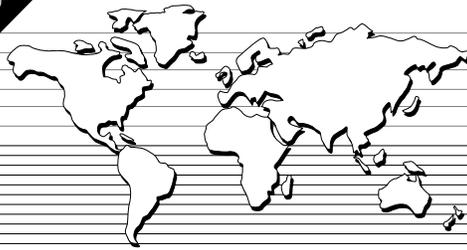




U.S. Department of the Treasury
Office of Foreign Assets Control



SUDAN

What You Need To Know About U.S. Sanctions

An overview of the Sudanese Sanctions Regulations -- Title 31 Part 538 of the U.S. Code of Federal Regulations

■ **INTRODUCTION** - On November 3, 1997, after finding that the policies and actions of the Government of Sudan, including continued support for international terrorism, ongoing efforts to destabilize neighboring governments, and the prevalence of human rights violations, including slavery and the denial of religious freedom, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States, President Clinton issued Executive Order No. 13067, declaring a national emergency to deal with that threat. The order, issued under the authority of International Emergency Economic Powers Act (50 U.S.C. 1701-1706) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 et seq.) and section 301 of title 3, United States Code, imposed a trade embargo against Sudan and a total asset freeze against the Government of Sudan. The Sudanese Sanctions Regulations, 31 C.F.R. Part 538 (the "Regulations") implement Executive Order No. 13067.

Criminal penalties for violating the Regulations range up to 10 years in jail, \$500,000 in corporate, and \$250,000 in individual fines. In addition, civil penalties of up to \$11,000 per violation may be imposed administratively.

This fact sheet is a broad overview of the Regulations.

■ **BUYING FROM SUDAN** - Goods or services of Sudanese origin may not be imported into the United States either directly or through third countries without a license. Exceptions include: (1) Sudanese merchandise up to \$100 in value in non-commercial quantities may be brought into the United States either for strictly personal use as accompanied baggage or sent as a gift to a person in the United States and (2) information or informational materials may be imported without restriction. All other imports of Sudanese origin must be authorized by the Office of Foreign Assets Control.

Importation into the United States from third countries of goods containing raw materials or components of Sudanese origin is not prohibited if those raw materials or components have been incorporated into manufactured products or otherwise substantially transformed in a third country.

■ **SELLING TO SUDAN** - Except for information or informational materials and donated articles intended to relieve human suffering, such as food, clothing and medicine, and the licensed export of agricultural commodities, medicine and medical devices, no goods, technology, or services may be exported from the United States to Sudan, either directly or through third countries, without a license. Exportation of goods or technology from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for transshipment to Sudan. The exportation of goods or technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if

the particular product is to be used in Sudan, is being specifically manufactured to fill a Sudanese order, or if the manufacturer's sales of the particular product are predominantly to Sudan. No U.S. bank, including its foreign branches, may finance, or arrange offshore financing for, third-country trade transactions where Sudan is known to be the ultimate destination of, or the Government of Sudan is the purchaser of, the goods. Arranging transactions which ultimately benefit Sudan (for example, brokering third-country sales to Sudan) constitutes an exportation of brokerage services to Sudan in violation of the Regulations. The Regulations also prohibit non-U.S. persons from unauthorized re-exportation of U.S. origin goods to Sudan.

■ **SPECIALLY DESIGNATED NATIONALS** - Individuals or organizations that are owned or controlled by, or act on behalf of, the Government of Sudan anywhere in the world may be named by the U.S. Treasury Department as "Specially Designated Nationals" ("SDNs") of Sudan. U.S. persons are prohibited from transacting business with these individuals and entities, and all of their property in the United States or in the possession or control of a U.S. person is blocked. Their names are published in the Federal Register, an official publication of the U.S. Government. A listing of such SDNs may be obtained by calling the Office of Foreign Assets Control ("OFAC") at 202/622-2490. The listing, however, is a partial one and any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not owned or controlled by or acting on behalf of Sudan. U.S. individuals or organizations who violate the Regulations by transacting business with Specially Designated Nationals may be subject to civil or criminal prosecution.

■ **SUDANESE GOVERNMENT ASSETS BLOCKED** - Effective November 4, 1997, all property and interests in property of the Government of Sudan, including its agencies, instrumentalities and controlled entities and SDNs, in the United States or in the possession or control of a U.S. person, including their overseas branches, are blocked. All transfers of such property must be authorized by OFAC. Any unlicensed funds transfer involving a direct or indirect interest of the Government of Sudan (including any transfer routed to a Sudanese Government-controlled bank) for which banks subject to U.S. jurisdiction receive instructions must be deposited into a blocked account on the books of the bank receiving the instructions. Such funds may not be returned to a remitter without a specific license from OFAC. No unlicensed debits may be made to blocked accounts to pay obligations of U.S. or other persons, whether the obligations arose before or after the sanctions against Sudan were imposed. Setoffs against blocked accounts are prohibited.

■ **FINANCIAL DEALINGS WITH SUDAN** - Payments for and financing of licensed sales of agricultural commodities, medicine and medical devices may be accomplished by cash in advance, sales on open account (provided the account receivable is not transferred by the

person extending the credit), or by third country financial institutions that are neither U.S. persons nor government of Sudan entities. U.S. banks may advise or confirm letters of credit issued by third country banks covering licensed sales.

Payments for licensed sales of agricultural commodities, medicine and medical devices, which must reference an appropriate OFAC license, may not involve a debit to a blocked account on the books of a U.S. depository institution. Before a U.S. bank initiates a payment, or credits its customer for a licensed transaction, it must determine that the transfer is authorized.

As a rule, all other financial dealings with Sudan are prohibited, including the performance by any U.S. person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan.

U.S. persons are authorized to send and receive personal remittances to and from Sudan, provided that such transfers are not processed through a bank owned or controlled by the Government of Sudan. Financing related to trade contracts involving Sudan which were in place prior to November 4, 1997, and for which underlying transactions were completed by December 4, 1997, may be completed in accordance with their terms, provided that no debits are made to a blocked account.

■ **PROHIBITED FACILITATION** - The Regulations prohibit the facilitation by a U.S. person of the direct or indirect exportation or reexportation of goods, technology or services to or from Sudan. Facilitation of a trade or financial transaction that could be lawfully engaged in directly by a U.S. person or from the United States is not prohibited. Likewise, performance of services of a purely clerical or reporting nature that does not further trade or financial transactions with Sudan or the Government of Sudan will not violate the prohibition on exportation of services to Sudan.

■ **NON-GOVERNMENTAL ORGANIZATIONS** - Registration numbers may be issued by OFAC on a case-by-case basis to non-governmental organizations ("NGOs") involved in humanitarian or religious activities in Sudan. A registration number authorizes certain transactions by or on behalf of the registered NGO that would be otherwise prohibited, such as the exportation of goods or services, or the transfer of funds

directly into Sudan, for the purpose of relieving human suffering. Applications for registration must include the following information (names of individuals and organizations should be provided in English, or transliterated when that is not possible, and in the language of origin, and should include any acronym or other names used to identify the individuals or organizations):

- (a) Organization name;
- (b) Address and phone number of the organization's headquarters location;
- (c) Full name, nationality, citizenship, current country of residence, birth dates and places of birth for key staff at the organization's headquarters, such as the chairman and board members, president, director, etc.;
- (d) Identification of field offices or partner offices elsewhere, including addresses, phone numbers, and organizational names used, as well as the identification of the senior officer(s) at these locations, including their name, nationality, citizenship, position, and date of birth;
- (e) Identification of subcontracting organizations, if any, to the extent known or contemplated at the time of the proposal;
- (f) Existing sources of income, such as official grants, private endowments, commercial activities, etc.;
- (g) Financial institutions that hold deposits on behalf of or extend lines of credit to the organization;
- (h) Independent accounting firms (if employed in the production of the organization's financial statements);
- (i) Most recent official registry documents, annual reports, and annual filings with the local government, as applicable / available;
- (j) Names and addresses of organizations that the applicant currently provides or proposes to provide funding, services or material support to, as applicable;
- (k) A detailed description of the organization's humanitarian or religious activities and projects in Sudan.

Registrants conducting transactions for their Sudanese operations should reference their registration number on all funds transfer, purchase, shipping, and financing documents. OFAC records must be updated by Registrants with any changes to (a) - (j).

If you have information regarding possible violations of any of these regulations, please call the Treasury Department's Office of Foreign Assets Control at 202/622-2430. Your call will be handled confidentially.

LICENSE APPLICATION GUIDELINES FOR EXPORTS TO IRAN, LIBYA AND SUDAN OF AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL DEVICES

Ag/Med Program

The following information is intended to serve as guidance to persons applying for licenses authorizing Ag/Med exports to Iran, Libya, and Sudan pursuant to, respectively, the Iranian Transactions Regulations, 31 C.F.R. Part 560, the Libyan Sanctions Regulations, 31 C.F.R. Part 550, and the Sudanese Sanctions Regulations, 31 C.F.R. Part 538. Applicants are encouraged to consult the regulations for a complete statement of the rules applicable to Ag/Med exports.

Applications not containing all of the required information will be considered incomplete and returned without action and without prejudice. A new application will be accepted upon resubmission of a **complete** application.

To apply for a license to export agricultural commodities, medicine, or medical devices to Iran, Libya, or Sudan under the Ag/Med Program, applicants must submit a license request, in writing, to the Office of Foreign Assets Control (OFAC). The following items must be included in clear and legible form:

- Identification of the country and program for which the applicant is requesting a license on the top of the first page of the application and on the front of the envelope. (Example: **Iran – Ag/Med Program**). If the applicant wishes to submit applications for two or more countries, **a separate application** must be submitted for each country;
- Applicant's full legal name (If the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business);
- Applicant's mailing and street address;
- Name of the individual(s) responsible for the application and related commercial transactions, including the individual's/individuals' telephone number, fax number, and if available, email address so that we may reach a responsible point of contact should there be any questions about the application;
- Applicant's signature;
- Names and addresses of all parties involved in the transactions and their roles, including financial institutions, and any Iranian, Libyan, or Sudanese broker, purchasing agent, end-user, or other participant in the purchase of the agricultural commodities, medicine, or medical devices;

- A description of all products to be exported, including a statement that the product(s) is/are classified as EAR99, and documentation and information sufficient to verify that the product(s) to be exported are classified as EAR99 and are eligible for exportation under the Ag/Med program. This would typically include the name of the product(s), a short description of the product(s) in layperson's terms (for medical devices, also include technical specifications), the intended use of the agricultural commodities, medicine, or medical devices, and a statement explaining how the product(s) to be exported qualifies/qualify as an agricultural commodity, medicine, or medical device as those terms are defined in the regulations.
- Exporters must have a commodity classification of EAR99 for all products that are eligible in this Ag/Med program. Exporters of all fertilizers, live horses, and western red cedar must submit to OFAC a copy of an Official BXA Commodity Classification of EAR99 as part of the license application (because certain of these items are controlled on the Commerce Control List and thus are not eligible for this program). Exporters of medical devices also must provide OFAC with an Official BXA Commodity Classification of EAR99, unless the proposed export is for a medical supply and that medical supply is specifically listed as eligible for export under the Ag/Med program on BXA's website at <http://www.bxa.doc.gov/Regulations/TradeSanctionsReformExportEnhancementAct.html> BXA will also provide a list of medicines on its website that are **not** eligible for export under the Ag/Med program. Exporters of agricultural commodities may wish to consult the following USDA website: www.fas.usda.gov for a list of agricultural commodities that qualify for export under the Ag/Med program.
- **Please note:** Payment by cash in advance, open account financing, or third-country bank letter of credit is authorized by general license. A special request will have to be made to use a letter of credit issued by an Iranian, Libyan, or Sudanese bank. Upon such a request, payment by letter of credit issued by an Iranian, Libyan, or Sudanese bank may be authorized by specific license on a case-by-case basis, provided that such letter of credit may not be advised, confirmed or otherwise dealt in by any financial institution that is a United States person (see, 31 C.F.R. §§ 560.314, 560.532; 31 C.F.R. §§ 550.308, 550.571; 31 C.F.R. §§ 538.315, 538.525).

The application should be mailed to the address below.

**Attn: Licensing Division
Office of Foreign Assets Control
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220**

In order to expedite the process, applicants may also send a complete copy of their application in Adobe Acrobat PDF format to the following email address:

agmed@do.treas.gov

Applicants who choose to send a copy of their application via Internet **must** also send a hard copy of their application in order for OFAC to process their application. Applicants should note that the official date of receipt for their application will be the date the hard copy of the application is received by OFAC via mail.

The hard copy of all licenses will be mailed to applicants. Upon request, applicants may receive via email a copy of their license in Adobe Acrobat PDF format.

This document is explanatory only and does not have the force of law. Executive Order 13067 and implementing regulations and directives contain the legally binding provisions governing the sanctions against Sudan. This document does not supplement or modify Executive Order 13067 or implementing regulations and directives.

The Office also administers sanctions programs involving Iraq, Libya, the Balkans, North Korea, Cuba, the National Union for the Total Independence of Angola (UNITA), Iran, Syria, Burma (Myanmar), the Federal Republic of Yugoslavia (Serbia and Montenegro), the Taliban in Afghanistan, Sierra Leone, Liberia, designated Terrorists and international Narcotics Traffickers, Foreign Terrorist Organizations, and designated foreign persons who have engaged in activities related to the proliferation of weapons of mass destruction. For additional information about these programs or about the Sudanese Sanctions Regulations, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
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202/622-2520
<http://www.treas.gov/ofac>