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U.S.-Libyan Relations:

An Analytic Compendium of U.S. Policies, Laws & Regulations

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Occasional Paper

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THE ATLANTIC COUNCIL
OF THE UNITED STATES

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Table of Contents

<i>Foreword</i>	v
<i>Overview</i>	vii
U.S. Policies, Laws & Regulations	
Section 1: Executive Order 12543 (U.S. Trade Ban)	1
Executive Order 12543 (January 7, 1986).....	3
Section 2: Trade Ban Modification.....	5
Federal Register: Rules and Regulations (Volume 64, Number 147) (August 2, 1999)	6
Section 3: Executive Order 12544 (Blocking Libyan Property)	7
Executive Order 12544 (January 8, 1986).....	8
Section 4: Foreign Assistance Act of 1961	9
Foreign Assistance Act of 1961 (September 4, 1961)	10
Section 5: Foreign Assistance Appropriation.....	15
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (January 10, 2002)	16
Section 6: Arms Export Control Act.....	17
The Arms Export Control Act (October 22, 1968)	18
Section 7: Antiterrorism and Effective Death Penalty Act of 1996	25
Antiterrorism and Effective Death Penalty Act of 1996 (April 24, 1996)	27
Section 8: The Iran-Libya Sanctions Act	39
The Iran-Libya Sanctions Act (August 5, 1996).....	41
The ILSA Extension Act of 2001 (January 3, 2002)	55
Section 9: Pan Am Flight 103-Related UN Security Council Resolutions.....	57
UN Security Council Resolution 731 (January 21, 1992).....	59
UN Security Council Resolution 748 (March 31, 1992)	61
UN Security Council Resolution 883 (November 11, 1993).....	65
Letter Dated 20 December 1991 from the Permanent Representative of the United States of America to the United Nations Addressed to the Secretary-General (December 31, 1991).....	70
Letter Dated 20 December 1991 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the	

United States of America to the United Nations Addressed to the Secretary-General (December 31, 1991).....	72
Section 10: Restriction on the Use of U.S. Passports for Travel to Libya.....	75
Federal Register Ruling on Extension of Passport Restriction (November 23, 2001)	76
State Department Announcement on Renewal (November 22, 2002).....	77
22 United States Code 211a (July 3, 1926; Amended in 1978 and 1994)	78
Executive Order 11295 (August 5, 1966).....	79
Section 11: Libyan Sanctions Regulations	81
Code of Federal Regulations (Part 550) (July 1, 2001).....	82
Section 12: Libya Section of 2002 State Department “Patterns of Global Terrorism” Report (April 30, 2003).....	123
Overview of State-Sponsored Terrorism	123
State Sponsor: Implications	124
Libya	124
Section 13: U.S. Department of State 2002 Country Reports on Human Rights Practices: Libya (March 31, 2003).....	127
Respect for Civil Liberties	134
Respect for Political Rights	136
Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights	137
Discrimination Based on Race, Sex, Disability, Language, or Social Status	137
Worker Rights	139
Removing Restrictions on U.S.-Libyan Relations	143
I. The Big Picture	143
II. Permanent Lifting of UN Sanctions.....	144
III. Lifting Restrictions on U.S. Trade, Aid and Investment.....	145
IV. Removing Economic Sanctions Imposed by the “Terrorism List”.....	145
V. Providing U.S. Foreign Aid.....	147
VI. U.S. Support of International Lending to Libya	148
VII. Arms and Technology Sales.....	149
VIII. Allowing People-to-People Contacts.....	150
IX. Normalizing Relations	151
X. Resolution of Assets Issues.....	151
<i>Index of Topics</i>	153
<i>About the Author</i>	159

Foreword

The recent agreement between representatives of the Pan Am 103 victims' families and the Libyan government to create an escrow account for \$2.7 billion in expected compensation is likely to pave the way to the permanent lifting of UN sanctions and could trigger a U.S. review of its long-standing policy of isolation of Muammar Qadhafi's regime. Should the U.S. administration at some stage decide to begin improving U.S. relations with Libya, it will have to grapple with the policies, laws and regulations that prevent most U.S.-Libyan trade, ban the use of U.S. passports for travel to Libya, withhold portions of U.S. funding from international organizations working in Libya or otherwise block the path to normalization.

This compendium presents the texts of the U.S. policy statements, laws and regulations (or relevant parts thereof) that govern U.S. relations with Libya, on both the bilateral and multilateral levels. Before each document or group of documents is an analytic summary which highlights the context, major provisions and significance of the policy, law or regulation in question as it relates to U.S.-Libyan relations. At the end is an essay entitled, "Removing Restrictions on U.S.-Libyan Relations", which discusses how a U.S. government seeking to do so might go about the process of normalizing relations, taking either a comprehensive or incremental approach.

The Atlantic Council presents this compendium as a reference guide. The Council takes no institutional position on whether the United States ought to seek to normalize its relations with Libya. Similarly, Dr. Kenneth Katzman, whom the Atlantic Council asked to compile this compendium, has provided his analysis in his personal capacity. That analysis does not necessarily reflect an institutional position of the Library of Congress.

The Council is most grateful to Ken Katzman for bringing his singular expertise and analytic skill to the project. He was also the author of an Atlantic Council compendium on U.S.-Iranian relations, which is currently in its second printing. This compendium complements, and was background to, the report produced by a Council Working Group, skillfully chaired by Chester Crocker, entitled, *U.S.-Libyan Relations: Toward Cautious Reengagement* (April 2003). I would like to thank Dick Nelson, the Director of the Council's Program on International Security, for providing the vision and strong management without which this project would have been neither successful, nor indeed, possible. Finally, thanks are also due to Jason Purcell for editing and formatting this compendium and to three of the Program on International Security's interns – David Faith, Michael Hertzberg and Matthew Schumann – for their valuable research support.

Christopher J. Makins
President
Atlantic Council of the United States

Overview

This compendium contains the text of the major Executive Orders, laws, and regulations governing U.S. interactions with Libya. (Errors or inconsistencies in Government documents were reproduced verbatim from the official texts.) Also provided are the texts of the three UN Security Council resolutions related to Libya's involvement in the December 21, 1988 bombing of Pan Am flight 103, as some U.S. sanctions are at least indirectly linked to Libya's compliance with these UN resolutions.

The documents contained in the compendium are not all Libya-specific; some laws discussed apply to Libya because of its designation, under Section 6(j) of the Export Administration Act of 1979, as a state sponsor of terrorism. Libya was placed on the "terrorism list" at its inception in 1979. Numerous other laws or Executive Orders that seek to curb proliferation could apply to Libya as well, but are not discussed here.

Libya is subject to one of the strictest U.S. sanctions regimes in existence. Iran is sanctioned to an almost equal degree, though in the case of Iran there are no restrictions on the use of U.S. passports for travel to the country, as is the case for Libya. Although the applicable laws and regulations have the effect of virtually eliminating U.S.-Libyan commerce, they do not prevent the President from authorizing political dialogue with Libya, or even re-establishing diplomatic relations, if he were to so choose. Since 1999, the United States has conducted a dialogue with Libya on outstanding issues related to the Pan Am 103 bombing. Libya has also reportedly cooperated with the United States in the post-September 11th "war on terrorism" by providing information on groups that may be affiliated to *al Qaeda*.

Many of the sanctions documents presented in this compendium are incorporated into "Libyan Sanctions Regulations," Part 550 of Title 31, Chapter V of the Code of Federal Regulations (CFR). An overview of these regulations is provided in Section 11 of this compendium. The regulations are administered by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). That office reviews applications for licenses to conduct transactions with Libya in accordance with the regulations.

Most of the regulations flow from what is perhaps the most important Presidential determination on sanctions against Libya – President Reagan's January 7, 1986 ban on U.S. trade and certain financial transactions with Libya (Executive Order 12543). This compendium contains one of the most significant modifications to that Executive Order, namely a determination in April 1999 (effective July 1999) to permit commercial sales of food and medical items to Libya. Also included is the provision of the Foreign Assistance Act that bans U.S. foreign assistance to Libya, as well as those provisions added to the Foreign Assistance Act by the Antiterrorism and Effective Death Penalty Act of 1996.

The provisions added by the Antiterrorism law are so-called "secondary sanctions" – sanctions on third countries that provide prohibited assistance to the target country. The Iran-Libya Sanctions Act, which penalizes foreign investment in the energy sectors of Libya and Iran, is another example of a secondary sanction. Such sanctions are widely criticized by

U.S. allies and other countries as an extra-territorial application of U.S. law, and U.S. administrations have generally been hesitant to impose actual penalties under these laws. In early September 2002, however, the Bush Administration did impose some penalties on foreign entities that allegedly sold conventional weapons technology to Libya, Iran and Sudan.

U.S.-Libyan Relations:

An Analytic Compendium of U.S. Policies, Laws & Regulations

Section 1: Executive Order 12543 (U.S. Trade Ban)

January 7, 1986

President Reagan issued this Executive Order banning U.S. trade and some financial transactions with Libya. At the time the order was issued, President Reagan cited Libyan support of international terrorism as an extraordinary threat to U.S. security. The order was issued ten days after the December 27, 1985 terrorist attacks against the Rome and Vienna airports, conducted by the Abu Nidal organization, which was receiving material support from Libya at the time of those attacks. Of course, by that time, the United States and Libya had already clashed on several occasions since 1981, including the August 19, 1981 air battle in which the United States downed two Libyan aircraft, and a U.S. interception of two Libyan fighters over the Gulf of Sidra in June 1983.

The Executive Order banned imports from Libya other than informational items, and it banned the export to Libya of U.S. goods. It also banned loans to Libya or Libyan entities by U.S. persons, and the performance by any U.S. person of any contract in support of an industrial or commercial or governmental project in Libya. Its provisions were a significant expansion of earlier Executive Orders that embargoed U.S. imports of Libyan oil and restricted U.S. exports of oil industry technology to Libya (March 10, 1982) and embargoed U.S. imports of refined petroleum products of Libya (November 15, 1985).

On February 7, 1986, the Reagan Administration issued clarifications to the trade ban pertaining to the operations of U.S. oil companies in Libya. The February 7 clarification allowed U.S. oil companies operating there to continue doing so temporarily, so as to avoid any breach of contract with, or expropriation by, Libya and to avoid handing Libya a large windfall. However, the clarification specified that U.S. companies were expected to dispose of Libyan holdings “as soon as practicable on fair and appropriate terms.” On June 30,

1986, a further ruling was issued saying that U.S. oil companies could not continue operating in Libya, and authorizing them to enter into standstill agreements under which third country subsidiaries, including Libya's national oil company, would operate the holdings of the U.S. companies. The standstill agreements expired on June 30, 1989, but Libya has continued to abide by their terms.

According to the explanatory commentary of the Office of Foreign Assets Control (OFAC), the areas of trade with Libya that could be permissible (aside from the 1999 modification for food and medical sales) are: (1) the sale of parts and components to third countries, where the U.S. goods will be "substantially transformed" into new and different goods, prior to shipment to Libya (but this does not apply to any aspect of the Libyan petroleum or petrochemicals industry), and (2) the sale of goods which are placed in the inventory of a third-country distributor whose sales are not predominantly to Libya.

Document

Executive Order 12543

Date: January 7, 1986

Prohibiting trade and certain transactions involving Libya.

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergency Act (50 U.S.C. 1601 et seq.), sections 504 and 505 of the International Security and Development Cooperation Act of 1985 (Public Law 99 – 83), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1514), and section 301 of title 3 of the United States Code,

I, Ronald Reagan, President of the United States of America, find that the policies and actions of the Government of Libya constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Libyan origin, other than publications and materials imported for news publications or news broadcast dissemination;

(b) The export to Libya of any goods, technology (including technical data or other information) or services from the United States, except publications and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Libya; the provision of transportation to or from the United States by any Libyan person or any vessel or aircraft of Libyan registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in Libya;

(d) The purchase by any United States person of goods for export from Libya to any country;

(e) The performance by any United States person of any contract in support of an industrial or other commercial or governmental project in Libya;

(f) The grant or extension of credits or loans by any United States person to the Government of Libya, its instrumentalities and controlled entities;

(g) Any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Libya, or to activities by any such person within Libya, after the date of this Order, other than transactions necessary to effect such person's departure from Libya, to perform acts permitted until February 1, 1986, by Section 3 of this Order, or travel for journalistic activity by persons regularly employed in such capacity by a newsgathering organization; and

(h) Any transaction by any United States person which evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this Order.

For purposes of this Order, the term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any person in the United States.

Section 2. In light of the prohibition in Section 1(a) of this Order, section 251 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1881), and section 126 of the Trade Act of 1974, as amended (19 U.S.C. 2136) will have no effect with respect to Libya.

Section 3. This Order is effective immediately, except that the Prohibitions set forth in Section 1(a), (b), (c), (d) and (e) shall apply as of 12:01 a.m. Eastern Standard Time, February 1, 1986.

Section 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Libya, its instrumentalities and controlled entities, or to any Libyan national or entity owned or controlled, directly or indirectly, by Libya or Libyan nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

This Order shall be transmitted to the Congress and published in the Federal Register.

The provisions of Executive Order 12543 of Jan. 7, 1986, appear at 51 FR 873, 3 CFR, 1986 Comp., p. 181, unless otherwise noted.

Section 2: Trade Ban Modification

August 2, 1999 (Published)

The following publication is in the Federal Register, reporting a final rule amending the U.S. ban on trade with Libya, which was discussed in the previous section.

As noted in the final rule, in April 1999, shortly after Libya's handover of the Pan Am 103 suspects, President Clinton modified the U.S. trade bans in effect for Libya, Iran, and Sudan. The modification permitted U.S. firms to apply to the Office of Foreign Assets Control (Treasury Department) for specific licenses to sell agricultural and medical products to the three countries. The products must be sold on a commercial basis; nothing in the ruling permits financing by U.S. financial institutions to be used for the sales of these goods to Libya, Iran or Sudan. According to the regulations governing these transactions (see section 11 of this compendium), purchases can be financed by financial institutions that are neither U.S. nor Libyan.

The President has the authority to permit the use of U.S. credits for sales of such goods to the three countries. However, President Clinton did not make credits available, nor has President Bush, to date.

Document

Federal Register: Rules and Regulations (Volume 64, Number 147)

Date: August 2, 1999

Department of the Treasury, Office of Foreign Assets Control

31 CFR Parts 538, 550 and 560

On April 28, 1999, President Clinton announced that existing unilateral economic sanctions programs would be amended to modify licensing policies to permit case-by-case review of specific proposals for the commercial sale of agricultural commodities and products, as well as medicine and medical equipment, where the United States Government has the discretion to do so. He further announced that the Administration was developing country-specific licensing criteria to guide the case-by-case review process so that governments subject to sanctions do not gain unjustified or unwarranted benefits from such sales. To implement this policy, the Treasury Department's Office of Foreign Assets Control ("OFAC") is amending the Sudanese Sanctions Regulations, 31 CFR part 538 (the "SSR"), the Libyan Sanctions Regulations, 31 CFR part 550 (the "LSR"), and the Iranian Transactions Regulations, 31 CFR part 560 (the "ITR") (collectively, the "Regulations"), to make available both general and specific licenses governing commercial sales of such goods.

This final rule deals with commercial sales to Sudan, Libya and Iran (the "target countries") of agricultural commodities and products intended for ultimate consumption in a target country as food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds); as seeds for food crops; or as reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals. It also deals with commercial sales of medicines (including those administered by injection) and medical equipment for use in the target countries, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR 99), as of the date of exportation or reexportation. Regulations, Secs. 538.523(a), 550.569(a) and 560.530(a).

Section 3: Executive Order 12544 (Blocking Libyan Property)

January 8, 1986

One day after issuing the trade ban, President Reagan issued another Executive Order blocking all Libyan government property and interests held in the United States. The blocking of assets typically has been undertaken to give the United States some financial leverage over the sanctioned country, and to deny it funds with which it could presumably support activities contrary to U.S. interests.

Section 11 of this compendium, which contains the text of the current U.S. sanctions imposed on Libya, contains numerous provisions relating to the disposition of blocked Libyan property.

According to the “Terrorist Assets Report” for 2001, produced by the Office of Foreign Assets Control, as of January 2002 there was \$1,182,500,000 worth of blocked Libyan assets in the United States, consisting primarily of bank deposits. Of that amount, \$5.3 million is blocked in foreign branches of U.S. banks. According to the report, “Third party interests exist in a substantial portion of these assets.”

Document

Executive Order 12544

Date: January 8, 1986

Blocking Libyan Government property in the United States or held by U.S. persons.

By the authority vested in me as President by the Constitution and laws of the United States, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.) and section 301 of title 3 of the United States Code, in order to take steps with respect to Libya additional to those set forth in Executive Order No. 12543 of January 7, 1986, to deal with the threat to the national security and foreign policy of the United States referred to in that Order,

I, Ronald Reagan, President of the United States, hereby order blocked all property and interests in property of the Government of Libya, its agencies, instrumentalities and controlled entities and the Central Bank of Libya that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of U.S. persons, including overseas branches of U.S. persons.

The Secretary of the Treasury, in consultation with the Secretary of State, is authorized to employ all powers granted to me by the International Emergency Economic Power Act, 50 U.S.C. 1701 et seq., to carry out the provisions of this Order.

This Order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

The provisions of Executive Order 12544 of Jan. 8, 1986, appear at 51 FR 1235, 3 CFR, 1986 Comp., p. 183, unless otherwise noted.

Section 4: Foreign Assistance Act of 1961

September 4, 1961 (Passed by Congress)

Two provisions are of note in this legislation:

Section 2371 of the Foreign Assistance Act of 1961 (22 U.S.C. 2371, corresponding to section 620A of the law, P.L. 87-195, as amended) states that the United States shall not provide foreign assistance, including any agricultural assistance or credits and Export-Import Bank credits, to any state on the U.S. list of state sponsors of terrorism. These restrictions are for assistance under the Act itself as well as under other statutes, including the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945.

However, this provision allowed some loopholes that have largely been closed by subsequent legislation. Certain sections pertaining to foreign assistance and lending were added by the Antiterrorism and Effective Death Penalty Act of 1996 (see Section 7). Other loopholes were closed by successive provisions of foreign aid appropriations laws, including a ban on direct or indirect assistance to the named country, also discussed below.

This section (2371) does provide for a waiver of the restriction on national security or humanitarian grounds.

Section 2227 of the Act (corresponding to Section 307 of P.L. 87-195, as amended) names Libya and several other countries as unable to benefit from U.S. contributions to international organizations, such as UN development programs. The government's interpretation of the provision is that the United States is required to reduce its contribution to an international program in proportion to the size of the program in the target country, although the international organization can elect to proceed with its program in the target country.

Under this section, U.S. contributions to UNICEF and the International Atomic Energy Agency (IAEA) are exempt from the restriction. Section 1342 of the foreign relations authorization act for FY2002 and 2003 (P.L. 107-228, signed September 30, 2002) applies the restriction to the use of IAEA funds for Iran, in certain circumstances, but Libya is not mentioned in this new provision, which means that the exemption for IAEA programs in Libya still applies.

Document

Foreign Assistance Act of 1961

Date: September 4, 1961 (Passed by Congress)

22 U.S.C.

Sec. 2371. – Prohibition on Assistance to Governments Supporting International Terrorism

(a) Prohibition

The United States shall not provide any assistance under this chapter, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Peace Corps Act (22 U.S.C. 2501 et seq.), or the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

(b) Publication of determinations

Each determination of the Secretary of State under subsection (a) of this section, including each determination in effect on December 12, 1989, shall be published in the Federal Register.

(c) Rescission

A determination made by the Secretary of State under subsection (a) of this section may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate –

(1) before the proposed rescission would take effect, a report certifying that –

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that –

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(d) Waiver

Assistance prohibited by subsection (a) of this section may be provided to a country described in that subsection if –

(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a) of this section, except that humanitarian reasons may not be used to justify assistance under subchapter II of this chapter (including part IV, part VI, and part VIII), or the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.); and

(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing –

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require the waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under this chapter which is also prohibited by section 2780 of this title.

Sec. 2227. – Withholding of United States Proportionate Share for Certain Programs of International Organizations

(a) Covered programs

Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this part shall be available for the United States proportionate share for programs for Burma, Iraq, North Korea, Syria, Libya, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it, or at the discretion of the President, Communist countries listed in section 2370(f) of this title.

(b) Review and report by Secretary of State

The Secretary of State –

(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this part; and

(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) of this section and the amount contributed by the United States to each such organization.

(c) Exceptions

(1) Subject to paragraph (2), the limitations of subsection (a) of this section shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).

(2)

(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this part and available for the International Atomic Energy Agency, the limitations of subsection (a) of this section shall apply to programs or projects of such Agency in Cuba.

(B)

(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a) of this section.

(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba –

(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(III) incorporates internationally accepted nuclear safety standards.

Section 5: Foreign Assistance Appropriation

January 10, 2002

The latest applicable foreign assistance appropriations – the appropriation for FY2002 (P.L. 107-115) – contains two relevant sections. These two sections ban U.S. direct and indirect assistance, respectively, to the countries named in those sections. The named countries correspond to the countries on the U.S. terrorism list, although there is no requirement of such correspondence.

The ban on direct assistance has been applied to Libya in every foreign aid appropriation since fiscal year 1988. Since 1990, the provision has specified that direct assistance applies to direct loans, credits, insurance, and Export-Import Bank guarantees. No waiver is provided for.

The indirect assistance ban has applied to Libya in every foreign aid appropriation since fiscal year 1989. The indirect assistance covered by the ban includes U.S. contributions to multilateral development banks or international organizations that loan to, or work in, Libya. The possibility of a presidential waiver on national interest grounds is provided for.

The ban on indirect assistance has been waived every year since its appearance in the foreign aid appropriations law on the grounds that it would be contrary to U.S. national interest to cut off U.S. contributions to international organizations entirely (simply because some of their work benefits Libya and other named countries). It has been judged by successive administrations that the worldwide humanitarian relief and international development work performed by international organizations is crucial to U.S. national security overall, and that the United States must stay engaged in these organizations.

Document

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002

Date: January 10, 2002

Public Law 107-115

107th Congress

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2002, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely: [...]

Sec. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: Provided, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

[...]

Sec. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or Sudan, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

[...]

Section 6: Arms Export Control Act

October 22, 1968

The key provision of the Arms Export Control Act that applies to Libya is Section 40 (22 U.S.C. 2780). The provision prohibits U.S. export, by sale, lease, loan, grant, or other means, of any item on the U.S. Munitions List to countries on the U.S. terrorism list. U.S. credits, guarantees, or financial assistance for any terrorism list country arms purchase, as well as U.S. licensing or co-production agreements for or with that country, also are prohibited. The Act provides for a presidential waiver if the President deems such a waiver to be in the national interest.

The Antiterrorism and Effective Death Penalty Act of 1996 (see next section) added another relevant section, Section 40A, to the Arms Export Control Act. Under that section, sales of U.S. military equipment and services are prohibited to any country deemed failing to cooperate with U.S. antiterrorism actions. A waiver of this prohibition is available should such a sale be deemed in the national interest. Thus, Libya could be barred from purchasing U.S. arms by law if it is removed from the terrorism list but not removed from the list of states “not cooperating fully with United States antiterrorism efforts”, which is submitted to Congress by the President each fiscal year by May 15th. Libya has been included in this “not cooperating” list every year since the inception of that list in 1997.

Moreover, even if Libya were removed from the terrorism list and deemed to be cooperating with U.S. counterterrorism policy (making it no longer subject to the Section 40A restriction), U.S. arms exports could (and likely still would) be prohibited as a matter of Administration policy.

Section 40 of the Arms Export Control Act also delineates the criteria for removing countries from the terrorism list. There are different requirements for removal, depending on whether or not there is a change of regime in the terrorism list country. The provision allows for Congress to block a country’s removal from the terrorism list if it passes a joint resolution to that effect. However, like any piece of legislation, such a joint resolution would be subject to presidential veto – and veto override procedures – before it could become law.

Document

The Arms Export Control Act (P.L. 90-629)

Date: October 22, 1968

22 U.S.C.

Sec. 2780. – Transactions with countries supporting acts of international terrorism

Section 40

(a) Prohibited transactions by United States Government

The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) of this section under the authority of this chapter, the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other law (except as provided in subsection (h) of this section). In implementing this paragraph, the United States Government –

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d) of this section, and

(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

(2) Providing credits, guarantees, or other financial assistance under the authority of this chapter, the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other law (except as provided in subsection (h) of this section), with respect to the acquisition of any munitions item by a country described in subsection (d) of this section. In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d) of this section. The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

(3) Consenting under section 2753(a) of this title, under section 505(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2314(a)), under the regulations issued to carry out section 2778 of this title, or under any other law (except as provided in subsection (h) of this section), to any transfer of any munitions item to a country described in subsection (d) of this section. In implementing this paragraph, the United States

Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d) of this section, except that this sentence does not apply with respect to any item that has already been transferred to such country.

(4) Providing any license or other approval under section 2778 of this title for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d) of this section. In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d) of this section, except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d) of this section. This paragraph applies with respect to activities undertaken –

(A) by any department, agency, or other instrumentality of the Government,

(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

(C) by any other person at the request or on behalf of the Government. The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

(b) Prohibited transactions by United States persons

(1) In general

A United States person may not take any of the following actions:

(A) Exporting any munitions item to any country described in subsection (d) of this section.

(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d) of this section.

(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country

described in subsection (d) of this section if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d) of this section.

(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d) of this section, or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

(2) Liability for actions of foreign subsidiaries, etc.

A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

(3) Applicability to actions outside the United States

Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B) of this section. To the extent provided in regulations issued under subsection (l)(3)(D) of this section, paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

(c) Transfers to governments and persons covered

This section applies with respect to –

(1) the acquisition of munitions items by the government of a country described in subsection (d) of this section; and

(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d) of this section, except to the extent that subparagraph (D) of subsection (b)(1) of this section provides otherwise.

(d) Countries covered by prohibition

The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism. For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material.

(e) Publication of determinations

Each determination of the Secretary of State under subsection (d) of this section shall be published in the Federal Register.

(f) Rescission

(1) A determination made by the Secretary of State under subsection (d) of this section may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate –

(A) before the proposed rescission would take effect, a report certifying that –

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that –

(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(2)

(A) No rescission under paragraph (1)(B) of a determination under subsection (d) of this section may be made if the Congress, within 45 days after receipt of a report under paragraph (1)(B), enacts a joint resolution the matter after the resolving clause of which is as follows: “That the proposed rescission of the determination under section 40(d) of the Arms Export Control Act pursuant to the report submitted to the Congress on _____ is hereby prohibited.”, the blank to be completed with the appropriate date.

(B) A joint resolution described in subparagraph (A) and introduced within the appropriate 45-day period shall be considered in the Senate and the

House of Representatives in accordance with paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98-473), except that references in such paragraphs to the Committees on Appropriations of the House of Representatives and the Senate shall be deemed to be references to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, respectively.

(g) Waiver

The President may waive the prohibitions contained in this section with respect to a specific transaction if –

(1) the President determines that the transaction is essential to the national security interests of the United States; and

(2) not less than 15 days prior to the proposed transaction, the President –

(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing –

(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

(iv) the date on which the proposed transaction is expected to occur; and

(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

(h) Exemption for transactions subject to National Security Act reporting requirements

The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

(i) Relation to other laws

(1) In general

With regard to munitions items controlled pursuant to this chapter, the provisions of this section shall apply notwithstanding any other provision of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

(2) Section 614(a) waiver authority

If the authority of section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)) is used to permit a transaction under that Act (22 U.S.C. 2151 et seq.) or this chapter which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

(j) Criminal penalty

Any person who willfully violates this section shall be fined for each violation not more than \$1,000,000, imprisoned not more than 10 years, or both.

(k) Civil penalties; enforcement

In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (50 App. U.S.C. 2410(c), (e), (g), 2411(a)) (subject to the same terms and conditions as are applicable to such powers under that Act (50 App. U.S.C. 2401 et seq.)), except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed \$500,000.

(l) Definitions

As used in this section –

(1) the term “munitions item” means any item enumerated on the United States Munitions list [1] (without regard to whether the item is imported into or exported from the United States);

(2) the term “United States”, when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(3) the term “United States person” means –

(A) any citizen or permanent resident alien of the United States;

(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(C) any other person with respect to that person’s actions while in the United States; and

(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but –

(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations),
or

(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person’s actions while outside the United States;

(4) the term “nuclear explosive device” has the meaning given that term in section 6305(4) of this title; and

(5) the term “unsafeguarded special nuclear material” has the meaning given that term in section 6305(8) of this title.

Section 7: Antiterrorism and Effective Death Penalty Act of 1996

April 24, 1996

Targeted at no specific country, this Act (P.L. 104-132) contains a number of provisions that apply to countries on the terrorism list, including Libya. While some sections are largely symbolic, many set forth substantial penalties, including a number of “secondary sanctions” aimed at persons and countries that assist or arm Libya and other terrorism list countries.

Section 221 of the Act allows victims of terrorism to sue, in U.S. courts, a country alleged to have provided material support for a terrorist act or for the group that conducted the act. The Act provides no mechanism for the collection of any judgments that are issued as a result. In the case of the Pan Am 103 bombing, a Libyan intelligence agent (Abdel Basset Ali al-Megrahi) was convicted in a trial in the Hague – under Scottish law – on January 31, 2001. (Another Libyan defendant, Al Amin Khalifah Fhimah, was acquitted.) Negotiations have recently concluded between representatives of Libya and representatives of the Pan Am 103 victims’ families over expected future compensation.

Section 321 of the Act provides for penalties against U.S. persons who engage in financial transactions with terrorism list states, except as provided for in regulations. (This clause applies to only those terrorism list countries with which trade is permissible.) As interpreted, the regulations impose penalties only if the U.S. person knows that the transaction in question poses a risk of furthering an act of terrorism in the United States.

Sections 325 and 326 provide for “secondary sanctions”, or sanctions on third countries – not the targeted terrorism list countries – that provide assistance or lethal military equipment to a terrorism list state. Penalties under both sections can be waived on national interest grounds. Providing goods to a terrorism list country at subsidized prices, for example, is considered sanctionable activity for the purposes of this Act. Because Libya receives almost no bilateral assistance, there have been no determinations of sanctionable activity under Section 325.

Under Section 326, in September 2002, Russia was determined by the Bush Administration to have violated the Act because three of its entities sold lethal conventional military equipment to unnamed terrorism list countries, which were reported in the press to include Libya. Sanctions against Russia under the Act were waived, but sanctions were imposed on the three offending entities. The three entities are: the Tula Design Bureau of Instrument Building, which makes anti-aircraft and anti-tank systems; the State Scientific Production Enterprise – Bazalt – which makes bombs, grenades and other munitions; and the Rostov Airframe Plant 168. (Federal Register, September 12, 2002. Public Notice 4120, New York Times, September 13, 2002.)

Section 327 of the Act amends the International Financial Institutions Act (22 U.S.C. 262c) by requiring the administration to vote against loans to terrorism list countries by

international financial institutions. The institutions named in the provision include the World Bank, the International Monetary Fund, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the African Development Fund. No waiver was provided for.

As noted in the previous section on the Arms Export Control Act, Section 330 of the Antiterrorism and Effective Death Penalty Act amends the Arms Export Control Act to prevent U.S. arms sales to countries determined not to be cooperating with U.S. antiterrorism efforts. Currently, those countries consist of the seven terrorism list countries. Afghanistan had been on the list but was dropped from it in 2002 after a new pro-U.S. government came to power following the United States-led war.

Document

Antiterrorism and Effective Death Penalty Act of 1996

Date: April 24, 1996

Public Law 104-132

104th Congress

An Act

To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 221. – Jurisdiction for Lawsuits against Terrorist States

(a) Exception to Foreign Sovereign Immunity for Certain Cases. –

Section 1605 of title 28, United States Code, is amended –

(1) in subsection (a) –

(A) by striking ‘or’ at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ‘; or’; and

(C) by adding at the end the following new paragraph:

‘(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph –

‘(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act; and

‘(B) even if the foreign state is or was so designated, if –

‘(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

‘(ii) the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.’; and

(2) by adding at the end the following:

‘(e) For purposes of paragraph (7) of subsection (a) –

‘(1) the terms ‘torture’ and ‘extrajudicial killing’ have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

‘(2) the term ‘hostage taking’ has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

‘(3) the term ‘aircraft sabotage’ has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

‘(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

‘(g) Limitation on Discovery –

‘(1) In general – (A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

‘(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would

significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

‘(2) Sunset – (A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

‘(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would –

‘(i) create a serious threat of death or serious bodily injury to any person;

‘(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

‘(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

‘(3) Evaluation of evidence – The court’s evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

‘(4) Bar on motions to dismiss – A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

‘(5) Construction – Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.’.

(b) Exception to Immunity From Attachment –

(1) Foreign state – Section 1610(a) of title 28, United States Code, is amended –

(A) by striking the period at the end of paragraph (6) and inserting ‘, or’; and

(B) by adding at the end the following new paragraph:

‘(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.’.

(2) Agency or instrumentality – Section 1610(b)(2) of title 28, United States Code, is amended –

(A) by striking ‘or (5)’ and inserting ‘(5), or (7)’; and

(B) by striking ‘used for the activity’ and inserting ‘involved in the act’.

(c) Applicability – The amendments made by this subtitle shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

Subtitle C – Assistance to Victims of Terrorism

Sec. 231. – Short Title

This subtitle may be cited as the ‘Justice for Victims of Terrorism Act of 1996’.

Sec. 232. – Victims of Terrorism Act

(a) Authority to Provide Assistance and Compensation to Victims of Terrorism – The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

‘Sec. 1404B. – Compensation and Assistance to Victims of Terrorism or Mass Violence

‘(a) Victims of Acts of Terrorism Outside the United States – The Director may make supplemental grants as provided in section 1404(a) to States to provide compensation and assistance to the residents of such States who, while outside of the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

‘(b) Victims of Terrorism Within the United States – The Director may make supplemental grants as provided in section 1404(d)(4)(B) to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney’s Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.’.

(b) Funding of Compensation and Assistance to Victims of Terrorism, Mass Violence, and Crime – Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

‘(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed \$50,000,000.

‘(B) The emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.’

(c) Crime Victims Fund Amendments –

(1) Unobligated funds – Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended –

(A) in subsection (c), by striking ‘subsection’ and inserting ‘chapter’; and

(B) by amending subsection (e) to read as follows:

‘(e) Amounts Awarded and Unspent – Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of \$500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than \$500,000 shall be returned to the Fund.’

(2) Base amount – Section 1404(a)(5) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)) is amended to read as follows:

‘(5) As used in this subsection, the term ‘base amount’ means –

(A) except as provided in subparagraph (B), \$500,000; and

(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, \$200,000, with the Republic of Palau’s share governed by the Compact of Free Association between the United States and the Republic of Palau.’

Sec. 233. – Compensation of Victims of Terrorism

(a) Requiring Compensation for Terrorist Crimes – Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(3)) is amended –

(1) by inserting ‘crimes involving terrorism,’ before ‘driving while intoxicated’; and

(2) by inserting a comma after ‘driving while intoxicated’.

(b) Foreign Terrorism – Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(6)(B)) is amended by inserting ‘are outside of the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or’ before ‘are States not having’.

[...]

Sec. 234. – Crime Victims Fund

(a) Prohibition of Payments to Delinquent Criminal Debtors by State Crime Victim Compensation Programs –

(1) In general – Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended –

(A) by striking ‘and’ at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

‘(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine, other monetary penalty, or restitution imposed for the offense; and’.

(2) Application of amendment – Section 1403(b)(8) of the Victims of Crime Act of 1984, as added by paragraph (1) of this section, shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victim compensation programs that are sufficient to ensure that victim compensation is not denied to any person except as authorized by law.

(b) Exclusion From Income for Purposes of Means Tests – Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

‘(c) Exclusion From Income for Purposes of Means Tests – Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.’.

[...]

Sec. 236. – Technical Correction

Section 1402(d)(3)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)(B)) is amended by striking ‘1404A’ and inserting ‘1404(a)’.

[...]

Sec. 321. – Financial Transactions with Terrorists

(a) In General – Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the section 2332c added by section 521 of this Act the following new section:

‘Sec. 2332d. – Financial transactions

‘(a) Offense – Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under this title, imprisoned for not more than 10 years, or both.

‘(b) Definitions – As used in this section –

‘(1) the term ‘financial transaction’ has the same meaning as in section 1956(c)(4);
and

‘(2) the term ‘United States person’ means any –

‘(A) United States citizen or national;

‘(B) permanent resident alien;

‘(C) juridical person organized under the laws of the United States; or

‘(D) any person in the United States.’

(b) Clerical Amendment – The table of sections at the beginning of chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after the item added by section 521 of this Act the following new item:

‘2332d. Financial transactions.’

(c) Effective Date – The amendments made by this section shall become effective 120 days after the date of enactment of this Act.

[...]

Sec. 324. – Findings

The Congress finds that –

- (1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;
- (2) the President should continue to make efforts to counter international terrorism a national security priority;
- (3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counter terrorist efforts;
- (4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;
- (5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and
- (6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

Sec. 325. – Prohibition on Assistance to Countries that Aid Terrorist States

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

'Sec. 620G. – Prohibition on Assistance to Countries that Aid Terrorist States

'(a) Withholding of Assistance – The President shall withhold assistance under this Act to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A.

‘(b) Waiver – Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including –

- ‘(1) a statement of the determination;
- ‘(2) a detailed explanation of the assistance to be provided;
- ‘(3) the estimated dollar amount of the assistance; and
- ‘(4) an explanation of how the assistance furthers United States national interests.’.

Sec. 326. – Prohibition on Assistance to Countries that Provide Military Equipment to Terrorist States

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

‘Sec. 620H. – Prohibition on Assistance to Countries that Provide Military Equipment to Terrorist States

‘(a) Prohibition –

‘(1) In General – The President shall withhold assistance under this Act to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

‘(2) Applicability – The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

‘(b) Waiver – Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including –

- ‘(1) a statement of the determination;
- ‘(2) a detailed explanation of the assistance to be provided;

‘(3) the estimated dollar amount of the assistance; and

‘(4) an explanation of how the assistance furthers United States national interests.’.

Sec. 327. – Opposition to Assistance by International Financial Institutions to Terrorist States

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

‘Sec. 1621. – Opposition to Assistance by International Financial Institutions to Terrorist States

‘(a) In General – The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

‘(b) Definition – For purposes of this section, the term ‘international financial institution’ includes –

‘(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

‘(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

‘(3) any similar institution established after the date of enactment of this section.’.

Sec. 328. – Antiterrorism Assistance

(a) Foreign Assistance Act – Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa-2) is amended –

‘(1) in subsection (c), by striking ‘development and implementation of the antiterrorism assistance program under this chapter, including’;

‘(2) by amending subsection (d) to read as follows:

‘(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

‘(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.’; and

(3) by striking subsection (f).

(b) Assistance to Foreign Countries To Procure Explosives Detection Devices and Other Counterterrorism Technology – (1) Subject to section 575(b), up to \$3,000,000 in any fiscal year may be made available –

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term “major non-NATO allies” means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) Assistance to Foreign Countries – Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to \$1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if –

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

Sec. 329. – Definition of Assistance

For purposes of this title –

(1) the term ‘assistance’ means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term ‘assistance’ does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

Sec. 330. – Prohibition on Assistance under Arms Export Control Act for Countries not Cooperating Fully with United States Antiterrorism Efforts

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

‘Sec. 40A. – Transactions with Countries Not Fully Cooperating with United States Antiterrorism Efforts –

‘(a) Prohibited Transactions – No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

‘(b) Waiver – The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.’.

Section 8: The Iran-Libya Sanctions Act

August 5, 1996

The Iran-Libya Sanctions Act (ILSA, 104-172) is the only major piece of legislation that targets Libya specifically (along with Iran), rather than simply affecting Libya as a result of its designation as a state sponsor of terrorism. The law was intended to deter foreign firms from making new investments in the energy sectors of Iran and Libya by imposing sanctions against those firms. For firms determined by the Administration to have violated ILSA's provisions, the President is to impose at least two out of a menu of six sanctions listed in Section 6 of the Act. They include: (1) denial of Export-Import Bank credits for exports to the sanctioned firm; (2) denial of export licenses for goods to the sanctioned firm; (3) prohibition on U.S. banks lending \$10 million or more in one year to the sanctioned firm; (4) for foreign financial institutions, prohibiting them from dealing in U.S. government bonds or holding U.S. government funds; (5) prohibiting U.S. government procurement from the firm; and (6) the imposition of restrictions on imports to the United States from the sanctioned firm, in accordance with the International Emergency Economic Powers Act.

Under the provisions of the original Act, firms could be sanctioned if they exported to Libya any goods banned for export to Libya under two Pan Am 103-related United Nations Security Council Resolutions – 748 of March 31, 1992; and 883 of November 11, 1993 – if such goods were determined by the U.S. government to contribute to Libya's weapons of mass destruction programs, its aviation capabilities, or its energy sector. However, the suspension of UN sanctions with respect to Libya – as a result of Libya's April 1999 handover of the two Pan Am 103 bombing suspects for trial – appears to invalidate this “trade trigger” with respect to ILSA. No equivalent trade trigger was provided for with respect to Iran. (The texts of the aforementioned UN Resolutions are provided in section 9 of this compendium).

Under the original Act, a firm might also be determined to violate ILSA if it invests more than \$40 million in one year in Libya's energy sector. (This provision could therefore apply to investment commitments or contracts that predate the inception of ILSA.)

The Act, which was to sunset in August 2001, was extended by the 107th Congress by P.L. 107-24, the “ILSA Extension Act of 2001”. The extension contained provisions designed to close some loopholes that applied to Libya, and which, in the view of some in Congress, had caused successive administrations not to determine that any energy projects in Libya had violated the original Act. The extension lowered the threshold for sanctionable investment in Libya to \$20 million in one year – the same threshold in effect for Iran.

The ILSA extension law also aimed to adapt ILSA more closely to conditions in Libya. Unlike in Iran, foreign oil companies were not expelled from Libya, but have continued to operate and invest there over the years. As a result, most of the foreign investment in Libya's energy sector has been undertaken in the form of extensions or amendments to existing contracts with Libya, rather than as completely new contracts. Thus, many potential violations of ILSA

were not classified as such, but rather considered “grandfathered”. Section 5 of the ILSA Extension Act addresses this by defining amendments or modifications to existing investment contracts as new contracts.

To date, no foreign firms have been deemed in violation of ILSA for investment in Libya. One consortium was deemed in violation for an investment in Iran, but sanctions were waived on national interest grounds.

The requirements for termination of ILSA differ for Iran and Libya. In the case of Libya, ILSA terminates if the President determines that Libya has fulfilled the requirements of the three Pan Am 103-related UN resolutions – 731, 748, and 883. International sanctions imposed by these resolutions are currently suspended because of Libya’s handover of the two bombing suspects. However, Libya has not yet been deemed to have fulfilled all the requirements set by the resolutions (and by the documents incorporated into them by reference), as will be discussed below, which has prevented UN sanctions from being ended outright. More importantly, President Bush has not determined that Libya has fulfilled all applicable requirements, and the termination of ILSA with respect to Libya is dependent on a presidential determination of full compliance, not a UN determination.

Document

The Iran-Libya Sanctions Act

Date: August 5, 1996

Public Law 104-172

104th Congress

An Act

To impose sanctions on persons making certain investments directly and significantly contributing to the enhancement of the ability of Iran or Libya to develop its petroleum resources, and on persons exporting certain items that enhance Libya's weapons or aviation capabilities or enhance Libya's ability to develop its petroleum resources, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. – Short Title

This Act may be cited as the “Iran and Libya Sanctions Act of 1996”.

Sec. 2. – Findings

The Congress makes the following findings:

- (1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of acts of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which the United States shares common strategic and foreign policy objectives.
- (2) The objective of preventing the proliferation of weapons of mass destruction and acts of international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.
- (3) The Government of Iran uses its diplomatic facilities and quasi-governmental institutions outside of Iran to promote acts of international terrorism and assist its nuclear, chemical, biological, and missile weapons programs.
- (4) The failure of the Government of Libya to comply with Resolutions 731, 748, and 883 of the Security Council of the United Nations, its support of international terrorism, and its efforts to acquire weapons of mass destruction constitute a threat

to international peace and security that endangers the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

Sec. 3. – Declaration of Policy

(a) Policy With Respect to Iran. – The Congress declares that it is the policy of the United States to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran’s ability to explore for, extract, refine, or transport by pipeline petroleum resources of Iran.

(b) Policy With Respect to Libya. – The Congress further declares that it is the policy of the United States to seek full compliance by Libya with its obligations under Resolutions 731, 748, and 883 of the Security Council of the United Nations, including ending all support for acts of international terrorism and efforts to develop or acquire weapons of mass destruction.

Sec. 4. – Multilateral Regime

(a) Multilateral Negotiations. – In order to further the objectives of section 3, the Congress urges the President to commence immediately diplomatic efforts, both in appropriate international fora such as the United Nations, and bilaterally with allies of the United States, to establish a multilateral sanctions regime against Iran, including provisions limiting the development of petroleum resources, that will inhibit Iran’s efforts to carry out activities described in section 2.

(b) Reports to Congress. – The President shall report to the appropriate congressional committees, not later than 1 year after the date of the enactment of this Act, and periodically thereafter, on the extent that diplomatic efforts described in subsection (a) have been successful. Each report shall include –

(1) the countries that have agreed to undertake measures to further the objectives of section 3 with respect to Iran, and a description of those measures; and

(2) the countries that have not agreed to measures described in paragraph (1), and, with respect to those countries, other measures (in addition to that provided in subsection (d)) the President recommends that the United States take to further the objectives of section 3 with respect to Iran.

(c) Waiver. – The President may waive the application of section 5(a) with respect to nationals of a country if –

(1) that country has agreed to undertake substantial measures, including economic sanctions, that will inhibit Iran’s efforts to carry out activities described in section 2

and information required by subsection (b)(1) has been included in a report submitted under subsection (b); and

(2) the President, at least 30 days before the waiver takes effect, notifies the appropriate congressional committees of his intention to exercise the waiver.

(d) Enhanced Sanction. –

(1) Sanction. – With respect to nationals of countries except those with respect to which the President has exercised the waiver authority of subsection (c), at any time after the first report is required to be submitted under subsection (b), section 5(a) shall be applied by substituting “\$20,000,000” for “\$40,000,000” each place it appears, and by substituting “\$5,000,000” for “\$10,000,000”.

(2) Report to congress. – The President shall report to the appropriate congressional committees any country with respect to which paragraph (1) applies.

(e) Interim Report on Multilateral Sanctions; Monitoring. – The President, not later than 90 days after the date of the enactment of this Act, shall report to the appropriate congressional committees on –

(1) whether the member states of the European Union, the Republic of Korea, Australia, Israel, or Japan have legislative or administrative standards providing for the imposition of trade sanctions on persons or their affiliates doing business or having investments in Iran or Libya;

(2) the extent and duration of each instance of the application of such sanctions; and

(3) the disposition of any decision with respect to such sanctions by the World Trade Organization or its predecessor organization.

Sec. 5. – Imposition of Sanctions

(a) Sanctions With Respect to Iran. – Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of \$40,000,000 or more (or any combination of investments of at least \$10,000,000 each, which in the aggregate equals or exceeds \$40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Iran’s ability to develop petroleum resources of Iran.

(b) Mandatory Sanctions With Respect to Libya. –

(1) Violations of prohibited transactions. – Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual

knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially –

(A) contributed to Libya’s ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya’s military or paramilitary capabilities;

(B) contributed to Libya’s ability to develop its petroleum resources; or

(C) contributed to Libya’s ability to maintain its aviation capabilities.

(2) Investments that contribute to the development of petroleum resources. – Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of \$40,000,000 or more (or any combination of investments of at least \$10,000,000 each, which in the aggregate equals or exceeds \$40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Libya’s ability to develop its petroleum resources.

(c) Persons Against Which the Sanctions Are To Be Imposed. – The sanctions described in subsections (a) and (b) shall be imposed on –

(1) any person the President determines has carried out the activities described in subsection (a) or (b); and

(2) any person the President determines –

(A) is a successor entity to the person referred to in paragraph (1);

(B) is a parent or subsidiary of the person referred to in paragraph (1) if that parent or subsidiary, with actual knowledge, engaged in the activities referred to in paragraph (1); or

(C) is an affiliate of the person referred to in paragraph (1) if that affiliate, with actual knowledge, engaged in the activities referred to in paragraph (1) and if that affiliate is controlled in fact by the person referred to in paragraph (1).

For purposes of this Act, any person or entity described in this subsection shall be referred to as a “sanctioned person”.

(d) Publication in Federal Register. – The President shall cause to be published in the Federal Register a current list of persons and entities on whom sanctions have been imposed under this Act. The removal of persons or entities from, and the addition of persons and entities to, the list, shall also be so published.

(e) Publication of Projects. – The President shall cause to be published in the Federal Register a list of all significant projects which have been publicly tendered in the oil and gas sector in Iran.

(f) Exceptions. – The President shall not be required to apply or maintain the sanctions under subsection (a) or (b) –

(1) in the case of procurement of defense articles or defense services –

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing that the person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(2) in the case of procurement, to eligible products, as defined in section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)), of any foreign country or instrumentality designated under section 301(b)(1) of that Act (19 U.S.C. 2511(b)(1));

(3) to products, technology, or services provided under contracts entered into before the date on which the President publishes in the Federal Register the name of the person on whom the sanctions are to be imposed;

(4) to –

(A) spare parts which are essential to United States products or production;

(B) component parts, but not finished products, essential to United States products or production; or

(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(6) to information and technology essential to United States products or production;
or

(7) to medicines, medical supplies, or other humanitarian items.

Sec. 6. – Description of Sanctions.

The sanctions to be imposed on a sanctioned person under section 5 are as follows:

(1) Export-import bank assistance for exports to sanctioned persons. – The President may direct the Export-Import Bank of the United States not to give approval to the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) Export sanction. – The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under –

(i) the Export Administration Act of 1979;

(ii) the Arms Export Control Act;

(iii) the Atomic Energy Act of 1954; or

(iv) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(3) Loans from United States financial institutions. – The United States Government may prohibit any United States financial institution from making loans or providing credits to any sanctioned person totaling more than \$10,000,000 in any 12-month period unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

(4) Prohibitions on financial institutions. – The following prohibitions may be imposed against a sanctioned person that is a financial institution:

(A) Prohibition on designation as primary dealer. – Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

(B) Prohibition on service as a repository of government funds. – Such financial institution may not serve as agent of the United States Government or serve as repository for United States Government funds. The imposition of either sanction under subparagraph (A) or (B) shall be treated as 1

sanction for purposes of section 5, and the imposition of both such sanctions shall be treated as 2 sanctions for purposes of section 5.

(5) Procurement sanction. – The United States Government may not procure, or enter into any contract for the procurement of, any goods or services from a sanctioned person.

(6) Additional sanctions. – The President may impose sanctions, as appropriate, to restrict imports with respect to a sanctioned person, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 and following).

Sec. 7. – Advisory Opinions.

The Secretary of State may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, will not be made subject to such sanctions on account of such activity.

Sec. 8. – Termination of Sanctions.

(a) Iran. – The requirement under section 5(a) to impose sanctions shall no longer have force or effect with respect to Iran if the President determines and certifies to the appropriate congressional committees that Iran –

(1) has ceased its efforts to design, develop, manufacture, or acquire –

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; and

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of countries the governments of which have been determined, for purposes of section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

(b) Libya. – The requirement under section 5(b) to impose sanctions shall no longer have force or effect with respect to Libya if the President determines and certifies to the appropriate congressional committees that Libya has fulfilled the requirements of United Nations Security Council Resolution 731, adopted January 21, 1992, United Nations Security Council Resolution 748, adopted March 31, 1992, and United Nations Security Council Resolution 883, adopted November 11, 1993.

Sec. 9. – Duration of Sanctions; Presidential Waiver.

(a) Delay of Sanctions. –

(1) Consultations. – If the President makes a determination described in section 5(a) or 5(b) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions under this Act.

(2) Actions by government of jurisdiction. – In order to pursue consultations under paragraph (1) with the government concerned, the President may delay imposition of sanctions under this Act for up to 90 days. Following such consultations, the President shall immediately impose sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President under section 5(a) or 5(b) concerning such person.

(3) Additional delay in imposition of sanctions. – The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the person concerned is in the process of taking the actions described in paragraph (2).

(4) Report to congress. – Not later than 90 days after making a determination under section 5(a) or 5(b), the President shall submit to the appropriate congressional committees a report on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) Duration of Sanctions. – A sanction imposed under section 5 shall remain in effect –

(1) for a period of not less than 2 years from the date on which it is imposed; or

(2) until such time as the President determines and certifies to the Congress that the person whose activities were the basis for imposing the sanction is no longer engaging in such activities and that the President has received reliable assurances that such person will not knowingly engage in such activities in the future, except that such sanction shall remain in effect for a period of at least 1 year.

(c) Presidential Waiver. –

(1) Authority. – The President may waive the requirement in section 5 to impose a sanction or sanctions on a person described in section 5(c), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 30 days or more after the President determines and so reports to the appropriate

congressional committees that it is important to the national interest of the United States to exercise such waiver authority.

(2) Contents of report. – Any report under paragraph (1) shall provide a specific and detailed rationale for the determination under paragraph (1), including –

(A) a description of the conduct that resulted in the determination under section 5(a) or (b), as the case may be;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction over the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination under section 5(a) or (b), as the case may be;

(C) an estimate as to the significance –

(i) of the provision of the items described in section 5(a) to Iran’s ability to develop its petroleum resources, or

(ii) of the provision of the items described in section 5(b)(1) to the abilities of Libya described in subparagraph (A), (B), or (C) of section 5(b)(1), or of the investment described in section 5(b)(2) on Libya’s ability to develop its petroleum resources, as the case may be; and

(D) a statement as to the response of the United States in the event that the person concerned engages in other activities that would be subject to section 5(a) or (b).

(3) Effect of report on waiver. – If the President makes a report under paragraph (1) with respect to a waiver of sanctions on a person described in section 5(c), sanctions need not be imposed under section 5(a) or (b) on that person during the 30-day period referred to in paragraph (1).

Sec. 10. – Reports Required.

(a) Report on Certain International Initiatives. – Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the President shall transmit a report to the appropriate congressional committees describing –

(1) the efforts of the President to mount a multilateral campaign to persuade all countries to pressure Iran to cease its nuclear, chemical, biological, and missile weapons programs and its support of acts of international terrorism;

(2) the efforts of the President to persuade other governments to ask Iran to reduce the presence of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran and to withdraw any such

diplomats or representatives who participated in the takeover of the United States embassy in Tehran on November 4, 1979, or the subsequent holding of United States hostages for 444 days;

(3) the extent to which the International Atomic Energy Agency has established regular inspections of all nuclear facilities in Iran, including those presently under construction; and

(4) Iran's use of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran to promote acts of international terrorism or to develop or sustain Iran's nuclear, chemical, biological, and missile weapons programs.

(b) Other Reports. – The President shall ensure the continued transmittal to the Congress of reports describing –

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act of 1978 and section 1607 of the National Defense Authorization Act for Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

Sec. 11. – Determinations Not Reviewable.

A determination to impose sanctions under this Act shall not be reviewable in any court.

Sec. 12. – Exclusion of Certain Activities.

Nothing in this Act shall apply to any activities subject to the reporting requirements of title V of the National Security Act of 1947.

Sec. 13. – Effective Date; Sunset.

(a) Effective Date. – This Act shall take effect on the date of the enactment of this Act.

(b) Sunset. – This Act shall cease to be effective on the date that is 5 years after the date of the enactment of this Act.

Sec. 14. – Definitions.

As used in this Act:

(1) Act of international terrorism. – The term “act of international terrorism” means an act –

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended –

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) Appropriate congressional committees. – The term “appropriate congressional committees” means the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate and the Committee on Ways and Means, the Committee on Banking and Financial Services, and the Committee on International Relations of the House of Representatives.

(3) Component part. – The term “component part” has the meaning given that term in section 11A(e)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(1)).

(4) Develop and development. – To “develop”, or the “development” of, petroleum resources means the exploration for, or the extraction, refining, or transportation by pipeline of, petroleum resources.

(5) Financial institution. – The term “financial institution” includes –

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter; and

(E) any other company that provides financial services.

(6) Finished product. – The term “finished product” has the meaning given that term in section 11A(e)(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2410a(e)(2)).

(7) Foreign person. – The term “foreign person” means –

(A) an individual who is not a United States person or an alien lawfully admitted for permanent residence into the United States; or

(B) a corporation, partnership, or other nongovernmental entity which is not a United States person.

(8) Goods and technology. – The terms “goods” and “technology” have the meanings given those terms in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(9) Investment. – The term “investment” means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Iran or a nongovernmental entity in Iran, or with the Government of Libya or a nongovernmental entity in Libya, on or after the date of the enactment of this Act:

(A) The entry into a contract that includes responsibility for the development of petroleum resources located in Iran or Libya (as the case may be), or the entry into a contract providing for the general supervision and guarantee of another person’s performance of such a contract.

(B) The purchase of a share of ownership, including an equity interest, in that development.

(C) The entry into a contract providing for the participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

The term “investment” does not include the entry into, performance, or financing of a contract to sell or purchase goods, services, or technology.

(10) Iran. – The term “Iran” includes any agency or instrumentality of Iran.

(11) Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran. – The term “Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran” includes employees, representatives, or affiliates of Iran’s –

(A) Foreign Ministry;

(B) Ministry of Intelligence and Security;

- (C) Revolutionary Guard Corps;
- (D) Crusade for Reconstruction;
- (E) Qods (Jerusalem) Forces;
- (F) Interior Ministry;
- (G) Foundation for the Oppressed and Disabled;
- (H) Prophet's Foundation;
- (I) June 5th Foundation;
- (J) Martyr's Foundation;
- (K) Islamic Propagation Organization; and
- (L) Ministry of Islamic Guidance.

(12) Libya. – The term “Libya” includes any agency or instrumentality of Libya.

(13) Nuclear explosive device. – The term “nuclear explosive device” means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material (as defined in section 11(aa) of the Atomic Energy Act of 1954) that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(14) Person. – The term “person” means –

- (A) a natural person;
- (B) a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and
- (C) any successor to any entity described in subparagraph (B).

(15) Petroleum resources. – The term “petroleum resources” includes petroleum and natural gas resources.

(16) United States or State. – The term “United States” or “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(17) United States person. – The term “United States person” means –

- (A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and
- (B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia,

if natural persons described in subparagraph (A) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

Approved August 5, 1996.

Document

The ILSA Extension Act of 2001

Date: January 3, 2002

Public Law 107-24

107th Congress

An Act

To extend the authorities of the Iran and Libya Sanctions Act of 1996 until 2006, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1. – Short Title.

This Act may be cited as the “ILSA Extension Act of 2001”.

Sec. 2. – Imposition of Sanctions with Respect to Libya.

(a) In General. – Section 5(b)(2) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note; 110 Stat. 1543) is amended by striking “\$40,000,000” each place it appears and inserting “\$20,000,000”.

(b) Effective Date. – The amendments made by subsection (a) shall apply to investments made on or after June 13, 2001.

Sec. 3. – Reports Required.

Section 10 of the Iran and Libya Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) is amended –

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) Report on Effectiveness of Actions Under This Act. – Not earlier than 24 months, and not later than 30 months, after the date of the enactment of the ILSA Extension Act of 2001, the President shall transmit to Congress a report that describes –

“(1) the extent to which actions relating to trade taken pursuant to this Act –

“(A) have been effective in achieving the objectives of section 3 and any other foreign policy or national security objectives of the United States with respect to Iran and Libya; and

“(B) have affected humanitarian interests in Iran and Libya, the country in which the sanctioned person is located, or in other countries; and

“(2) the impact of actions relating to trade taken pursuant to this Act on other national security, economic, and foreign policy interests of the United States, including relations with countries friendly to the United States, and on the United States economy. The President may include in the report the President’s recommendation on whether or not this Act should be terminated or modified.”.

Sec. 4. – Extension of Iran and Libya Sanctions Act of 1996.

Section 13(b) of the Iran and Libya Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note) is amended by striking “5 years” and inserting “10 years”.

Sec 5. – Revised Definition of Investment.

Section 14(9) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note; 110 Stat. 1549) is amended by adding at the end the following new sentence: “For purposes of this paragraph, an amendment or other modification that is made, on or after June 13, 2001, to an agreement or contract shall be treated as the entry of an agreement or contract.”.

Approved August 3, 2001.

Section 9: Pan Am Flight 103-Related UN Security Council Resolutions

January 21, 1992; March 31, 1992; and November 11, 1993

As noted earlier, the termination of ILSA with respect to Libya is linked to a determination by the President that Libya has fulfilled the requirements of UN resolutions 731, 748 and 883. ILSA states:

The requirement under section 5(b) to impose sanctions shall no longer have force or effect with respect to Libya if the President determines and certifies to the appropriate congressional committees that Libya has fulfilled the requirements of United Nations Security Council Resolution 731, adopted January 21, 1992, United Nations Security Council Resolution 748, adopted March 31, 1992, and United Nations Security Council Resolution 883, adopted November 11, 1993. (See paragraph 8 [b] of the Iran-Libya Sanctions Act, above.)

The texts of the UN resolutions – Resolution 731 of January 21, 1992; Resolution 748 of March 31, 1992; and Resolution 883 of November 11, 1993 – are provided below.

It is worth recalling that the sanctions imposed on Libya by these resolutions (a ban on international flights to and from Libya; a freeze on Libya's assets abroad; and a ban on sales of arms, oil equipment and aviation equipment or services to Libya) were suspended as a result of Tripoli's April 1999 handover of the two Libyan suspects in the bombing of Pan Am flight 103.

In order for the sanctions to be permanently removed, however, the attached resolutions – most explicitly Resolution 748 – state that Libya must:

- cooperate with the Pan Am 103 investigation and trial;
- accept responsibility for the actions of Libyan officials (in this connection);
- pay appropriate compensation; and
- commit itself to cease all forms of terrorist action and all assistance to terrorist groups, and to prove its renunciation of terrorism by concrete actions.

Except for the last, these requirements are not actually spelled-out in the texts of Resolutions 731, 748 and 883. Rather, they are elaborated in letters (S/23306, S/23308 and S/23309, among others) written to the Secretary General by the Permanent Representatives to the United Nations of the United States, the United Kingdom and France. Their texts were incorporated into Resolutions 731, 748 and 883 by reference and the demands of letters S/23306, S/23308 and S/23309 were thus made binding conditions for the permanent

removal of UN sanctions on Libya in Section 1 of Resolution 748, which was adopted under Chapter VII of the Charter of the United Nations.

Document

United Nations Resolution 731

Date: January 21, 1992

The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Deeply concerned by all activities directed against international civil aviation and affirming the right of all States, in accordance with the Charter of the United Nations and relevant principles of international law, to protect their nationals from acts of international terrorism that constitute threats to international peace and security,

Reaffirming its resolution 286 (1970) in which it called on States to take all possible legal steps to prevent any interference with international civil air travel,

Reaffirming also its resolution 635 (1989) in which it condemned all acts of unlawful interference against the security of civil aviation and called upon all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives,

Recalling the statement made on 30 December 1988 by the President of the Council on behalf of the members of the Council strongly condemning the destruction of Pan Am flight 103 and calling on all States to assist in the apprehension and prosecution of those responsible for this criminal act,

Deeply concerned over results of investigations which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America in connection with the legal procedures related to the attacks carried out against Pan Am flight 103 and UTA flight 772 (S/23306*; S/23307*; S/23308*; S/23309*; S/23317),

Determined to eliminate international terrorism,

1. *Condemns* the destruction of Pan Am flight 103 and UTA flight 772 and the resultant loss of hundreds of lives;
2. *Strongly deplores* the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan Am flight 103 and UTA flight 772;

3. *Urges* the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;
4. *Requests* the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to those requests;
5. *Urges* all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests;
6. *Decides* to remain seized of the matter.

Document

United Nations Resolution 748

Date: March 31, 1992

The Security Council,

Reaffirming its resolution 731 (1992) of 21 January 1992,

Noting the reports of the Secretary-General (S/23574) and S/23672),

Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 of 21 January 1992,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Recalling that in the statement issued on 31 January 1992 on the occasion of the meeting of the Security Council at the levels of Heads of State and Government the members of the Council expressed their deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts,

Reaffirming that, in accordance with the principle in Article 2, paragraph 4, of the Charter of the United Nations, every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force,

Determining in this context that the failure by the Libyan Government to demonstrate, by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992), constitute a threat to international peace and security,

Determined to eliminate international terrorism,

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that the Libyan Government must now comply without any further delay with paragraph 3 of resolution 731 (1992) regarding the requests contained in documents S/23306, S/23308 and S/23309;

2. *Decides* also that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. *Decides* that on 15 April 1992 all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above:

4. *Decides* that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of air-worthiness for Libyan aircraft, the payment of new claims against existing insurance contracts, and the provision of new direct insurance for Libyan aircraft;

5. *Decides further* that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, maintenance, or use of the items in (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. *Decides also* that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. *Calls upon* all States, including States not Members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before 15 April 1992;

8. *Requests* all States to report to the Secretary-General by 15 May 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

9. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports submitted pursuant to paragraph 8 above;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 3 to 7 above;

(c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 3 to 7 above, and in that context, to make recommendations to the Council on ways to increase their effectiveness;

(d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 3 to 7 above and provide information on a regular basis to the Secretary-General for general distribution to Member States;

(e) To consider and to decide upon expeditiously any application by States for the approval of flights on grounds of significant humanitarian need in accordance with paragraph 4 above;

(f) To give special attention to any communications in accordance with Article 50 of the Charter of the United Nations from any neighbouring or other States with special economic problems which might arise from the carrying out of the measures imposed by paragraphs 3 to 7 above;

10. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

11. *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

12. *Invites* the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

13. *Decides* that the Security Council shall, every 120 days or sooner should the situation so require, review the measures imposed by paragraphs 3 to 7 above in the light of the compliance by the Libyan Government with paragraphs 1 and 2 above taking into account, as appropriate, any reports provided by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992);

14. *Decides* to remain seized of the matter.

Document

United Nations Resolution 883

Date: November 11, 1993

The Security Council,

Reaffirming its resolutions 731 (1992) of 21 January 1992 and 748 (1992) of 31 March 1992,

Deeply concerned that after more than twenty months the Libyan Government has not fully complied with these resolutions,

Determined to eliminate international terrorism,

Convinced that those responsible for acts of international terrorism must be brought to justice,

Convinced also that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Determining, in this context, that the continued failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992), constitute a threat to international peace and security,

Taking note of the letters to the Secretary-General dated 29 September and 1 October 1993 from the Secretary of the General People's Committee for Foreign Liaison and International Cooperation of Libya (S/26523) and his speech in the General Debate at the forty-eighth session of the General Assembly (A/48/PV.20) in which Libya stated its intention to encourage those charged with the bombing of Pan Am 103 to appear for trial in Scotland and its willingness to cooperate with the competent French authorities in the case of the bombing of UTA 772,

Expressing its gratitude to the Secretary-General for the efforts he has made pursuant to paragraph 4 of resolution 731 (1992),

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. *Demands once again* that the Libyan Government comply without any further delay with resolutions 731 (1992) and 748 (1992);

2. *Decides*, in order to secure compliance by the Libyan Government with the decisions of the Council, to take the following measures, which shall come into force at 00.01 EST on 1 December 1993 unless the Secretary-General has reported to the Council in the terms set out in paragraph 16 below;

3. *Decides* that all States in which there are funds or other financial resources (including funds derived or generated from property) owned or controlled, directly or indirectly, by:

- (a) the Government or public authorities of Libya, or
- (b) any Libyan undertaking,

shall freeze such funds and financial resources and ensure that neither they nor any other funds and financial resources are made available, by their nationals or by any persons within their territory, directly or indirectly, to or for the benefit of the Government or public authorities of Libya or any Libyan undertaking, which for the purposes of this paragraph, means any commercial, industrial or public utility undertaking which is owned or controlled, directly or indirectly, by

- (i) the Government or public authorities of Libya,
- (ii) any entity, wherever located or organized, owned or controlled by (i), or
- (iii) any person identified by States as acting on behalf of (i) or (ii) for the purposes of this resolution;

4. *Further decides* that the measures imposed by paragraph 3 above do not apply to funds or other financial resources derived from the sale or supply of any petroleum or petroleum products, including natural gas and natural gas products, or agricultural products or commodities, originating in Libya and exported therefrom after the time specified in paragraph 2 above, provided that any such funds are paid into separate bank accounts exclusively for these funds;

5. *Decides* that all States shall prohibit any provision to Libya by their nationals or from their territory of the items listed in the annex to this resolution, as well as the provision of any types of equipment, supplies and grants of licensing arrangements for the manufacture or maintenance of such items;

6. *Further decides* that, in order to make fully effective the provisions of resolution 748 (1992), all States shall:

- (a) require the immediate and complete closure of all Libyan Arab Airlines offices within their territories;

- (b) prohibit any commercial transactions with Libyan Arab Airlines by their nationals or from their territory, including the honouring or endorsement of any tickets or other documents issued by that airline;
- (c) prohibit, by their nationals or from their territory, the entering into or renewal of arrangements for:
 - (i) the making available, for operation within Libya, of any aircraft or aircraft components, or
 - (ii) the provision of engineering or maintenance servicing of any aircraft or aircraft components within Libya;
- (d) prohibit, by their nationals or from their territory, the supply of any materials destined for the construction, improvement or maintenance of Libyan civilian or military airfields and associated facilities and equipment, or of any engineering or other services or components destined for the maintenance of any Libyan civil or military airfields or associated facilities and equipment, except emergency equipment and equipment and services directly related to civilian air traffic control;
- (e) prohibit, by their nationals or from their territory, any provision of advice, assistance, or training to Libyan pilots, flight engineers, or aircraft and ground maintenance personnel associated with the operation of aircraft and airfields within Libya;
- (f) prohibit, by their nationals or from their territory, any renewal of any direct insurance for Libyan aircraft;

7. *Confirms* that the decision taken in resolution 748 (1992) that all States shall significantly reduce the level of the staff at Libyan diplomatic missions and consular posts includes all missions and posts established since that decision or after the coming into force of this resolution;

8. *Decides* that all States, and the Government of Libya, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government or public authorities of Libya, or of any Libyan national, or of any Libyan undertaking as defined in paragraph 3 of this resolution, or of any person claiming through or for the benefit of any such person or undertaking, in connection with any contract or other transaction or commercial operation where its performance was affected by reason of the measures imposed by or pursuant to this resolution or related resolutions;

9. *Instructs* the Committee established by resolution 748 (1992) to draw up expeditiously guidelines for the implementation of paragraphs 3 to 7 of this resolution, and to amend and supplement, as appropriate, the guidelines for the implementation of resolution 748 (1992), especially its paragraph 5 (a);

10. *Entrusts* the Committee established by resolution 748 (1992) with the task of examining possible requests for assistance under the provisions of Article 50 of the Charter of the United Nations and making recommendations to the President of the Security Council for appropriate action;

11. *Affirms* that nothing in this resolution affects Libya's duty scrupulously to adhere to all of its obligations concerning servicing and repayment of its foreign debt;

12. *Calls upon* all States, including States not Members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the effective time of this resolution;

13. *Requests* all States to report to the Secretary-General by 15 January 1994 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

14. *Invites* the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

15. *Calls again* upon all Member States individually and collectively to encourage the Libyan Government to respond fully and effectively to the requests and decisions in resolutions 731 (1992) and 748 (1992);

16. *Expresses* its readiness to review the measures set forth above and in resolution 748 (1992) with a view to suspending them immediately if the Secretary-General reports to the Council that the Libyan Government has ensured the appearance of those charged with the bombing of Pan Am 103 for trial before the appropriate United Kingdom or United States court and has satisfied the French judicial authorities with respect to the bombing of UTA 772, and with a view to lifting them immediately when Libya complies fully with the requests and decisions in resolutions 731 (1992) and 748 (1992); and requests the Secretary-General, within 90 days of such suspension, to report to the Council on Libya's compliance with the remaining provisions of its resolutions 731 (1992) and 748 (1992) and, in the case of non-compliance, expresses its resolve to terminate immediately the suspension of these measures;

17. *Decides* to remain seized of the matter.

Annex

The following are the items referred to in paragraph 5 of this resolution:

I. Pumps of medium or large capacity whose capacity is equal to or larger than 350 cubic metres per hour and drivers (gas turbines and electric motors) designed for use in the transportation of crude oil and natural gas

II. Equipment designed for use in crude oil export terminals:

- Loading buoys or single point moorings (SPM)
- Flexible hoses for connection between underwater manifolds (plem) and single point mooring and floating loading hoses of large sizes (from 12" to 16")
- Anchor chains

III. Equipment not specially designed for use in crude oil export terminals but which because of their large capacity can be used for this purpose:

- Loading pumps of large capacity (4,000 m³/h) and small head (10 bars)
- Boosting pumps within the same range of flow rates
- Inline pipe line inspection tools and cleaning devices (i.e. pigging tools) (16" and above)
- Metering equipment of large capacity (1,000 m³/h and above)

IV. Refinery equipment:

- Boilers meeting American Society of Mechanical Engineers 1 standards
- Furnaces meeting American Society of Mechanical Engineers 8 standards
- Fractionation columns meeting American Society of Mechanical Engineers 8 standards
- Pumps meeting American Petroleum Institute 610 standards
- Catalytic reactors meeting American Society of Mechanical Engineers 8 standards
- Prepared catalysts, including the following:
 - Catalysts containing platinum
 - Catalysts containing molybdenum

V. Spare parts destined for the items in I to IV above.

Document

Letter Dated 20 December 1991 from the Permanent Representative of the United States of America to the United Nations Addressed to the Secretary-General (United Nations General Assembly, Security Council; A/46/827, S/23308)

Date: December 31, 1991

GENERAL ASSEMBLY

Forty-sixth session

Agenda item 125

MEASURES TO PREVENT INTERNATIONAL
TERRORISM WHICH ENDANGERS OR
TAKES INNOCENT HUMAN LIVES OR
JEOPARDIZES FUNDAMENTAL FREEDOMS
AND STUDY OF THE UNDERLYING
CAUSES OF THOSE FORMS OF
TERRORISM AND ACTS OF VIOLENCE
WHICH LIE IN MISERY, FRUSTRATION,
GRIEVANCE AND DESPAIR AND WHICH
CAUSE SOME PEOPLE TO SACRIFICE
HUMAN LIVES, INCLUDING THEIR OWN,
IN AN ATTEMPT TO EFFECT RADICAL
CHANGES

Letter dated 20 December 1991 from the Permanent Representative
of the United States of America to the United Nations addressed
to the Secretary-General

I have the honour to enclose the following text:

- (a) Statement of the Government of the United States regarding the bombing of Pan Am 103;
- (b) Joint declaration of the United States and the United Kingdom.

I should be grateful if you would have this letter and its enclosure circulated as an official document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Thomas R. PICKERING

[...]

ANNEX

Statement issued by the Government of the United States
on 27 November 1991 regarding the bombing of Pan Am 103

After the indictments were handed down on 14 November we conveyed them to the Libyan regime. We have also consulted closely with the Governments of France and the United Kingdom and in concert with those two Governments we have the following two declarations to present publicly today.

JOINT DECLARATION OF THE UNITED STATES AND UNITED KINGDOM

The British and American Governments today declare that the Government of Libya must:

- surrender for trial all those charged with the crime; and accept responsibility for the actions of Libyan officials;
- disclose all it knows of this crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence, including all the remaining timers;
- pay appropriate compensation.

We expect Libya to comply promptly and in full.

[...]

Document

Letter Dated 20 December 1991 from the Permanent Representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations Addressed to the Secretary-General (United Nations General Assembly, Security Council; A/46/828, S/23309)

Date: December 31, 1991

GENERAL ASSEMBLY

Forty-sixth session

Agenda item 125

MEASURES TO PREVENT INTERNATIONAL
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HUMAN LIVES, INCLUDING THEIR OWN,
IN AN ATTEMPT TO EFFECT RADICAL
CHANGES

Letter dated 20 December 1991 from the Permanent Representatives
of France, the United Kingdom of Great Britain and Northern
Ireland and the United States of America to the United Nations
addressed to the Secretary-General

We have the honour to circulate herewith the text of a tripartite declaration on terrorism issued by our three Governments on 27 November following the investigation into the bombings of flights Pan Am 103 and UTA 772.

We should be grateful if you would have this letter and its annex circulated as a document of the General Assembly, under agenda item 125, and of the Security Council.

(Signed) Jean-Bernard P.H.P. MERIMEE
Permanent Representative of France
to the United Nations

(Signed) David HANNAY
Permanent Representative of
the United Kingdom of Great
Britain and Northern Ireland
to the United Nations

(Signed) Thomas R. PICKERING
Permanent Representative of the
United States of America to the
United Nations

[...]

ANNEX

Declaration of the United States of America, France and Great Britain on terrorism

The three states reaffirm their complete condemnation of terrorism in all its forms and denounce any complicity of States in terrorism acts. The three States reaffirm their commitment to put an end to terrorism.

They consider that the responsibility of States begins whenever they take part directly in terrorist actions, or indirectly through harbouring, training, providing facilities, arming or providing financial support, or any form of protection, and that they are responsible for their actions before the individual States and the United Nations.

In this connection, following the investigation carried out into the bombings of Pan Am 103 and UTA 772 the three States have presented specific demands to the Libyan authorities related to the judicial procedures that are under way. They require that Libya comply with all these demands, and, in addition, that Libya commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. Libya must promptly, by concrete actions, prove its renunciation of terrorism.

[...]

Section 10: Restriction on the Use of U.S. Passports for Travel to Libya

December 11, 1981

This section cites the authorities for the imposition of a “ban” on the use of U.S. passports for travel to Libya. The passport restriction, which first came into force on December 11, 1981, was extended on November 22, 2002 for another year. In the final year of the Clinton Administration, there reportedly was discussion of dropping the restriction. Accordingly, a team visited Libya to assess the security situation for U.S. citizens. In the end, the decision was made to extend the restriction.

As noted in the attached U.S. government order, U.S. passports are not valid for travel to Libya “unless specifically validated for that purpose”. Some U.S. citizens, such as journalists, are usually able to obtain validation by the State Department. The restriction does not, as is commonly portrayed in the press, represent a “travel ban”. Some U.S. citizens have apparently traveled to Libya under separate documentation, which is not prohibited by this Executive Order.

The documents which form the legal basis for the authority of the Secretary of State to restrict the use of U.S. passports (22 United States Code 211a and Executive Order 11295) are also included here.

Document

Federal Register Ruling on Extension of Passport Restriction

Date: November 23, 2001

Renewal of Passport Restrictions for Travel to Libya

On December 11, 1981, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports were declared invalid for travel to, in, or through Libya unless specifically validated for that purpose. This restriction has been extended on an annual basis and would have expired at midnight on November 24, 2001 unless extended by the Secretary of State.

After thorough consideration of all the factors, the Secretary of State has again chosen to extend the restriction on U.S. passports for travel to Libya. Accordingly, all U.S. passports will remain invalid for travel to, in, or through Libya unless specifically validated for that purpose. This restriction will automatically expire at midnight on November 24, 2002 unless extended by the Secretary of State.

Document

State Department Announcement on Restriction Renewal

Date: November 22, 2002

Libya: Renewal of Passport Restrictions for Travel to Libya

On December 11, 1981, pursuant to the authority of 22 U.S.C. 211a and Executive Order 11295 (31 FR 10603), and in accordance with 22 CFR 51.73(a)(3), all United States passports were declared invalid for travel to, in, or through Libya unless specifically validated for that purpose. This restriction has been extended on an annual basis and would have expired unless extended by the Secretary of State.

The Department of State has again chosen to extend the restriction on the use of U.S. passports for travel to Libya. All U.S. passports will remain invalid for travel to, in, or through Libya unless specifically validated for that purpose. This restriction will automatically expire at midnight on November 24, 2003 unless extended by the Secretary of State.

Document

22 United States Code 211a

Date: July 3, 1926 (Amended in 1978 and 1994)

Sec. 211a. – Authority to grant, issue, and verify passports

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States, and by such other employees of the Department of State who are citizens of the United States as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travelers.

Document

Executive Order 11295

Date: August 5, 1966

Rules Governing Granting, Issuing, and Verifying of Passports

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. Delegation of authority. The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first section of the Act of July 3, 1926 (22 U.S.C. 211a), to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

Section 2. Superseded orders. Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled "Rules Governing the Granting and Issuing of Passports in the United States."

(2) Executive Order No. 8820 of July 11, 1941, entitled "Amending the Foreign Service Regulations of the United States."

Section 3. Saving provisions. All rules and regulations contained in the Executive Order provisions revoked by Section 2 of this order, and all rules and regulations issued under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance of the authority conferred by this order, unless sooner terminated by operation of law.

Lyndon B. Johnson

Section 11: Libyan Sanctions Regulations

July 1, 2001 (Revised)

The Office of Foreign Assets Control (OFAC) issues regulations that specify how, in practice, the executive agencies will implement laws and Executive Orders. The regulations “operationalize” the laws and Executive Orders discussed throughout this compendium. For example, CFR Sections 550.569 to 550.573 detail procedures, requirements and limitations for U.S. sales of agricultural and medical products to Libya under the April 1999 Executive Order modification to the U.S. trade ban. The complete text of the current Libyan sanctions regulations is provided.

In another example, Sections 550.203 and 550.207 of the regulations discuss a prohibition on any services or transactions by any U.S. person to facilitate travel to Libya. These restrictions are over and above the previously discussed restriction on the use of U.S. passports for travel to Libya.

The regulations also contain important definitions that are necessary in evaluating what is and is not permissible in terms of U.S. interactions with Libya. For example, Sections 550.302 to 550.305 define the terms Libya, Libyan origin, Government of Libya, and Libyan person, respectively.

Document

Code of Federal Regulations (Part 550 – Libyan Sanctions Regulations)

Date: July 1, 2001 (Revised)

Title 31 – Money and Finance: Treasury

Chapter V – Office of Foreign Assets Control, Department of the Treasury

Subpart A – Relation of This Part to Other Laws and Regulations

Sec. 550.101 – Relation of this part to other laws and regulations.

Subpart B – Prohibitions

- 550.201 Prohibited imports of goods or services from Libya.
- 550.202 Prohibited exports of goods, technology or services to Libya.
- 550.203 Prohibited transportation-related transactions.
- 550.204 Prohibited purchases of goods from Libya.
- 550.205 Prohibited engagement in contracts.
- 550.206 Prohibited grants or extensions of credits or loans.
- 550.207 Prohibited transactions relating to travel to Libya or to activities within Libya.
- 550.208 Evasions.
- 550.209 Prohibited transactions involving property in which the Government of Libya has an interest; transactions with respect to securities.
- 550.210 Effect of transfers violating the provisions of this part.
- 550.212 Holding of certain types of blocked property in interest-bearing accounts.

Subpart C – Definitions

- 550.301 Effective date.
- 550.302 Libya; Libyan.
- 550.303 Libyan origin.
- 550.304 Government of Libya.
- 550.305 Libyan person.
- 550.306 Person.
- 550.307 United States.
- 550.308 United States person.
- 550.309 License.
- 550.310 General license.
- 550.311 Specific license.
- 550.312 Credits or loans.
- 550.313 Transfer.
- 550.314 Property; property interests.
- 550.315 Interest.

- 550.316 Blocked account; blocked property.
- 550.317 Domestic bank.
- 550.318 Entity.
- 550.319 Entity of the Government of Libya; Libyan entity.
- 550.320 Banking institution.

Subpart D – Interpretations

- 550.401 Reference to amended sections.
- 550.402 Effect of amendment of sections of this part or of other orders, etc.
- 550.403 Extensions of credits or loans to Libya.
- 550.404 Import and export of goods in transit before the effective date.
- 550.405 Transactions incidental to a licensed transaction authorized.
- 550.406 Offshore transactions.
- 550.407 Transshipment through the United States prohibited.
- 550.408 Imports from third countries; transshipments.
- 550.409 Exports to third countries; transshipment.
- 550.410 Release from bonded warehouse or foreign trade zone.
- 550.411 Publications.
- 550.412 Termination and acquisition of an interest of the Government of Libya.
- 550.413 Payments to Libya prohibited.
- 550.414 Exports of Libyan-titled goods.
- 550.415 Advance payments.
- 550.416 Imports of Libyan goods and purchases of goods from Libya.
- 550.417 Letters of credit.
- 550.418 Payments from blocked accounts for U.S. exporters and other obligations prohibited.
- 550.419 Acquisition of instruments, including bankers' acceptances.
- 550.420 Indirect payments to the Government of Libya.
- 550.421 Setoffs prohibited.
- 550.422 Exportation of services; performance of service contracts; legal services.

Subpart E – Licenses, Authorizations, and Statements of Licensing Policy

- 550.501 Effect of license or authorization.
- 550.502 Exclusion from licenses and authorizations.
- 550.503 Imports pursuant to Executive Order 12538.
- 550.504 Certain exports authorized.
- 550.505 Certain imports for diplomatic or official personnel authorized.
- 550.506 Certain services relating to participation in various events authorized.
- 550.507 Import of publications authorized.
- 550.508 Import of certain gifts authorized.
- 550.509 Import of accompanied baggage authorized.
- 550.510 Telecommunications and mail transactions authorized.

- 550.511 Payments and transfers to blocked accounts in domestic banks.
- 550.512 Payment of certain checks and drafts and documentary letters of credit.
- 550.513 Completion of certain securities transactions.
- 550.515 [Reserved]
- 550.517 Exportation of certain legal services to the Government of, or persons in, Libya.
- 550.520 Entries in certain accounts for normal service charges.
- 550.560 Transactions related to travel to, and residence within, Libya by immediate family members of Libyan nationals.
- 550.568 Certain standby letters of credit and performance bonds.
- 550.569 Commercial sales, exportation and reexportation of agricultural commodities and products, medicine, and medical equipment.
- 550.570 Commercial sales, exportation and reexportation of bulk agricultural commodities.
- 550.571 Payment for and financing of commercial sales of agricultural commodities and products, medicine and medical equipment.
- 550.572 Brokering sales of bulk agricultural commodities.
- 550.573 Travel transactions in connection with licensed sales of agricultural commodities and products, medicine, and medical products.

Subpart F – Reports

- 550.601 Records and reports.

Subpart G – Penalties

- 550.701 Penalties.
- 550.702 Detention of shipments.
- 550.703 Prepenalty notice.
- 550.704 Presentation responding to prepenalty notice.
- 550.705 Penalty notice.
- 550.706 Referral to United States Department of Justice.

Subpart H – Procedures

- 550.801 Procedures.
- 550.802 Delegation by the Secretary of the Treasury.
- 550.803 Customs procedures: Merchandise specified in Sec. 550.201.

Subpart I – Miscellaneous

- 550.901 Paperwork Reduction Act notice.

Appendix A to Part 550 – Bulk Agricultural Commodities

Appendix B to Part 550 – Eligible Procurement Bodies

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c, 2349aa-8 and 2349aa-9; 31 U.S.C. 321(b); 49 U.S.C. 40106(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12543, 51 FR 875, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 51 FR 1235, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, 3 CFR, 1992 Comp., p. 294.

Source: 51 FR 1354, Jan. 10, 1986, unless otherwise noted.

Subpart A – Relation of This Part to Other Laws and Regulations

Sec. 550.101 – Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. In addition, licenses or authorizations contained in or issued pursuant to any other provision of law or regulations do not authorize any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations. In particular, no license or authorization contained in or issued pursuant to this part authorizes the importation of petroleum products which would be banned by Presidential Proclamation 5141 of December 22, 1983 or Executive Order 12538 of November 15, 1985.

[51 FR 1354, Jan. 10, 1986, as amended at 62 FR 45108, Aug. 25, 1997]

Subpart B – Prohibitions

Sec. 550.201 – Prohibited imports of goods or services from Libya.

Except as authorized, no goods or services of Libyan origin, other than publications and materials imported for news publication or news broadcast dissemination, may be imported into the United States.

Sec. 550.202 – Prohibited exports of goods, technology or services to Libya.

Except as authorized, no goods, technology (including technical data or other information) or services may be exported to Libya from the United States, except publications and donated articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes.

Sec. 550.203 – Prohibited transportation-related transactions.

Except as authorized, the following are prohibited:

- (a) Any transaction by a United States person relating to transportation to or from Libya;
- (b) The provision of transportation to or from the United States by any Libyan person or any vessel or aircraft of Libyan registration; or
- (c) The sale in the United States by any person holding authority under the Federal Aviation Act of any transportation by air which includes any stop in Libya.

Sec. 550.204 – Prohibited purchases of goods from Libya.

Except as authorized, no U.S. person may purchase goods for export from Libya to any other country.

Sec. 550.205 – Prohibited engagement in contracts.

Except as authorized, no U.S. person may perform any contract in support of an industrial or other commercial or governmental project in Libya.

Sec. 550.206 – Prohibited grants or extensions of credits or loans.

Except as authorized, no U.S. person may grant or extend credits or loans to the Government of Libya.

Sec. 550.207 – Prohibited transactions relating to travel to Libya or to activities within Libya.

Except as authorized, no U.S. person may engage in any transaction relating to travel by any U.S. citizen or permanent resident alien to Libya, or to activities by any U.S. citizen or permanent resident alien within Libya, after the effective date, other than transactions:

- (a) Necessary to effect the departure of a U.S. citizen or permanent resident alien from Libya;
- (b) Relating to travel to, from, or within Libya prior to February 1, 1986 to perform acts prohibited by Secs. 550.201, 550.202, 550.203, 550.204, or 550.205 after that date; or
- (c) Relating to journalistic activity by persons regularly employed in such capacity by a newsgathering organization.

This section prohibits the unauthorized payment by a U.S. person of his own travel or living expenses to or within Libya.

Sec. 550.208 – Evasions.

Any transaction for the purpose of, or which has the effect of, evading or avoiding any of the prohibitions set forth in this subpart is hereby prohibited.

Sec. 550.209 – Prohibited transactions involving property in which the Government of Libya has an interest; transactions with respect to securities.

(a) Except as authorized by regulations, rulings, instructions, licenses, or otherwise, no property or interests in property of the Government of Libya that are in the United States that hereafter come within the United States or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of Libya is prohibited irrespective of the fact that at any time (either prior to, on, or subsequent to 4:10 p.m. e.s.t., January 8, 1986) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in Sec. 501.806 of this chapter.

[51 FR 2462, Jan. 16, 1986, as amended at 62 FR 45108, Aug. 25, 1997]

Sec. 550.210 – Effect of transfers violating the provisions of this part.

(a) Any transfer after 4:10 p.m. e.s.t., January 8, 1986, which is in violation of any provision of this part or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which the Government of Libya has or has had an interest since such date is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before 4:10 p.m. e.s.t., January 8, 1986, shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which the Government of Libya has or has had an interest since such date, unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such date.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act and this part and any ruling, order, regulation, direction or instruction issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable, by virtue of the provisions of this section, shall not be deemed to be null and void or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained:

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Treasury Department, Washington, DC, a report in triplicate setting forth in full the circumstances relating to such transfer.

The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with paragraphs (d)(1) and (2) of this section.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment or other judicial process is null and void with respect to any

property in which on or since 4:10 p.m. e.s.t., January 8, 1986, there existed an interest of the Government of Libya.

[51 FR 2462, Jan. 16, 1986]

Sec. 550.212 – Holding of certain types of blocked property in interest-bearing accounts.

(a)

(1) Any U.S. person, including a banking institution, currently holding property subject to Sec. 550.209 which, as of the later of September 11, 1992 or the date of receipt, is not being held in an interest-bearing account, or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status, as of such date, in a banking institution in the United States, or, for property held outside the United States, the foreign branch of a U.S. banking institution, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement in paragraph (a)(1) of this section shall apply to funds, currency, bank deposits, accounts, and any other financial assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest-bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the blocked Government of Libya entity having an interest in the accounts.

(b) For purposes of this section, the term interest-bearing account means a blocked account in a banking institution earning interest at rates that are commercially reasonable. Commercially reasonable means the rate currently offered other depositors on deposits of comparable size and maturity. Except as otherwise authorized, the funds may not be invested or held in instruments the maturity of which exceeds 90 days.

(c) This section does not apply to blocked tangible property, such as chattels or real estate, nor does it create an affirmative obligation on the part of the holder of such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

[57 FR 41697, Sept. 11, 1992]

Subpart C – Definitions

Sec. 550.301 – Effective date.

The effective date means:

(a) 12:01 a.m. Eastern Standard Time (e.s.t.), February 1, 1986, with respect to the transactions prohibited by Secs. 550.201, 550.202, 550.203, 550.204, and 550.205;

(b) 8:06 p.m. Eastern Standard Time (e.s.t.), January 7, 1986, with respect to transactions prohibited by Secs. 550.206 and 550.207; and

(c) 4:10 p.m. Eastern Standard Time (e.s.t.), January 8, 1986, with respect to transactions prohibited by Sec. 550.209.

[51 FR 2463, Jan. 16, 1986]

Sec. 550.302 – Libya; Libyan.

The term Libya means the country of Libya and any Libyan territory, dependency, colony, protectorate, mandate, dominion, possession, or place subject to the jurisdiction thereof. The term Libyan means pertaining to Libya as defined in this section.

Sec. 550.303 – Libyan origin.

The term goods or services of Libyan origin includes:

(a) Goods produced, manufactured, grown, or processed within Libya;

(b) Goods which have entered into Libyan commerce;

(c) Services performed in Libya or by a Libyan national who is acting as an agent, employee, or contractor of the Government of Libya, or of a business entity located in Libya. Services of Libyan origin are not imported into the United States when such services are provided in the United States by a Libyan national who, during indefinite residency in the United States, works as, for example, a teacher, athlete, restaurant or domestic worker, or a person employed in any other regular occupation.

Sec. 550.304 – Government of Libya.

The term Government of Libya includes:

(a) The state and the Government of Libya, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Libya;

(b) Any partnership, association, corporation, or other organization owned or controlled directly or indirectly by the foregoing;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing;

(d) Any other person or organization determined by the Secretary of the Treasury to be included within this section.

Note to Sec. 550.304: Please refer to the appendices at the end of this chapter for listings of persons determined to fall within this definition who have been designated pursuant to this part. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or that of a vessel as blocked, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

[59 FR 31143, June 17, 1994, as amended at 61 FR 32938, June 26, 1996; 62 FR 45108, Aug. 25, 1997]

Sec. 550.305 – Libyan person.

The term Libyan person means any Libyan citizen, any juridical person organized under the laws of Libya, or any juridical person owned or controlled, directly or indirectly, by a Libyan citizen or the Government of Libya.

Sec. 550.306 – Person.

The term person means an individual, partnership, association, corporation, or other organization.

Sec. 550.307 – United States.

The term United States means the United States and all areas under the jurisdiction or authority thereof.

Sec. 550.308 – United States person.

The term United States person or, as abbreviated, U.S. person, means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.

Sec. 550.309 – License.

Except as otherwise specified, the term license shall mean any license or authorization contained in or issued pursuant to this part.

Sec. 550.310 – General license.

A general license is any license or authorization the terms of which are set forth in this part.

Sec. 550.311 – Specific license.

A specific license is any license or authorization issued pursuant to this part but not set forth in this part.

Sec. 550.312 – Credits or loans.

The term credits or loans means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit. The term credits or loans includes, but is not limited to: overdrafts; currency swaps; purchases of debt securities issued by the Government of Libya after January 7, 1986; purchases of a loan made by another person; sales of financial assets subject to an agreement to repurchase; renewals or refinancings whereby funds or credits are transferred to or extended to the Government of Libya; and draw-downs on existing lines of credit.

Sec. 550.313 – Transfer.

The term transfer shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

[51 FR 2463, Jan. 16, 1986]

Sec. 550.314 – Property; property interests.

The terms property and property interest or property interests shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable,

judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

[51 FR 2463, Jan. 16, 1986]

Sec. 550.315 – Interest.

Except as otherwise provided in this part, the term interest when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.316 – Blocked account; blocked property.

The terms blocked account and blocked property shall mean any account or property in which the Government of Libya has an interest, with respect to which payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to an authorization or license authorizing such action.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.317 – Domestic bank.

(a) The term domestic bank shall mean any branch or office within the United States of any of the following which is not a Libyan entity: Any bank or trust company incorporated under the banking laws of the United States or of any state, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any state, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a domestic bank for the purpose of this definition or for the purpose of any or all sections of this part.

(b) The term domestic bank includes any branch or office within the United States of a foreign bank that is not a Libyan entity.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.318 – Entity.

The term entity includes a corporation, partnership, association, or other organization.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.319 – Entity of the Government of Libya; Libyan entity.

The terms entity of the Government of Libya and Libyan entity include:

- (a) Any corporation, partnership, association, or other entity in which the Government of Libya owns a majority or controlling interest, any entity substantially managed or funded by that government, and any entity which is otherwise controlled by that government;
- (b) Any agency or instrumentality of the Government of Libya, including the Central Bank of Libya.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.320 – Banking institution.

The term banking institution shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of its business, or any broker; and each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate banking institution.

[51 FR 2464, Jan. 16, 1986]

Subpart D – Interpretations

Sec. 550.401 – Reference to amended sections.

Reference to any section of this part or to any regulation, ruling, order, instruction, direction or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

Sec. 550.402 – Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

Sec. 550.403 – Extensions of credits or loans to Libya.

- (a) The prohibition in Sec. 550.205 applies to the unlicensed renewal of credits or loans in existence on the effective date.
- (b) The prohibition in Sec. 550.205 applies to credits or loans extended in any currency.

Sec. 550.404 – Import and export of goods in transit before the effective date.

- (a) Section 550.201 does not apply to goods:
 - (1) If imported by vessel, where the vessel arrives within the limits of a port in the United States prior to the effective date with the intent to unlade such goods; or
 - (2) If imported other than by vessel, where the goods arrive within the Customs territory of the United States before the effective date.

- (b) Section 550.202 does not apply to goods:
 - (1) If exported by vessel or airline, where the goods are laden on board before the effective date; or
 - (2) If exported other than by vessel or airplane, where the goods have left the United States before the effective date.

[51 FR 1354, Jan. 10, 1986, as amended at 51 FR 2464, Jan. 16, 1986]

Sec. 550.405 – Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

- (a) A transaction by an unlicensed Libyan governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license;
- (b) Provision of any transportation services to or from Libya not explicitly authorized in or pursuant to this part other than discharging licensed or exempt cargo there;
- (c) Distribution or leasing in Libya of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Libya; and
- (d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine or medical equipment to Libya or the Government of Libya. See Sec. 550.571.

[64 FR 41789, Aug. 2, 1999]

Sec. 550.406 – Offshore transactions.

(a) The provisions contained in Secs. 550.209 and 550.210 apply to transactions by U.S. persons in locations outside the United States with respect to property in which the U.S. person knows, or has reason to know, that the Government of Libya has or has had any interest since 4:10 p.m. e.s.t., January 8, 1986, including:

- (1) Importation into such locations of, or
- (2) Dealings within such locations in, goods or services of Libyan origin.

(b) Example. 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, Libyan crude oil or petroleum products refined in Libya.

(c) Note. Exports or reexports of goods and technical data, or of the direct products of technical data (regardless of U.S. content), not prohibited by this part may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 et seq., and the Export Administration Regulations implementing that Act, 15 CFR parts 368-399.

[53 FR 5572, Feb. 25, 1988]

Sec. 550.407 – Transshipment through the United States prohibited.

(a) The prohibitions in Sec. 550.202 apply to the import into the United States, for transshipment or transit, of goods which are intended or destined for Libya.

(b) The prohibitions in Sec. 550.201 apply to the import into the United States, for transshipment or transit, of goods of Libyan origin which are intended or destined for third countries.

Sec. 550.408 – Imports from third countries; transshipments.

(a) Imports into the United States from third countries of goods containing raw materials or components of Libyan origin are not prohibited if those raw materials or components have been incorporated into manufactured products or otherwise substantially transformed in a third country.

(b) Imports into the United States of goods of Libyan origin which have been transshipped through a third country without being incorporated into manufactured products or otherwise substantially transformed in a third country are prohibited.

Sec. 550.409 – Exports to third countries; transshipment.

(a) Exports of goods or technology (including technical data and other information) from the United States to third countries are prohibited if the exporter knows, or has reason to know, that:

(1) The goods or technology are intended for transshipment to Libya (including passage through, or storage in, intermediate destinations) without coming to rest in a third country and without being substantially transformed or incorporated into manufactured products in a third country, or

(2) The exported goods are intended specifically for substantial transformation or incorporation in a third country into products to be used in Libya in the petroleum or petrochemical industry, or

(3) The exported technology is intended specifically for use in a third country in the manufacture of, or for incorporation into, products to be used in Libya in the petroleum or petrochemical industry.

(b) For the purposes of paragraph (a) of this section:

(1) The scope of activities encompassed by the petroleum and petrochemical industries shall include, but not be limited to, the following activities: Oil, natural gas, natural gas liquids, or other hydrocarbon exploration (including geophysical and geological assessment activity), extraction, production, refining, distillation, cracking, coking, blending, manufacturing, and transportation; petrochemical production, processing, manufacturing, and transportation;

(2) Exports subject to the prohibition in paragraph (a) of this section, include not only goods and technology for use in third-country products uniquely suited for use in the petroleum or petrochemical industry, such as oilfield services equipment, but also goods and technology for use in products, such as computers, office equipment, construction equipment, or building materials, which are suitable for use in other industries, but which are intended specifically for use in the petroleum or petrochemical industry; and

(3) Goods and technology are intended specifically for a third-country product to be used in Libya if the particular product is being specifically manufactured to fill a Libyan order or if the manufacturer's sales of the particular product are predominantly to Libya.

(c) Specific licenses may be issued to authorize exports to third countries otherwise prohibited by paragraph (a)(2) of this section in appropriate cases, such as those involving extreme hardship or where the resulting third-country products will have insubstantial U.S. content.

(d) Exports of goods or technology from the United States to third countries are not prohibited where the exporter has reasonable cause to believe that:

- (1) Except as otherwise provided in paragraph (a) of this section, the goods will be substantially transformed or incorporated into manufactured products before export to Libya, or
- (2) The goods will come to rest in a third country for purposes other than reexport to Libya, e.g., for purposes of restocking the inventory of a distributor whose sales of the particular goods are not predominantly to Libya, or
- (3) The technology will come to rest in a third country for purposes other than reexport to Libya.

(e) Note: Exports or reexports of goods and technical data, or of the direct products of technical data (regardless of U.S. content), not prohibited by this part may require authorization from the U.S. Department of Commerce pursuant to the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 et seq., and the Export Administration Regulations Implementing that Act, 15 CFR parts 368 through 399.

[51 FR 22803, June 23, 1986; 51 FR 25635, July 15, 1986]

Sec. 550.410 – Release from bonded warehouse or foreign trade zone.

Section 550.201 does not prohibit the release from a bonded warehouse or a foreign trade zone of goods of Libyan origin imported into a bonded warehouse or a foreign trade zone prior to the effective date.

Sec. 550.411 – Publications.

For purposes of this part, publications include books, newspapers, magazines, films, phonograph records, tape recordings, photographs, microfilm, microfiche, and posters, including items described in the following:

- (a) 15 CFR 399.1, Control List, Group 5, CL No. 7599I: microfilm that reproduces the content of certain publications, and similar materials.
- (b) 15 CFR 399.1, Control List, Group 9, CL No. 7999I: certain publications and related materials.

Sec. 550.412 – Termination and acquisition of an interest of the Government of Libya.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of Libya, such property shall no longer be deemed to be property in which the Government of Libya

has or has had an interest unless there exists in the property another such interest the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred to the Government of Libya, such property shall be deemed to be property in which there exists an interest of the Government of Libya.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.413 – Payments to Libya prohibited.

The prohibition of transfers of property or interests in property to the Government of Libya in Sec. 550.209 applies to payments and transfers of any kind whatsoever, including payment of debt obligations, fees, taxes, and royalties owed to the Government of Libya, and also including payment or transfer of dividend checks, interest payments, and other periodic payments. Such payments may be made into blocked accounts as provided in Sec. 550.511.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.414 – Exports of Libyan-titled goods.

(a) The prohibitions contained in Sec. 550.209 shall apply to any goods in the possession or control of a U.S. person if the Government of Libya had title to such property as of 4:10 p.m. e.s.t., on January 8, 1986, or acquired title after such time.

(b) Section 550.209 does not prohibit the export to Libya of the goods described in paragraph (a) of this section if such export is either not prohibited by Sec. 550.202 or permitted by an authorization or license issued pursuant to this part.

(c) If the goods described in paragraph (a) of this section are not exported as described in paragraph (b) of this section, the property shall remain blocked and no change in title or other transaction regarding such property is permitted, except pursuant to an authorization or license issued pursuant to this part.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.415 – Advance payments.

The prohibitions contained in Sec. 550.209 do not apply to goods manufactured, consigned, or destined for export to Libya, if the Government of Libya did not have title to such goods on or at any time after 4:10 p.m. e.s.t., January 8, 1986. However, if such goods are not exported to Libya prior to 12:01 p.m. e.s.t., February 1, 1986, then any advance payment received in connection with such property is subject to the prohibitions contained in Sec. 550.209.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.416 – Imports of Libyan goods and purchases of goods from Libya.

The prohibitions contained in Sec. 550.209 shall not apply to the goods described in Secs. 550.201 and 550.204 if the importation or purchase of such goods is either not prohibited by Secs. 550.201 and 550.204 or permitted by an authorization or license issued pursuant to this part. However, any payments in connection with such imports or purchases are subject to the prohibitions contained in Sec. 550.209.

[51 FR 2464, Jan. 16, 1986]

Sec. 550.417 – Letters of credit.

(a) Question. Prior to 4:10 p.m. e.s.t., January 8, 1986, a bank that is a U.S. person has issued or confirmed a documentary letter of credit for the Government of Libya as account party in favor of a U.S. person. The bank does not hold funds for the Government of Libya out of which it could reimburse itself for payment under the letter of credit. The U.S. person presents documentary drafts for exports to Libya made after 4:10 p.m. e.s.t., January 8, 1986. May the bank pay the U.S. exporter against the drafts?

Answer. No. Such a payment is prohibited by Secs. 550.206 and 550.209, as an extension of credit to the Government of Libya and a transfer of property in which there is an interest of the Government of Libya.

(b) Question. On the same facts as in paragraph (a), the bank holds deposits for the Government of Libya. May it pay on the letter of credit and debit the blocked funds for reimbursement?

Answer. No. A debit to a blocked account is prohibited by Sec. 550.209 except as licensed.

(c) Question. On the same facts as in paragraph (a), the Government of Libya, after 4:10 p.m. e.s.t., January 8, 1986, transfers funds to the bank to collateralize the letter of credit for purposes of honoring the obligation to the U.S. exporter. Is the transfer authorized and may the bank pay against the draft?

Answer. Yes. In accordance with Sec. 550.515, the transfer by the Government of Libya to the bank is licensed. The funds are not blocked and the bank is authorized to pay under the letter of credit and reimburse itself from the funds.

(d) Question. Prior to 4:10 p.m. e.s.t., January 8, 1986, a foreign bank confirms a documentary letter of credit issued by its U.S. agency or branch for a non-Libyan account party in favor of a Libyan entity. Can the U.S. agency or branch of the foreign bank transfer funds to that foreign bank in connection with that foreign bank's payment under the letter of credit?

Answer. No, the payment of the U.S. agency or branch is blocked, unless the foreign bank made payment to the Libyan entity prior to 4:10 p.m. e.s.t., January 8, 1986.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.418 – Payments from blocked accounts for U.S. exporters and other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, technology or services exported prior to 12:01 a.m. e.s.t., February 1, 1986, except as authorized pursuant to this part.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.419 – Acquisition of instruments, including bankers' acceptances.

Section 550.209 prohibits the acquisition by any U.S. person of any obligation, including bankers' acceptances, in which the documents evidencing the obligation indicate, or the U.S. person has actual knowledge, that the transaction being financed covers property in which, on or after 4:10 p.m. e.s.t., January 8, 1986, the Government of Libya has an interest of any nature whatsoever.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.420 – Indirect payments to the Government of Libya.

The prohibition in Sec. 550.209 on payments or transfers to the Government of Libya applies to indirect payments (including reimbursement of a non-U.S. person for payment, as, for example, on a guarantee) made after 4:10 p.m. e.s.t., January 8, 1986.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.421 – Setoffs prohibited.

A setoff against a blocked account, whether by a bank or other U.S. person, is a prohibited transfer under Sec. 550.209 if effected after 4:10 p.m. e.s.t., January 8, 1986.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.422 – Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in Sec. 550.202 applies to services performed:

- (1) In the United States;

(2) By an entity located in the United States, including its overseas branches; or

(3) Outside the United States by an individual U.S. person ordinarily resident in the United States; on behalf of the Government of Libya, or where the benefit of such services is otherwise received in Libya. The benefit of services performed anywhere in the world on behalf of the Government of Libya, including services performed for a controlled entity or specially designated national of the Government of Libya, is presumed to be received in Libya.

(b) The prohibitions contained in Secs. 550.205 and 550.209 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Libya;

(2) With respect to property interests of the Government of Libya; or

(3) In support of an industrial or other commercial or governmental project in Libya.

(c) Example: U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Libya. See Sec. 550.517 on licensing policy with regard to the provision of certain legal services.

[58 FR 13199, Mar. 10, 1993]

Subpart E – Licenses, Authorizations, and Statements of Licensing Policy

Sec. 550.501 – Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless such license or other authorization specifically so provides.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transactions prohibited by any provision of parts 500, 505, 515, 520, 535, 540, or 545 of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing a transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions in subpart B from the transaction, but only to the extent specifically stated by its terms. Unless the

regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

Sec. 550.502 – Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude any person or property from the operation of any license or to restrict the applicability thereof to any person or property. Such action shall be binding upon all persons receiving actual or constructive notice thereof.

Sec. 550.503 – Imports pursuant to Executive Order 12538.

Petroleum products loaded aboard maritime vessels at any time prior to November 17, 1985 may be imported into the United States if such importation would be permitted pursuant to Executive Order 12538 of November 15, 1985 (50 FR 47527).

Sec. 550.504 – Certain exports authorized.

All transactions ordinarily incident to the exportation of any item, commodity, or product from the United States to or destined for Libya are authorized if such exports are authorized under one or more of the following regulations administered by the Department of Commerce:

- (a) 15 CFR 371.6, General license BAGGAGE: accompanied and unaccompanied baggage;
- (b) 15 CFR 371.13, General license GUS: shipments to personnel and agencies of the U.S. Government;
- (c) 15 CFR 371.18, General license GIFT: shipments of gift parcels;
- (d) 15 CFR 379.3, General license GTDA: technical data available to all destinations.

Sec. 550.505 – Certain imports for diplomatic or official personnel authorized.

All transactions ordinarily incident to the importation of any goods or services into the United States from Libya are authorized if such imports are destined for official or personal use by personnel employed by Libyan missions to international organizations located in the United States, and such imports are not for resale.

Sec. 550.506 – Certain services relating to participation in various events authorized.

The importation of services of Libyan origin into the United States is authorized where a Libyan national enters the United States on a visa issued by the State Department for the purpose of participating in a public conference, performance, exhibition or similar event.

Sec. 550.507 – Import of publications authorized.

The importation into the United States is authorized of all Libyan publications as defined in Sec. 550.411.

Sec. 550.508 – Import of certain gifts authorized.

The importation into the United States is authorized for goods of Libyan origin sent as gifts to persons in the United States where the value of the gift is not more than \$100.

Sec. 550.509 – Import of accompanied baggage authorized.

Persons entering the United States directly or indirectly from Libya are authorized to import into the United States personal accompanied baggage normally incident to travel.

Sec. 550.510 – Telecommunications and mail transactions authorized.

All transactions of common carriers incident to the receipt or transmission of telecommunications and mail between the United States and Libya are authorized.

Sec. 550.511 – Payments and transfers to blocked accounts in domestic banks.

(a) Any payment or transfer of credit, including any payment or transfer by any U.S. person outside the United States, to a blocked account in a domestic bank in the name of the Government of Libya is hereby authorized, provided that such payment or transfer shall not be made from any blocked account in another banking institution within the United States, or if such payment or transfer represents, directly or indirectly, a transfer of any interest of the Government of Libya to any other country or person.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held by any bank outside the United States. This section only authorizes payment into a blocked account held by a domestic bank as defined in Sec. 550.317.

(c) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the Government of Libya where such government is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction in the United States including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(d) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(e) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

(f) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account held under any name or designation which differs from the name or designation of the specified blocked account or sub-account from which the payment or transfer is made.

(g) This section authorizes transfer of a blocked demand deposit account to a blocked interest-bearing account in the name of the same person at the instruction of the depositor at any time. If such transfer is to a blocked account in a different domestic bank, such bank must furnish notification as described in the note to this section.

Note to Sec. 550.511: Please refer to Sec. 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[51 FR 2465, Jan. 16, 1986, as amended at 57 FR 41697, Sept. 11, 1992; 58 FR 47645, Sept. 10, 1993; 62 FR 45108, Aug. 25, 1997]

Sec. 550.512 – Payment of certain checks and drafts and documentary letters of credit.

(a) A bank which is a U.S. person is hereby authorized to make payments from blocked accounts within such bank of checks and drafts drawn or issued prior to 4:10 p.m. e.s.t., January 8, 1986, provided that:

(1) The amount involved in any one payment, acceptance, or debit does not exceed \$5,000; or

(2) The check or draft was in process of collection by a bank which is a U.S. person on or prior to such date and does not exceed \$50,000; or

(3) The check or draft is in payment for goods furnished or services rendered by a non-Libyan entity prior to 4:10 p.m. e.s.t., January 8, 1986.

(4) The authorization contained in paragraph (a) of this section, shall expire at 12:01 a.m., February 17, 1986.

(b) Payments are authorized from blocked accounts of documentary drafts drawn under irrevocable letters of credit issued or confirmed in favor of a non-Libyan entity by a bank

which is a U.S. person prior to 4:10 p.m. e.s.t., January 8, 1986, provided that (1) the goods that are the subject of the payment under the letter of credit have been exported prior to 4:10 p.m. e.s.t., January 8, 1986; and (2) payment under the letter of credit is made by 12:01 a.m. e.s.t., February 17, 1986.

(c) Paragraphs (a) and (b) of this section, do not authorize any payment to a Libyan entity except payments into a blocked account in a domestic bank in accordance with Sec. 550.511.

[51 FR 2465, Jan. 16, 1986]

Sec. 550.513 – Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before January 21, 1986, purchases and sales made prior to 4:10 p.m. e.s.t., January 8, 1986, of securities purchased or sold for the account of the Government of Libya provided the following terms and conditions are complied with, respectively:

(1) The proceeds of such sale are credited to a blocked account in a banking institution within the United States in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution within the United States in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

[51 FR 2466, Jan. 16, 1986]

Sec. 550.515 [Reserved]

Sec. 550.517 – Exportation of certain legal services to the Government of, or persons in, Libya.

(a) The provision to the Government of Libya, or to a person in Libya, of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in Sec. 550.422 requires the issuance of a specific license.

(b) Specific licenses are issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of Libya or to a person in Libya:

- (1) Provision of legal advice and counselling to the Government of Libya or to a person in Libya on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions in violation of subpart B of this part;
 - (2) Representation of the Government of Libya or of a person in Libya when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;
 - (3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Libya that were in existence prior to January 8, 1986, or of a person in Libya;
 - (4) Representation of the Government of Libya or a person in Libya before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Libya; and
 - (5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.
- (c) Enforcement of any lien, judgment, arbitral award, decree or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Libya is prohibited unless specifically licensed in accordance with Sec. 550.210(e).

[58 FR 13199, Mar. 10, 1993]

Sec. 550.520 – Entries in certain accounts for normal service charges.

- (a) Any banking institution within the United States is hereby authorized to:
- (1) Debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account.
 - (2) Make book entries against any foreign currency account maintained by it with a banking institution in Libya for the purpose of responding to debits to such account for normal service charges in connection therewith.
- (b) As used in this section, the term normal service charge shall include charges assessed according to the published fee schedule of the holder of such property and applicable to other depositors on deposits of comparable size and maturity.

[57 FR 41697, Sept. 11, 1992]

Sec. 550.560 – Transactions related to travel to, and residence within, Libya by immediate family members of Libyan nationals.

(a) General License. Subject to compliance with the registration requirements set forth in paragraph (d) of this section, the following transactions are authorized in connection with travel to, from and within Libya and residence within Libya by U.S. citizens and permanent resident aliens who are immediate family members of Libyan nationals:

(1) All transportation-related transactions ordinarily incident to travel to, from and within Libya.

(2) All transactions ordinarily incident to residence within Libya, including payment of living expenses and the acquisition in Libya of goods for personal use or consumption there.

(3) All transactions incident to the processing and payment of checks, drafts, traveler's checks, and similar instruments negotiated in Libya by any person licensed under this section.

(4) The purchase within Libya and importation as accompanied baggage of items for noncommercial use, provided that the aggregate value of such purchases imported into the United States conforms to limitations established by the United States Customs Service.

(b) Definition. For purposes of this section, the term immediate family member means a spouse, child, parent, mother-in-law, father-in-law, son-in-law or daughter-in-law.

(c) Specific Licenses. Specific licenses authorizing the transactions set forth in paragraph (a) of this section may be issued in appropriate cases to persons similarly situated to the persons described in paragraph (b) of this section where such specific licenses are necessary to preserve the integrity of established family units.

(d) Registration.

(1) The general license set forth in this section is available only to those U.S. citizens and permanent resident aliens who register their eligibility in writing with either of the following:

Embassy of Belgium, Ali Obeydah St., Ibn El Jarah No. 1, Immeuble Chirlando, Tripoli, Libya, Telephone: 37797

or

Licensing Section, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Telephone: (202) 376-0236.

Registration under this paragraph is deemed complete upon receipt at one of the above addresses of a letter, signed by or on behalf of each eligible U.S. citizen or permanent resident alien being registered, containing the following information:

(i) The name and the date and place of birth of the U.S. citizen(s) or permanent resident alien(s) registering (the “registrant”), including the name on which the registrant’s most recent U.S. passport or Alien Registration Receipt Card was issued, if different;

(ii) If applicable, the place and date of the registrant’s naturalization as a U.S. citizen, and the number of the registrant’s naturalization certificate, or, for permanent resident aliens, the Alien Registration Number of the registrant’s Alien Registration Receipt Card;

(iii) The name, relationship, and address of the Libyan national with whom the registrant resides as an immediate family member and whose relationship forms the basis for the registrant’s eligibility under this general license; and

(iv) The number and issue date of the registrant’s current U.S. passport, and the most recent date on which the passport was validated by the U.S. Department of State for travel to Libya; or, if the registrant does not hold a current U.S. passport, the country, issue date, and number of the registrant’s current passport or other travel document, if any.

(2) The lack of validation of a registrant’s U.S. passport for travel to Libya does not affect eligibility for the benefits of the general license set forth in this section for persons who otherwise qualify. Current information on travel document status as requested in paragraph (d)(1) of this section must, however, be furnished to register a registrant’s eligibility for this license.

(e) Other requirements. The general license set forth in this section shall not operate to relieve any person licensed hereunder from compliance with any other U.S. legal requirements applicable to the transactions authorized pursuant to paragraph (a) of this section.

[51 FR 19752, June 2, 1986]

Sec. 550.568 – Certain standby letters of credit and performance bonds.

(a) Notwithstanding any other provision of law, payment into a blocked account in a domestic bank by an issuing or confirming bank under a standby letter of credit in favor of a Libyan entity is prohibited by Sec. 550.209 and not authorized, notwithstanding the provisions of Sec. 550.511, if either (1) a specific license has been issued pursuant to the provisions of paragraph (b) of this section or (2) ten business days have not expired after notice to the account party pursuant to paragraph (b) of this section.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under such a standby letter of credit, it shall promptly notify the account party. The account party may then apply within five business days for a specific license authorizing the account party to establish a blocked account on its books in the name of the Libyan entity in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party. Nothing in this section relieves any such bank or such account party from giving any notice of defense against payment or reimbursement that is required by applicable law.

(c) Where there is outstanding a demand for payment under a standby letter of credit, and the issuing or confirming bank has been enjoined from making payment, upon removal of the injunction, the account party may apply for a specific license for the same purpose and in the same manner as that set forth in paragraph (b) of this section. The issuing or confirming bank shall not make payment under the standby letter of credit unless (1) ten business days have expired since the bank has received notice of the removal of the injunction and (2) a specific license issued to the account party pursuant to the provisions of this paragraph has not been presented to the bank.

(d) If necessary to assure the availability of the funds blocked, the Secretary may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) of this section into a blocked account in a domestic bank or the supplying of any form of security deemed necessary.

(e) Nothing in this section precludes the account party on any standby letter of credit or any other person from at any time contesting the legality of the demand from Libyan entity or from raising any other legal defense to payment under the standby letter of credit.

(f) This section does not affect the obligation of the various parties of the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(g) For the purposes of this section,

(1) The term standby letter of credit shall mean a letter of credit securing performance of, or repayment of any advance payments or deposits under, a contract with the Government of Libya, or any similar obligation in the nature of a performance bond; and

(2) The term account party shall mean the person for whose account the standby letter of credit is opened.

(h) The regulations do not authorize any U.S. person to reimburse a non-U.S. bank for payment to the Government of Libya under a standby letter of credit, except by payments into a blocked account in accordance with Sec. 550.511 or paragraph (b) or (c) of this section.

(i) A person receiving a specific license under paragraph (b) or (c) of this section shall certify to the Office of Foreign Assets Control within five business days after receipt of that license that it has established the blocked account on its books as provided for in those paragraphs. However, in appropriate cases, this time period may be extended upon application to the Office of Foreign Assets Control when the account party has filed a petition with an appropriate court seeking a judicial order barring payment by the issuing or confirming bank.

(j) The extension or renewal of a standby letter of credit is authorized.

[51 FR 2466, Jan. 16, 1986]

Sec. 550.569 – Commercial sales, exportation and reexportation of agricultural commodities and products, medicine, and medical equipment.

(a) General license for executory contracts. Except as provided in paragraph (c) of this section, entry into executory contracts is authorized for the following transactions with individuals in Libya acting for their own account, nongovernmental entities in Libya or procurement bodies of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or with persons in third countries purchasing specifically for resale to any of the foregoing, provided that performance of the executory contracts (including any preparatory activities, payments or deposits related to such executory contracts) is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part:

(1) The sale of agricultural commodities and products, if those commodities and products are intended for ultimate consumption in Libya as:

(i) Food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds);

(ii) Seeds for food crops; and

(iii) Reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals; and

(2) The sale of medicines (including those administered by injection) and medical equipment for use in Libya, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR99), as of the date of exportation or reexportation. (EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10.)

Note to paragraph (a) of Sec. 550.569: See Sec. 550.570 with respect to the availability of specific licenses for sales of certain bulk agricultural commodities for exportation or reexportation to Libya or the Government of Libya.

(b) Required terms of executory contracts. The authorization contained in paragraph (a) of this section applies only to executory contracts that:

- (1) Disclose all parties with an interest in the sales transaction. If the goods are being sold to a purchasing agent in Libya, the executory contract must identify the agent's principals at the wholesale level for whom the purchase is being made;
- (2) Provide only for sales at prevailing market prices;
- (3) Set forth all terms of sale (e.g., purchase price, quantity, date of shipment, financing), except that dates for contract performance may be made dependent upon the date a specific license pursuant to paragraph (d) of this section is obtained from the Office of Foreign Assets Control;
- (4) Make any performance involving the exportation or reexportation of any goods, technology or services (including technical data, software, or information) that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and
- (5) Provide for payment terms consistent with the provisions of Sec. 550.571.

(c) Ineligible purchasers. Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to part 560 of this chapter, other than a procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (c) of Sec. 550.569. Information on ineligible purchasers and eligible procurement bodies will be published in the Federal Register and may be found on the Office of Foreign Assets Control's Internet site: <http://www.treas.gov/ofac>, or on its fax-on-demand system: (202) 622-0077.

(d) Specific licenses for performance under executory contracts. Specific licenses may be issued on a case-by-case basis to permit the performance of executory contracts meeting the requirements of paragraphs (a) and (b) of this section. See Sec. 501.801(b) of this chapter with respect to specific licensing procedures.

(e) Recordkeeping and reporting requirements. Attention is drawn to the recordkeeping, retention, and reporting requirements of Secs. 501.601 and 501.602.

[64 FR 41789, Aug. 2, 1999, as amended at 64 FR 58790, Nov. 1, 1999]

Sec. 550.570 – Commercial sales, exportation and reexportation of bulk agricultural commodities.

(a) Sales of bulk agricultural commodities by licensed sellers. Specific licenses may be issued on a case-by-case basis to permit the sale and exportation or reexportation to persons in Libya or the Government of Libya of bulk agricultural commodities intended for ultimate consumption in Libya as food by humans or animals (including animal feeds) and seeds for food crops, for sales meeting all requirements of paragraph (b) of this section.

(b) Required contract terms for commercial sales of bulk agricultural commodities. Specific licenses issued pursuant to this section will authorize entry into and performance only of contracts that:

(1) Provide for the sale and exportation or reexportation only of bulk agricultural commodities listed in appendix A to this part 550;

(2) Fully identify the purchasers of the bulk agricultural commodities, including (for sales through persons in third countries) those to whom the commodities are to be resold, and do not include as a purchaser any person in Libya or any person within the definition of the term Government of Libya other than:

(i) A private individual in Libya acting for his or her own account;

(ii) A nongovernmental entity in Libya; or

(iii) A procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state;

(3) Provide only for sales at prevailing market prices;

(4) Make any performance involving the exportation or reexportation of any goods, technology or services (including technical data, software, or information) that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of Sec. 550.571.

(c) Recordkeeping and reporting requirements. Attention is drawn to the recordkeeping, retention, and reporting requirements of Secs. 501.601 and 501.602.

(d) Other commodities and products. Requests may be made to the Office of Foreign Assets Control for specific licenses analogous to those available pursuant to paragraph (a) of

this section where the applicant demonstrates to the satisfaction of the Office of Foreign Assets Control that, in light of industry practices, sales of the particular agricultural commodity or product, medicine, or medical equipment are impracticable under the executory contract licensing procedures contained in Sec. 550.569.

(e) Ineligible purchasers. Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to part 560 of this chapter, other than a procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (e) of Sec. 550.570. Information on ineligible purchasers and eligible procurement bodies will be published in the Federal Register and may be found on the Office of Foreign Assets Control's Internet site: <http://www.treas.gov/ofac>, or on its fax-on-demand system: (202) 622-0077.

[64 FR 41790, Aug. 2, 1999, as amended at 64 FR 58791, Nov. 1, 1999]

Sec. 550.571 – Payment for and financing of commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) General license for payment terms. The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to Secs. 550.569 and 550.570 are authorized:

- (1) Payment of cash in advance;
- (2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or
- (3) Financing by third-country financial institutions that are neither United States persons nor Government of Libya entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) Specific licenses for alternate payment terms. Specific licenses may be issued on a case-by-case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to Secs. 550.569 and 550.570. See Sec. 501.801(b) of this chapter for specific licensing procedures.

(c) No debits to blocked accounts. Nothing in this section authorizes payment terms or trade financing involving a debit to an account of the Government of Libya blocked pursuant to this part.

(d) Transfers through the U.S. financial system. Before a United States financial institution initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States financial institution must determine that

the underlying transaction is not prohibited by this part. Any payment relating to a transaction authorized in or pursuant to Sec. 550.569, 550.570, or 550.572 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the blocking or rejection of the transfer.

[64 FR 41790, Aug. 2, 1999, as amended at 64 FR 58791, Nov. 1, 1999]

Sec. 550.572 – Brokering sales of bulk agricultural commodities.

(a) General license for brokering sales by U.S. persons. United States persons are authorized to broker the sale and exportation or reexportation by United States persons of the bulk agricultural commodities listed in appendix A to this part 550 to individuals in Libya acting for their own account, nongovernmental entities in Libya, procurement bodies of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or persons in third countries purchasing specifically for resale to any of the foregoing, provided that the brokered sales meet all conditions of Sec. 550.570.

(b) Specific licensing for brokering sales by non-U.S. persons. Specific licenses may be issued on a case-by-case basis to permit United States persons to broker the sale and exportation or reexportation of bulk agricultural commodities by non-United States persons to persons in Libya or the Government of Libya. Specific licenses issued pursuant to this section will authorize the brokerage only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix A to this part 550;

(2) Are to purchasers permitted pursuant to paragraphs (b)(2) and (e) of Sec. 550.570;

(3) Make any performance involving the exportation or reexportation of any goods, technology or services (including technical data, software, or information) that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) No debit to blocked accounts. Payment for any brokerage fee earned pursuant to this section may not involve a debit to an account blocked pursuant to this part.

(d) Recordkeeping and reporting requirements. Attention is drawn to the recordkeeping, retention, and reporting requirements of Secs. 501.601 and 501.602.

[64 FR 41790, Aug. 2, 1999, as amended at 64 FR 58791, Nov. 1, 1999]

Sec. 550.573 – Travel transactions in connection with licensed sales of agricultural commodities and products, medicine, and medical products.

Travel transactions to, from, and within Libya for the sole purpose of negotiating contracts authorized by Sec. 550.569 or Sec. 550.570 are authorized. Travel transactions related to installation or servicing of medical equipment sold pursuant to Sec. 550.569 must be authorized by specific license. See Sec. 501.801(b) of this chapter for specific licensing procedures.

Note to Sec. 550.573. U.S. passports must be validated by the U.S. Department of State for travel to Libya.

[64 FR 41791, Aug. 2, 1999]

Subpart F – Reports

Sec. 550.601 – Records and reports.

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

[62 FR 45108, Aug. 25, 1997]

Subpart G – Penalties

Sec. 550.701 – 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 violations 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. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty of not to exceed \$11,000 per violation may be imposed on any person who violates any license, order, or regulation issued under the Act;

(2) Whoever willfully violates any license, order, or regulation issued under the Act shall, upon conviction be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment or both.

(b) The criminal penalties provided in the Act are subject to increase 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 any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any 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.

(d) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(e) Violations of this part may also be subject to relevant provisions of the Customs laws and other applicable laws.

[51 FR 1354, Jan. 10, 1986, as amended at 61 FR 43461, Aug. 23, 1996; 61 FR 54939, Oct. 23, 1996; 62 FR 45108, Aug. 25, 1997]

Sec. 550.702 – Detention of shipments.

Import shipments into the United States of goods of Libyan origin in violation of Sec. 550.201 and export shipments from the United States of goods destined for Libya in violation of Sec. 550.202 shall be detained. No such import or export shall be permitted to proceed, except as specifically authorized by the Secretary of the Treasury. Such shipments shall be subject to licensing, penalties or forfeiture action, under the Customs laws or other applicable provision of law, depending on the circumstances.

Sec. 550.703 – Prepenalty notice.

(a) When required. If the Director of the Office of Foreign Assets Control (hereinafter “Director”) has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation 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 International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) Contents – (1) Facts of violation. The prepenalty notice shall:

(i) Describe the violation.

(ii) Specify the laws and regulations allegedly violated.

(iii) State the amount of the proposed monetary penalty.

(2) Right to make presentations. The prepenalty notice also shall inform the person of his right to make a written presentation within thirty (30) days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

[53 FR 7357, Mar. 8, 1988]

Sec. 550.704 – Presentation responding to prepenalty notice.

(a) Time within which to respond. The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director.

(b) Form and contents of written presentation. The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

[53 FR 7357, Mar. 8, 1988]

Sec. 550.705 – Penalty notice.

(a) No violation. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) Violation. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

[53 FR 7358, Mar. 8, 1988]

Sec. 550.706 – Referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this subpart or make payment arrangements acceptable to the Director within thirty days of the mailing of the written notice of the imposition of the penalty, the matter shall be referred to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

[53 FR 7358, Mar. 8, 1988]

Subpart H – Procedures

Sec. 550.801 – Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart D of part 501 of this chapter.

[62 FR 45108, Aug. 25, 1997]

Sec. 550.802 – Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 12543, Executive Order 12544, Executive Order 12801, and any further Executive Orders relating to the national emergency declared with respect to Libya in Executive Order 12543 may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[51 FR 1354, Jan. 10, 1986, as amended at 57 FR 41697, Sept. 11, 1992. Redesignated at 62 FR 45108, Aug. 25, 1997]

Sec. 550.803 – Customs procedures: Merchandise specified in Sec. 550.201.

(a) With respect to merchandise specified in Sec. 550.201, appropriate Customs officers shall not accept or allow any:

- (1) Entry for consumption or warehousing (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any informal entry);
- (2) Entry for immediate exportation;
- (3) Entry for transportation and exportation;
- (4) Entry for immediate transportation;
- (5) Withdrawal from warehouse;
- (6) Entry, transfer or withdrawal from a foreign trade zone; or
- (7) Manipulation or manufacture in a warehouse or in a foreign trade zone, unless:
 - (i) The merchandise was imported prior to 12:01 a.m., Eastern Standard Time, February 1, 1986, or

- (ii) A specific license pursuant to this part is presented, or
- (iii) Instructions from the Office of Foreign Assets Control, authorizing the transactions are received.

(b) Whenever a specific license is presented to an appropriate Customs officer in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the appropriate Customs officers at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the appropriate Customs officers in respect of each such transactions and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation shall be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transactions with regard to the merchandise, the appropriate Customs officer, or other authorized Customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the appropriate Customs officer to the Office of Foreign Assets Control.

(c) If it is unclear whether an entry, withdrawal or other action affected by this section requires a specific Foreign Assets Control license, the appropriate Customs officer shall withhold action thereon and shall advise such person to communicate directly with the Office of Foreign Assets Control to request that instructions be sent to the Customs officer to authorize him to take action with regard thereto.

[51 FR 1354, Jan. 10, 1986, as amended at 57 FR 1390, Jan. 14, 1992. Redesignated at 62 FR 45108, Aug. 25, 1997]

Subpart I – Miscellaneous

Sec. 550.901 – Paperwork Reduction Act notice.

The information collection requirements in Sec. 550.560(d) have been approved by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act (44 U.S.C. 3507(j)) and assigned control number 1505-0093. For approval by OMB under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see Sec. 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45108, Aug. 25, 1997]

Appendix A to Part 550 – Bulk Agricultural Commodities

Notes: 1. Appendix A sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in Sec. 550.570.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (“HTS”).

<u>HTS Number</u>	<u>Commodity</u>
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, “Canadian” Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi-milled or wholly milled Rice, whether or not polished or glazed
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including <i>Vigna mungo</i> (L.), Hepper, and <i>Vigna radiata</i> (L.) Wilczek
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (<i>Pisum sativum</i>)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other

1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground-nut) oil, crude
1508.90	Peanut (ground-nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower-seed oil, crude
1512.19	Sunflower-seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

[64 FR 41791, Aug. 2, 1999]

Appendix B to Part 550 – Eligible Procurement Bodies

This Appendix B sets forth eligible procurement bodies of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state. See Sec. 550.570(e).

National Supply Corporation (a.k.a. National Supplies Corporation; a.k.a. NASCO).

[64 FR 58791, Nov. 1, 1999]

Section 12: Libya Section of 2002 State Department “Patterns of Global Terrorism” Report

April 30, 2003

Department of State Publication
Office of the Secretary of State
Released by the Office of the Coordinator for Counterterrorism

Overview of State-Sponsored Terrorism

Despite significant pressure from the U.S. Government, the seven designated state sponsors of terrorism – Cuba, Iran, Iraq, Libya, North Korea, Syria, and Sudan – did not take all the necessary actions to disassociate themselves fully from their ties to terrorism in 2002. While some of these countries have taken steps to cooperate in the global war on terrorism, most have also continued the very actions that led them to be declared state sponsors.

Although Cuba is a party to all 12 international counterterrorism conventions and protocols, and Sudan is a party to 11, both nations continued to provide support to designated Foreign Terrorist Organizations. Likewise, Syria and Libya have continually indicated that they wish to aid the United States in the conflict against terrorism and have curtailed their sponsorship activities. Their cooperation remained deficient in other areas, however. Syria continued to provide safehaven and transit to some Palestinian rejectionist groups. Suspended UN sanctions against Libya remained in place, as Libya again failed to comply with UN requirements related to the bombing in 1988 of Pan Am Flight 103 over Lockerbie, Scotland.

While some of the designated state sponsors have taken steps to accede to the international norms of combating terrorism, others – notably Iraq, Iran, and North Korea – have done little to comply. Iraq, through its intelligence service, prepared for possible attacks against Western targets and was a safehaven, transit point, and operational base for terrorist organizations that included members of al-Qaida. Iran, for its part, remained the most active state sponsor of terrorism during 2002. It has provided funding, training, and weapons to Central Asian and anti-Israeli terrorist groups. In addition, some members of these groups, as well as al-Qaida, have found safehaven in Iran.

State sponsors of terrorism impede the efforts of the United States and the international community to fight terrorism. These countries provide a critical foundation for terrorist groups. Without state sponsors, terrorist groups would have a much more difficult time obtaining the funds, weapons, materials, and secure areas they require to plan and conduct operations. The United States will continue to insist that these countries end the support they give to terrorist groups.

State Sponsor: Implications

Designating countries that repeatedly support international terrorism (i.e., placing a country on the “terrorism list”) imposes four main sets of U.S. Government sanctions:

1. A ban on arms-related exports and sales.
2. Controls over exports of dual use items, requiring 30-day Congressional notification for goods or services that could significantly enhance the terrorist list country’s military capability or ability to support terrorism.
3. Prohibitions on economic assistance.
4. Imposition of miscellaneous financial and other restrictions, including:
 - Requiring the United States to oppose loans by the World Bank and other international financial institutions.
 - Lifting the diplomatic immunity to allow families of terrorist victims to file civil lawsuits in U.S. courts.
 - Denying companies and individuals tax credits for income earned in terrorist list countries.
 - Denial of duty-free treatment for goods exported to the United States.
 - Authority to prohibit any U.S. person from engaging in a financial transaction with a terrorist list government without a Treasury Department license.
 - Prohibition of Defense Department contracts above \$100,000 with companies controlled by terrorist list states.

Libya

In 2002, Libyan leader Muammar Qadhafi continued the efforts he undertook following the 11 September 2001 terrorist attacks to identify Libya with the war on terrorism and the struggle against Islamic extremism. In August, Qadhafi told visiting British officials that he regards Usama Bin Ladin and his Libyan followers a threat to Libya. In his 1 September speech, he declared that Libya would combat members of al-Qaida and “heretics” – a likely reference to Libyan extremists allied with al-Qaida and opposed to his regime – as doggedly as the United States did. He further claimed that all political prisoners would be released and that the Libyan Government would henceforth only hold members of al-Qaida. Libya appears to have curtailed its support for international terrorism, although it may maintain residual contacts with some of its former terrorist clients.

Libya's past record of terrorism continued to hinder Qadhafi's efforts to shed Libya's pariah status in 2002. In March, a Scottish appellate court upheld the conviction – originally returned in January 2001 – of Libyan intelligence agent Abdel Basset Ali al-Megrahi for murder in connection with planting an explosive device on Pan Am Flight 103 in December 1988. The explosion killed all 259 passengers and crew on board and 11 persons on the ground in Lockerbie, Scotland. There have been reports of a proposed out-of-court settlement of a suit brought by Pan Am 103 family members against Libya, but by year's end it had not been concluded.

Despite progress toward the payment of appropriate compensation, at year's end Libya had yet to comply with the remaining UN Security Council requirements related to Pan Am Flight 103, necessary for the permanent lifting of UN sanctions, including accepting responsibility for the actions of its officials.

In October, lawyers representing the seven U.S. citizens who died in the bombing of UTA Flight 772 in 1989 – for which a French court convicted six Libyans *in absentia* in 1999 – filed a suit against Libya and Qadhafi, reportedly seeking \$3 billion in compensation. The same month, Libya reportedly pledged to French authorities to increase payments already made to victims of the UTA bombing following the French court ruling in 1999.

In 2002, Libya became a party to the 1999 Convention for the Suppression of the Financing of Terrorism and the 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection. It is a party to all the 12 international conventions and protocols relating to terrorism.

Section 13: 2002 Country Reports on Human Rights Practices: Libya

March 31, 2003

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The United States has no official presence in Libya. Information on the human rights situation therefore is limited; this report draws heavily on non-U.S. Governmental sources.

The Socialist People's Libyan Arab Jamahiriya is a dictatorship that has been ruled by Colonel Mu'ammar Al-Qadhafi (the "Brother Leader and Guide of the Revolution") since 1969, when he led a military coup that overthrew King Idris I. Borrowing from Islamic and pan-Arab ideas, Qadhafi created a political system that rejects democracy and political parties and purports to establish a "third way" superior to capitalism and communism. Libya's governing principles are derived predominantly from Qadhafi's "Green Book." In theory the citizenry rules the country through a series of popular congresses, as laid out in the Constitutional Proclamation of 1969 and the Declaration on the Establishment of the Authority of the People of 1977, but in practice Qadhafi and his inner circle monopolize political power. Qadhafi is aided by extragovernmental organizations – the Revolutionary Committees – that exercise control over most aspects of citizens' lives. The judiciary was not independent of the Government, and security forces had the power to pass sentences without trial.

The country maintained an extensive security apparatus, consisting of several elite military units, including Qadhafi's personal bodyguards, local Revolutionary Committees, People's Committees, and "Purification Committees". The result was a multilayered, pervasive surveillance system that monitored and controlled the activities of individuals. The various security forces committed numerous serious human rights abuses.

The Government dominated the economy through complete control of the country's oil resources, which accounted for approximately 95 percent of export earnings and an estimated 23 percent of the gross domestic product. Oil revenues were the principal source of foreign exchange. Much of the country's income has been lost to waste, corruption, conventional armament purchases, and attempts to develop weapons of mass destruction, as well as to large donations made to "liberation" movements and to developing countries in attempts to increase Qadhafi's influence in Africa and elsewhere. The Government's mismanagement of the economy has led to high inflation and increased import prices, resulting in a decline in the standard of living for most of its 5.4 million citizens in recent years. U.N. sanctions against the country were suspended – but not permanently lifted – in 1999 following the Government's surrender of two of its citizens suspected in the 1988 bombing of Pan Am flight 103. On March 14, a Scottish appellate court in the Netherlands

upheld the conviction of Abdelbasset al-Megrahi in connection with the bombing. Megrahi subsequently appealed his sentence to the European Commission for Human Rights.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government. Qadhafi used summary judicial proceedings to suppress domestic opposition. Security forces tortured prisoners during interrogations and as punishment. Prison conditions were poor. Security forces arbitrarily arrested and detained persons, and many prisoners were held incommunicado. Many political detainees were held for years without charge or trial. The Government controlled the judiciary, and citizens did not have the right to a fair public trial or to be represented by legal counsel. The Government infringed on citizens' privacy rights, and citizens did not have the right to be secure in their homes or persons, or to own private property. The Government restricted freedom of speech, press, assembly, association, and religion. The Government imposed some limits on freedom of movement. The Government prohibited the establishment of independent human rights organizations.

Violence against women was a problem. Traditional attitudes and practices continued to discriminate against women, and female genital mutilation (FGM) was practiced in remote areas of the country. The Government discriminated against and repressed tribal groups. The Government continued to repress banned Islamic groups and exercised tight control over ethnic and tribal minorities, such as Amazighs (Berbers), Tuaregs, and the Warfalla tribe. The Government restricted basic worker rights, used forced labor, and discriminated against foreign workers. There have been reports of slavery and trafficking in persons. The country's human rights record came under intense international scrutiny after the African Union in June endorsed the country's nomination to chair the U.N. Commission on Human Rights (UNCHR) in 2003. The Government appointed for the first time in September a Secretary for Human Rights; at year's end, this fledgling ministry had yet to demonstrate any influence over the country's human rights policies.

Respect for Human Rights

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There was one report that a person died as a result of torture while in custody. On September 6, the World Organization Against Torture (OMCT) reported that when Mohammad Massaud Izbeda inquired at the Revolutionary Committee Headquarters as to why his son had not been among 62 prisoners released by the Government on September 1, the authorities detained and tortured Mr. Izbeda. According to reports, he was released later that day and died the same night (see Section 1.c.).

An unknown number of deaths in custody occurred as a result of poor prison conditions (see Section 1.c.).

In 2001 the Government continued to take proactive measures to prevent the development of any serious opposition within the country, focusing its efforts primarily on Islamist

groups. It reinforced the tightened security measures put in place following a 1996 prison mutiny in Benghazi by arresting possible dissidents, conducting military operations in the areas of insurrection, and killing a number of persons.

In October 2001, mobs killed an estimated 150 Africans, including a Chadian diplomat, in the worst outbreak of antifoignner violence since Qadafi took power in 1969. Government security forces reportedly intervened to stop the violence, but then deported hundreds of thousands of African migrant workers by driving them in convoys to the southern border and leaving them stranded in the desert (see Section 6.e.).

In November 2001, a German court found four persons, including a former government diplomat, guilty of murder and attempted murder in connection with the 1986 bombing of the La Belle disco in then-West Berlin. In rendering his oral verdict, the judge declared that there was clear government responsibility. The German Government immediately called upon the Government to admit responsibility and provide compensation for the victims.

U.N. sanctions against the country were suspended in 1999 after the Government surrendered two suspects wanted in connection with the bombing of Pan Am flight 103 over Scotland in 1988, which killed 259 persons on board and 11 persons on the ground. On March 14, a Scottish appellate court in the Netherlands upheld the conviction of government agent Abdelbasset al-Megrahi in connection with the bombing. In September Megrahi appealed the case to the European Court of Human Rights, alleging that his rights were breached during his 2000-2001 trial and the subsequent appeal. U.N. Security Council resolutions required the country to fulfill certain obligations regarding the Pan Am 103 bombing before sanctions may be permanently lifted, including accepting responsibility for the actions of its officials and paying appropriate compensation.

In March 1999, a French court convicted in absentia six defendants in the bombing of UTA flight 772 over Chad in 1989, which killed 171 persons, and sentenced them to life in prison. In July 2000, the Government paid the French Government \$31 million (17 million dinars) to compensate the victims' families. During Foreign Minister Shalgam's official visit to Paris in October, the country agreed to pay further compensation to the families of UTA victims who did not receive compensation from the 2000 settlement.

b. Disappearance

In the past year, there were no reports of abductions; however, the Government in the past has abducted and killed dissidents in the country and abroad.

In January accusations of government responsibility for the 1978 disappearance of Lebanese Shi'a leader Imam Mousa al-Sadr and two of his companions in the country resurfaced when Qadhafi announced his intention to attend the Arab League Summit meeting in Beirut in March. A Lebanese Shi'a Muslim group called the Sadr Brigades responded by threatening unspecified action against Qadhafi if he came to Beirut, causing him to cancel his visit. The Government denied any involvement in Musa Sadr's disappearance, and in August the Government issued a public appeal for any information related to the disappearance. In

October the Sadr Brigades publicly vowed vengeance against Qadhafi based on information it said Iran had provided which proved the country's culpability.

The Government did not take any action in the 1993 disappearance in Cairo of its citizen Mansur Kikhiya, a human rights and political activist.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law provides for fines against any official using excessive force; nonetheless, there were no known cases of prosecution for torture or abuse. Security personnel routinely torture prisoners during interrogations or for punishment. Government agents reportedly detained and tortured foreign workers, particularly those from sub-Saharan Africa. Reports of torture were difficult to corroborate because many prisoners were held incommunicado. In July Qadhafi's son, Saif al-Islam, announced that the Government would make public the names of any government personnel involved in torture, even if they were senior officials, and would bring them trial. The Government had not made public any names by year's end. Methods of torture reportedly included: chaining to a wall for hours; clubbing; applying electric shock; applying corkscrews to the back; pouring lemon juice in open wounds; breaking fingers and allowing the joints to heal without medical care; suffocating with plastic bags; depriving of food and water; hanging by the wrists; suspending from a pole inserted between the knees and elbows; burning with cigarettes; attacking with dogs; and beating on the soles of the feet.

In May a court sentenced Ahmad Muhammad Ahmad al-Sharif, Sayyid Muhammad Ahmad, Dahmu Muhammad Abu Bakr al-Sharif, and Barkah Sidi Jira Barkah to have their right hands and left legs amputated in punishment for theft. The sentences were carried out in July and were the first in the country since Qadhafi came to power in 1969.

On September 6, the World Organisation Against Torture (OMCT) reported that Mohammad Massaud Izbeda inquired at the Revolutionary Committee Headquarters as to why his son, Abdallah Mohammad Massaud Izbeda, had not been among the 62 prisoners released by the Government on September 1. Authorities at the headquarters detained and tortured Mr. Izbeda. According to reports, he was released later that day and died the same night. Security forces reportedly attempted to remove Izbeda's body from its gravesite on September 13 when a group of young persons intervened. Authorities arrested several, subjecting at least one, Seif Salem Aljadik, to torture, and reportedly killing others. Authorities also demolished both Mr. Izbeda and Mr. Aljadik's homes (see Section 1.a.).

In May 1999, in a much publicized case involving the HIV infection of nearly 400 children, 16 defendants, including 6 Bulgarians and 1 Palestinian, all health professionals, claimed that their confessions had been obtained under duress. In February a court in Benghazi conducted an official inquiry into the defendants' claims of torture. Defense lawyers for the professionals told the press that the inquiry was completed but the results were not communicated to the defense. In November the seven suspects told the Sunday Times that they had signed confessions after months of torture. The torture methods they described included electric shocks, beatings, sleep deprivation, intimidation by police dogs, and forcing one female suspect to undress and threatening to insert a lighted lamp into her vagina.

These signed confessions are now the prosecution's best evidence against the suspects. The case remained pending at year's end. According to Amnesty International (AI), although the verdict was supposed to be announced in September 2001, no such action has occurred.

In 1998 152 professionals and students were arrested in Benghazi for alleged involvement with an Islamic organization not known to have used or advocated violence. An international human rights organization noted that the defendants were subjected to arbitrary arrest, torture, and ill-treatment while being held in incommunicado detention (see Sections 1.d. and 1.e.).

Prison conditions reportedly were poor. According to AI, political detainees reportedly were held in cruel, inhuman, or degrading conditions, and denied adequate medical care, which led to several deaths in custody. The Government did not permit prison visits by human rights monitors, including the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest, Detention, or Exile

By law the Government may hold detainees incommunicado for unlimited periods. Security forces arbitrarily arrested and detained citizens. The Government held many political detainees incommunicado in unofficial detention centers controlled by members of the Revolutionary Committees.

Scores of businessmen, traders, and shop owners have been arrested arbitrarily on charges of corruption, dealing in foreign goods, and funding Islamic fundamentalist groups in violation of the 1994 Purge Law. The Purge Law was established to fight financial corruption, black marketeering, drug trafficking, and atheism. "Purification" committees enforced the law.

Hundreds of political detainees, many associated with banned Islamic groups, reportedly were held in prisons throughout the country (but mainly in the Abu Salim prison in Tripoli); many have been held for years without charge. Some human rights organizations estimated this number to be as high as 2,000. Hundreds of other detainees may have been held for periods too brief (3 to 4 months) to permit confirmation by outside observers.

On February 16, a People's Court in Tripoli sentenced to death Salem Abu Hanak and Abdullah Ahmed Izzedin, 2 out of at least 152 professionals who were arbitrarily arrested in 1998 in Benghazi for involvement with Islamic organizations. Eighty-six of the 152 men were sentenced while 66 were acquitted. Those who were convicted received sentences ranging from 10 years to life imprisonment. The appeal trial opened on December 14. AI reported that lawyers for the accused were neither allowed to study their case files nor to meet with their clients. The lawyers were denied access to the court, and the judge appointed government clerks to replace them. Family members were allowed to meet the accused briefly for the first time since their arrest in April 2001, but then not again until at least December 2001 (see Sections 1.c. and 1.e.).

In May 1999, the 16 defendants of the case involving the HIV infection of nearly 400 children were kept in incommunicado detention for approximately 10 months, without access to their families or legal representation (see Sections 1.c. and 1.e.).

On September 1, the Government freed 62 political prisoners, including Muhammad Ali al-Akrami, al-Ajili Muhammad Abd al-Raham al-Azhari, Muhammad Ali al-Qajiji, Salih Omar al-Qasbi, and Muhammad al-Sadiq al-Tarhuni, who had been imprisoned since 1973 for their peaceful involvement with the prohibited Islamic Liberation Party.

On September 1, the Government pardoned 50 Egyptian prisoners and deported them to Egypt. In October the Government returned 238 Nigerian prisoners arrested in anti-African riots in July 2001 to Nigeria to serve out jail terms imposed by courts, following an appeal by the Nigerian government.

There was no information available on Abdullah Ali al-Sanussi al-Darrat, who was detained without charge and has not had a trial since 1973 (see Section 2.a.).

The Government did not impose forced exile as a form of punishment, and it continued to encourage citizen dissidents abroad to return, promising to ensure their safety. It is unclear whether such promises were honored. The Government repatriated dozens of family members of suspected citizen al-Qa'ida members from Afghanistan and Pakistan in waves throughout the year. Although the Government publicly guaranteed their safety, the likelihood of such safety remained unclear. Students studying abroad have been interrogated upon their return.

In connection with the September 2000 mob violence against sub-Saharan workers, many sub-Saharan Africans, including Chadians, Ghanaians, and Nigerians were repatriated after seeking assistance from their embassies.

e. Denial of Fair Public Trial

The judiciary was not independent of the Government, and security forces had the power to pass sentences without trial. The Government used summary judicial proceedings to suppress domestic dissent.

There were four levels of courts: summary courts, which tried petty offenses; the courts of first instance, which tried more serious crimes; the courts of appeal; and the Supreme Court, which was the final appellate level.

Special revolutionary courts tried political offenses. Such trials often were held in secret or even in the absence of the accused. In other cases, the security forces had the power to pass sentences without trial, especially in cases involving political opposition. In the past, Qadhafi has incited local cadres to take extrajudicial action against suspected opponents.

The private practice of law is illegal; all lawyers must be members of the Secretariat of Justice.

On February 16, in the trial of the 152 professionals and students who were arrested in Benghazi for alleged involvement with an Islamic organization, an international human rights organization noted that the trial was held in secret and that the judges hearing the case were not legally qualified. At the time of their arrest, the defendants were not informed of

the charges against them nor were they allowed to meet their lawyers for consultation (see Sections 1.c. and 1.d).

On February 17, the special People's Court, charged with trying 16 health professionals (9 Libyans, 1 Palestinian, and 6 Bulgarians) in 1999 for allegedly infecting 400 children with HIV, dropped the conspiracy charge and transferred the proceedings to the criminal court. The attorney defending the persons claimed he was allowed to meet with his clients twice in the 3 years since their jailing. The case was still pending at year's end (see Sections 1.c. and 1.d).

The Government held a large number of political prisoners. AI estimated that there were hundreds of persons imprisoned for political reasons; other groups put that number as high as 2,000. According to AI, in September 62 prisoners were released on the 33rd anniversary of Qadhafi coming to power.

The Government did not permit access to political prisoners by international human rights monitors.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Government does not respect the right to privacy. Security agencies often disregarded the legal requirement to obtain warrants before entering a private home. They also routinely monitored telephone calls.

The security agencies and the Revolutionary Committees oversaw an extensive network of informants; one credible foreign observer estimated that 10 to 20 percent of the population was engaged in surveillance for the Government. Exiles reported that family ties to suspected government opponents may result in harassment and detention. The Government may seize and destroy property belonging to "enemies of the people" or those who "cooperate" with foreign powers. In the past, citizens reported that the Government warned members of the extended family of government opponents that they too risked the death penalty.

The law provides for the punishment of families or communities that aid, abet, or do not inform the Government of criminals and oppositionists in their midst. The crimes include "obstructing the people's power, instigating and practicing tribal fanaticism, possessing, trading in or smuggling unlicensed weapons, and damaging public and private institutions and property." The law also provides that "any group, whether large or small," including towns, villages, local assemblies, tribes, or families, be punished in their entirety if they are accused by the General People's Congress of sympathizing, financing, aiding in any way, harboring, protecting, or refraining from identifying perpetrators of such crimes. Punishment under the Collective Punishment Law ranges from the denial of access to utilities (water, electricity, telephone), fuels, food supplies, official documents, and participation in local assemblies, to the termination of new economic projects and state subsidies. The "Code of Honor", passed by the People's General Congress in 1997, provides for collective punishment to be inflicted on the relatives of persons having committed certain crimes, normally opponents of the regime.

The 1994 Purge Law provides for the confiscation of private assets above a nominal amount, describing wealth in excess of such undetermined amounts as “the fruits of exploitation or corruption.” In 1996 the Government ordered the formation of hundreds of “Purge” or Purification Committees composed of young military officers and students. The Purification Committees reportedly seized some “excessive” amounts of private wealth from members of the middle and affluent classes; the confiscated property was taken from the rich to be given to the poor in an effort to appease the populace and to strengthen the Government’s power and control over the country. The activities of the Purification Committees continued during the year.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government severely limited the freedoms of speech and of the press. This was especially true with regard to criticism of Qadhafi or his Government. The occasional instances of criticism of political leaders and policies in the state-controlled media usually were government attempts to test public opinion or weaken a government figure who may be a potential challenger to Qadhafi. The authorities tolerated some difference of opinion in People’s Committee meetings and at the General People’s Congress.

The Government did not respond to requests on the whereabouts of the journalist Abdullah Ali al-Sanussi al-Darat, who has been detained without trial or charges brought against him since 1973 (see Section 1.d.).

In April the press announced that the Government had revoked writer Farag Sayyid Bul-Isha’s citizenship as a punishment for his participation in a program on Al-Jazeera.

The Government restricted freedom of speech in several ways: by prohibiting all political activities not officially approved; by enacting laws so vague that many forms of speech or expression may be interpreted as illegal; and by operating a pervasive system of informants that created an atmosphere of mistrust at all levels of society (see Section 1.f.).

The State owns and controlled the media. There was a state-run daily newspaper, Al-Shams, with a circulation of 40,000. Local Revolutionary Committees published several smaller newspapers. The official news agency, JANA, was the designated conduit for official views. The Government did not permit the publication of opinions contrary to its policy. Such foreign publications as Newsweek, Time, the International Herald Tribune, L’Express, and Jeune Afrique were available, but authorities routinely censored them and had the power to prohibit their entry into the market.

Technology has made the Internet and satellite television widely available in the country. According to numerous anecdotal reports, both were accessed easily in Tripoli.

The Government restricted academic freedom. Professors and teachers who discussed politically sensitive topics face the risk of government reprisal.

b. Freedom of Peaceful Assembly and Association

The Constitution does not provide for the right of assembly, and the Government severely restricted this right. Public assembly was permitted only with Government approval and in support of the Government's positions.

The Government restricted the right of association; it grants such a right only to institutions affiliated with the Government. Under the law, political activity found by the authorities to be treasonous is punishable by death. An offense may include any activity that is "opposed to the principles of the Revolution."

c. Freedom of Religion

The Government restricted freedom of religion. The country is overwhelmingly Sunni Muslim, and the leadership states publicly its preference for Islam.

In an apparent effort to eliminate all alternative power bases, the Government banned the once powerful Sanusiyya Sufi order of Islam. In its place, Qadhafi established the Islamic Call Society (ICS), which was the outlet for state-approved religion, as well as a tool for exporting the revolution abroad. The ICS also was responsible for relations with other religions, including Christian churches in the country. In 1992 the Government announced that the ICS would be disbanded; however, its director still conducted activities, suggesting that the organization remains operational. The Government heavily censored its clerics. Islamic groups whose beliefs and practices were at variance with the state-approved teaching of Islam were banned. Although most Islamic institutions were under state control, some mosques were endowed by prominent families; however, they generally followed the government-approved interpretation of Islam. Government officials repeatedly denounced militant Islam throughout the year.

Members of some minority religions were allowed to conduct services. Christian churches operated openly and were tolerated by the authorities. However, Christians were restricted by the lack of churches; there was a government limit of one church per denomination per city.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government usually does not restrict the internal movement of citizens, but it has imposed blockades on those cities and regions (primarily in the east) in which antigovernment attacks or movements originated.

The Government required citizens to obtain exit permits for travel abroad and limited their access to hard currency. A woman must have her husband's permission to travel abroad (see Section 5). Authorities routinely seized the passports of foreigners married to citizens upon their entry into the country.

The right of return exists. The Government has called on students, many of whom receive a government subsidy, and others working abroad, to return to the country on little or no notice.

The Government expelled noncitizens arbitrarily. The Government repatriated dozens of family members of suspected al-Qa'ida members from Afghanistan and Pakistan in waves throughout the year.

Following reports in October 2001 of mob violence in which 150 African workers were killed, the Government expelled hundreds of thousands of African migrants by driving them in convoys to the border with Niger and Chad and abandoning them there in the desert (see Sections 1.a., 5 and 6.e.). In February 2000, eight nationals were forcibly returned from Jordan and in July 2000 four nationals were forcibly returned from Pakistan. All were suspected of having sympathies with certain religious groups.

While the country has acceded to the 1969 Organization of African Unity Convention on refugees, it is not a signatory to the 1951 U.N. Convention relating to the Status of Refugees and its 1967 Protocol. The law does not include provisions for granting asylum, first asylum, or refugee status. The U.N. High Commissioner for Refugees (UNHCR) reported that there were approximately 33,000 refugees in the country, including 30,000 Palestinians and 3,000 Somalis. During 2001 the UNHCR assisted approximately 1,300 of the most vulnerable refugees in the country and supported income-generating programs for refugee women. The Government cooperated with UNHCR and provided free housing to approximately 850 refugees.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Government denied citizens the right to change their government. Major government decisions were controlled by Qadhafi, his close associates, and committees acting in his name. Political parties were banned. Qadhafi appointed military officers and official functionaries down to junior levels. Corruption and favoritism, partly based on tribal origin, were major problems that adversely affected government efficiency.

In theory, popular political participation is provided by the grassroots People's Committees, which are open to both men and women, and which send representatives annually to the national General People's Congress (GPC). The GPC is chosen by Qadhafi and merely approves all recommendations made by him.

Qadhafi established the Revolutionary Committees in 1977. These bodies consisted primarily of youths who guard against political dissent. Some committees have engaged in show trials of government opponents; the committees also have been implicated in the killing of opponents abroad. The committees approve all candidates in elections for the GPC.

There was no reliable information on the representation of women and minorities in the Government.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government prohibits the establishment of independent human rights organizations.

The Government created the Libyan Arab Human Rights Committee in 1989. The committee was not known to have published any reports.

The Government has not responded substantively to appeals from Amnesty International on behalf of detainees.

In June the African Union (AU) nominated the country to chair the 57th UN Commission on Human Rights (CHR). The nomination renewed international scrutiny of the country's human rights record and caused international organizations to criticize the AU for backing the country. The Government publicly dismissed criticism of its human rights record in August, issuing a statement that "respect of human rights is enshrined." In September Qadhafi's son Saif al-Islam defended the country's nomination on the grounds that chairing the CHR would influence the Government into better behavior.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution prohibits discrimination based on these factors; however, the Government did not enforce the prohibitions, particularly those against discrimination against women and tribal minorities.

Women

Although there was little detailed information regarding the extent of violence against women, it remained a problem. In general, the intervention of neighbors and extended family members tended to limit the reporting of domestic violence. Abuse within the family rarely was discussed publicly, due to the value attached to privacy in society.

Some nomadic tribes located in remote areas still practiced FGM on young girls.

Citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children (see Section 6.f.).

The 1969 Constitutional Proclamation granted women total equality. Despite this legal provision, traditional attitudes and practices prevailed, and discrimination against women persisted, keeping them from attaining the family or civil rights formally provided them. Women were reportedly prevented in practice from owning property. A woman must have the permission of her husband or another close male relative to travel abroad (see Section 2.d.).

Although their status is still not equal to that of men, the opportunity for women to make notable social progress increased in recent years. Oil wealth, urbanization, development plans, education programs, and even the impetus behind Qadhafi's revolutionary government have contributed to the creation of new employment opportunities for women. In recent years, foreign diplomats have noted a growing sense of individualism in some segments of society, especially among educated youth. For example, many educated young couples preferred to set up their own households, rather than move in with their parents, and viewed polygyny with scorn. Educational differences between men and women have narrowed.

In general, the emancipation of women is a generational phenomenon: urban women under the age of 35 tended to have more "modern" attitudes toward life; however, older urban women tended to have more traditional attitudes toward family and employment. Moreover, a significant proportion of rural women did not attend school and were inclined to instill in their children such traditional beliefs as women's subservient role in society.

Female participation in the workforce, particularly in services, has increased in the last decade. However, employment gains by women were often inhibited by lingering traditional restrictions that discourage women from playing an active role in the workplace and by the resurgence of Islamic fundamentalist values. Some observers have noted that even educated women often lacked self-confidence and social awareness and sought only a limited degree of occupational and social equality with men.

Children

The Government subsidized education (which is compulsory until age 15) and medical care, and it has improved the welfare of children; however, declining revenues and general economic mismanagement have led to cutbacks, particularly in medical services.

Sudanese girls reportedly have been trafficked and sold as slaves in the country (see Section 6.f.).

FGM was practiced on young girls.

Persons with Disabilities

No information was available on the Government's efforts, if any, to assist persons with disabilities.

National/Racial/Ethnic Minorities

Arabic-speaking Muslims of mixed Arab and Amazigh ancestry constituted 97 percent of the population. The principal minorities are Amazighs and sub-Saharan Africans. There were frequent allegations of discrimination based on tribal status, particularly against Amazighs in the interior and Tuaregs in the south. The Government manipulated the tribes to maintain a grip on power by rewarding some tribes with money and government positions and repressing and jailing members of various other tribes. The Government also has attempted to keep the tribes fractured by pitting one against another.

Foreigners constituted a significant part of the workforce. According to some estimates, there were 2.5 million foreign workers. Africans in particular have become targets of resentment in the past. In October 2001, mobs of citizens in several locations reportedly killed 150 African workers, including a Chadian diplomat. The Government dispersed the rioters, but then reportedly expelled hundreds of thousands of African workers (see Sections 1.a., 2.d., and 6.e.). In September 2000, mobs beat and killed numerous African workers and, in some cases, burned their places of residence and employment. The mobs blamed the foreign population for increased crime and the presence of HIV/AIDS in the country.

Section 6 Worker Rights

a. The Right of Association

Independent trade unions and professional associations are prohibited, and workers do not have the right to form their own unions. The Government regards such structures as unacceptable “intermediaries between the revolution and the working forces.” However, workers may join the National Trade Unions’ Federation, which was created in 1972 and is administered by the People’s Committee system. The Government prohibited foreign workers from joining this organization.

The official trade union organization played an active role in the International Confederation of Arab Trade Unions and the Organization of African Trade Union Unity. The Arab Maghreb Trade Union Federation suspended the membership of the country’s trade union organization in 1993. The suspension followed reports that Qadhafi had replaced all union leaders, and in some cases, with loyal followers without union experience.

b. The Right to Organize and Bargain Collectively

Collective bargaining does not exist in any meaningful sense, because labor law requires that the Government must approve all agreements.

The law does not provide workers with the right to strike. In a 1992 speech, Qadhafi claimed that workers were permitted to strike but added that strikes do not occur because the workers control their enterprises. There were no reports of strikes during the year.

There were no export processing zones.

c. Prohibition of Forced or Bonded Labor

Forced or bonded labor is not prohibited by law, and there was no information regarding whether the law prohibits forced or bonded labor by children or whether such practices occurred. In its 2000 report, the International Labor Organization’s (ILO) Committee of Experts stated that in the country “persons expressing certain political views or views ideologically opposed to the established political, social, or economic system may be punished with penalties of imprisonment,” including “an obligation to perform labor.” The ILO report also noted that public employees may be sentenced to compulsory labor “as a punishment for breaches of labor discipline or for participation in strikes, even in services whose interruption would not endanger the life, personal safety, or health of the whole or part of the population.”

There have been credible reports that the Government arbitrarily forced some foreign workers into involuntary military service or has coerced them into performing subversive activities against their own countries.

Despite the Penal Code's prohibition on slavery, citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children, who were captured by Sudanese government troops in the ongoing civil war in Sudan (see Section 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment of children is 18. There was no information available on the prevalence of child labor, or whether forced or bonded labor by children is prohibited or practiced (see Section 6.c.).

e. Acceptable Conditions of Work

The labor law defines the rights and duties of workers, including matters of compensation, pension rights, minimum rest periods, and working hours.

Wages, which are forbidden by the Green Book and are actually paid in the form of "entitlements" to workers, frequently were in arrears. A public sector wage freeze was imposed over a decade ago particularly in the face of consistently high inflation. According to some reports, the average family lived on \$170 (86.7 dinars) a month. Although there was no information available regarding whether the average wage was sufficient to provide a worker and family with a decent standard of living, the Government heavily subsidized rent, utilities, oil, and every day food staples such as flour and sugar. The legal maximum workweek is 48 hours.

Labor inspectors are assigned to inspect places of work for compliance with occupational health and safety standards. Certain industries, such as the petroleum sector, attempted to maintain standards set by foreign companies. There was no information regarding whether a worker may remove himself from an unhealthy or unsafe work situation without risking continued employment.

Although foreign workers constitute a significant percentage of the work force, the Labor Law does not accord them equality of treatment. Foreign workers were permitted to reside in the country only for the duration of their work contracts and could not send more than half of their earnings to their families in their home countries. They were subject to arbitrary pressures, such as changes in work rules and contracts, and had little option but to accept such changes or to depart the country. Foreign workers who were not under contract enjoyed no protection.

In 1997 the U.N. Committee on Economic, Social, and Cultural Rights cited inadequate housing, threats of imprisonment to those accused of disobeying disciplinary rules, and accusations of causing a variety of societal problems as some of the problems in the Government's treatment of foreign laborers.

The Government used the threat of expulsion of foreign workers as leverage against countries whose foreign policies ran counter to the Government's.

In October 2001, mobs of citizens in several locations reportedly killed 150 African workers, leading to the deportation of hundreds of thousands of African workers by the Government (see Sections 1.a., 2.d., and 5). The violence followed similar attacks on African workers in September 2000.

f. Trafficking in Persons

There was no information available regarding whether the law specifically prohibits trafficking in persons. However, the offenses of prostitution and related offenses, including sexual trafficking are illegal in the Penal Code.

There have been reports of trafficking in persons. The country was a place of transit for women trafficked from Africa to central Europe, and there were reports that Sri Lankan women were transported through the country as well. In August 2001, Senegalese authorities detained 100 young Senegalese women from boarding a charter flight to the country. According to a media report, in September 2001 two French nationals of Senegalese origin were arrested and charged with organizing international prostitution. There were reports that these women were being sent to the country to work as prostitutes.

Citizens have been implicated in the purchase of Sudanese slaves, mainly southern Sudanese women and children, who were captured by Sudanese Government troops in the ongoing civil war in Sudan (see Section 6.c.).

Removing Restrictions on U.S.-Libyan Relations

As discussed in the foregoing sections, Libya is subject to one of the strictest U.S. sanctions regimes currently in place. Should there be a political decision to improve relations with Libya, applicable sanctions and other restrictions would need to be removed in order to allow for normal U.S.-Libyan commerce, U.S. investment in Libya, U.S. support for international development assistance, cultural linkages and travel to Libya with a U.S. passport. The purpose of this essay is therefore to outline how existing restrictions on U.S.-Libyan relations might indeed be eliminated under the appropriate circumstances and at an appropriate time.

I. The Big Picture

In theory and often in practice, the Executive branch has considerable discretion in removing U.S. sanctions against any country, Libya included, if and when it decides to do so. Indeed, most U.S. sanctions against Libya were created by Executive Orders, which could be superseded and invalidated through issuance of one new Executive Order, designed for that purpose. However, a sweeping lifting of sanctions is more likely to occur within the overall political context of improving relations, and with a consensus in Congress that the sanctions regime ought to be “unwound”. For though many sanctions in place against Libya do not require Congressional approval to be lifted *de jure*, Congress can always act against the wishes of the Administration on other issues, making tacit legislative consent on such matters a *de facto* necessity. This is especially so in the case of Libya, given that many members of Congress consider prohibitive the remaining issues surrounding the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. It is therefore reasonable to posit that the questions of Libyan acceptance of responsibility and payment of compensation for the bombing will have to be fully resolved before other steps will be taken to improve relations and lift sanctions.

As a practical matter, once there is a decision by government to lift sanctions, the process of so doing can be completed fairly rapidly. Within less than one year of the fall of the Taliban regime in Afghanistan, the Bush Administration had lifted virtually all U.S. sanctions against the country – most of which had been imposed during the Taliban era itself, though some were hold-overs from the Soviet occupation period (1979 to 1989). It should be noted, however, that the Afghan case differs slightly from that of Libya because the lifting of some sanctions against Qadhafi’s regime would require congressional approval (i.e. those linked to Libya’s presence on the terrorism list). No similar degree of Congressional concurrence was required to lift sanctions against Afghanistan.

Some experts believe that a comprehensive settlement between Libya and the Pan Am 103 victims’ families could create a climate in which U.S. and UN sanctions against Libya would be lifted. Press reports say that Libya has taken the preliminary steps necessary to compensate the families of the Pan Am 103 bombing victims with up to \$10 million per

victim.¹ While such a settlement could quite possibly lead to an easing of most U.S. sanctions on Libya, many doubt that there would be a full normalization of relations as long as Muammar Qadhafi remains in power.

This section will focus first and foremost on how an outright repeal or removal of the various sanctions in place against Libya could take place, rather than temporary waivers of sanctions. Of those sanctions that are contained in laws passed by Congress, virtually all have provisions for waiver in selected cases. A sanction can be waived on certain grounds, and in certain cases, but it remains in effect.

II. Permanent Lifting of UN Sanctions

Section 9 of this compendium discusses the requirements of UN Security Council resolutions pertaining to the Pan Am 103 bombing (and, to some extent, to the bombing of UTA flight 772). The payment of compensation to the families of the victims would not, in and of itself, fulfill the remaining requirements. These include Libya's renunciation of all ties to terrorist groups, which many experts believe it has done, and the acceptance of responsibility for the actions of Libyan officials (in this connection), which is the subject of on-going and difficult negotiations. However, some experts believe that a compensation deal acceptable to the Pan Am 103 bombing victims' families would set in motion a process that would eventually lead to a statement of responsibility and U.S. concurrence at the United Nations for the permanent lifting of the sanctions contained in resolutions 731, 748 and 883.

As noted previously, UN sanctions against Libya are already in suspension. Therefore, UN Security Council agreement to make the lifting of UN sanctions permanent would have no practical effect. However, the settling of this longstanding issue would likely create a more favorable climate in the United States for undertaking the steps needed to lift U.S. *unilateral* sanctions.

In addition, the formal end to UN sanctions on Libya resulting from a settlement of the remaining issues surrounding the bombing of Pan Am flight 103 could directly trigger the end of at least one major set of U.S. sanctions – those contained in the Iran-Libya Sanctions Act (ILSA). As noted in this compendium, Section 8 of the Iran-Libya Sanctions Act states that ILSA sanctions terminate for Libya “if the President determines and certifies” to the appropriate Congressional committees that Libya has fulfilled the requirements of the three UN Security Council resolutions related to the Pan Am 103 bombing – resolutions 731, 748 and 883. Presumably (though not necessarily), a UN Security Council decision that Libya has complied with all remaining requirements would trigger the aforementioned presidential determination and certification – and therefore ILSA would terminate with respect to Libya.

¹ For further information, see another study by the Atlantic Council: *U.S.-Libyan Relations: Toward Cautious Reengagement*, Policy Paper, April 2003. Page 12.

III. Lifting Restrictions on U.S. Trade, Aid and Investment

If there were an Administration decision to normalize U.S. relations with Libya, there are a number of significant steps that would need to be taken to regularize commercial interactions between the two countries. One of the most important steps would be the issuance of an Executive Order repealing Executive Orders 12543 and 12544, which ban U.S. trade with Libya, prohibit U.S. investment in Libya and block Libyan property in the United States (see sections 1, 2 and 3 of this compendium). These are broad sanctions, and highly indicative of the adversarial U.S. relationship with Libya during the 1980s and 1990s, though they are also among the easiest to unwind, should a U.S. administration decide to do so.

In addition to opening more normal trade relations, the repeal of the two Executive Orders would allow U.S. companies to resume operational control of their existing assets in Libya. This demonstrates the substantial discretion the Executive branch has to enable U.S. energy companies to resume operations in Libya. With U.S. government approval, several U.S. oil companies entered into standstill agreements with the Libyan National Oil Corporation (NOC) to hold their property rights in abeyance from 1986 until June, 1989. These U.S. concession-holders continue to honor U.S. government policy and Libya continues to honor the standstill agreements.

Alternatively, Executive Orders 12543 and 12544 can be modified piecemeal, to gradually broaden commerce between the United States and Libya. As noted earlier in the compendium (section 2), the trade ban was modified by a July 1999 Executive Order to allow for commercial sales to Libya (and Iran and Sudan) of food and medical products. This was done by amending the Libyan Sanctions Regulations, and did not require explicit approval from Congress.

IV. Removing Economic Sanctions Imposed by the “Terrorism List”

A more substantial broadening of U.S. economic relations with Libya would result from its removal from the terrorism list. The sanctions that affect Libya under the Arms Export Control Act, the Export Administration Act, and the Antiterrorism and Effective Death Penalty Act of 1996 are not imposed on Libya specifically, but rather on all countries appearing on the Department of State list of state sponsors of terrorism. In fact, the latter law provides not only for sanctions against the terrorism list countries themselves but it also imposes “secondary sanctions” against countries and foreign entities that assist or sell arms to countries on the terrorism list.

By all indications, Libya has changed its policy on terrorism. In recent years official U.S. statements and publications have confirmed as much, pointing toward improved Libyan behavior regarding terrorism. For example, the State Department’s Patterns of Global Terrorism reports no longer assert any use of terror by the government of Libya or any Libyan support for terrorist organizations. Libya expelled the Abu Nidal Organization, closed down terrorist training camps and instituted visa restrictions that indicate that Libya no longer provides a safe haven for such groups. By 1998, the State Department annual

report concluded “Libya has not been implicated in any international terrorist act for several years.” Subsequent reports are consistent with this conclusion and note Libya’s more constructive roles in fighting terrorism. They also indicate that the main reason Libya remains on the list of state sponsors of terrorism is that the Pan Am 103 bombing has not yet been completely resolved. (See section 12 for the Libya section of the most recent Patterns of Global Terrorism report, released on 30 April 2003.) It is therefore possible that, in the course of satisfying the requirements for the permanent lifting of UN sanctions, Libya might also be removed from the U.S. terrorism list by the State Department.

Removing a Country from the Terrorism List

Should an Administration decide to remove Libya (or any country) from the terrorism list, the statutes governing such removal give Congress a formal role in reviewing the decision, and, in so doing, raise the threshold for any Administration to take that step. The requirements for removal from the terrorism list are spelled out in the Arms Export Control Act and are discussed below (see section 6 of this compendium for the text of that law).

The Arms Export Control Act (Section [f], “Rescission”) spells out two circumstances for removal – one in which the terrorism list country’s regime has changed, and one in which it has not. If a terrorism list country’s regime has changed, the President can remove a country from the list immediately, by providing a report to Congress, “...that there has been a fundamental change in the leadership and policies of the government of the country concerned; that [the new] government is not supporting acts of international terrorism; and that [the new] government has provided assurances that it will not support acts of international terrorism in the future...”

If there has not been a regime change, the President must submit a report to Congress at least *45 days before the removal would take effect*, certifying, “...that the government concerned has not provided any support for international terrorism during the preceding 6-month period; and [that] the government concerned has provided assurances that it will not support acts of international terrorism in the future.”

Moreover, according to the Arms Export Control Act, when there has not been a regime change, the 45-day delay to remove a country from the list gives Congress the opportunity to pass a joint resolution blocking the removal. A joint resolution must be passed in the exact same form in both chambers to be presented for presidential signature. The President has the option of vetoing the joint resolution. If the veto is sustained, then the country concerned is removed from the terrorism list. If the veto is overridden (requiring a two-thirds vote in favor of the joint resolution in both chambers), then Congress has blocked the country’s removal from the list.

Congressional Approval

As noted above, Congressional concurrence is required to remove Libya from the terrorism list, and a resolution of the Pan Am 103 case would not automatically imply that Libya has met the requirements for removal – although it would certainly represent an important step.

As also noted above, the requirements for removal refer largely to promises and assurances that a terrorism list country will not sponsor acts of terrorism in the future; they do not require explanation or compensation for acts of terrorism it might have sponsored in the past.

Congressional report language provides criteria for a state to remain on the terrorism list. As contained in a House Foreign Affairs Committee report in 1989 (H.Rept. 101-296) and a Senate report (S.Rept. 101-173), the criteria are that the state in question:

- Allows its territory to be used as a sanctuary for terrorists;
- Furnishes lethal substances to individuals or groups with the likelihood they will be used for terrorism;
- Provides logistical support to the group or individual terrorists;
- Provides safe haven or headquarters to terrorists or their groups;
- Plans, directs, trains, or assists in the execution of terrorist acts;
- Provides direct or indirect financial support for terrorist activities; and
- Provides diplomatic facilities such as support or documentation to aid or abet terrorist activities.

Section (d) of the Arms Export Control Act adds a criterion. A country can be placed on the terrorism list if it "...willfully aid[s] or abet[s] the international proliferation of nuclear explosive devices to individuals or groups or willfully aid[s] or abet[s] an individual or groups in acquiring unsafeguarded special nuclear material."

As a measure of how difficult it is to reach a decision to remove a country from the terrorism list, it should be noted that Iraq (in 1982) was the only country ever to be removed through the established procedures discussed below. (South Yemen was deleted from the list in 1990 when the two Yemens merged, on the grounds that the country no longer existed.) Iraq was restored to the terrorism list following its invasion of Kuwait on August 2, 1990.

V. Providing U.S. Foreign Aid

Removal from the terrorism list would begin paving the way for Libya to receive U.S. foreign assistance under the Foreign Assistance Act. However, in order to allow the President to provide foreign aid to Libya, Congress would also need to delete Libya from a list of countries barred from receiving U.S. assistance, which is contained in successive foreign aid appropriations laws. Congress could do so when it acts on foreign aid appropriations for any subsequent fiscal year, simply by omitting Libya from the list of countries named as barred from receiving aid in the appropriate section. Naming Libya among a list of countries sanctioned (and in various sections of recent foreign aid appropriations laws), has been the mechanism by which Congress and successive Administrations have barred Libya from indirect and direct U.S. assistance. Libya's presence on this list also obliges the United States to withhold a proportion of its donations to

international programs that operate in Libya (See Section 2227 of the Foreign Assistance Act of 1961).

In the case of recent foreign aid appropriations, the direct and indirect assistance sanctions have been applied to Libya and the rest of the countries on the terrorism list. *However, these laws name the terrorism list countries specifically – they do not apply sanctions to “countries on the terrorism list” per se.* Consequently, if Libya continues to be named specifically in these pieces of legislation, Libya’s removal from the terrorism list would not lead to the lifting of these sanctions. In the case of the sanction which withholds proportional funds from international programs (Section 2227 of the Foreign Assistance Act of 1961), Libya is named specifically, along with Burma, Cuba, Iran, Iraq, North Korea, Syria and the Palestine Liberation Organization, as subject to that sanction.

Revocation of the withholding of a portion of U.S. contributions to programs that work in Libya (the Section 2227 sanction) is somewhat more difficult, because that is a section of permanent law. It is thus unlike the foreign aid appropriation legislation discussed above, which is rewritten each year. To remove this sanction in the Foreign Assistance Act, another piece of legislation, perhaps a section of a foreign aid or other bill, would have to amend the relevant part(s) of the Foreign Assistance Act by deleting Libya from the list of countries named in Section 2227. (It should be noted that this particular sanction does not affect Libya directly – it affects the international programs, such as UN programs, that work in Libya. Section 2227 reads, “...none of the funds authorized to be appropriated by this part shall be available for the United States proportionate share for programs for Burma, Iraq, North Korea, Syria, Libya, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it, or at the discretion of the President, Communist countries listed in section 2370[f] of this title.”) This sanction does not, however, apply to contributions to the International Atomic Energy Agency or to UNICEF.

It should be noted that removal from the terrorism list – and the elimination of the other restrictions on aid to Libya imposed by Congress, as noted above – would *open* Libya to U.S. assistance, but would not *require* aid to be provided. Many observers believe that, if Qadhafi remains in power, only a dramatic improvement in U.S.-Libyan relations would cause an Administration to request that Congress appropriate U.S. foreign aid to Libya.

VI. U.S. Support of International Lending to Libya

Removal of Libya from the terrorism list would eliminate the legal requirement that the United States vote against international lending to Libya. The current requirement to vote against international lending to terrorism list countries is imposed by Section 1621 of the International Financial Institutions Act (22 U.S.C. 262c et.seq.). That section was added by the Antiterrorism and Effective Death Penalty Act of 1996 (see page 36 of this compendium). It applies to loans from the International Bank for Reconstruction and Development (World Bank), the International Development Association, the International Monetary Fund (IMF), the Inter-American Bank, the Asian Development Bank, the African

Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

Removing the legal restriction requiring the United States to vote against international lending to Libya does not necessarily mean that an Administration would then begin to support lending to Libya. Any Administration could still vote against such lending without a legal requirement to do so.

VII. Arms and Technology Sales

Libya's removal from the terrorism list would also ease the licensing requirements for exports of U.S. technology to Libya. However, it is probable that any Administration would ensure that Libya does not receive weapons of mass destruction (WMD)-useful technology from U.S. firms.

Even if Libya were removed from the terrorism list proper, some sanctions triggered by placement on the list would nonetheless remain in force because they are also imposed under other auspices (i.e. in the Antiterrorism and Effective Death Penalty Act). The sanctions provisions of that law would have to be rendered inapplicable in order for the Administration to sell U.S. arms to Libya. Specifically, Libya would have to be removed from a list of countries established by Section 330 of the Antiterrorism Act. That section reads, "No defense article or defense service may be sold or licensed for export under this Act in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts." This list is commonly referred to as the "not cooperating list".

It is fairly easy for an Administration to remove a country from the list of those not cooperating fully with U.S. antiterrorism efforts; the Administration would simply have to delete the country in question from the list when it is submitted to Congress each May 15th. For example, Afghanistan was opened to U.S. arms sales when it was left off the list submitted to Congress on May 15, 2002. Otherwise, the President may choose to waive the prohibition with respect to a specific transaction on national security grounds, as outlined in the Act.

However, even if Libya were removed from both the terrorism list and the "not cooperating list" it might, under certain circumstances, still be barred from purchasing U.S. arms under another law, the Foreign Relations Authorization Act for FY 1994 - 1995 (P.L. 103-236). Section 563 prevents such sales to any country that sends letters to U.S. firms requesting their compliance with the primary and secondary Arab League boycott of Israel, or that solicits information from U.S. firms about their compliance with the boycott. Because Libya has done virtually no business with U.S. firms for many years, and has therefore had little cause to solicit such information from U.S. firms, it is possible that this sanction would not be applied. If it were deemed to apply, and the Administration wanted to sell arms to Libya, the President could waive the restrictions imposed by this law, as has happened in the case of numerous arms sales to the Persian Gulf states.

The issue of possible U.S. arms sales to Libya is nevertheless highly sensitive and contentious. It is therefore likely that, for quite some years after the resolution of the remaining issues surrounding the bombing of Pan Am flight 103, no U.S. Administration would propose any arms sales to Libya, even if all U.S. sanctions were removed, technically permitting such sales to take place. Arms sales generally suggest and reflect close political relations, and it is highly doubtful that any Administration would take such a step if Muammar Qadhafi were still in power.

VIII. Allowing People-to-People Contacts

A key component of the process of normalizing relations is the facilitation of cultural exchanges, educational exchanges, tourism, and other forms of people-to-people contacts. Such exchanges often lead to Track II efforts to discuss outstanding intergovernmental issues and to ease movement toward formal diplomatic ties. These exchanges are currently hindered by a restriction on the use of U.S. passports for travel to Libya. The restriction was imposed by the Reagan Administration in 1981 by Executive Order, pursuant to the authority laid out in 22 U.S.C. 211a. Under this section of U.S. code, a passport restriction for travel to a country can be imposed if the United States is at war with that country, if hostilities are in progress, or “where there is imminent danger to the public health or the physical safety of United States travelers.” This restriction can be revoked by a new Executive Order or by an administrative determination that the conditions triggering the passport restriction are no longer present.

Successive administrations have maintained that this restriction is not an economic “sanction” *per se*, though its continuation after an end to U.S. economic sanctions would clearly indicate that U.S.-Libyan relations have not returned to normal. If U.S.-Libyan relations do improve, this is likely to be one of the first “sanctions” or restrictions that is lifted. In fact, the Clinton Administration considered removing the restriction and sent a diplomatic security team to Libya in March, 2000 to evaluate whether or not there existed a continuing danger to U.S. travelers to Libya. The results of the visit were not made public, although some press reports indicated that the team did not find that U.S. travelers to Libya would face a unique danger. It was also reported that some Pan Am 103 bombing victims’ families would have viewed the lifting of the restriction as an unwelcome overture to Libya. In the end, of course, the Clinton Administration decided not to terminate the passport restriction.

This case demonstrates that, although the administrative authority for the passport restriction is narrow – and would appear to hinge on objective appraisal of the security environment in Libya – it is the overall context of U.S.-Libyan relations that will likely determine whether or how quickly restrictions on the use of U.S. passports for travel to Libya will indeed be lifted.

IX. Normalizing Relations

Although the steps discussed above, if taken, would lead to a return to normal commercial relations between the United States and Libya, additional steps would be needed to establish a state of “normal” relations. One major hallmark of normalization would be the restoration of diplomatic relations. Diplomatic relations were broken in 1981 as the confrontation was beginning to escalate.

Should a President choose to do so, he or she would have near total discretion on how to proceed in restoring diplomatic relations. In many cases, moves to restore relations are gradual. After Libya turned over the Pan Am 103 suspects for trial, President Clinton decided to begin an official dialogue with Libya to discuss a possible Pan Am 103 compensation deal along with other terrorism-related issues. Meetings between U.S. and Libyan officials on these issues have taken place periodically in London. As a next step in the process of restoring relations, a U.S. Administration might appoint U.S. officials to open and staff an interest section in Tripoli. Such an office would perhaps remain limited at first to consular officers charged with processing visas for Libyans seeking to travel to the United States. Later, as part of a broadening of relations, an Administration could begin staffing with political and economic officials a separate Embassy in Libya, leading up to the eventual appointment of a full Ambassador to a restored U.S. Embassy. Libya could be permitted to take reciprocal steps as regards its diplomatic representation in Washington.

Any U.S. decision to establish diplomatic representation in Libya would require Libyan concurrence. However, such a move would be widely considered only a bureaucratic formality, because Libya has said it is anxious to reestablish relations with the United States. Its apparent decision to settle the remaining issues surrounding the bombing of Pan Am flight 103 would seem to reflect Libya’s desire to move relations forward.

Congress’ ability to block such steps appears to be limited. An attempt by Congress to legislatively prevent a President from establishing (or reestablishing) full diplomatic relations with any country, including Libya, is likely to falter on constitutional grounds. Administrations have been successful in arguing that such Congressional moves constitute an encroachment on Executive prerogative.

X. Resolution of Assets Issues

In the case of Libya, the issue of blocked assets is almost certain to need resolution as part of any move to normalize diplomatic relations. Currently, \$1.182 billion worth of Libyan assets, mostly bank deposits, is blocked in U.S. banks. An additional \$5.3 million worth of deposits is blocked in foreign branches of U.S. banks. The U.S. government has less control over these deposits than it does over deposits blocked in the United States itself. According to the Treasury Department’s report for 2001 on “Terrorist Assets”, “...third party interests exist in a substantial portion of...[Libyan] assets.” That probably refers to commercial disputes related to the pullout of U.S. companies from Libya.

According to many experts, a President has substantial discretion to unblock and return blocked assets to a subject country, even if there are third party interests in those assets. The return of assets generally accompanies an overall political settlement between the United States and the subject country. For example, substantial frozen Iranian assets were returned to Iran in conjunction with the 1981 “Algiers Accords” that settled the Iran hostage crisis. In the case of Libya, the President could decide to return blocked Libyan assets in conjunction with a compensation deal on the Pan Am 103 issue, or in the course of reestablishing diplomatic relations with Libya. Because of the “third party interests” in Libya’s assets, it is also possible that the President would try to keep these assets blocked, even if he or she were to decide to move forward with Libya on the diplomatic track.

Recent legislation could make the return of Libyan assets somewhat more difficult. The 1996 Antiterrorism and Effective Death Penalty Act allows victims of terrorist acts to sue countries on the State Department’s terrorism list for punitive and compensatory damages. The 2002 “Terrorism Risk Insurance Act” (P.L. 107-297) makes the frozen assets of terrorism list countries available to satisfy judgments against those countries in terrorism-related law suits. At this time, no judgments against Libya in any terrorism-related law suits have been rendered, and thus Libyan assets are not currently subject to the provisions of the Terrorism Risk Insurance Act. However, any future such judgments against Libya could trigger the related provisions and thereby complicate any future negotiations on the return of blocked assets to Libya.²

It is also possible that the United States and Libya, in the process of normalization, would decide to form a tribunal similar to the U.S.-Iranian Claims Tribunal. Depending on the terms of reference for the tribunal, a decision to create one could make disputes over Libyan (and U.S.) assets subject to arbitration. One possibility is that Libyan assets in the United States would be unblocked and placed into an escrow account, with any proceeds released to Libya, net of all deductions to pay successful claimants, once all disputes were resolved by the claims tribunal.

Complicating the issue, however, is the possibility that any moves to attach Libyan assets would trigger claims by Libyans against the United States for losses suffered as a result of the U.S. bombing of Libya in 1986, military clashes in the Gulf of Sidra (when U.S. ships and aircraft challenged Libyan sovereignty claims), or other grievances. Thus the claims and assets issue could easily degenerate into a vicious cycle – including the kinds of recriminations and confrontations that have characterized U.S.-Libyan relations in the past. Such a development would encumber, if not negate, recent and possible future initiatives to resolve old disputes and pursue common interests.

² Much of the information in this section is taken from CRS Report RL31258, *Suits Against Terrorist States By Victims of Terrorism*, by David M. Ackerman. It was last updated on 5 December 2002.

Index of Topics

Diplomatic Relations

- Section 9*: UN Security Council Resolution 748; Sect. 6(a) and UN Security Council Resolution 883; Sect. 7.....62, 67
- Removing Restrictions on U.S.-Libyan Relations; Sect. II, IX..... 144, 151

Economic Sanctions

Agricultural Products

- Section 1*: Executive Order 12543; Sect. 1(b)..... 3
- Section 2*: Federal Register: Rules and Regulations (Volume 64, Number 147) 31 CFR; Part 538, 550, 560 6
- Section 4*: Foreign Assistance Act of 1961; Sect. 2371 10
- Section 11*: Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.202, 550.405, 550.569-573, Appendix A, Appendix B 85, 95, 111-116, 121-122

Arms Sales

- Section 6*: The Arms Control Act (22 U.S.C.); Sect. 2780..... 18-24
- Section 9*: UN Security Council Resolution 748; Sect. 5 62
- Section 11*: Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.202..... 85
- Removing Restrictions on U.S.-Libyan Relations; Sect. II, VII 144, 149-150

Blocked Libyan Property and Assets

- Section 3*: Executive Order 12544 8
- Section 9*: UN Security Council Resolution 883; Sect. 3, 4 66
- Section 11*: Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.209, 550.210, 550.212, 550.313-320, 550.405, 550.413, 550.417-418, 550.511, 550.513, 550.568, 550.571(c) 87-89, 92-95, 99, 100, 104-106, 109-111, 114
- Removing Restrictions on U.S.-Libyan Relations; Sect. II, III, X 144-145, 151-152

Export Restrictions (From the United States to Libya)

- Section 1*: Executive Order 12543; Sect. 1(b)..... 3

<i>Section 4:</i> Foreign Assistance Act of 1961; Sect. 2371(a).....	10
<i>Section 6:</i> The Arms Control Act (22 U.S.C.); Sect. 2780.....	18-24
<i>Section 9:</i> UN Security Council Resolution 883; Sect. 4, 5, Annex	66, 68-69
<i>Section 11:</i> Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.202, 550.404-406, 550.409-411, 550.414-415, 550.418, 550.422, 550.504, 550.517, 550.569-573, 550.701-706, 550.801, Appendix B	85, 95-98, 99, 101-103, 106-107, 111-118, 119, 122
Removing Restrictions on U.S.-Libyan Relations; Sect. II, III, VII	144-145, 149-150

Export Restrictions (From Libya via U.S. Person)

<i>Section 1:</i> Executive Order 12543; Sect. 1(d).....	3
<i>Section 4:</i> Foreign Assistance Act of 1961; Sect. 2371(a).....	10
<i>Section 11:</i> Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.204, 550.406, 550.409, 550.414.....	86, 96, 97-98, 99
Removing Restrictions on U.S.-Libyan Relations; Sect. II, III.....	144-145

Financial Transactions

<i>Section 1:</i> Executive Order 12543; Sect. 1(f).....	3
<i>Section 5:</i> Foreign Operations, Export Financing, and Related Programs Appropriations Act; Sect. 507, 523.....	16
<i>Section 6:</i> The Arms Control Act (22 U.S.C.); Sect. 2780(a)(2).....	18
<i>Section 7:</i> Antiterrorism and Effective Death Penalty Act of 1996; Sect. 321.....	33-34
<i>Section 8:</i> The Iran-Libya Sanctions Act; Sect. 6.....	46-47
<i>Section 11:</i> Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V), Sect. 550.209-210, 550.405-406, 550.413, 550.417, 550.419-420, 550.501, 550.511-513, 550.520, 550.568, 550.571.....	87-89, 95-96, 99-107, 109-111, 114-115
Removing Restrictions on U.S.-Libyan Relations; Sect. II, III, IV	144-147

Foreign Aid Funding

<i>Section 4:</i> Foreign Assistance Act of 1961; Sect. 2371(a).....	10
<i>Section 5:</i> Foreign Operations, Export Financing, and Related Programs Appropriations Act; Sect. 507, 523.....	16
<i>Section 7:</i> Antiterrorism and Effective Death Penalty Act of 1996; Sect. 325.....	34-35
Removing Restrictions on U.S.-Libyan Relations; Sect. III, V.....	145, 147-148

Humanitarian Aid

- Section 1:* Executive Order 12543; Sect. 1(b)..... 3
- Section 4:* Foreign Assistance Act of 1961; Sect. 2371(d) 11
- Section 8:* The Iran-Libya Sanctions Act; Sect 5(f)(7) 46
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.202, 550.405.....85, 95

Import Restrictions

- Section 1:* Executive Order 12543; Sect. 1(a) 3
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.201, 550.404, 550.406-408, 550.410, 550.416, 550.503, 550.505-509, 550.702, 550.80385, 95-96, 98, 100, 103-104, 117, 119-120
- Removing Restrictions on U.S.-Libyan Relations; Sect. III, IV 145-147

Labor Prohibition (U.S. Person)

- Section 1:* Executive Order 12543; Sect. 1(e) 3
- Section 6:* The Arms Control Act (22 U.S.C.); Sect. 2780(b)..... 19-20
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.207, 550.422, 550.517..... 86, 101-102, 106-107

Medical Products

- Section 1:* Executive Order 12543; Sect. 1(b)..... 3
- Section 2:* Federal Register; Rules and Regulations (Volume 64, Number 147) 31 CFR; Part 538, 550, 560 (and 15 CFR Part 744, Supplement no. 1)..... 6
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.202, 550.405, 550.569, 550.571, 550.573, Appendix B 85, 95, 111-112, 114-116, 122

Regulations Governing the Application of Sanctions

- Section 5:* Foreign Operations, Export Financing, and Related Programs Appropriations Act; Sect. 507, 523..... 16
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550 81-122

Secondary Sanctions against Countries Engaged in Military Trade with Terrorist States

- Section 7:* Antiterrorism and Effective Death Penalty Act of 1996; Sect. 325-326..... 34-36
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.408-409 96-98

Secondary Sanctions against Foreign Firms Engaged in Prohibited Trade with Libya

- Section 8:* The Iran-Libya Sanctions Act; Sect. 5-9 43-49
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.408-409 96-98

UN Sanctions

- Section 8:* The Iran-Libya Sanctions Act; Sect. 2-3, 5(b)(1) 41-42, 43-44
- Section 9:* Pan Am Flight 103-Related UN Security Council Resolutions 59-73
- Removing Restrictions on U.S.-Libyan Relations; Sect. II 144

Human Rights

- Section 13:* 2002 Department of State Country Reports on Human Rights Practices: Libya 127-141

International Organizations***International Financial Institutions***

- Section 4:* Foreign Assistance Act of 1961; Sect. 2227 11-13
- Section 5:* Foreign Operations, Export Financing, and Related Programs Appropriations Act; Sect. 507, 523 16
- Section 7:* Antiterrorism and Effective Death Penalty Act of 1996; Sect. 327 36
- Section 9:* UN Security Council Resolution 883; Sect. 12 68
- Removing Restrictions on U.S.-Libyan Relations; Sect. IV, VI 145-147, 148-149

Legal Action***Civil Suits against Terrorist States***

- Section 7:* Antiterrorism and Effective Death Penalty Act of 1996; Sect. 221, 232 27-31
- Removing Restrictions on U.S.-Libyan Relations; Sect. IV 145-147

Criminal Prosecution of U.S. Persons Engaged in Trade with Terrorist States

- Section 7:* Antiterrorism and Effective Death Penalty Act of 1996; Sect. 321 33-34
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31, Chapter V); Sect. 550.701-706 116-118

Terrorism

State Sponsorship of Terrorism

- Section 4:* Foreign Assistance Act of 1961; Sect. 2371(a)-(d) 10-11
- Section 7:* Antiterrorism and Effective Death Penalty Act of 1996; Sect. 221(a),
324-327, 330 27-29, 34-36, 38
- Section 12:* Libya Section of 2002 State Department “Patterns of Global
Terrorism” Report 123-125

Pan Am 103

- Section 9:* Pan Am Flight 103-Related UN Security Council Resolutions 59-73
- Section 12:* Libya Section of 2002 State Department “Patterns of Global
Terrorism” Report; Sect. Libya 124-125
- Removing Restrictions on U.S.-Libyan Relations; Sect. II 144

Travel Restrictions

U.S. Persons & Air Traffic

- Section 1:* Executive Order 12543; Sect. 1(c), 1(g) 3-4
- Section 9:* UN Security Council Resolution 748; Sect. 4 and UN Security Council
Resolution 883; Sect. 6 62, 66-67
- Section 10:* Restriction on the Use of U.S. Passports for Travel to Libya 76-79
- Section 11:* Libyan Sanctions Regulations, Code of Federal Regulations (Title 31,
Chapter V); Sect. 550.203, 550.207, 550.560, 550.573 86, 108-109, 116
- Removing Restrictions on U.S.-Libyan Relations; Sect. II, III, VIII 144-145, 150

Weapons of Mass Destruction (WMD)

- Section 4:* Foreign Assistance Act of 1961; Sect. 2227(c) 12-13
- Section 6:* The Arms Control Act (22 U.S.C.); Sect. 2780 18-24
- Section 8:* The Iran-Libya Sanctions Act; Sect. 2(4), 3(b) 41-42
- Removing Restrictions on U.S.-Libyan Relations; Sect. VII 149-150

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