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Sudan Sanctions Changed To Allow Most Trade

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January 17, 2017 – On January 13, 2017, President Obama ordered sweeping changes to the U.S. Sudan sanctions program. Specifically, the Treasury Department's Office of Foreign Assets Control ("OFAC") issued a new general license under the Sudanese Sanctions Regulations ("SSR") authorizing all transactions otherwise prohibited by the sanctions (the "2017 Sudan Rule"), and thereby effectively ending the almost 20-year old U.S. embargo against Sudan. President Obama cited Sudan's reduction in offensive military activity, steps to improve humanitarian access throughout Sudan, and cooperation with the United States to address terrorism as the key elements leading to the changes. In a related move, the Commerce Department's Bureau of Industry and Security ("BIS") modified its license review policy creating a presumption of approval for certain civil transportation uses in Sudan.

New Sudan General License

The new general license which comes into force on January 17, 2017, is a complete authorization to engage in commercial, financial and all other transactions with Sudan, the Government of Sudan, and persons within Sudan, unless covered by other existing U.S. regulations. The 2017 Sudan Rule also unblocks the Government of Sudan's property and interests and specifically authorizes transactions to facilitate the unblocking. Companies operating under preexisting general licenses are no longer bound by the limitations of such general licenses and are able to utilize the new broad authorization. Exports of agricultural commodities, medicine and medical devices covered by the Trade Sanctions Reform and Export Enhancement Act of 2000 are also covered under the 2017 Sudan Rule, with the requirement that all shipments be made within 12 months of entering into a contract.

The 2017 Sudan Rule does not modify the other sanctions and export regulations. For example, OFAC's South Sudan Sanctions Regulation and Darfur Sanctions Regulations remain in force, and exporters must continue to comply with the Commerce Department's Export Administration Regulations when exporting or reexporting U.S.-origin goods to Sudan. In conjunction with the OFAC change, BIS modified the Export Administration Regulations establishing a general policy of approval for license applications to export certain goods and technology: (1) intended to ensure safety of civil or commercial passenger aircraft; and (2) that will be used to upgrade railroads

in Sudan. This policy does not apply for export to, or for the benefit of, sensitive Sudanese end-users, such as the Sudanese military, police and intelligence services.

Next Steps for Sudan

The 2017 Sudan Rule is a general license, not a complete revocation of the sanctions. However, President Obama's executive order lays the foundation for complete revocation of the sanctions by July 12, 2017. On or before that date, the Secretaries of State and Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, are required to issue a report to the President documenting whether Sudan has continued its commitments to regional stability, human rights and cooperation with the United States. If such findings are made, the sanctions may be revoked.

Conclusion

It remains to be seen how the new administration will address the situation in Sudan or utilize U.S. sanctions in the country. Because the 2017 Sudan Rule is a general license, the Trump Administration will have the ability to revoke the 2017 Sudan Rule or implement new measures as it deems appropriate. The next six months will be a key time for Sudan, and if it adheres to its commitments, U.S. sanctions may no longer impact the country.

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