



# Sudan: Economic Sanctions

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## Summary

The United States maintains a range of economic sanctions on the Government of Sudan. The United States generally restricts foreign aid because Sudan has been found, by the Secretary of State, to be a supporter of acts of international terrorism, is operating under a military dictatorship, and has fallen into arrears in its debt repayment. The United States has also suspended bilateral preferential trade treatment, restricted commercial exports and imports, denied the export of defense articles and defense services, and refused to support requests from Sudan for funding or program support in the international financial institutions for reasons related to terrorism, regional stability, and human rights—including religious freedom, worker rights, and trafficking in persons.

Notwithstanding the restrictions, the Congress has made an effort to hone the economic sanctions imposed against Sudan to distinguish between the Government of Sudan and the people of the country, to relieve the latter from sanctions' sting. In 2000, legislation was enacted to allow foreign aid to Sudan if it would be applied to nongovernmental efforts “to provide emergency relief, promote economic self-sufficiency, build civil authority, provide education, enhance rule of law and the development of judicial and legal frameworks, support people-to-people reconciliation efforts, or implement any program in support of any viable peace agreement....” [§ 501 of the Assistance for International Malaria Control Act].

With Secretary of State Powell's assessment that genocide has been committed in the Darfur region of west Sudan, stated before the Committee on Foreign Relations on September 9, 2004, and with continuing reports of extreme violence committed against the civilian population of Darfur, and against those who have fled that region to take up shelter in refugee camps along the Sudan/Chad border, the United States must consider its relationship with Sudan, the effectiveness and impact of economic assistance to Sudan, the appropriateness and impact of economic sanctions, and the nexus of the two. Especially as it states the case of genocide before the United Nations, which has not found the condition of “genocidal intent” among the perpetrators of the violence, a new assessment of the use of economic sanctions might be timely.

This report describes U.N. actions and U.S. economic sanctions currently in place on Sudan, and the exceptions to those sanctions. It will be updated as events warrant.

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## Background

The United States maintains a range of economic sanctions on the Government of Sudan.<sup>1</sup> The United States generally restricts foreign aid because Sudan has been found, by the Secretary of State, to be a supporter of acts of international terrorism, is operating under a military dictatorship, and has fallen into arrears in its debt repayment. The United States has also suspended bilateral preferential trade treatment, restricted commercial exports and imports, denied the export of defense articles and defense services, and refused to support requests from Sudan for funding or program support in the international financial institutions for reasons related to terrorism, regional stability, and human rights—including religious freedom, worker rights, and trafficking in persons. As a member state of the United Nations, the United States, is also required to cease the sale or supply of arms and related materiel—transactions the U.S. government already blocks—to non-government entities and individuals operating in Sudan, deny visas or passage through the United States to those cited by the United Nations as those committing human rights atrocities in Darfur, and freeze the assets of those cited.

On September 9, 2004, Secretary of State Powell testified before the Committee on Foreign Relations to report his assessment of the current crisis in Darfur, in Sudan's western region bordering Chad.<sup>2</sup> Secretary Powell reported that the U.S. State Department had “concluded that genocide has been committed in Darfur and that the Government of Sudan and the jinjaweid<sup>3</sup> bear

<sup>1</sup> Generally, the term “economic sanctions” is defined as “coercive economic measures taken against one or more countries to force a change in policies, or at least to demonstrate a country’s opinion about the other’s policies.” Not everyone agrees that the withholding of foreign aid is an economic sanction. Some contend that foreign assistance is not an entitlement; no country should expect its availability. The denial of foreign assistance is included in this discussion because it fits the definition used, that is: denial of foreign assistance to force the Government of Sudan to change its behavior is in keeping with “coercive economic measures taken....” For more on the use of economic sanctions, see CRS Report 97-949, *Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law*, by (name redacted) and (name redacted). For the argument against including foreign aid in any sanctions debate, see Helms, Jesse. “What Sanctions Epidemic? U.S. Business’ Curious Crusade.” *Foreign Affairs*. January-February 1999. The definition of “Government of Sudan” has changed over time, with each annual foreign assistance appropriations measure and freestanding legislation trying to capture the term as current conditions allow. This is somewhat addressed in the “Exceptions to Sanctions” and “Sudan Peace Act and Comprehensive Peace in Sudan Act of 2004” sections, particularly in related footnotes.

<sup>2</sup> “Powell Reports Sudan Responsible for Genocide in Darfur,” <http://www.usinfo.state.gov>. See also U.S. Department of State. “Documenting Atrocities in Darfur,” *State Publication 11182*. September 2004. 8 p.

<sup>3</sup> “Jinjaweid,” spelled a variety of ways, is described by the International Crisis Group as “a loose collection of fighters of Arab background mainly from Darfur. Beginning in spring 2003, following a string of SLA [Sudan Liberation Army, a rebel group involved in a north/south conflict that raged in Sudan for years] victories, Khartoum [the Sudanese government] adopted a scorched earth strategy that relies more heavily on the Janjaweed to target civilian populations suspected or supporting the rebellion ... Some Janjaweed build on a tradition of the ‘Hambati’ or ‘social bandits’ among the Arab tribes. These are robbers rejected by their communities for flouting established traditions but envied for their exploits. Other elements are thought to be professional criminals, including some allegedly released specifically to join or lead the militia. Building on existing ethnic tensions and a raider culture, the government armed the Janjaweed to supplement the army and gave carte blanche for looting and rape.” International Crisis Group. “Darfur Rising: Sudan’s New Crisis.” *Africa Report No. 76*, 25 March 2004. p. 16. The crisis in Darfur is addressed by various government and nongovernment organizations. See various reports at:

United Nations—<http://www.reliefweb.int/>,

International Crisis Group—<http://www.crisisgroup.org>,

State Department—<http://www.state.gov/p/af/>,

U.S. Agency for International Development—[http://www.usaid.gov/locations/sub-saharan\\_africa/sudan/](http://www.usaid.gov/locations/sub-saharan_africa/sudan/), and

Office of U.S. Foreign Disaster Assistance—[http://www.usaid.gov/our\\_work/humanitarian\\_assistance/](http://www.usaid.gov/our_work/humanitarian_assistance/)

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responsibility—and genocide may still be occurring.” The Congress, also in mid-2004, declared “that the atrocities unfolding in Darfur, Sudan, are genocide.”<sup>4</sup> In January 2005, however, an International Commission of Inquiry on Darfur to the United Nations Secretary General concluded that the Government of the Sudan has not pursued a policy of genocide.<sup>5</sup>

This report outlines actions taken by the United Nations and the economic sanctions currently imposed on Sudan by the United States—describing what is restricted, the statutory basis for the sanctions, and where the authority lies to ease or strengthen those restrictions.<sup>6</sup>

## Recent United Nations Actions

### U.N. Security Council Resolution 1556

On July 30, 2004, the United Nations Security Council (UNSC) adopted Resolution 1556 to condemn “acts of violence and violations of human rights and international humanitarian law by all parties to the crisis” in the Darfur region of western Sudan, and to single out the Government of Sudan for its primary responsibility to respect human rights, maintain law and order, and protect the population of the region. In doing so, the Security Council cited its authority, under chapter VII of the U.N. Charter, to address threats to the peace, breaches of the peace, and acts of aggression. By issuing UNSC Resolution 1556, the Security Council calls on the Government of Sudan to facilitate international relief of the humanitarian disaster, investigate human rights violations, establish credible security conditions for the civilian population and those attempting to assist them, and resume peace talks with all factions. The Security Council, furthermore, endorses the African Union’s deployment of international monitors to Darfur, and urges U.N. member states to materially support the African Union effort. UNSC Resolution 1556 also requires U.N. member states to prevent the sale or supply of arms and related materiel to non-government entities and individuals operating in Sudan.<sup>7</sup>

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<sup>4</sup> The House and Senate each passed resolutions (concurrent resolutions, though, in fact, the texts of the two are at some variance) declaring “that the atrocities unfolding in Darfur, Sudan, are genocide,” and calling on the Government of Sudan, the United Nations and its member states, and the Administration to take appropriate immediate action. See H.Con.Res. 467, which passed the House on July 22, 2004, by a vote of 422-0, and S.Con.Res. 133, which was adopted in the Senate by unanimous consent on July 22, 2004. See also CRS Report RL32605, *Genocide: Legal Precedent Surrounding the Definition of the Crime*, by (name redacted) and (name redacted).

<sup>5</sup> The Secretary General established the International Commission of Inquiry on Darfur pursuant to U.N. Security Council Resolution 1564, in which he was tasked, in part, “to determine also whether or not acts of genocide have occurred....” The International Commission of Inquiry filed its report on January 25, 2005. See [http://www.un.org/News/dh/sudan/com\\_ing\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_ing_darfur.pdf).

<sup>6</sup> For more detail on Sudan, Darfur, the North-South crisis and its resolution, and related U.S. policy, see CRS Report RL32643, *Sudan: The Darfur Crisis and the Status of the North-South Negotiations*; and CRS Issue Brief IB98043, *Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy*, both by (name redacted).

<sup>7</sup> United Nations Security Council Resolution 1556 (2004), July 30, 2004. The vote was 13-0, with China and Pakistan abstaining. Both countries have, in the past, abstained in voting in favor of resolutions that would impose economic sanctions on other countries, contending that sovereignty of the targeted state is compromised. China and Pakistan are each in the difficult position of having its sovereignty contested by other states or by resident populations over a region that it considers part of its national territory—for China, Tibet, and for Pakistan, Kashmir. Thus, their abstentions might have less to do with Sudan than with the larger political debate about sovereignty and borders. It should also be noted, (continued...)

The U.N. Security Council has demanded that the Government of Sudan “fulfill its commitments to disarm the Janjaweed militias and apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out human rights and international humanitarian law violations and other atrocities.” The Security Council requested that Secretary General Kofi Annan report in 30 days, and monthly thereafter, on any progress of the Government of Sudan to fulfill its commitments, and made it clear that it intends to take further steps against the Government of Sudan “in the event of non-compliance.”

According to press reports, Secretary General Annan’s appointed envoy to Sudan, Jan Pronk of the Netherlands, in his briefing to the Security Council that constituted Secretary General Annan’s first required monthly report, concluded that “there is no recent evidence linking Khartoum to Arab militias rampaging through black African villages in Darfur.”<sup>8</sup> The United States publicly criticized the conclusions, citing a report prepared by African Union monitors that contradicted Mr. Pronk’s assessment, and urged the mobilization of more observers to the region.

## **U.N. Security Council Resolution 1564**

In his testimony before the Committee on Foreign Relations on September, 9, 2004, Secretary of State Powell announced that the State Department identified genocide in the events of Darfur, and would return to the United Nations to call for immediate action. He declared: the United States will call for a “full-blown and unfettered investigation” by the United Nations to “confirm the true nature, scope and totality of the crimes our evidence reveals.”<sup>9</sup> It was acknowledged at the time, however, that adoption of sanctions in the United Nations would be a hard won accomplishment, as China, Pakistan, Russia, Britain, and others had stated that they were unlikely to support punitive measures at this time.<sup>10</sup>

On September 18, 2004, the Security Council adopted Resolution 1564 to request Secretary General Annan to establish an international commission of inquiry empowered to investigate “reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable...”<sup>11</sup> UNSC Resolution 1564 also declares the United Nations’ support of the African Union’s efforts to expand and enhance its monitoring efforts that grew out of North/South cease-fire negotiations, and encourages member states to provide material support for the AU efforts, to fulfill their earlier pledges for humanitarian contributions, and to provide sustained support to humanitarian efforts in Darfur and neighboring Chad.

UNSC Resolution 1564 declares the Security Council’s intent to impose restrictions on Sudan’s oil industry, and travel and asset restrictions targeting individual members of the Government of

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though, that China is Sudan’s leading trading partner, and is heavily invested in Sudan’s emerging crude oil production capacity, an industry previously developed by U.S. and Canadian oil companies.

<sup>8</sup> Lynch, Colum. “U.N. Envoy to Sudan ‘Wrong,’ Danforth Says.” *The Washington Post*, September 3, 2004. p. A16.

<sup>9</sup> Secretary Powell’s testimony of September 9, 2004, op. cit.

<sup>10</sup> Lynch, Colum. “U.S. Drafts Resolution on Sudan Sanctions.” *The Washington Post*. September 9, 2004. p. A21.

<sup>11</sup> United Nations Security Council Resolution 1564 (2004), September 18, 2004. The vote was 11-0, with China, Pakistan, Russia and Algeria abstaining. See Hoge, Warren. “Authority Is Approved for Sanctions Against Sudan,” *The New York Times*. September 19, 2004.

Sudan, if Sudan fails to meet the requirement and intent of UNSC Resolutions 1556 and 1564. No timeframe for further imposition of sanctions is stated, however.

Pursuant to Resolution 1564, in October 2004, the Secretary General appointed a five-member International Commission of Inquiry on Darfur, and requested it report within three months. On January 25, 2005, the International Commission reported its findings in four categories: (1) violations of international humanitarian law and human rights law in Darfur by all parties; (2) whether or not acts of genocide have occurred; (3) the identification of perpetrators of violations; and (4) recommendations on how to hold those perpetrators accountable. The International Commission “established that the Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law” and, in particular, found that:

... Government forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement, throughout Darfur. These acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity. The extensive destruction and displacement have resulted in a loss of livelihood and means of survival for countless women, men and children. In addition to the large scale attacks, many people have been arrested and detained, and many have been held incommunicado for prolonged periods and tortured. The vast majority of the victims of all of these violations have been from the Fur, Zaghawa, Massalit, Jebel, Aranga and other so-called “African” tribes.

The International Commission of Inquiry, at the same time, however:

... concluded that the *Government of the Sudan has not pursued a policy of genocide...* the crucial element of genocidal intent appears to be missing, at least as far as the central Government authorities are concerned... The Commission does recognize that in some instances individuals, including Government officials, may commit acts with genocidal intent. Whether this was the case in Darfur, however, is a determination that only a competent court can make on a case by case basis. [*emphasis added*]<sup>12</sup>

The report of the International Commission of Inquiry, ambiguous in its findings of no genocide, lack of “genocidal intent,” but acts possibly committed with “genocidal intent,” and its call for a “competent court” to evaluate the evidence, led to a flurry of international debate and diplomatic maneuvering. The United States called on the United Nations either to establish a new “accountability tribunal” or refer criminal investigations to the special tribunal in Tanzania that oversaw cases related to the 1994 massacres in Rwanda, deploy peacekeepers and impose economic sanctions that would have an impact on Sudan’s oil exports. Most other U.N. Security Council members supported the International Commission of Inquiry’s recommendation to have the International Criminal Court in The Hague oversee any prosecution.<sup>13</sup> And the Government of Sudan insisted that any prosecution of war crimes in Darfur should be pursued in Sudan’s own courts.<sup>14</sup>

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<sup>12</sup> *Report of the International Commission of Inquiry on Darfur to the United Nations Secretary General*, January 25, 2005. p. 3-4.

<sup>13</sup> For more on the International Criminal Court, and particularly the United States’ policy toward it, see CRS Report RL31495, *U.S. Policy Regarding the International Criminal Court*, by Jennifer Elsea.

<sup>14</sup> See a series of articles written by Warren Hoge for *The New York Times*: “10,000 Peacekeepers Sought by U.S. for Southern Sudan,” February 15, 2005, p. 8; “Human Rights Commission Urges U.N. To Act quickly on Darfur,” (continued...)

## U.N. Security Council Resolution 1591

On March 29, 2005, the Security Council adopted Resolution 1591 to require member states to “prevent entry into or transit through their territories of all persons,” identified by a newly formed Committee of the Security Council, who “impede the peace process, constitute a threat to the stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities,” or violate the arms embargo stated in Resolution 1556. Resolution 1591 also requires member states to “freeze all funds, financial assets and economic resources” of those identified by the Committee. The Resolution delayed the imposition of these two sanctions for 30 days, however, leaving enough time for the removal and relocation of most assets held by an individual or entity subject to the sanction.<sup>15</sup>

## U.N. Security Council Resolution 1593

Two days later, the Security Council adopted Resolution 1593 to refer the situation in Darfur to the Prosecutor of the International Criminal Court.<sup>16</sup>

## Restrictions on U.S. Foreign Aid

Sudan has been denied U.S. foreign aid under the law since 1988, when it defaulted on servicing its external debt. Subsequent developments—the military overthrow of a democratically elected government in 1989, and support of acts of international terrorism, as determined by the Secretary of State in 1993—also require that the United States deny foreign assistance to Sudan.

Humanitarian aid and food aid are exempted from the restrictions, however, and from 1988 to 2001, such assistance to Sudan averaged more than \$48 million each year, primarily in food aid (see **Table 1**, below). This stands in contrast to 1987 and earlier, when Sudan averaged more than \$216 million per year, and aid ran the gamut from food aid, development assistance, Economic Support Funds, military assistance and International Military Education and Training (IMET).

Today, the United States is the largest donor of humanitarian assistance to Darfur. From February 2003 through September 2005, the United States provided nearly \$768 million to nongovernmental organizations (NGOs) working in Darfur and on the Chad/Sudan border.<sup>17</sup>

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February 17, 2005, p. 9; “France Asking U.N. To Refer Darfur To International Court,” March 24, 2005, p. 3.

<sup>15</sup> United Nations Security Council Resolution 1591 (2005), March 29, 2005. The vote was 12-0, with Algeria, China, and Russia abstaining. Resolution 1591 also demands that the Government of Sudan cease “conducting military flights in and over the Darfur region.”

<sup>16</sup> United Nations Security Council Resolution 1593 (2005), March 31, 2005. The vote was 11-0, with Algeria, Brazil, China, and the United States abstaining. For a range of views on the prosecution options considered by the international community, see, for example Lederer, Edith M., “Despite Calls for International Trails, Sudan Says Its Courts Should Handle Darfur Abuses,” *Associated Press*, February 9, 2005; Power, Samantha, “Court of First Resort,” *The New York Times*, February 10, 2005, p. 23; Wadhams, Nick, “France Proposes Resolution Referring Sudan to International Criminal Court, Forcing U.S. Into a Dilemma,” *Associated Press*, March 23, 2005; and Gedda, George, “U.S. Drops Objection to International Criminal Court Trail of Sudanese War Criminals,” *Associated Press*, March 31, 2005.

<sup>17</sup> U.S. Agency for International Development:

[http://www.usaid.gov/locations/sub-saharan\\_africa/sudan/darfur.html](http://www.usaid.gov/locations/sub-saharan_africa/sudan/darfur.html); and (continued...)



The United States has also provided funding to support the African Union’s deployment of cease-fire observers and human rights monitors to the region. The United Nations has called for an expansion of the African Union forces to 7,700, with possible supplement up to 12,000, with airlift and logistical help from NATO (including the United States), the European Union, and Ukraine (a party to neither NATO nor the EU).<sup>18</sup>

## Restricting Aid to a Country in Default of Debt Repayment

In December 1988, Sudan fell more than one year in arrears in servicing its debt to the United States. This debt was accumulated in the form of non-grant U.S. foreign and military aid. As a result, since 1988, Sudan has been denied most foreign assistance

pursuant to sections in both authorization and appropriations legislation.<sup>19</sup> The President may waive the restriction if he finds it in the U.S. national interest to do so.

Most recently, Sudan’s debt arrearage—along with its support of international terrorism and its military dictatorship—was also cited by the State Department and the Millennium Challenge Corporation as cause for ineligibility for assistance under the terms of the Millennium Challenge Account.<sup>20</sup>

**Table I. U.S. Foreign Aid to Sudan Fiscal Years 1982-2005**  
(in current U.S. \$ millions)

Fiscal year	Total	Food	DA	ESF	Mil	IMET
1982	253.0	26.9	24.9	100.0	100.0	1.2
1983	210.6	51.0	33.0	82.3	43.0	1.3
1984	243.9	51.1	26.3	120.0	45.0	1.5

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situation reports of the Office of Foreign Disaster Assistance:  
[http://www.usaid.gov/our\\_work/humanitarian\\_assistance/disaster\\_assistance/](http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/).

<sup>18</sup> “United States, Canada and Africa: NATO Commander Hails Security Efforts in Darfur,” *Africa News*, October 5, 2005; Press Briefing on Sudan, Robert Zoellick, Deputy Secretary of State, Department of State, May 27, 2005.

<sup>19</sup> Even when foreign aid is denied, some forms of aid are allowed, notwithstanding the prohibition. Such “notwithstanding” clauses, usually stated in annual foreign operations appropriations, but sometimes stated in an authorizing measure, allow foreign aid to flow for Child Survival programs, emergency food aid, nonproliferation, anti-terrorism, demining, international narcotics control, tropical forestry and biodiversity conservation, debt-for-nature swaps, and Peace Corps, to name a few. The President also has “special authority” to furnish a limited amount of assistance each fiscal year to a country “without regard to any provision” that would otherwise restrict funds “when the President determines...that to do so is important to the security interests of the United States.” For the latter, see § 614 of the Foreign Assistance Act of 1961 (22 U.S.C. 2364). Section 620(q) of the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2370(q)), and § 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Division D of P.L. 108-447; 118 Stat. 2994) require a ban on foreign assistance for countries in default. The latter is popularly referred to as the Brooke-Alexander Amendment (or simply Brooke, as in a country is “Brooked”). Originally, the text in the appropriations measure mirrored that in the authorization Act. The appropriations measure was changed in FY2001 to refer to the *government* of any country, not just the *country*.

<sup>20</sup> See the Millennium Challenge Act of 2003 (Title VI of P.L. 108-199; 22 U.S.C. 7701 *et seq.*). Eligibility determination stated in Department of State Public Notice 4617 of February 3, 2004 (69 F.R. 5887), and Millennium Challenge Corporation report of July 21, 2004 (69 F.R. 44549).

Fiscal year	Total	Food	DA	ESF	Mil	IMET
1985	350.0	154.3	35.3	114.0	45.0	1.4
1986	138.3	50.0	61.2	10.0	16.1	0.9
1987	102.6	75.2	21.3	—	5.0	1.0
1988	64.1	46.1	17.1	—	—	0.9
1989	57.7	52.2	3.5	1.1	—	0.9
1990	21.2	13.7	7.2	0.3	—	—
1991	50.1	48.0	2.0	—	—	—
1992	24.3	21.2	3.1	—	—	—
1993	52.2	52.0	0.2	—	—	—
1994	66.3	66.3	—	—	—	—
1995	30.1	30.1	—	—	—	—
1996	23.5	23.5	—	—	—	—
1997	27.2	27.2	—	—	—	—
1998	64.1	64.1	—	—	—	—
1999	84.2	84.2	—	—	—	—
2000	42.8	42.8	—	—	—	—
2001	57.8	53.3	4.5	—	—	—
2002	125.2	65.6	56.6	3.0	—	—
2003	137.3	111.3	18.9	7.0	—	—
2004	136.4	44.7	81.8	9.9	—	—
2005	101.0	[ ]	81.0	20.0	—	—

**Source:** U.S. Agency for International Development, *Overseas Loans and Grants, Obligations and Loan Authorizations*. Department of State, *Congressional Budget Justification for Foreign Operations*, country/account summaries, February 10, 2004. “Development Assistance” (DA) includes Child Survival and Health and International Disaster Assistance funds. FY2004 DA includes \$20 million transferred from Iraq Reconstruction Funds. FY2002 Economic Support Funds (ESF) includes \$3 million in funds transferred from the Countries in Transition Account.

**Note:** Food aid is committed in the course of a year, thus no figure is projected for FY2005. Mil = Military assistance. IMET = International Military Education and Training.

## Restricting Aid to a Country After a Military Coup

On June 30, 1989, Sudan’s democratically elected government, led by Prime Minister Sadiq al Mahdi, was overthrown by that country’s military forces. As a result, Sudan is denied most foreign assistance pursuant to the annual foreign operations appropriations.<sup>21</sup> On February 28, 1990, President George H.W. Bush invoked this section of law to announce that aid, other than

<sup>21</sup> See § 508 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Division D of P.L. 108-199; 118 Stat. 2992). Since FY1986, annual foreign operations appropriations acts have denied foreign assistance to “any country whose duly elected head of government is deposed by decree or military coup...” More recently, since FY2002, “assistance to promote democratic elections or public participation in democratic processes” is exempt from the aid ban.

humanitarian assistance, would be denied Sudan. This prohibition continues until the President can determine and certify to Congress that democracy has returned to Sudan on the national level. Sudan is also deemed ineligible for Millennium Challenge Account funding because of its military dictatorship.

## **Other Restrictions on Foreign Aid in Annual Appropriations**

Since FY1989, the annual foreign operations appropriations act has explicitly prohibited Sudan from receiving aid under the Foreign Military Financing Program.<sup>22</sup> FY2005's foreign operations appropriations act specifically denies Sudan eligibility for U.S. debt restructuring programs "unless the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office." The debt restructuring program includes debt accrued through the International Affairs Budget Function 150 account, P.L. 480 agricultural loans, the Export-Import Bank, and certain debt reduction programs enacted in prior years. Sudan is also denied any assistance under the current foreign operations appropriations "except as provided through the regular notification procedures of the Committees on Appropriations."

## **Restrictions on Foreign Aid Pending in the Current Congressional Session**

The foreign operations appropriations measure to fund programs through FY2006, currently under consideration in the 109<sup>th</sup> Congress, seeks to continue the restrictions on aid to Sudan related to democracy, foreign military financing, and regular notification procedures. Restrictions on aid imposed because of military regimes or debt arrearage, though not explicitly directed at Sudan, are also continued. The proposal also makes available not less than \$112.35 million in bilateral economic assistance to Sudan for disease control programs and debt reduction. None of those funds will be provided to the Government of Sudan, however, unless the Secretary of State can determine and certify to Congress that (1) the Government of Sudan has disarmed and disbanded government-supported militia groups operating in Darfur; (2) the Government of Sudan and related militia groups are honoring the cease-fire agreement of April 2004; and (3) the Government of Sudan allows international humanitarian and human rights groups access to Darfur.<sup>23</sup>

## **Restrictions as a Result of Terrorism Designation**

In August 1993, the Secretary of State determined that the Government of Sudan had "repeatedly provided support for acts of international terrorism." As a result, Sudan is subject to a long list of economic restrictions and a withdrawal of U.S. foreign aid. U.S. exporters are required to obtain

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<sup>22</sup> See, for the current year, Title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Division D of P.L. 108-447; 118 Stat. 2987), relating to Foreign Military Financing; Title II (118 Stat. 2986) relating to debt restructuring; and § 520 (118 Stat. 2998), relating to notification procedures.

<sup>23</sup> H.R. 3057, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 2006, as passed the House June 28, 2005, by a vote of 393-32, and as passed the Senate, July 20, 2005, by a vote of 98-1. It is currently in conference.

validated licenses for the export of goods or technology to Sudan, and generally there is a presumption that the Departments of Commerce (for dual-use goods) or State (for defense articles and defense services) will deny the issuance of those licenses.<sup>24</sup> As a U.S.-designated supporter of international terrorism, Sudan is generally denied foreign assistance, Millennium Challenge Account funding, agricultural aid, Peace Corps programs, support through the Export-Import Bank, support in the international financial institutions, opposition to loans or credits from the International Monetary Fund, and withholding of trade preferences under the Generalized System of Preferences.<sup>25</sup>

In April 1999, at the height of debate in Congress over the effectiveness—and unintended consequences—of economic sanctions, the Clinton administration announced that it would remove food and medicine from its sanctions policies in future applications, and it would issue new regulations for some countries—Iran, Libya, and Sudan—denied access to U.S. agricultural and medical exports.<sup>26</sup> Congress later enacted the Trade Sanctions Reform and Export Enhancement Act of 2000 to place in permanent law the exemption of food and medicine exports in sanctions regimes. For state sponsors of terrorism, including Sudan, the export of agricultural commodities, medicine, or medical devices requires a license from the Department of Commerce. U.S. government financing of commercial exports to state sponsors of terrorism, including Sudan, is prohibited unless the President determines and certifies to Congress that such financing is in the United States' national security interest, or should be provided for humanitarian reasons.<sup>27</sup>

## Restrictions on Trade, Transactions and International Bank Funding

Typically, as it is the case with Sudan, economic and diplomatic prohibitions are multilayered, incrementally denying access to funds needed to legitimize a targeted government. United States condemnation for Sudan's military dictatorship in 1989 denied the country many forms of U.S. foreign aid. In 1991 President George H.W. Bush suspended trade preferences afforded Sudan

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<sup>24</sup> Pursuant to § 6(j) of the Export Administration Act of 1979 (P.L. 96-72; 50 U.S.C. app. 2405(j)), and § 40 of the Arms Export Control Act (P.L. 90-629; 22 U.S.C. 2780).

<sup>25</sup> Pursuant to § 620A of the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2371); § 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Division D of P.L. 108-447; 118 Stat. 3002); § 607 of the Millennium Challenge Act of 2003 (P.L. 108-199; 22 U.S.C. 7707); § 1621 of the International Financial Institutions Act (P.L. 95-118; 22 U.S.C. 262p-4q); § 6 of the Bretton Woods Agreements Act Amendments, 1978 (P.L. 95-435; 22 U.S.C. 286e-11); § 2(b)(1)(B) of the Export-Import Bank Act of 1945 (P.L. 79-173; 12 U.S.C. 635(b)(1)(B)); and § 502 of the Trade Act of 1974 (P.L. 93-618; 19 U.S.C. 2462). The President is also authorized to deny imports from any country listed as a supporter of international terrorism under Section 505 of the International Security and Development Cooperation Act of 1985 (P.L. 99-83; 22 U.S.C. 2349aa-9), though this is not triggered automatically and has not yet been invoked against Sudan. See, however, discussion of declaration of national emergency and resulting sanctions.

<sup>26</sup> New regulations to ease restrictions on agricultural and medical exports to Iraq, Cuba, and North Korea were not issued. State Department officials contended that each of those countries' needs were being addressed by other means, through the United Nations or nongovernmental organizations with which the United States was cooperating.

<sup>27</sup> The Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387; 22 U.S.C. 7201 *et seq.*) has different rules for different state supporters of international terrorism. Sudan is generally categorized with Iran and Libya. Easier conditions exist for Syria and North Korea; Cuba is saddled with the most difficult terms. For further discussion of the Trade Sanctions Reform and Export Enhancement Act of 2000, see CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*, by (name redacted).

under the Generalized System of Preferences. He cited the Government of Sudan's failure to promote and protect internationally recognized standards of worker rights.<sup>28</sup> In 1993, the State Department added Sudan to the list of countries found to be supporting acts of international terrorism. In 1997, President Clinton invoked the most powerful economic authority available to his office to prohibit nearly all trade and transactions between the United States and Sudan. In each case, it is left to the President to determine that improved conditions warrant a restoration of bilateral relations and resumption of aid, trade, support in the banks, and transactions.

## **National Emergency and Resulting Economic Sanctions**

On November 3, 1997, President Clinton invoked authority under the National Emergencies Act and the International Emergency Economic Powers Act<sup>29</sup> to declare that a national emergency existed because of the Government of Sudan's "continued support of international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom...." He issued Executive Order 13067 to block property and assets held by the Government of Sudan in the United States, and to prohibit most transactions with Sudan.<sup>30</sup> Executive Order 13067 prohibits a U.S. person from engaging in any of the following:

- import into the United States of any goods or services of Sudanese origin, other than information or informational materials;
- export or reexport to Sudan of any goods, technology, or services from the United States, except for donations of articles intended to relieve human suffering, such as food, clothing, and medicine;
- facilitation of exports to or imports from Sudan;
- performance of a contract in support of an industrial, commercial, public utility or governmental project in Sudan;
- grant or extension of credits or loans to the Government of Sudan;
- transactions related to transportation of cargo to or from Sudan, or actual transportation to or from Sudan, including intermediate stops in the country; and
- any other transaction that is committed with the intention of evading or avoiding the other prohibitions.

In November 2000, Congress adopted legislation to require the Secretary of the Treasury to consider approving licenses for the import of gum arabic from Sudan. Gum arabic, a resin-based substance widely used in the manufacture of inks, adhesives, soft drinks, confections, and medicines, is one of Sudan's chief exports. While U.S. manufacturers were denied gum arabic from Sudan, European competitors could trade in the commodity freely. Congress found that

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<sup>28</sup> See §502(b)(2)(G) of the Trade Act of 1974 (P.L. 93-618; 19 U.S.C. 2462); Presidential Proclamation 6282 (April 25, 1991; 56 F.R. 19525).

<sup>29</sup> See P.L. 94-412 (50 U.S.C. 1601 *et seq.*), and P.L. 95-223 (50 U.S.C. 1701 *et seq.*), respectively.

<sup>30</sup> Executive Order 13067, signed November 3, 1997 (50 U.S.C. 1701 note; 62 F.R. 59989). Regulations, issued by the Department of the Treasury, implementing this Executive Order may be found at 31 CFR Part 538. Executive Order 13067 was most recently continued through November 3, 2005, by President Bush in a Notice of November 1, 2004 (69 F.R. 63915).

Sudan held a “virtual monopoly on the world’s supply of the highest grade of gum arabic” and a prohibition on its importation under Executive Order 13067 was devastating to the U.S. gum arabic processing industry.<sup>31</sup> Gum arabic became the exception to the comprehensive trade restrictions imposed by the Executive Branch.

Any executive order issued under the authority of the National Emergencies Act and International Emergency Economic Powers Act requires annual renewal from the President, and only the President may revoke such an order.

## Trafficking

On September 9, 2003, President George W. Bush imposed economic sanctions on Sudan—one among a half dozen countries—for having failed to meet the minimum human rights standards and obligations set forth in the Trafficking Victims Protection Act of 2000. The President noted that, as Sudan received no nonhumanitarian, nontrade-related foreign assistance from the United States, he was limited to denying funding for participation by Sudanese officials or employees in educational and cultural exchange programs until Sudan complied with minimum standards or make significant efforts to bring itself into compliance with the law.<sup>32</sup>

In September 2005, however, the President moved Sudan from Tier 3 (sanctionable), as it was so designated by the Secretary of State in June 2005, to Tier 2 (watchlist) status, because of significant steps the government had taken to fight trafficking.<sup>33</sup> The State Department’s Office to Monitor and Combat Trafficking in Persons reported, for those countries so elevated:

These countries took concrete actions to prosecute traffickers, protect victims, and to prevent the crime of trafficking. They increased efforts to identify and rescue trafficking victims, crafted new anti-trafficking legislation and procedures among other significant measures. In several instances, these actions were taken by countries facing resource constraints and/or significant internal political challenges. This demonstrates what can be accomplished when the commitment exists to combat trafficking in persons. We commend these governments for their actions. Sudan was reassessed based in large part on the government’s commitment to implement a plan of action to end sexual violence against women in Darfur. We will look to the Sudanese government to ensure quick and effective implementation of the plan.<sup>34</sup>

<sup>31</sup> See § 1464 of the Tariff Suspension and Trade Act of 2000 (P.L. 106-476; 114 Stat. 2173). See also “Spineless on Sudan,” editorial, *The Washington Post*, September 10, 2000, p. B6; Letter to the editor, submitted by Representative Robert Menendez, responding to the September 10, 2000, editorial, *The Washington Post*, September 28, 2000, p. A30; and Raspberry, William. “Some Things Must Not Stand,” *The Washington Post*, October 2, 2000, p. A25

<sup>32</sup> § 110(d)(1)(A)(ii) of the Trafficking Victims Protection Act (P.L. 106-386; 22 U.S.C. 7107(d)(1)(A)(ii)); Presidential Determination No. 2003-35 of September 9, 2003 (68 F.R. 53871). For further discussion of implementation of the Trafficking Victims Protection Act, see CRS Report RL30545, *Trafficking in Persons: The U.S. and International Response*, by Francis Miko.

<sup>33</sup> Presidential Determination No. 2005-37 (70 F.R. 57481; September 21, 2005). See also, Department of State. Office to Monitor and Combat Trafficking in Persons. *Trafficking in Persons Report, 2005*. June 3, 2005. <http://www.state.gov/g/tip/rls/tiprpt/2005/>

<sup>34</sup> Department of State. Office to Monitor and Combat Trafficking in Persons. “Trafficking in Persons: Country Reassessments.” September 22, 2005. <http://www.state.gov/g/tip/>.

## Exceptions to Sanctions

In fine-tuning the imposition of economic sanctions on Sudan, Congress made an effort to distinguish between the Government of Sudan, the people of Sudan, and areas of the country outside of control of the government, to make aid and commerce available to the general population, with enactment of the following in the Assistance for International Malaria Control Act:<sup>35</sup>

### SEC. 501. ASSISTANCE EFFORTS IN SUDAN.

(a) **ADDITIONAL AUTHORITIES.**—Notwithstanding any other provision of law, the President is authorized to undertake appropriate programs using Federal agencies, contractual arrangements, or direct support of indigenous groups, agencies, or organizations in areas outside of control of the Government of Sudan in an effort to provide emergency relief, promote economic self-sufficiency, build civil authority, provide education, enhance rule of law and the development of judicial and legal frameworks, support people-to-people reconciliation efforts, or implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

(b) **EXCEPTION TO EXPORT PROHIBITIONS.**—Notwithstanding any other provision of law, the prohibition set forth with respect to Sudan in Executive Order 13067 of November 3, 1997 (62 Fed. Register 59989) shall not apply to any export from an area in Sudan outside of control of the Government of Sudan, or to any necessary transaction directly related to that export, if the President determines that the export or related transaction, as the case may be, would directly benefit the economic development of that area and its people.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005,<sup>36</sup> further limits the implementation of economic sanctions to only those parts of the country under control of the Government of Sudan. Thus, despite fairly comprehensive and longstanding restrictions on foreign aid imposed under various statutes for terrorism, debt arrearage, or military dictatorship, language in the Assistance for International Malaria Control Act, and subsequent acts, authorizes the President to override those restrictions as they might apply to large portions of Sudan's population.

Congress also singled out the National Democratic Alliance of Sudan as exempt from economic sanctions restricting foreign aid in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005. Economic Support Funds may be made available to that group "to strengthen its ability to protect civilians from attacks, slave raids, and aerial

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<sup>35</sup> P.L. 106-570 (114 Stat. 3038; 50 U.S.C. 1701 note); enacted December 27, 2000.

<sup>36</sup> The Foreign Operations Appropriations Act, 2004 (P.L. 108-199; 118 Stat. 182), for purposes of the Assistance for International Malaria Control Act, provides the following definitions: "... the terms 'areas outside of control of the Government of Sudan' and 'area in Sudan outside of control of the Government of Sudan' shall, upon conclusion of a peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, have the same meaning and application as was the case immediately prior to the conclusion of such agreement." The following year, the Foreign Operations Act, 2005 (§ 569 of division D of P.L. 108-447 (118 Stat. 3025)), provides the following: "... the terms 'Government of Sudan', 'areas outside of control of the Government of Sudan', and 'area in Sudan outside of control of the Government of Sudan' shall have the same meaning and application as was the case immediately prior to June 5, 2004, and, with regard to assistance in support of a viable peace agreement, Southern Kordofan/Nuba Mountains State, Blue Nile State and Abyei."

bombardment by the Sudanese Government forces and its militia allies...” though such funding is “subject to the regular notification procedures of the Committees on Appropriations.”<sup>37</sup>

## **Sudan Peace Act and Comprehensive Peace in Sudan Act of 2004**

The Sudan Peace Act, as originally enacted, requires the President to determine and certify to Congress, on a semi-annual basis, whether “the Government of Sudan and the Sudan People’s Liberation Movement are negotiating in good faith and that negotiations should continue.” Since its enactment, on October 21, 2002, the President regularly made a positive determination, most recently on April 24, 2004.<sup>38</sup> If the President found himself unable to make this determination, he was required to:

- instruct U.S. executive directors in the international financial institutions to continue to vote against loans, credits, guarantees, or extension of any of these, to the Government of Sudan;
- consider downgrading diplomatic relations;
- take all steps, unilateral and multilateral, to deny the Government of Sudan access to oil revenues; and
- seek a U.N. Security Council Resolution to impose an arms embargo on the Government of Sudan.

If these economic and diplomatic sanctions are imposed, the President could certify at any time that good faith negotiations had resumed, and lift the sanctions.

The Sudan Peace Act also instructs the President to consider “downgrading or suspending diplomatic relations between the United States and the Government of Sudan...,” though this is not mandatory. The act also: (1) authorizes the President “to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture”; (2) requires the President to suspend assistance for the Sudan People’s Liberation Movement (SPLM), except for aid related to health, education, and humanitarian assistance, if he finds that the SPLM “has not engaged in good faith negotiations or has failed to honor the agreements signed”; and (3) requires the President to suspend foreign aid to the Government of Sudan if he finds that it has resumed objectionable human rights behavior after he certifies to its cessation.

The Comprehensive Peace in Sudan Act of 2004,<sup>39</sup> however, also amended the Sudan Peace Act to authorize the President to provide \$100 million for FY2005 and unspecified amounts for the

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<sup>37</sup> Division D, Title II, of P.L. 108-447 (118 Stat. 2976).

<sup>38</sup> P.L. 107-245, enacted October 21, 2002 (50 U.S.C. 1701 note). Pursuant to § 6(a)(1)(A) of the act: most recently on April 24, 2004: Presidential Determination No. 2004-29 (69 F.R. 24905). In October 2004, the President delegated reporting responsibilities under this section of the Sudan Peace Act to the Secretary of State (Presidential Memorandum of October 21, 2004; 69 F.R. 63039).

<sup>39</sup> P.L. 108-497 (118 Stat. 4012), including amendments to P.L. 107-245.



subsequent two years, *notwithstanding any other provision of law*, “to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region.” The amended Act also authorizes the President to use \$200 million in FY2005 “to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region, provided that no assistance may be made available to the Government of Sudan.”<sup>40</sup>

The Comprehensive Peace in Sudan Act of 2004 requires the President to impose the economic and diplomatic sanctions stated in the Sudan Peace Act (and outlined above, relating to international financial institutions, oil revenues, diplomatic relations, and an arms embargo)) as well as freeze U.S.-based assets of senior officials of the Government of Sudan, within 30 days of enactment (which occurred December 23, 2004). The President is authorized to waive implementation if he finds it in the national interest to do so.

The Comprehensive Peace in Sudan Act of 2004 also continues restrictions imposed on foreign aid in the foreign assistance appropriations Act, 2004, unless the President finds that the following conditions, stated in the Sudan Peace Act, as amended, are met, namely:

that the Government of Sudan has taken demonstrable steps to—

(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;

(B) demobilize and disarm militias supported or created by the Government of Sudan;

(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including the Darfur region;

(D) allow an international commission of inquiry to conduct an investigation of atrocities in the Darfur region, in a manner consistent with United National Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;

(E) cooperate fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(F) permit the safe and voluntary return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence; and

(G) implement the final agreements reached in the Naivasha peace process and install a new coalition government based on the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004.

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<sup>40</sup> Section 12(b) of the Sudan Peace Act, as added by the Comprehensive Peace in Sudan Act of 2004, defines “Government of Sudan” to mean “the National Congress Party, formerly known as the National Islamic Front, government in Khartoum, Sudan, or any other successor government formed on or after the date of the enactment of the Comprehensive Peace in Sudan Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan signed on June 5, 2004).”

**Table 2. Sudan: Economic Sanctions Currently Imposed in Furtherance of U.S. Foreign Policy or National Security Objectives**

<b>Rationale</b>	<b>Restriction</b>	<b>Statutory Basis</b>	<b>Authority to Impose</b>	<b>Authority to Lift or Waive</b>
Debt arrearage	Limits foreign aid	§ 620(q), Foreign Assistance Act of 1961  (22 U.S.C. 2370(q))	Statutory requirement	President may waive if he finds it in the national interest
Debt arrearage	Limits foreign aid	§ 512, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005  (118 Stat. 2994)	Statutory requirement	President may waive if he finds it in the national interest.
Debt arrearage	Denies Millennium Challenge Account funding	§ 607, Millennium Challenge Act of 2003 (22 U.S.C. 7707)	Millennium Challenge Corporation, though based on determination pursuant to § 620(q), Foreign Assistance Act of 1961 (above)	No waiver; assessed each fiscal year
Military dictatorship	Limits foreign aid	§ 508, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005  (118 Stat. 2992)	Statutory requirement	President may lift only when he can determine and certify that democracy is restored.
Military dictatorship	Denies eligibility for U.S. debt restructuring programs	Title II, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005  (118 Stat. 2986)	Statutory requirement	Secretary of the Treasury determines and notifies Congress that democracy is restored.
Military dictatorship	Denies Millennium Challenge Account funding	§ 607, Millennium Challenge Act of 2003 (22 U.S.C. 7707)	Millennium Challenge Corporation, though based on determination pursuant to § 508, Foreign Operations Appropriations (above)	No waiver; assessed each fiscal year
General foreign policy reasons	Denies foreign military financing	Title III, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005  (118 Stat. 2987)	Statutory requirement	No waiver
General foreign	Limits foreign aid	§ 520, Foreign Operations,	Statutory requirement	President may waive if he notifies

<b>Rationale</b>	<b>Restriction</b>	<b>Statutory Basis</b>	<b>Authority to Impose</b>	<b>Authority to Lift or Waive</b>
policy reasons		Export Financing, and Related Programs Appropriations Act, 2005 (118 Stat. 2998)		the Committees on Appropriations
Terrorism	Limits the export of goods or technology	§ 6(j), Export Administration Act (50 U.S.C. app. 2504(j))	Secretary of State	Secretary of State, after the President notifies Congress
Terrorism	Prohibits transactions related to defense articles and defense services	§ 40, Arms Export Control Act (22 U.S.C. 2780)	Secretary of State	Secretary of State, after the President notifies Congress. President may also waive per each transaction  Congress may block a rescission by joint resolution
Terrorism	Prohibits most foreign aid, agricultural aid, Peace Corps programs, Export-Import Bank funding	§ 620A, Foreign Assistance Act of 1961 (22 U.S.C. 2371)	Secretary of State	Secretary of State, after the President notifies Congress  Waived by President, if he finds “that national security interests of humanitarian reasons justify a waiver...”
Terrorism	Denies Millennium Challenge Account funding	§ 607, Millennium Challenge Act of 2003 (22 U.S.C. 7707)	Millennium Challenge Corporation, though based on determination pursuant to § 620A, Foreign Assistance Act of 1961 (above)	No waiver; assessed fiscal year
Terrorism	Denies Export-Import Bank financing	§ 2(b)(1)(B), Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B))	President	President
Terrorism	Opposes loans or funding through international financial institutions	§ 1621, International Financial Institutions Act (22 U.S.C. 262p-4q)	Secretary of the Treasury, if a country is listed under § 6(j), EAA, or § 620A, FAA	Secretary of the Treasury (no waiver authority)
Terrorism	Prohibits bilateral assistance	§ 527, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (118 Stat. 3002)	President	President, if he finds it in the national security interest, or for humanitarian reasons

Rationale	Restriction	Statutory Basis	Authority to Impose	Authority to Lift or Waive
Violation of worker rights	Suspends trade preferences	§ 502(b)(2)(G), Trade Act of 1974  (19 U.S.C. 2462)	President	President
National emergency  (terrorism, human rights, regional stability)	Prohibits most imports, exports, transactions related to transportation	National Emergencies Act (50 U.S.C. 1601 <i>et seq.</i> );  International Emergency Economic Powers Act  (especially 50 U.S.C. 1702)	President  [See Executive Order 13067, issued Nov. 3, 1997; 50 U.S.C. 1701 note]	President  (Congress, however, legislated an exemption for the import of gum arabic in 2000)

**Notes:**

(1) The Sudan Peace Act (P.L. 107-245; 50 U.S.C. 1701 note), as amended at § 12 by the Comprehensive Peace in Sudan Act of 2004 (P.L. 108-497; 118 Stat. 4012), authorizes the President to provide assistance to Sudan in fiscal years 2005, 2006, and 2007, notwithstanding any other provision of law, “(A)... to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region; and (B) to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region, provided that no assistance may be made available to the Government of Sudan.” The making available of any such assistance requires the President to certify to Congress on the Government of Sudan’s performance relating to human rights, military restraint, cooperation with the international community—including the United Nations, tasked with investigating atrocities in Darfur, and the African Union, mobilized to observe, monitor and protect certain operations in Sudan, the return of displaced persons, and implementation of a peace accord reached in June 2004. The act prohibits the Government of Sudan’s eligibility for any of the \$200 million authorized for FY2005; no such restriction is stated for the \$100 million for FY2005 and “such sums as may be necessary” for FY2006 and FY2007.

Economic sanctions are also contained in § 6 of the Sudan Peace Act, and § 6 of the Comprehensive Peace in Sudan Act of 2004, but are each somewhat overtaken by various peace accords, protocols, and agreements signed among the various parties, which change the make-up of the “Government of Sudan” against which sanctions would be imposed.

(2) On May 12, 2004, the Secretary of State issued an annual notice, as required by § 40A of the Arms Export Control Act (22 U.S.C. 2781; Department of State Public Notice 4722; 69 F.R. 28185), citing countries failing to cooperate with U.S. antiterrorism efforts. Sudan was removed from the list, after having been cited since the list was first required in 1997. Removal from the list would make Sudan eligible for transactions related to defense articles and defense services, if it were not restricted by other laws.

(3) On September 21, 2005, the President determined that the Government of Sudan was making positive strides in the fight against trafficking in persons, and redesignated the country as a Tier 2 violator, to be put on the State Department’s watchlist but not subject to economic sanctions. In June 2005, the Department of State’s Office to Monitor and Combat Trafficking in Persons had determined that Sudan was a Tier 3 violator and thus subject to the continuation of economic sanctions, pursuant to § 110, Trafficking Victims Protection Act (22 U.S.C. 7107).

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