. 13067 and the entirety of E.O. 13412 shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under those orders during the period that those provisions were in effect.

Authorization for certain exports of agricultural commodities, medicine, and medical devices

Pursuant to Section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, 22 U.S.C. 7205 (TSRA), an OFAC license is still required for certain exports and reexports to Sudan of agricultural commodities, medicine, and medical devices as a result of Sudan's inclusion on the State Sponsors of Terrorism List. Effective October 12, 2017, OFAC issued and made available on its website General License A. This general license authorized exports and reexports of these items to Sudan. Today, OFAC is incorporating General License A into the Terrorism List Government

Sanctions Regulations, 31 CFR part 596, as new § 596.506. No OFAC license is required for financing of these exports and reexports.

U.S. persons and non-U.S. persons will still need to obtain any licenses required by the Department of Commerce’s Bureau of Industry and Security (BIS) to export or reexport to Sudan certain items (commodities, software, and technology) that are on the Commerce Control List (CCL), Supp. No. 1 to part 774 of the Export Administration Regulations, 15 CFR parts 730 through 774 (EAR). In limited circumstances, U.S. persons and non-U.S. persons may also need to obtain licenses from BIS to export or reexport to Sudan items that are subject to the EAR but not specifically listed on the CCL (“EAR99” items) if such transactions implicate certain end-use or end-user concerns (see 15 CFR part 744).

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, 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.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects

31 CFR Part 538

Administrative practice and procedure, Banks, banking, Blocking of assets, Sudan, Credit, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Securities, Services.

31 CFR Part 596

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Terrorism.

For the reasons set forth in the preamble, and under the authority of 3 U.S.C. 301; 50 U.S.C. 1601-1651; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244; E.O. 13761, 82 FR 5331, as amended by E.O. 13804, 82 FR 23611, OFAC amends 31 CFR parts 538 and 596 as follows:

PART 538-[REMOVED]

1. Remove part 538.

PART 596-TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

2. The authority citation for part 596 is revised to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 7201-7211; 31 U.S.C. 321(b).

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

3. Add § 596.506 to read as follows:

§ 596.506 Authorizing Certain Transactions Pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(a) Effective October 12, 2017, pursuant to section 906(a)(l) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205) (TSRA), all exports and reexports of agricultural commodities, medicine, or medical devices to the

Government of Sudan or to any entity in Sudan or to any person in a third country purchasing specifically for resale to any of the foregoing are authorized, provided that the exports and reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

(b) Consistent with section 906(a)(1) of TSRA, each year the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

Note 1 to § 596.506: This authorization does not eliminate the need to comply with other provisions of 31 CFR chapter V, including 31 CFR part 596, or other applicable provisions of law, including any requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the Export Administration Regulations (15 CFR parts 730 through 774) administered by the Bureau of Industry and Security of the Department of Commerce and the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

Andrea Gacki,
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