

Treasury
Customs and Excise Division

Sanctions Notice 14

United Nations Sanctions
European Union Sanctions

Sudan and South Sudan



July 2006
(Updated to 20 January 2017)



Isle of Man
Government

Reilrys Ellan Vannin

About this Notice

This Notice draws attention in convenient form to the Orders and Regulations made under the United Nations Act 1946 and the European Communities (Isle of Man) Act 1973 which place financial sanctions on certain named individuals and entities.

This Notice provides guidance on certain aspects only of the Orders and Regulations, and should be read in conjunction with those Orders and Regulations.

The Treasury has appointed its Customs and Excise Division to act for the purpose of enforcing financial sanctions. Accordingly, certain powers have been delegated by the Treasury to the Division.

The list of persons and entities subject to the sanctions may be found at:

http://www.hm-treasury.gov.uk/fin_sanctions_index.htm

Enquiries concerning this Notice should be addressed to the address given below and marked for the attention of the Sanctions Officer.

Enquiries may also be made by—

- facsimile transmission (01624 661725)
- Email (customs@gov.im)
- Telephone (01624 648138)

The address for any enquiries or applications relating to this Notice is—

The Sanctions Officer
The Treasury
Customs and Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

This Notice is provided for information purposes only, and its contents should not be taken as a definitive statement of the law. You are advised to seek independent legal advice if you believe you are affected by anything contained in this Notice.



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Government

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Directions to all Financial Institutions

The Customs and Excise Division, as agent for the Treasury, **directs** that any funds held for or on behalf of the individuals or entities named in the published lists having effect in the Island must not be made available, except under the authority of a licence in writing from the Treasury.

Any funds should be blocked or frozen and the details reported to the Division. Financial Institutions **must** check whether they maintain any account, or otherwise hold or control funds or economic resources, for individuals or entities included in the lists and, if so, they should freeze the account, funds or economic resources and report their findings to the Division.

Any person, entity or body with information that would facilitate compliance with the sanctions Regulation(s) **must** supply such information to the Division and co-operate in any verification of the information.

Introduction

1. On 26 January 2004 the EU adopted Council Regulation (EC) No. 131/2004/EC imposing certain restrictive measures against Sudan.

These measures included an arms embargo, which had immediate effect in the Isle of Man. However, the Regulation also imposed other restrictions that did not have immediate effect in the Island under the terms of its relationship with the EU.

2. On 6 July 2004 two statutory documents came into operation—
 - the European Communities (Sudan Sanctions) (Application) Order 2004, and
 - the Sudan Sanctions (Penalties and Licences) Regulations 2004 (“the Regulations”).

These gave effect in the Island to prohibitions on—

- the grant, sale, supply or transfer of “technical assistance” related to military activities directly or indirectly to any person, entity or body in Sudan; and
- the provision of financing or financial assistance related to military activities, including in particular grants, loans and export credit insurance for any sale, supply, transfer or export of arms or related material or “technical assistance” to any person, entity or body in Sudan.

The Order and 2004 Regulations has been superseded and the current Order dates from 2014 (see paragraph 5B below) and is supported by the Sudan Sanctions Regulations 2014 [SD 2014/0264].

3. The 2004 Regulations provided for both offences in breaching the applied Order in supplying said technical assistance or financing or financial assistance, and for licences to be granted by the Treasury permitting such assistance or financing.

4. For the purposes of the Order and 2004 Regulations, "Technical assistance" means any technical support related to repairs, development, manufacture, assembly, testing, maintenance, or any other technical service, and may take forms such as instruction, advice, training, transmission of working knowledge or skills or consulting services; and includes verbal forms of assistance.
5. On 9 June 2005 the Sudan (United Nations Measures) (Isle of Man) Order 2005 [SI 2005 No. 1463] ("the 2005 Order") came into operation, giving effect to UN Security Council Resolution 1591 of 2005. UN SCR 1591 remains in force.
- 5A. On 19 June 2012 the European Union (Sudan and South Sudan Sanctions) Order 2012 came into operation. This applied in Island law a number of EU Regulations that had previously been applied using earlier orders, both of which were revoked and replaced. Article 7 of the main EU sanctions instrument, Council Regulation (EC) No. 131/2004 was modified by the new Order so that, henceforth, changes made to the lists of persons and entities affected by the sanctions should have immediate effect in the Island without the need for any further application order.

However, due to a drafting error this Order had to be replaced. Therefore, on 4 July 2012 the European Union (Sudan and South Sudan Sanctions) (No. 2) Order 2012 revoked and replaced it.

The 2012 Order was subsequently revoked and replaced by the 2014 Order (see paragraph 5B below).

- 5B. The embargo on the supply of arms, military and paramilitary equipment and related financial and technical assistance remains in place. Council Regulation (EU) No 747/2014, which was applied in Island law by the European Union (Sudan Sanctions) Order 2014 ("the 2014 Order") [SD 2014/0263], remains in effect and also encompasses brokering services and financing relating to the goods. The Regulation does allow for authorising the supply of certain non-lethal, protective and de-mining equipment for UN, EU and African Union personnel (and associated financing, financial and technical assistance). It also contains the necessary provisions imposing an asset freeze etc on designated persons, entities and bodies.

When Regulation 747/2014 came into force, a separate Regulation dealt with restrictions involving South Sudan (see paragraph 8E below).

- 5C. On 17 January 2017, the US authorities revised the rules for licensing the export or re-export of certain items to Sudan and other transactions (including those involving US persons and oilfield services and oil and gas pipelines), with some blocked property and interests in property released. However, other sanctions remained in place, including asset freezes imposed under a 2006 Executive Order. The changes were said to be the result of sustained progress by the Government of Sudan on several fronts, including a marked reduction in offensive military activity, a pledge to maintain a cessation of hostilities in conflict areas in Sudan, steps toward improving humanitarian access throughout Sudan, and cooperation with the US on counterterrorism and addressing regional conflicts.

Financial sanctions

6. Any person listed under the 2014 Order would be subject to having their assets in the Island frozen, and making funds available to them would be an offence.
7. On 25 April 2006 the UN Security Council adopted Resolution 1672. This imposed an asset freeze and travel restrictions on 4 named individuals. The named individuals are listed at the address on page 2 of this Notice.
8. ...
- 8A. Persons and entities who are included on the list of those subject to sanctions in the Isle of Man because they are listed by the relevant Sanctions Committee of the United Nations. A person may petition the Committee for de-listing by contacting the relevant Focal Point for De-listing at the UN Headquarters in New York.
See <http://www.un.org/sc/committees/index.shtml>

Treasury powers

- 8BB. The Treasury can serve a written notice on anyone to whom the measures apply, requiring them to furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the owner of those funds shall furnish the Treasury with any information in their possession or control, or produce any document in their possession or control, for the purpose of allowing the Treasury to ensure compliance with, or detect evasion of, the sanctions.

Failure to furnish such information or documents without reasonable excuse is an offence. Providing false information to the Treasury is also an offence, as is providing false information for the purposes of obtaining a licence (or failing to comply with any condition of the licence).

Separate South Sudan EU sanctions

- 8C. Following the outbreak of armed conflict in South Sudan in 2013, the Intergovernmental Authority on Development (IGAD) became proactive in facilitating peace talks between the parties involved. A ceasefire was signed in January 2014, but was reported to be regularly breached, accompanied by both human rights violations and a humanitarian crisis triggered by displaced persons.
- 8D. Following continued fighting in South Sudan, on 10 July 2014 the EU adopted restrictive measures against individuals held responsible for obstructing the IGAD-led peace process in South Sudan, breaching the ceasefire and committing human rights violations. It also confirmed that the arms embargo against South Sudan was to remain in place.
- 8E. Also on 10 July 2014, the EU separated out measures concerning South Sudan, integrating them into a new single act, Council Decision 2014/449/CFSP. This involved restrictions on admission into the EU, and the freezing of funds and economic resources, of those persons obstructing the peace process by means of acts of violence or breaches of ceasefire agreements, as well as persons responsible for serious human rights violations.

As a result, the pre-existing EU Regulation imposing restrictive measures in respect of Sudan and South Sudan, Council Regulation (EC) No 131/2004 was replaced by two different Regulations -

- Council Regulation (EU) No 748/2014 in respect of the new measures concerning South Sudan; and
- Council Regulation (EU) No 747/2014 in respect of measures concerning Sudan.

Regulation (EU) No 748/2014 involved -

- a prohibition on the provision of financial or technical assistance, or brokering services linked to the provision, manufacture, maintenance or use of arms and related materiel. The restrictions included application in respect of grants, loans, export credits and insurance and reinsurance;
- the freezing of funds and economic resources belonging to, owned, held or controlled by listed persons or entities.

The usual caveats included exemptions for the supply of certain equipment to UN or other peacekeepers etc, the ability to licence certain transaction types, and allowing of certain payments in defined circumstances.

- 8F. On 8 August 2014, the European Union (Sudan Sanctions) Order 2014 and Sudan Sanctions Regulations 2014 came into effect. This Order and Regulations applied in Island law Council Regulation (EU) N 747/2014.
- 8G. On 8 August 2014, the European Union (South Sudan Sanctions) Order 2014 and South Sudan Sanctions Regulations 2014 came into effect. This Order and Regulations applied in Island law Council Regulation (EU) No 748/2014.
- 8H. On 7 May 2015 the EU adopted Council Regulation (EU) No 2015/735, which repealed and replaced Regulation 748/2014. The new Regulations combined both the provisions of Regulation 748/2014 and those in UN Security Council Resolution 2206 (2015) which targets those responsible for, complicit in, or directly or indirectly engaged in, actions or policies that threaten the peace, security or stability of South Sudan. However, the new Regulation when adopted designated the same two persons previously designated pursuant by Regulation 748/2014.
- 8J. On 29 May 2015, the European Union (South Sudan Sanctions) Order 2015 [SD 2015/199] applied in Island law Council Regulation (EU) No 2015/735. At the same time, the South Sudan Sanctions Regulations 2015 [SD 2015/200], concerned with the implementation of Regulation 2015/735, provided for offences and penalties for breaching the provisions of the Regulation, for the granting of derogations and licences etc, and for the obtaining and sharing of information by the Treasury.

Amendments to this Notice

9. New paragraph 8A re Focal Point for De-listing added on 10th March 2009.
10. New paragraph 8B added re the European Union (Sudan and South Sudan Sanctions) Order 2012 on 20 June 2012.

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11. Paragraph 8B amended on 9 July 2012 to take account of replacement of the European Union (Sudan and South Sudan Sanctions) Order 2012.
 12. New paragraphs 8C and 8D added 11 July 2014 re the outbreak of armed conflict in South Sudan and the imposition of additional EU sanctions.
 13. On 14 July 2014, new sub-heading and new paragraphs 8BB and 8E inserted to reflect separation of EU sanctions measures involving Sudan and South Sudan in July 2014.
 14. On 8 August 2014, new paragraphs 8F and 8G were inserted.
 15. New paragraph 8H inserted re Regulation 2015/735/EU on 15 May 2015.
 16. New paragraph 8J re SD 2015/199 and SD 2015/200 inserted 1 June 2015.
 17. New "directions" substituted on page 3, and new paragraph 14A inserted, 25 November 2015.
 18. Amendments made to paragraphs 2, 5 and 6 to reflect that EU Regulation 747/2014 is now the relevant EU Regulation. Paragraphs 8B and 5A renumbered as 5A and 5C respectively, and new paragraph 5B inserted. Paragraphs 8 and 8BB deleted as redundant.
 19. On 20 January 2017, paragraph 5C replaced and replacement refers to partial relaxation of US sanctions. The previous paragraph 5C moved to become a new paragraph 8BB.

Isle of Man Customs and Excise Website

Amendments to these sanctions will be advised by means of news releases which will be published on the official Isle of Man Government website at <http://www.gov.im/>

The Isle of Man Customs and Excise website will contain details of all current sanctions, news releases and links to relevant lists <http://www.gov.im/treasury/customs/>

Published by:
Isle of Man Customs & Excise Division
PO Box 6
Custom House
North Quay
Douglas
Isle of Man
IM99 1AG

Telephone: (01624) 648100

Email: customs@gov.im

Website: www.gov.im/customs

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Reilts Ellan Vannin