

2014 No. 3258

CUSTOMS

The Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014

<i>Made</i>	- - - -	<i>9th December 2014</i>
<i>Laid before Parliament</i>		<i>10th December 2014</i>
<i>Coming into force</i>	- -	<i>31st December 2014</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the interruption or reduction, in part or completely, of economic relations with one or more countries which are not Member States(b).

The Secretary of State, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, makes the following Regulations.

PART 1

Introductory

Citation, commencement and application

1.—(1) These Regulations may be cited as the Export Control (Sudan, South Sudan and Central African Republic Sanctions) Regulations 2014 and come into force on 31st December 2014.

(2) An offence may be committed under these Regulations—

- (a) in the United Kingdom by any person;
- (b) elsewhere by any person who is a United Kingdom person within the meaning of section 11 of the Export Control Act 2002.

Revocations and savings

2. The Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011(c) are revoked except for regulations 8 and 10.

Interpretation

3.—(1) In these Regulations—

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- (a) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
 - (b) S.I. 1994/757, to which there are amendments not relevant to these Regulations.
 - (c) S.I. 2011/2925.

“the 1979 Act” means the Customs and Excise Management Act 1979(a);

“EU authorisation” means an authorisation granted under Article 3 of the Sudan Regulation or Article 3 of the South Sudan Regulation;

“the Central African Republic Regulation” means Council Regulation (EU) No 224 /2014(b) concerning restrictive measures in view of the situation in the Central African Republic;

“the South Sudan Regulation” means Council Regulation (EU) No 748/2014(c) concerning restrictive measures in respect of the situation in South Sudan;

“the Sudan Regulation” means Council Regulation (EU) No 747/2014(d) concerning restrictive measures in view of the situation in Sudan and repealing Regulations (EC) No 131/2004(e)and (EC) No 1184/2005(f).

(2) An expression used both in these Regulations and the Sudan Regulation, the South Sudan Regulation or the Central African Republic Regulation has the meaning that it bears in those Regulations.

PART 2

Offences in relation to prohibitions in the Sudan and the South Sudan Regulations

Offences supplementing the Sudan Regulation

4. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance or brokering services related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to military activities, directly or indirectly to any natural or legal person, entity or body in, or for use in Sudan).

Offences supplementing the South Sudan Regulation

5. Unless authorised by an EU authorisation, a person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Sudan Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance related to military activities to any person, entity or body in, or for use in South Sudan);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to military activities to any person, entity or body in, or for use in South Sudan).

(a) 1979 c.2.
(b) OJ L 70, 11.3.2014, p1.
(c) OJ L 203, 11.7.2014, p13.
(d) OJ L 203, 11.7.2014, p1.
(e) OJ L 21, 28.1.2004, p1.
(f) OJ L 193, 23.7.2005, p9.

PART 3

Offences in relation to prohibitions in the Central African Republic Regulation

Offences supplementing the Central African Republic Regulation

6. A person who is knowingly concerned in an activity prohibited by any of the following sub-paragraphs of Article 2 of the Central African Republic Regulation with intent to evade a prohibition in those sub-paragraphs commits an offence and may be arrested—

- (a) Article 2(a) (prohibition on provision of technical assistance and brokering services related to the goods or technology listed in the Common Military List of the European Union or related to the provision, manufacture, maintenance and use of goods included in that list, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (b) Article 2(b) (prohibition on provision of financing or financial assistance related to the sale, supply, transfer or export of goods and technology listed in the Common Military List, to any person, entity or body in the Central African Republic or for use in the Central African Republic);
- (c) Article 2(c) (prohibition on provision of technical assistance, financing or financial assistance, brokering services or transport services related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic).

PART 4

Supplementary Provisions as to Offences

Circumvention of prohibitions

7. A person commits an offence (and may be arrested) who participates, knowingly and intentionally, in activities the object or effect of which is (whether directly or indirectly)—

- (a) to circumvent any of the prohibitions in Articles 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation or Article 2 of the Central African Republic Regulation, or
- (b) to enable or facilitate the contravention of any such prohibition.

Offences related to EU authorisations

8.—(1) A person commits an offence (and may be arrested) who, for the purpose of obtaining an EU authorisation—

- (a) makes any statement or furnishes any document or information which to that person's knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular.

(2) An EU authorisation granted in connection with the application for which the false statement was made or the false document or information furnished is void from the time it was granted.

(3) A person who, having acted under the authority of an EU authorisation, fails to comply with a requirement or condition to which the EU authorisation is subject commits an offence and may be arrested, unless—

- (a) the EU authorisation was modified after the completion of the act authorised; and
- (b) the failure to comply would not have been a failure had the EU authorisation not been so modified.

PART 5

Enforcement and Penalties

Penalties

9. A person guilty of an offence under regulations 4 to 8 of these Regulations is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Application of the 1979 Act

10.—(1) Where the Commissioners for Her Majesty's Revenue and Customs investigate or propose to investigate any matter with a view to determining—

- (a) whether there are grounds for believing that an offence under these Regulations has been committed; or
- (b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter.

(2) Section 138 of the 1979 Act (provision as to arrest of persons)(a) applies to the arrest of a person for an offence under these Regulations as it applies to the arrest of a person for an offence under the customs and excise Acts.

(3) Sections 145(b), 146(c), 146A(d), 147(e), 148, 150(f), 151(g), 152(h), 154(i), and 155(j) of the 1979 Act (proceedings for offences, mitigation of penalties, proof and other matters) apply in relation to offences and penalties under these Regulations as they apply in relation to offences and penalties under the customs and excise Acts.

(4) “The customs and excise Acts” and “assigned matter” have the same meanings as in section 1 of the 1979 Act.

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- (a) Section 138 was amended by the Police and Criminal Evidence Act 1984 (c. 60), sections 114(1) and 119, Schedule 6, paragraph 37 and Schedule 7, Part 1; by the Finance Act 1988 (c. 39), section 11; by the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341), article 90(1) and Schedule 6, paragraph 9; and by the Serious Organised Crime and Police Act 2005 (c. 15), Schedule 7, paragraph 54.
 - (b) Section 145 was amended by the Police and Criminal Evidence Act 1984, section 114(1); and by the Commissioners for Revenue and Customs Act 2005 (c. 11), sections 50(6), 52(2), Schedule 4, paragraphs 20 and 23.
 - (c) Section 146 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 22.
 - (d) Section 146A was inserted by the Finance Act 1989 (c. 26), section 16(1) and amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraphs 20 and 24.
 - (e) Section 147 was amended by the Magistrates' Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 176; by the Criminal Justice Act 1982 (c. 48), sections 77 and 78, Schedule 14, paragraph 42 and Schedule 16; and by the Finance Act 1989, section 16(2), (4), 187, Schedule 17, Part I.
 - (f) Section 150 was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.
 - (g) Section 151 was amended by the Magistrates' Courts Act 1980, section 154 and Schedule 7, paragraph 177.
 - (h) Section 152 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6) and 52(1) and (2), Schedule 4, paragraphs 20 and 26 and Schedule 5.
 - (i) Section 154 was modified by the Channel Tunnel (Customs and Excise) Order 1990 (S.I. 1990/2167), article 4 and the Schedule, paragraph 23.
 - (j) Section 155 was amended by the Commissioners for Revenue and Customs Act 2005, sections 50(6), 52(2), Schedule 4, paragraphs 20, 21(j) and 27 and Schedule 5.

PART 6

General

Review

11.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation and the measures taken to implement them in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the rules on penalties applicable to infringements of the provisions of the Sudan Regulation, the South Sudan Regulation and the Central African Republic Regulation established by these Regulations and the measures taken to implement them,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under these Regulations must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under these Regulations are afterwards to be published at intervals not exceeding five years.

Matthew Hancock

Minister of State for Business and Enterprise and Energy
Department for Business, Innovation and Skills

9th December 2014

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the enforcement of certain trade restrictions against Sudan specified in Council Regulation (EU) No 747/2014 (OJ L 203, 11.7.2014, p1) (the “Sudan Regulation”) which repeals Regulations (EC) No 131/2004 (OJ L 21, 28.1.2004, p1) and (EC) No 1184/2005 (OJ L 193, 23.7.2005, p9). It also provides for the enforcement of trade restrictions against South Sudan specified in Council Regulation (EU) No 748/2014 (OJ L 203, 11.7.2014, p13) (the “South Sudan Regulation”) and against the Central African Republic, as specified in Council Regulation (EU) No 224/2014 (OJ L 70, 11.3.2014, p1) (the “Central African Republic Regulation”).

The Regulations set out offences in relation to these restrictions and those offences can be committed by any person in the United Kingdom and, around the world, by any United Kingdom person, as defined in section 11 of the Export Control Act 2002(c. 28).

The measures against both Sudan and South Sudan include prohibitions on the provision of technical or financial assistance or brokering services related to military activities and to the provision, manufacture and use of arms and related materiel, directly or indirectly to any natural or

legal person, entity or body in Sudan or South Sudan. The measures against the Central African Republic include prohibitions on the provision of technical assistance or brokering or financing or financial assistance related to the goods and technology listed in the Common Military List of the European Union or related to the provision of armed mercenary personnel in the Central African Republic or for use in the Central African Republic.

Regulation 2 revokes the Export Control (Sudan and South Sudan Sanctions) and (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2925), which are replaced by these Regulations, except regulation 8 which amends the Export Control Order 2008 (S.I. 2008/3231) to make South Sudan an ‘embargoed destination’.

Regulations 4 to 6 create offences for contravention of the trade restrictions in Article 2 of the Sudan Regulation, Article 2 of the South Sudan Regulation and Article 2 of the Central African Republic Regulation and regulation 7 creates offences for circumvention of the restrictions in those Articles.

Regulation 8 supplements the provisions of the Sudan Regulation and the South Sudan Regulation that allow a competent authority to authorise activities that are otherwise prohibited. Regulation 8(1) makes it an offence knowingly and recklessly to provide false information for the purpose of obtaining an authorisation and regulation 8(3) makes it an offence to fail to comply with authorisation requirements or conditions.

Regulation 9 sets out the penalties relating to the offences in the Regulations and regulation 10 provides for the ancillary provisions which apply to the enforcement of customs and excise legislation to also apply to the enforcement of these Regulations.

Regulation 11 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke the Regulations or to amend them.

A regulatory impact assessment has not been produced for this instrument as it has no or minimal impact on business, charities or voluntary bodies. A copy of the Explanatory Memorandum is published alongside the Regulations on www.legislation.gov.uk. Further information is available from the Export Control Organisation, BIS, 1 Victoria Street, London SW1H 0ET and on the [gov.uk](http://www.gov.uk) website (www.gov.uk).

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