

expiration date is specified, June 30, 2008.

[72 FR 61516, Oct. 31, 2007]

§ 538.531 Official activities of the United States Government and international organizations.

(a) Subject to the conditions of paragraphs (b), (c), and (d) of this section, the following transactions are authorized:

(1) All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United States Government or the United Nations by contractors or grantees thereof; and

(2) All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United Nations specialized agencies, programmes, and funds by employees, contractors, or grantees thereof.

(b) Contractors or grantees conducting transactions authorized pursuant to paragraph (a) of this section must provide a copy of their contract or grant with the United States Government or the United Nations, or its specialized agencies, programmes, and funds, to any U.S. person before the U.S. person engages in or facilitates any transaction or activity prohibited by this part. If the contract or grant contains any sensitive or proprietary information, such information may be redacted or removed from the copy given to the U.S. person, provided that the information is not necessary to demonstrate that the transaction is authorized pursuant to paragraph (a) of this section.

(c) Any U.S. person engaging in or facilitating transactions authorized pursuant to this section shall keep a full and accurate record of each such transaction, including a copy of the contract or grant, and such record shall be available for examination for at least five (5) years after the date of the transaction.

(d) No payment pursuant to this section may involve a debit to an account blocked pursuant to this part.

NOTE 1 TO § 538.531. This license does not relieve any persons participating in transactions authorized hereunder from compliance with any other U.S. legal requirements

applicable to the transactions authorized pursuant to paragraph (a) of this section. See, e.g., the Export Administration Regulations (15 CFR parts 730 et seq.).

NOTE 2 TO § 538.531. Paragraph (e) of § 538.212 exempts transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof from the prohibitions contained in this part.

[72 FR 61516, Oct. 31, 2007]

§ 538.532 Humanitarian transshipments to or from Southern Sudan and Darfur authorized.

The transit or transshipment to or from Southern Sudan and Darfur of goods, technology, or services intended for humanitarian purposes, through any area of Sudan not exempted by paragraph (g)(1) of § 538.212, is authorized.

[72 FR 61517, Oct. 31, 2007]

§ 538.533 Exportation of certain services and software incident to Internet-based communications.

(a) To the extent that such transactions are not exempt from the prohibitions of this part and subject to the restrictions set forth in paragraph (b) of this section, the following transactions are authorized:

(1) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user.

(2) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of software necessary to enable the services described in paragraph (a)(1) of this section, provided that such software is classified as “EAR99” under the Export Administration Regulations, 15 CFR parts 730 through 774 (the “EAR”), is not subject to the EAR, or is classified by the U.S. Department of Commerce (“Commerce”) as mass market software under export control classification number (“ECCN”) 5D992 of the EAR, and provided further that such software is publicly available at no cost to the user.

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(b) This section does not authorize:

(1) The direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Sudan.

(2) The direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 CFR part 774, supplement No. 1 (“CCL”), except for software necessary to enable the services described in paragraph (a)(1) of this section that is classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(3) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

(4) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(c) Specific licenses may be issued on a case-by-case basis for the exportation of other services and software incident to the sharing of information over the Internet, provided the software is classified as “EAR99,” not subject to the EAR, or classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(d) Nothing in this section or in any license issued pursuant to paragraph (c) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

[75 FR 10999, Mar. 10, 2010]

Subpart F—Reports

§ 538.601 Records and reports.

For additional provisions relating to records and reports, see subpart C of part 501 of this chapter.

Subpart G—Penalties

§ 538.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the “Act”)(50 U.S.C. 1705), which is applicable to vio-

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lations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 538.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.