

property shall no longer be deemed to be property in which the Government of Sudan has or has had an interest unless there exists in the property another interest of the Government of Sudan, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of Sudan, such property shall be deemed to be property in which there exists an interest of the Government of Sudan.

§ 538.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 538.201 if effected after the effective date.

§ 538.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Sudanese governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Sudan not explicitly authorized in or pursuant to this part other than loading, transporting, and discharging licensed or exempt cargo there.

(c) Distribution or leasing in Sudan of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Sudan; and

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine, or medical equipment to Sudan or the Government of Sudan. See § 538.525.

[64 FR 41786, Aug. 2, 1999, as amended at 66 FR 36688, July 12, 2001]

§ 538.406 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 538.205 applies to services performed on behalf of the Government of Sudan, or where the benefit of such services is otherwise received in Sudan, when such services are performed:

(1) In the United States;

(2) By a U.S. person, wherever located;

(3) By an entity located in the United States, including its overseas branches; or

(4) Outside the United States by an individual U.S. person ordinarily resident in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of Sudan, including services performed for a controlled entity or agent of the Government of Sudan, is presumed to be received in Sudan.

(c) The prohibitions contained in §§ 538.201 and 538.207 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Sudan;

(2) With respect to property interests of the Government of Sudan; or

(3) In support of an industrial, commercial, public utility or governmental project in Sudan.

(d) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Sudan. See § 538.505 on licensing policy with regard to the provision of certain legal services.

§ 538.407 Facilitation by a United States person.

(a) The prohibition contained in § 538.206 against facilitation by a United States person of the exportation or reexportation of goods, technology, or services between Sudan and any destination (including the United States) bars any unlicensed action by a U.S. person that assists or supports trading activity with Sudan by any