

شركة الخدمات البحرية
المشتركة المحدودة

**Mutual Marine Services
al Mushtaraka LLC.**

1201 "ذي بريزم" - الخليج التجاري
ص ب 49991 - دبي
لإمارات العربية المتحدة

**# 1201, The Prism
Business Bay
PO Box 49991, Dubai
United Arab Emirates**

Tel: +971 4 421 4963

Fax: +971 4 421 4964

email: claims.dubai@mushtaraka.com

Our reference

Your reference

Date

MDG/2016

April 2016

Sudan update

Politics and security

After months of uneasy truce, during which time both North and South were accusing the other of supporting rebels on the other side, and the South itself erupted into civil war between the various tribal groups, pressure from the USA and Europe has pushed the South towards a halt in the strife, and North and South have moved towards sufficient accommodation to re-open the border.

Both sides have now lost heavily from the crash in the oil price. The majority of the oil is in the South, but export was only possible using the pipeline through the North to Port Sudan. The North extracted a high price for transit fees. Sudan's oil is low grade and has a high wax content requiring heating. At the present price level, pumping, transit, and treatment costs are now so high that the South is actually having to spend money to pump any oil. The South has practically no source of income other than remittances from the diaspora and foreign aid.

In the North, the National Congress Party continues to try to maintain an absolute grip on power, despite the dire state of the economy and the impact of US sanctions. As in all regimes under such sanctions, there are always those who can benefit from playing the system. Sudan has climbed on the world corruption indices. Currency devaluation has been rapid and there has been a widening gap between market and official rates.

At Port Sudan itself, there has been minimal problem of local civil security. The Red Sea State is not without its own frictions, but is far removed geographically from Darfur, South Kordofan, and the Nuba mountains. Its tribal profile and allegiances are also quite different so that the civil war in the south and west of North Sudan has always been something of a distant phenomenon.

For a while, the North dabbled with Iran. The sharp response from Saudi Arabia prompted a rethink. Sudan is now supporting the Saudi-led coalition in Yemen.

However, the regime's efforts to control both its political power and its economic woes have spawned myriad government security agencies and trading and import organisations. Whilst some of these have grandiose titles, such as the Strategic Reserve, others are obscure and have no obvious purpose other than to make some income for the regime and reduce the market strength of the private sector.

The impact of this has been most obvious in the wheat trade. During 2015, two ships waited at the anchorage for about 6 months whilst the private sector importer negotiated a solution to the manipulation of the currency exchange rates employed by the regime to pay for cargoes.

Sanctions

US sanctions remain a troublesome issue. The problem of sanctions has become unnecessarily complex as a result of paranoia on the part of banks and other financial institutions. There are limited UN and EU sanctions against Sudan. By Council Decision 2014/450/CFSP of 10th July 2014, the EU prohibits arms supply to Sudan, and imposes economic sanctions and a travel ban on specific individuals who are deemed to be obstructing the peace process in Darfur. The UN sanctions broadly achieve the same result - see SC resolution 1591 of 2005 and the subsequent updated lists of individuals targeted.

The US effectively prohibits its nationals and corporate and other entities from conducting any form of trade with Sudan. There are a number of exceptions which have been granted, eg the import of gum arabic - essential for the manufacture of chewing gum! The US also effectively bans the use of US dollar transactions to or from Sudan. It is this aspect which has caused the greatest grief. In recent years, the USA has aggressively pursued a policy of extending its political will outside its jurisdiction.

Most banks engaged in international trade financial services need some presence or representation in the USA. A number of banks continued to handle Sudanese government and other transactions in US\$. In some cases, the activity was deliberately concealed when funds and transactions were being cleared through the US banking system.

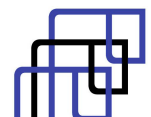
Banks who engaged in such activity have been subjected to extremely high penalties. Other banks who have suffered US investigation of sanctioned transactions and/or money laundering and similar activities have similarly been fined heavily.

It is both this and also the fear of being frozen out of the US financial system which have caused many banks to question any financial transaction which relates to Sudan, whether or not it is in US\$.

In the last two years, as above, the regime has been actively trying to control strategic imports, particularly wheat and fertiliser. Purchases have been made by the government controlled Agricultural Bank of Sudan and Farmers' Bank, or their wholly controlled corporate entities.

The simple carriage of wheat to Sudan is not a sanctioned activity if not performed by any US entity or individual. Nevertheless, both Agric Bank and Farmers' are on the OFAC SDN list, and this automatically puts international banks on the alert. Even in the UAE, where there are no specific sanctions applicable, two banks actually have direct investment in or association with Sudanese banks, and there is a branch of a Sudanese government owned, OFAC listed, bank (Nilein), a request to remit funds in AED to an Agric Bank AED a/c will be questioned.

Our own bank has advised us simply that such transactions are "*not advisable*." It means, if we understand the code, that there is nothing to stop us making such transactions, but the bank does not want us to do anything which might put them under the spotlight in the USA or with the UAE authorities.



The consequence of such problems has been some considerable confusion in the P&I world. Agric Bank make regular claims for shortages and have adopted the habit of automatic ship arrest. Some underwriters, eg American Club and Navigators, are automatically constrained by US sanctions orders. However, they may obtain OFAC permission in specific cases both to provide security and to reimburse members for claims incurred in Sudan.

There has been a mixed reaction from others. Some underwriters have agreed to provide security, and will make payments of fees etc., provided that no transactions are in US\$. Some have refused and required the member to make his own arrangements. Some have obtained some robust advice from US lawyers that the application of US sanctions is irrelevant if the entity is not a US company or other organisation and no US nationals are involved, and no financial transactions are being made in US\$.

We refuse any US\$ transactions for any matter related to Sudan. We have no problem for EUR or AED transactions, and all our invoicing is now done from Dubai. If the Club itself is unwilling or unable to provide security, we are able to arrange it against cash deposit in Dubai.

It is sometimes difficult to know from available documentation whether government organisations are behind cargo shipments. They are now using intermediaries for finance and purchases. However, it is easy for us to identify the buyers. We therefore recommend that Owners check with us at an early stage in order to avoid undue complications and delays on completion of discharge if there is an arrest.

Mark Galloway
February 2016

