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Libya: Legislative Basis for U.S. Economic Sanctions

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Libya: Legislative Basis for U.S. Economic Sanctions

Summary

This report discusses U.S. laws and executive orders that impose economic sanctions currently in place against Libya, including whether they can be changed by executive action, and exemptions to the sanctions that could make foreign assistance available. This report will be updated as events warrant.

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Libya: Legislative Basis for U.S. Economic Sanctions

Sanctions in Place Today

Effective September 21, 2004, when the President ended the national emergency between the United States and Libya, most economic sanctions that impeded trade and travel were lifted. What remains are restrictions mostly related to the United States having found that Libya is a state sponsor of acts of international terrorism, or that Libya does not cooperate fully with U.S. antiterrorism efforts:

- the United States requires a validated license to export certain goods or technology to Libya;
- the United States generally prohibits the export of defense articles and defense services to Libya;
- the United States generally denies Libya non-humanitarian foreign assistance, non-emergency agricultural aid, Peace Corps programs, or Export-Import Bank support;
- the U.S. Executive Director in each international financial institution is instructed to oppose loans or other funding to Libya; and
- certain contracts awarded by the State Department for diplomatic security construction may not be awarded to any person “doing business with Libya.”

Background

Until recently, the United States has maintained a fairly comprehensive range of economic sanctions on Libya. Muammar al-Qadhafi rose to power, as part of a military overthrow of a pro-Western king, in 1969. Early in his tenure, Qadhafi was drawn into the Soviet camp as an important regional actor in the Cold War. In response to that alliance, the United States terminated military sales to Libya in 1973, began to suspend export licenses for dual-use material in 1978, and placed Libya on the first list denoting state sponsors of international terrorism, issued in 1979.

Over the years, Libya’s sanctionable adventures, at least from the perspective of U.S. foreign policymakers, have run second to none. In the early 1970s, Libya sent military troops and financed extremist Palestinian activities in Lebanon. Later in the decade, Libya sent armed forces into Chad and Uganda. Throughout the 1970s and well into the 1980s, Libya financed or materially supported revolutionary efforts

in Chad, Corsica, Eritrea, Germany, Iran, Italy, Nicaragua, Northern Ireland, Japan, Lebanon, Philippines, Sardinia, Somalia, Sudan, Syria, Thailand, and Tunisia. Libya was involved in aircraft hijackings, extraterritorial assassinations, bombings at European airports, and the 1986 bombing of a Berlin nightclub popular with American Armed Forces.¹ Libya gave safe haven to Black September, the Palestinian terrorists that seized Israeli athlete as hostages at the 1972 Olympics in Munich.² Libya was found to have a central role in orchestrating and financing the in-air bombing of Pan Am flight 103 over Lockerbie, Scotland on December 21, 1988, killing 270, and the bombing of French UTA flight 772, in flight from Niger to Paris, in September 1989, killing 177.

In March 1992, after the United States, France, and the United Kingdom began legal proceedings against Libyan intelligence officers, *in absentia*, for their role in the two airline bombings, the United Nations Security Council, in 1992 and 1993, agreed to resolutions to condemn the terrorist acts, impose an arms and air traffic embargo, prohibit trade in Libyan oil, and freeze Libya's assets.³ These sanctions were lifted on September 12, 2003, after Libya took responsibility for the destruction of the two planes and agreed to pay a financial settlement to the families of those killed on PanAm 103 and UTA 772.⁴

¹ Day, Erin. *Economic Sanctions Imposed by the United States Against Specific Countries: 1979 Through 1992*. Congressional Research Service, Report 92-631F, August 10, 1992. p. 621-633 (archived). U.S. Congress. Senate. Newsome, David D. Testimony by Under Secretary of State for Political Affairs before the Judiciary Committee. *Inquiry Into the Matter of Billy Carter and Libya*. Hearings, 96th Congress, 2nd Session, August 4, 6, 19-21, 1980. Government Printing Office, 1981. Sterling, Clare. *Terror Network*. Holt, Rinehart, and Winston, 1981. p. 251. *Keesings Contemporary Archives*, various volumes. *Facts on File Yearbook*, 1989-1991.

The Government of Libya's role in the bombing of the LaBelle Discotheque in 1986 may continue to impede the full normalization of relations between the two countries. In the bombing, two U.S. soldiers were killed and scores were injured. U.S. citizens filed claims against the Libyan government, and those claims have yet to be resolved. Section 1225 of the National Defense Authorization Act for Fiscal Year 2006 (P.L. 109-163; 119 Stat. 3464) requires the Secretary of State to report to Congress on the status of negotiations between Libya and the U.S. claimants.

² Homan, Richard L. "Abu Daoud, Butter-Fingers Or Mastermind?" *The Washington Post*. January 15, 1977. p. A11.

³ U.N. Security Council Resolution 731, January 21, 1992, condemned the actions. UNSCR 748, March 31, 1992 required U.N. member states to prohibit flights from or to Libya. UNSCR 883, November 11, 1993, required member states to freeze Libya's assets and stop trading in Libya's oil resources.

⁴ U.N. Security Council Resolution 1506, September 12, 2003. See also CRS Report RS21601, *Libya: PanAm 103 Settlement*, by Clyde Mark. August 27, 2003 (archived; available on request).

Recent Events⁵

On December 19, 2003, Libya's Foreign Ministry released a statement declaring that, following extended discussions with the United States and the United Kingdom in which it was revealed that Libya had the materials and the means to produce weapons of mass destruction and related delivery systems, Libya had "decided of its free will to get rid of these materials, equipment and programs, and to become totally free of internationally banned weapons." Libya further stated its intention to comply with the Missile Technology Control Regime (MTCR), the nuclear Nonproliferation Treaty (NPT), and international biological and chemical weapons treaties and agreements, and to open itself to inspections in all these areas. Libya "... is convinced that the arms race is neither in its interest or in that of the region and goes against its strong desire for a world enjoying security and peace and wants all states to follow suit, starting with the Middle East region without exception."⁶

Both President Bush and Prime Minister Blair issued statements of cautious optimism, assuring that vigilance would guide any efforts to remove economic and diplomatic sanctions — imposed not only for arms control violations but also for Libya's support of international terrorism and revolutionary separatist movements.

On April 23, 2004, President Bush announced that "Libya has set a standard that we hope other nations will emulate in rejecting weapons of mass destruction and in working with international organizations to halt the proliferation of the world's most dangerous systems." He determined that Libya had met the terms required of it in United Nations Security Council resolutions adopted in the aftermath of the destruction of PanAm Flight 103 over Lockerbie, Scotland in 1991. Thus, restrictions under the Iran and Libya Sanctions Act were removed, and some restrictions on licensing and transactions were eased.⁷ The President also announced that the United States would (1) lift its objection to Libya's accession to the World

⁵ See also CRS Report RL33142, *Libya: Background and U.S. Relations*, by Christopher Blanchard.

⁶ "Libyan Call Against Arms," *New York Times*, Dec. 20, 2003, p. A8.

⁷ "Determination and Certification under Section 8(b) of the Iran and Libya Sanctions Act," memorandum for the Secretary of State, Presidential Determination No. 2004-30, April 23, 2004 (69 F.R. 24907, May 5, 2004). Department of the Treasury, Office of Foreign Assets Control. Libyan Sanctions Regulations, 31 CFR Part 550, Section 550.575: New Transactions Authorized. April 23, 2004. Department of Commerce, Bureau of Industry and Security: "Revision of Export and Reexport Restrictions on Libya," interim rule (69 F.R. 23626; April 29, 2004); "Revisions of Export Licensing Jurisdiction of Certain Types of Energetic Material and Other Chemicals Based on Review of the United States Munitions List," final rule (69 F.R. 42862; July 19, 2004); and "Revision of Export and Reexport restrictions on Libya," final rule (70 F.R. 14387; March 22, 2005).

Trade Organization;⁸ (2) work toward resuming full diplomatic ties; and (3) pursue educational exchanges between the two countries.⁹

To reward Libya for its changed stance on settling the PanAm103 and UTA 772 complaints, and for its new pronouncements to turn away from the pursuit of nuclear weapons capability, on February 23, 2004, the Secretary of State removed restrictions on the use of U.S. passports in, to, or through Libya. And on June 28, 2004, the State Department announced it was opening a U.S. Liaison Office in Libya's capitol, to replace the Interests Section in the Embassy of Belgium that had filled the 24-year gap while the U.S. Embassy was shuttered.¹⁰

On September 10, 2004, the President determined that (1) Libya had violated terms of the Arms Export Control Act by receiving nuclear enrichment equipment, material, or technology from Khan Laboratories in Pakistan, but that (2) implementation of the sanctions required under the Arms Export Control Act "would have a serious adverse effect on vital United States interests." The President, further, determined that new restrictions on Export-Import Bank support to U.S. exporters pursuing business in Libya were not in the national interest of the United States.¹¹ A spokesperson for the Export-Import Bank pointed out that the new sanctions imposed and immediately waived on September 10th did not affect other restrictions on Bank activity in effect because of Libya's place on the list of state sponsors of international terrorism.¹²

⁸ The World Trade Organization received Libya's application for membership on June 10, 2004; the WTO General Council established a Working Party to shepherd Libya's application on July 27, 2004. To track Libya's progress in joining the World Trade Organization, see [http://www.wto.org/english/thewto_e/acc_e/a1_libyan_arab_jamahiriya_e.htm]

⁹ The White House. Statement by the Press Secretary. "U.S. Eases Economic Embargo Against Libya." April 23, 2004.

¹⁰ "U.S., Libya Renew Direct Diplomatic Ties." Press statement of William Burns, Assistant Secretary of State for Near Eastern Affairs, June 27-28, 2004. [<http://usinfo.state.gov>].

¹¹ Presidential Determination No. 2004-44, September 10, 2004 (69 F.R. 56153). Department of State Public Notice 4856, September 29, 2004 (69 F.R. 60450). On September 29, 2004, the State Department issued Public Notice 4856 (69 F.R. 6045), stating that "The President has determined and certified to Congress pursuant to section 2(b)(4) [of the Export-Import Bank Act] that 'it is in the national interest' to waive the restriction in the law and allow the Export-Import Bank to support United States exports to Libya. This Presidential determination removes this impediment to Export-Import Bank support for United States exports to Libya beginning November 13, 2004... The Export-Import Bank should be consulted about other legal provisions that may continue to restrict Export-Import Bank support for United States exports to Libya." Sec. 2(b)(4) of the Ex-Im Bank Act requires the prohibition of aid due to nuclear weapons development or testing. Projects in Libya continue to be denied Ex-Im Bank backing because of that country's designation as a state sponsor of international terrorism.

¹² "U.S. to Ease Libya Sanctions." *International Oil Daily*. September 14, 2004.

Effective September 21, 2004, President Bush, citing Libya's commitments and actions to eliminate its weapons of mass destruction programs and related missiles, revoked four Executive Orders that had restricted nearly all trade with Libya since 1985:¹³

- Executive Order 12538, issued November 15, 1985, pursuant to sec. 504 of the International Security and Development Cooperation Act of 1985, which prohibited the importation of petroleum products from Libya;
- Executive Order 12543, issued January 7, 1986, pursuant to the National Emergencies Act (NEA) and International Emergency Economic Powers Act (IEEPA), which declared that a national emergency existed, and prohibited imports, exports, transactions related to transportation, the provision of transportation, purchase of Libyan products via a third country, performance of contracts, or extension of credit or loans;
- Executive Order 12544, issued January 8, 1986, also under the authority of NEA and IEEPA, which blocked all property, assets, and interests held by Libya in the jurisdiction of the United States; and
- Executive Order 12801, issued April 15, 1992, under the authority of NEA and IEEPA, which prohibited the landing or taking off in U.S. airspace of aircraft coming from or going to Libya.

Libya remains listed as a state sponsor of international terrorism. As such, it is ineligible for most foreign assistance, trade in defense articles and defense services, support in the international financial institutions, and some commercial transactions involving dual-use or high technology continue to be limited.

Restrictions Imposed for Support of International Terrorism

Libya is considered a state sponsor of international terrorism pursuant to **Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. app. 2405(j))** (hereafter "EAA").¹⁴ Under terms of that section, exports to Libya of goods or technology require a validated license, and there is otherwise a presumption of denial of licenses for items that the Secretary of State determines could make a significant contribution to the country's military potential or could enhance the country's ability to support

¹³ Executive Order 13357, September 20, 2004 (69 F.R. 56665). See also Department of State press releases of the same date: "Bush Lifts Trade, Transportation Sanctions on Libya — Executive Order Rescinds 18-Year State of Emergency," and "Terminating the National Emergency with Respect to Libya: Revocation of Executive Order Sanctions."

¹⁴ The Export Administration Act has expired. Authority within the act, however, is continued by Executive Order 13222, August 17, 2001 (66 F.R. 44025), issued pursuant to the International Emergency Economic Powers Act. The President has extended the E.O. annually, most recently by a Notice of August 2, 2005 (70 F.R. 45273).

acts of international terrorism. The Secretary is further required to notify Congress in advance of issuing any validated license. Section 6(j)(4) states that the Secretary's designation may not be rescinded unless the President submits to Congress one of two possible reports. The first would certify that (I) there has been a fundamental change in the leadership and policies of the government; (ii) the government is not supporting acts of international terrorism; and (iii) the government has provided assurances that it will not support acts of international terrorism in the future. The second option available to the President would be to certify, at least 45 days before the proposed rescission would take effect, that (I) the government concerned has not provided any support for international terrorism during the preceding six-month period; and (ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

Similar language is contained in **Section 40 of the Arms Export Control Act (22 U.S.C. 2780)** (hereafter "AECA"), and the list maintained by the Secretary of State under Section 6(j) of the EAA is generally understood to apply to both sections of law. The AECA states the terms under which government-to-government and commercial sales or transactions of defense articles and defense services may be conducted. Unlike Section 6(j), however, Section 40(f)(2)(B) states a means for Congress to block a rescission of the sanction if it chooses to keep sanctions in place. Also unlike the EAA, Section 40(g) authorizes the President to waive the prohibitions 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..." consults with Congress and submits a report detailing the proposed transaction.¹⁵

Section 40A of the Arms Export Control Act (22 U.S.C. 2781) prohibits the providing of defense articles and defense services to a "foreign country that the President determines and certifies to Congress...is not cooperating fully with United States antiterrorism efforts." Section 40A requires an annual country list, on which Libya has been named since the language was first added to the AECA in 1996.¹⁶ The President may waive application of Section 40A "with respect to a specific

¹⁵ The President has found it essential to the national security interests of the United States to waive Sec. 40 and Sec. 40A of the AECA into two recent instances: to export "defense articles or defense services necessary to assist in chemical weapon (CW) destruction in Libya" (Presidential Determination No. 2005-39; September 28, 2005; 70 F.R. 60399); and to export "defense articles or defense services and brokering activities necessary to assist in the disposition, including any required refurbishment, of Libyan-owned C-130H aircraft (Presidential Determination No. 2005-40; September 28, 2005; 70 F.R. 60401).

¹⁶ "Determination and Certification Under Section 40A of the Arms Export Control Act," Department of State Public Notice 5085, May 13, 2005 (70 F.R. 28979). While Libya continues to be listed pursuant to Section 40A, beginning in 2004, the Secretary of State's annual certification includes the following language: "I hereby notify that the decision to retain Libya on the list of countries not fully cooperating with U.S. antiterrorism efforts comes in the context of an on-going and comprehensive review of Libya's record of support for terrorism. Although this process is not complete, Libya has taken significant steps to repudiate its past support for terrorism. When our review of Libya's overall record is complete, we will be pleased to consult with the Congress further."

transaction if the President determines that the transaction is important to the national interests of the United States.”

If Libya were removed from the lists required under Section 6(j), EAA and Section 40A, AECA, a substantial body of economic sanctions imposed against that country could then be addressed. Being named to the Section 6(j) list triggers other restrictions, either through legislation that directly cites Section 6(j), or through legislation that denies aid or trade to a supporter of international terrorism without specifically citing Section 6(j). For example, **Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371)** prohibits the provision of aid under the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 “to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.” The restriction may be rescinded in a manner identical to that in the EAA. The President has waiver authority, however, if he “determines that national security interests or humanitarian reasons justify a waiver...” The waiver under “humanitarian reasons” is somewhat limited, and the waiver authority may not be used on either basis to provide assistance that is also restricted under Section 40 of the AECA.

The Trade Sanctions Reform and Export Enhancement Act of 2000 (114 Stat. 1549A-67 through 1549A-72) restricts the export of agricultural commodities, medicine, and medical devices to any country that the Secretary of State has designated as a state sponsor of international terrorism under the above-cited laws. While such exports are allowed, licenses to export are limited to one-year issuances, and government financing or underwriting of such exports is substantially denied. **Section 908(a)** of that act, however, authorizes the President to waive the restrictions on financing if he finds it in the national security interest to do so. The President waived restrictions on financing for Libya on September 20, 2004.¹⁷ The one-year licensing limitation still holds.

The President is also granted authority to restrict trade or transactions with state supporters of international terrorism under the following laws:

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) provides that only where the President, after consultation with Congress, determines that Ex-Im financing “would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism... [and] nuclear proliferation... should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations.” Considering that the President found, on September 10, 2004, “that it is in the national interest for the Export-Import Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to Libya” to meet the requirements of another subsection of Sec. 2, any new determination to

¹⁷ Presidential Determination No. 2004-49, September 20, 2004 (69 F.R. 58035).

block Ex-Im Bank funding is unlikely.¹⁸ It continues to be blocked, nonetheless, pursuant to the requirements of Sec. 620A of the Foreign Assistance Act of 1961.

Section 1621 of the International Financial Institutions Act (22 U.S.C. 262p-4q) requires the Secretary of the Treasury to instruct the U.S. executive director in each international financial institution to “use the voice and vote of the United States to oppose any loan or other use of funds ... for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 ... or section 620A of the Foreign Assistance Act of 1961....” This section contains no waiver authority.

Section 6 of the Bretton Woods Agreements Act Amendments of 1978 (22 U.S.C. 286e-11) similarly prohibits U.S. support in the International Monetary Fund for loans to states supporting international terrorism, and provides no waiver authority.

Section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102; 119 Stat. 2205) prohibits bilateral assistance to any country found by the President to be harboring international terrorists or otherwise supporting international terrorism. The President may waive the application of Section 527 if he finds that national security or humanitarian reasons justify the waiver.

Other Libya-Specific Legislative Restrictions

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) prohibits foreign assistance designated for International Organizations and Programs from being made available for the U.S. proportionate share for programs that fund efforts in Libya and other countries. This restriction does not apply to programs of the International Atomic Energy Agency (IAEA) or the United Nations Children’s Fund (UNICEF). The section contains no waiver.

Section 507 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, prohibits direct assistance or reparations to Libya and other countries. This language has been included in annual foreign operations appropriations since Fiscal Year 1974, and Libya was added to the list of prohibited states in Fiscal Year 1982.¹⁹ In FY2006, however, the section allowed:

Provided further, That for purposes of this section, the prohibition shall not include activities of the Overseas Private Investment Corporation in Libya:
Provided further, That the prohibition shall not include direct loans, credits, insurance and guarantees made available by the Export-Import Bank or its agents for or in Libya.

¹⁸ Presidential Determination No. 2004-44, September 10, 2004 (69 F.R. 56153). See also footnote 11.

¹⁹ Section 513 of the Foreign Assistance and Related Programs Appropriations Act, 1982 (P.L. 97-121; 95 Stat. 1647, approved December 29, 1981).

Despite this language, neither the Overseas Private Investment Corporation nor the Export-Import Bank have extended their programs to investment in Libya, still restricted due to its designation as a supporter of international terrorism.

Section 406 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4856) authorizes the Director of the Office of Foreign Buildings, Department of State, to establish a contract system for the construction of new diplomatic facilities in light of rising concerns about terrorist attacks and the security of U.S. missions abroad. Section 406(c), however, prohibits any “person doing business with Libya” from being awarded any contract pursuant to this act. The section contains no waiver. This was enacted on the heels of the President’s declaration that a U.S. national emergency existed because of Libya’s terrorist activities, in January 1986, and the April 1986 Berlin nightclub bombing.²⁰

Exemptions to Legislative Restrictions

As noted above, most of the sanctions may be lifted if Libya is removed from the terrorist list, or if the President finds it in the national interest to waive the particular restriction. It should also be noted that several assistance programs are exempted from strict adherence to the sanctions regime. Emergency food assistance under the Agricultural Trade Development Assistance Act of 1954 (PL 480, title II), development assistance and Economic Support Funds for health and disease prevention, assistance to respond to “unanticipated contingencies,” international narcotics control, international disaster assistance, development assistance in response to a country’s improved human rights record, Trade and Development Agency funding (though TDA does not have projects in Libya), and debt-for-nature swaps are all stated in such a way in authorizing legislation that assistance in those areas may continue despite the imposition of economic sanctions.

In the same vein, the current foreign operations appropriations, in funding nonproliferation, anti-terrorism, demining and related programs, includes a “Notwithstanding” clause that could allow for assistance despite the sanctions regime currently in place against Libya (**title II of P.L. 109-102; 119 Stat. 2189**).

Section 614 of the Foreign Assistance Act of 1961 (22 U.S.C. 2364) authorizes the President to furnish assistance “without regard to any provision of this act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this act, in furtherance of any of the purposes of this act, when the President determines, and so notifies in writing the Speaker of the House of Representatives

²⁰ The 109th Congress is considering a repeal of this section of law. The Foreign Relations Authorization Act, Fiscal Years 2006 and 2007 (H.R. 2601; Section 207), would repeal Section 406(c) of this act. H.R. 2601 passed the House on July 20, 2005, by a vote of 351 — 78 (Roll no. 399). It was referred to the Senate and placed on the Legislative Calendar under General Orders. The Foreign Affairs Authorization Act, Fiscal Years 2006 and 2007 (S. 600; Section 210) would accomplish the same change. It was reported out of the Committee on Foreign Relations on March 10, 2005, considered briefly on the floor, then returned to the Senate General Calendar on April 26, 2005.

and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.” The section has limits on amounts of assistance that may be made available in any given fiscal year, and the President is required to consult with Congress before aid is provided.

Other Legislation No Longer In Force Against Libya

The Iran and Libya Sanctions Act (P.L. 104-172; 50 U.S.C. 1701 note), particularly Sections 5 and 6, (ILSA) had authorized the President to impose two or more sanctions on a person or corporation found to have invested above a certain amount in Libya’s oil resources. On April 23, 2004, President Bush determined that Libya had met the terms required of it in United Nations Security Council Resolutions adopted in the aftermath of the destruction of PanAm Flight 103 over Lockerbie, Scotland in 1991. Thus, restrictions under the Iran and Libya Sanctions Act are removed.²¹

Section 504 of the International Security and Development Cooperation Act of 1985 authorizes the President to prohibit imports from, or exports to, Libya. No waiver authority is required, as the authority to impose rests entirely with the President. On November 15, 1985, the President, citing this provision, issued Executive Order 12538 (50 F.R. 47527; 19 U.S.C. 1862 note), ordering that no petroleum products refined in Libya may be imported into the United States. The President revoked E.O. 12538, effective September 21, 2004.

The U.S. government had restricted the use of U.S. passports to travel to or through Libya since 1981, pursuant to authority granted the Secretary of State in **the act of July 3, 1926 (22 U.S.C. 211a)**. On February 23, 2004, the Secretary of State removed this restriction.²²

Section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-9) authorizes the President to ban the importation of any goods and services from any country that supports terrorism or terrorist organizations or harbors the same. Because the authority rests with the President to impose, it may be assumed that the authority to lift restrictions also rests with the President; the law includes no explicit waiver or means of lifting restrictions. Although Section 505 is

²¹ Several legislative proposals under consideration in the 109th Congress seek to amend the Iran and Libya Sanctions Act (ILSA). Some remove Libya from its intent, some add Iran, and others address its sunset clause. See H.R. 282, S. 299, S. 333, and S. 1737. H.R. 1453 — the United States-Libya Relations Act of 2005 — seeks to remove Libya from ILSA, establish U.S. diplomatic and cultural facilities in Libya, establish scholarship and exchange programs between the two countries, provide assistance for programs promoting health, civil society, an independent media, governance, trade and investment (including OPIC, TDA, and Ex-Im Bank funding), advocate on Libya’s behalf in the international financial institutions, “notwithstanding any other provision of law that restricts assistance to foreign countries” (Sec. 13(a)). H.R. 1453 was introduced on March 20, 2005, by Representative Lantos, and referred to the Committees on International Relations, Financial Services, Ways and Means, and Government Reform.

²² Department of State Public Notice 4648, March 8, 2004 (69 F.R. 10806).

not cited in the President's Executive Order of September 20, 2004, and not mentioned in accompanying statements issued by the State Department, because all other restrictions on imports and exports are lifted, one may assume that application of this section on Libya is rescinded.

Table 1. Libya: Economic Sanctions Imposed in Furtherance of U.S. Foreign Policy or National Security Objectives

Rationale	Restriction	Statutory Basis	Authority To Impose	Authority to Lift or Waive
Terrorism	Limits the export of goods or technology	Sec. 6(j), Export Administration Act (50 U.S.C. app. 2504(j))	Secretary of State	Secretary of State, after the President notifies Congress
Terrorism and Proliferation	Prohibits transactions related to defense articles and defense services	Sec. 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.
Failure to cooperate with U.S. antiterrorism efforts	Prohibits transactions related to defense articles and defense services	Sec. 40A, Arms Export Control Act (22 U.S.C. 2781)	President	President at annual review, or waived by the President if he finds it “important to the national interests of the United States.”

Rationale	Restriction	Statutory Basis	Authority To Impose	Authority to Lift or Waive
Terrorism	Prohibits most aid under the Foreign Assistance Act of 1961, Agricultural Trade Development and Assistance Act of 1954, Peace Corps Act, or the Export-Import Bank Act of 1945	Sec. 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 or humanitarian reasons justify a waiver....”
Terrorism	Limits export licensing for food, medicine, and medical devices to one-year increments	Sec. 906, Trade Sanctions Reform and Export Enhancement Act of 2000 (114 Stat. 1549A-69)	Statutory requirement, triggered by designation as state sponsor of terrorism	No waiver
Terrorism	Denies Export-Import Bank financing	Sec. 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	Sec. 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	Opposes loans or funding through the International Monetary Fund	Sec. 6, Bretton Woods Agreements Act Amendments of 1978 (22 U.S.C. 286e-11)	Secretary of the Treasury, if a country is listed under § 6(j), EAA, or § 620A, FAA	Secretary of the Treasury (no waiver authority)

Rationale	Restriction	Statutory Basis	Authority To Impose	Authority to Lift or Waive
Terrorism	Prohibits bilateral assistance	Sec. 527, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102, 119 Stat. 2205)	President	President, if he finds it in the national security interest, or for humanitarian reasons
Terrorism	Prohibits certain contracts to those “doing business with Libya”	Sec. 406(c), Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4856)	Statutory requirement	No waiver
General foreign policy reasons	Prohibits foreign assistance designated for International Organizations and Programs from being applied in Libya	Sec. 307, Foreign Assistance Act of 1961 (22 U.S.C. 2227)	Statutory requirement	No waiver
General foreign policy reasons	Prohibits direct assistance or reparations	Sec. 507, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102, 119 Stat. 2197)	Statutory requirement	No waiver

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