

person. Facilitation of a trade or financial transaction that could be engaged in directly by a U.S. person or from the United States consistent with the prohibitions, general licenses and exemptions contained in this part is not prohibited. Activity of a purely clerical or reporting nature that does not further trade or financial transactions with Sudan or the Government of Sudan is not considered prohibited facilitation. For example, reporting on the results of a subsidiary's trade with Sudan is not prohibited, while financing or insuring that trade or warranting the quality of goods sold by a subsidiary to the Government of Sudan constitutes prohibited facilitation.

(b) To avoid potential liability for U.S. persons under this part, a U.S. parent corporation must ensure that its foreign subsidiaries act independently of any U.S. person with respect to all transactions and activities relating to the exportation or reexportation of goods, technology, or services between Sudan and any other location including but not limited to business and legal planning; decision making; designing, ordering or transporting goods; and financial, insurance, and other risks. See § 538.505 with respect to exports of, *inter alia*, certain legal services benefitting Sudan.

(c) No U.S. person may change its policies or operating procedures, or those of a foreign affiliate or subsidiary, in order to enable a foreign entity owned or controlled by U.S. persons to enter into a transaction that could not be entered into directly by a U.S. person or from the United States pursuant to this part.

(d) No U.S. person may refer to a foreign person purchase orders, requests for bids, or similar business opportunities involving Sudan or the Government of Sudan to which the United States person could not directly respond as a result of the prohibitions contained in this part.

§ 538.408 Offshore transactions.

(a) The prohibitions contained in §§ 538.201 and 538.206 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, the

Government of Sudan has or has had an interest since the effective date, or with respect to goods, technology or services which the U.S. person knows, or has reason to know, are of Sudanese origin or owned or controlled by the Government of Sudan.

(b) Prohibited transactions include, but are not limited to, importation into or exportation from locations outside the United States of, or purchasing, selling, financing, swapping, insuring, transporting, lifting, storing, incorporating, transforming, brokering, or otherwise dealing in, within such locations, goods, technology or services of Sudanese origin.

(c) *Examples.* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, Sudanese crude oil or sugar refined in Sudan.

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is the Government of Sudan, including a controlled entity or agent of that Government, or which benefits or supports the business of an entity located in Sudan, unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons or the transaction is generally licensed in, or exempted from the prohibitions of, this part.

§ 538.409 Transshipments through the United States prohibited.

(a) The prohibitions in § 538.205 apply to the importation into the United States, for transshipment or transit, of goods which are intended or destined for Sudan, or an entity operated from Sudan.

(b) The prohibitions in § 538.204 apply to the importation into the United States, for transshipment or transit, of goods of Sudanese origin which are intended or destined for third countries.

(c) Goods in which the Government of Sudan has an interest which are imported into or transshipped through the United States are blocked pursuant to § 538.201.