

Among Final Actions, Obama Administration Suspends Core of US Sanctions Against Sudan

Trump administration expected to maintain changes, but certain restrictions remain.

In the final days of his administration, President Obama announced significant changes to the US embargo against Sudan, in place since 1997. The US Department of Treasury's Office of Foreign Assets Control (OFAC) subsequently issued a sweeping new general license authorizing most trade and business involving US persons and Sudan. On a parallel track, the Department of Commerce's Bureau of Industry and Security (BIS) announced more favorable licensing policies for exports and reexports of certain US-regulated items to Sudan. Notwithstanding these developments, Sudan's "State Sponsor of Terrorism" designation remains, and US export controls continue to restrict the export or reexport of a broad range of US-regulated products and technology to Sudan.

Background and Path Forward

On January 13, 2017, then-President Obama issued [Executive Order 13761](#), based on a finding that the original basis for two of the three executive orders forming the basis of the US embargo of Sudan — [Executive Order 13067](#) and [Executive Order 13412](#) — "has been altered by Sudan's positive actions over the past 6 months."

[Executive Order 13761](#) does not immediately revoke the relevant OFAC sanctions regulations or underlying executive orders. Instead, the order provides that key sanctions-related provisions of Executive Order 13067, and Executive Order 13412 in its entirety, will be revoked in six months, provided that the (incoming) Secretary of State publish a notice that "the Government of Sudan has sustained the positive actions that gave rise to this order," before July 12, 2017. [Reuters has reported](#) that the Obama administration's action came with the "full approval of the incoming Trump administration and after months of secret meetings," at least according to Sudan's foreign minister. If correct, this suggests that the Trump Administration would likely maintain the suspension of the Sudan sanctions.

Immediate Sanctions Relief

Concurrent with the release of Executive Order 13761, OFAC amended the [Sudanese Sanctions Regulations](#) (SSR) to include a new general license at [SSR Section 538.540](#), which OFAC explained in a [fact sheet](#) "will immediately authorize all transactions prohibited by the SSR." The fact sheet goes on to explain that the new [general license](#), which took effect on January 17, 2017:

- Authorizes US persons to "process transactions involving persons in Sudan; to engage in imports and exports that were previously prohibited under the SSR; and to engage in transactions

involving property in which the Government of Sudan has an interest.” Notably, the new general license allows transactions relating to the petroleum or petrochemical industries in Sudan, including oilfield services and oil and gas pipelines.

- Unblocks all property and interests in property blocked pursuant to the SSR.
- Allows US persons to facilitate transactions between Sudan and third countries.

Despite these changes, Sudan will continue to pose sanctions risks due to the presence in Sudan of certain Specially Designated Nationals (SDNs), which US persons are generally barred from dealing with absent OFAC authorization. For instance, the new general license does not affect [Executive Order 13400](#), which blocks the property of persons connected to the conflict in Darfur; SDNs designated under that executive order will remain off-limits as to US persons. Similarly, the general license does not remove designations made under the South Sudan sanctions program. In summary, the changes allow US persons to engage in transactions with SDNs previously designated by the [SUDAN] tag on the [SDN List](#), but SDNs with the following tags are still prohibited as to US persons: [DARFUR], [SOUTH SUDAN], [SDGT] and [NPWMD].

New Export Licensing Policies

Effective January 17, 2017, BIS [amended the Export Administration Regulations](#) (EAR) to apply a new general policy of approval (as opposed to a previous policy of denial) for applications submitted to BIS to export or reexport to “non-sensitive end-users” in Sudan (which excludes Sudanese military, police and intelligence services) of certain items related to civil aviation (*i.e.*, fixed-wing, commercial passenger aircrafts) and railroads.

Certain US-regulated personal communication devices are already eligible for export or reexport to eligible end-users in Sudan — including independent non-governmental organizations, and generally excluding the Government of Sudan — under [License Exception CCD](#). License Exception CCD covers most computers, mobile phones, televisions, radios, printers, modems and digital cameras that are widely available for retail purchase, as well as certain telecommunications-related and information security-related software.

If continued by the Trump administration, the full and formal lifting of the Sudan sanctions will occur when the relevant portions of Executive Order 13067, and the entirety of Executive Order 13412, are revoked on July 12, 2017. Between now and then, while US persons and companies are permitted to engage in most trade and business involving Sudan, that window could prove temporary if the Trump administration judges differently the “positive actions” cited by the Obama administration, in which event the new general license could be revoked and the sanctions allowed to remain.

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