

**TO GUARANTEE THE PEACE:
AN ACTION STRATEGY FOR A POST-CONFLICT SUDAN**

**SUPPLEMENT I:
ADDRESSING U.S. SANCTIONS AGAINST SUDAN**

MARCH 2004

Author
Bathsheba Crocker

Project Directors
Frederick Barton
Bathsheba Crocker



INTRODUCTION

This report and the accompanying chart attempt to present a comprehensive picture of U.S. sanctions against Sudan.¹ Maintaining the complex web of U.S. sanctions will make it extremely difficult—if not impossible—for the United States to provide the types of assistance that will be necessary to ensure that peace survives in Sudan.

U.S. sanctions against Sudan affect everything from the ability to provide most types of U.S. assistance to Sudan and export goods there to international financial institution loans, trade relations, and U.S. financial and other transactions with Sudan. In the event the Sudanese parties reach a peace agreement, Congress and the administration must take steps to comprehensively overhaul this complex web. Such an overhaul could be done in a manner that would allow the United States to maintain the ability to re-impose certain sanctions in the event of backsliding by either party in peace implementation, serious human rights violations, or to address other concerns. Obviously, unless and until the Sudanese Government satisfies the criteria needed to permanently remove Sudan from the U.S. “terrorism list,” (discussed further below), Sudan will not be eligible to be removed from that list.

Sudan is subject to a multitude of both legislative and administrative sanctions, related, *inter alia*, to its status as a terrorism list country, human rights concerns, the military coup, and its indebtedness to the United States. Other issues, such as Sudan’s poor record on religious freedom and trafficking in persons, could lead to further sanctions.

The United States government’s stated policy toward Sudan favors unity of the country after the six-year interim period that is being negotiated as part of ongoing peace talks to end the country’s civil war. Giving unity a chance in Sudan will require that the United States change its longstanding assistance posture toward Sudan. In recent years, due to myriad concerns and overlapping sanctions provisions, the United States has provided assistance only to southern Sudan, largely in the form of much needed humanitarian aid.

If the Government of Sudan and the Southern People’s Liberation Movement/Army sign a peace deal, however, the United States will need to consider providing post-conflict reconstruction assistance to both the northern and southern parts of the country. Doing so will give the United States the leverage it needs to influence governance reforms in both the north and south—including measures to improve transparency and accountability and open up the political processes to a wider swath of Sudanese—pursue reconstruction programs that unite all parts of the country, and promote the success of the new joint integrated units of Sudan’s armed forces.² Moreover, it will satisfy in part the U.S. promise of a peace dividend to the Sudanese parties.

¹ Although the following discussion and chart attempt to present a complete picture of U.S. sanctions against Sudan, it may in certain instances be incomplete. For an excellent, in-depth discussion of sanctions on Sudan, see Meghan L. O’Sullivan, *Shrewd Sanctions: Statecraft and State Sponsors of Terrorism* (Brookings 2003): 233-281.

² For a detailed discussion of the need to address U.S. sanctions provisions and other post-conflict reconstruction priorities in Sudan, see *To Guarantee the Peace: An Action Strategy for a Post-Conflict Sudan*, January 2004, available at http://www.csis.org/isp/pcr/0401_sudan.pdf.

A rationalization of the current complicated sanctions picture is in order, not least because without it, the United States will be hampered from supporting Sudan's peace most effectively. Some of the existing sanctions provisions will be complicated to remove or revise; thus the relevant U.S. government agencies (in particular the State and Treasury departments and the U.S. Agency for International Development) should be working together—and with Congress—now to put the necessary steps in place in order to be prepared in advance should the parties to Sudan's civil war reach peace.

EXISTING SANCTIONS AGAINST SUDAN

Terrorism-Related Restrictions

Sudan was placed on the State Department's list of state sponsors of international terrorism in August 1993. This followed a determination by the Secretary of State that the Sudanese Government had repeatedly provided support for acts of international terrorism. Placement on the terrorism list brings to bear restrictions under many different legal provisions, as provided in the chart below.³ Sanctions include: a prohibition on U.S. foreign assistance;⁴ a prohibition on arms exports and sales; controls over exports of dual use items; and myriad other restrictions including on trade, financial transactions, Defense Department assistance, and international financial institution loans.

Restrictions Related to Sudan's Debt to the U.S.

Since December 1988, Sudan has been in arrears on U.S. loans.⁵ Section 620(q) of the Foreign Assistance Act of 1961 (FAA) and section 512 of the annual Foreign Operations, Export Financing and Related Restrictions Appropriations acts (FOAA) prohibit the provision of U.S. foreign assistance once a country has been in default on loans for more than six months and one year, respectively.

Military Coup Restrictions

Assistance to Sudan is also prohibited under section 508 of the annual FOAAs, which bans assistance to governments of any country where a duly elected government has been deposed by a military coup.

³ Those provisions include section 6(j) of the Export Administration Act of 1979, section 620A of the Foreign Assistance Act of 1961, and section 40 of the Arms Export Control Act.

⁴ Legal authorities governing certain humanitarian and other types of assistance allow provision of assistance "notwithstanding any other provision of law," meaning certain types of assistance can be provided despite this prohibition. In fiscal year 2003, the United States provided \$155 million for humanitarian and food aid programs in southern Sudan, as well as \$24.5 million in transition and development assistance. *See To Guarantee the Peace*: 33.

⁵ See O'Sullivan, *Shrewd Sanctions*: 238.

Sudan-specific Provisions

Foreign Assistance

The Consolidated Appropriations Act of 2004 (which includes the fiscal year 2004 FOAA) contains several Sudan-specific provisions, some of which have been included in prior year FOAAs as well. These are: a restriction on the provision of Foreign Military Financing (FMF) for Sudan, a restriction on the ability to restructure Sudan's debt, and a requirement for special notification to the Committees on Appropriations in the House and Senate for any assistance provided to Sudan.

In addition, for the past several years, the annual FOAAs have included a Sudan-specific proviso in the Economic Support Fund (ESF) heading authorizing the use of ESF to provide certain types of assistance to the National Democratic Alliance of Sudan. In the FY 2004 FOAA, that proviso reads: "funds appropriated under this heading may be used, notwithstanding any other provision of law, to provide assistance to the National Democratic Alliance of Sudan to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by the Sudanese Government forces and its militia allies." For the purposes of this provision, the term "assistance" is defined to include "non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes."⁶

Commercial Exports Assistance

Pursuant to the FY 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, no U.S. government assistance may be provided for commercial exports to Sudan.

Treasury Department Sanctions

On November 3, 1997, President Clinton issued Executive Order 13067,⁷ pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), finding that certain activities and policies of the Government of Sudan (GOS) constituted "an unusual and extraordinary threat to the national security and foreign policy of the United States" and declaring a national emergency to deal with that threat. The GOS activities and policies listed were: continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and prevalent human rights violations, including slavery and the denial of religious freedom.

The executive order and its implementing regulations, issued by the Treasury Department's Office of Foreign Assets Control (OFAC), impose a trade embargo on Sudan, prohibiting most trade and other transactions with Sudan by U.S. persons or from the United States, and

⁶ The Consolidated Appropriations Act of 2004 (H.R. 2673) is available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h2673enr.txt.pdf

⁷ Executive Order 13067, November 3, 1997, available at <http://www.ustreas.gov/offices/eotffc/ofac/legal/eo/13067.pdf>

freeze all assets of the Government of Sudan that are in the United States or in the possession or control of a U.S. person (including their overseas branches).⁸

These sanctions may be modified or removed by administrative action: OFAC may lift or suspend the sanctions by issuing general or specific licenses under the regulations, or the President may terminate the sanctions by issuing an order terminating the national emergency declared in November 1997.⁹

The President's most recent action under E.O. 13067 was a six-month report to Congress on the national emergency, filed in October 27, 2003, in which he stated that "the situation in Sudan continues to present an unusual and extraordinary threat to the national security and foreign policy of the United States."¹⁰

Restrictions on International Financial Institution Loans

Several so-called "directed voting provisions" affect Sudan. One is section 576 of the FY 1997 FOAA, which directs the Secretary of the Treasury to instruct the U.S. executive directors to the international financial institutions (IFIs) to use the voice and vote of the United States to oppose any non-basic human needs loan to, or other utilization of funds for, the government of any country that the Secretary of the Treasury has determined by the Secretary of the Treasury does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed and security forces. The Treasury Secretary has made this determination with respect to Sudan.

Religious Freedom

Section 402 of the International Religious Freedom Act of 1998 (H.R. 2431) (IRFA)¹¹ requires the President, on an annual basis, to designate "countries of particular concern" with respect to religious freedom, and to choose from a range of punitive actions to be taken against such countries. Sudan has been designated as a country of particular concern for purposes of the IRFA since 1999, most recently in the State Department's 2003 Annual Report on International Religious Freedom, issued on December 18, 2003.¹²

The IRFA (section 402(c)(4)) provides an exception to the requirement to impose sanctions on countries of particular concern if that country is already subject to "multiple, broad-based

⁸ The Sudanese Sanctions Regulations, 31 C.F.R. Part 538, were promulgated to implement Executive Order 13067. For an overview of the regulations, see "An Overview of the Sudanese Sanctions Regulations—Title 31 Part 538 of the U.S. Code of Federal Regulations," available at <http://www.ustreas.gov/offices/eotffc/ofac/sanctions/t11sudan.pdf>.

⁹ For example, on May 23, 2003, in order to allow certain activities related to Iraq's reconstruction, the Treasury Department issued a general license to exempt many transactions that would otherwise have been prohibited by various executive orders and regulations prohibiting activities and transactions with Iraq. For a description of the general license, see *An Overview of the Iraqi Sanctions Regulations—Title 31 Part 575 of the U.S. Code of Federal Regulations*, available at <http://www.treas.gov/offices/eotffc/ofac/sanctions/t11iraq.pdf>.

¹⁰ "Six-month Report to Congress on the National Emergency with respect to Sudan," October 27, 2003, available at <http://www.ustreas.gov/offices/eotffc/ofac/presdocs/102703sudanrept.pdf>.

¹¹ The IRFA can be found at <http://www.state.gov/documents/organization/2297.pdf>.

¹² International Religious Freedom Report 2003, December 18, 2003, available at <http://www.state.gov/g/drl/rls/irf/2003/c10265.htm>.

sanctions imposed in significant part in response to human rights abuses.” To utilize this exception, the President must determine and report to Congress that the ongoing sanctions satisfy the requirements in the IRFA. This exception has been applied to Sudan since it was first listed as a country of particular concern in 2000.

The statute also provides (section 407) that the requirement to impose sanctions may be waived if the President determines and reports to Congress that the respective foreign government has ceased the violations, that the waiver would further the purposes of the IRFA, or that important national interests require the exercise of a waiver.

Trafficking in Persons

Among other requirements, the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386)¹³ requires the Secretary of State to submit an annual report to the Congress listing countries in three tiers, according to the level of effort they are making with respect to the elimination of trafficking in persons. Sudan has been listed as a “Tier 3” country—meaning its government does not fully comply with the Act’s enumerated minimum standards and is not making significant efforts to bring itself into compliance—since the Act’s passage, most recently in the State Department’s 2003 Trafficking in Persons Report.¹⁴

Section 110 of the Act requires the President to impose certain types of sanctions on Tier 3 countries, beginning in FY 2004. Like the IRFA, the Victims of Trafficking and Violence Protection Act contains an exception for countries already subject to multiple, broad-based restrictions on assistance that have been imposed in response to human rights violations. There are also exceptions to the assistance cut-off provisions for countries the Secretary of State has determined have come into “substantial compliance” with the Act’s minimum standards, and for countries where the President has determined that the provision of assistance would further the purposes of the Act or is otherwise in the national interest of the United States.

On September 9, 2003, the President made a determination not to provide certain types of FY 2004 funding to the governments of Sudan and certain other Tier 3 countries.¹⁵ The President also determined, however, that provision of multilateral assistance (as defined in the Act) to promote the peace process in Sudan would promote the purposes of the Act or was otherwise in the U.S. national interest.

Arab League Boycott

U.S. government sale or lease of defense articles or services to Sudan is prohibited under a provision that affects countries that, as a matter of policy or practice, request that U.S. firms

¹³ The Victims of Trafficking and Violence Protection Act of 2000 was enacted on October 28, 2000, and is available at <http://www.state.gov/documents/organization/10492.pdf>.

¹⁴ Trafficking in Persons Report, June 2003, available at <http://www.state.gov/document/21555.pdf>.

¹⁵ Presidential Determination with Respect to Foreign Governments’ Efforts Regarding Trafficking in Persons (Presidential Determination No. 2003-35), September 9, 2003, available at <http://www.state.gov/g/tip/rls/rpt/25017.htm>.

comply with the Arab League's boycott of Israel. Sudan is one such country.¹⁶ Similarly, the State Department is prohibited from entering into certain types of contracts with any foreign person or entity that complies with the boycott or that discriminates in the award of subcontracts on the basis of religion.

Sudan Peace Act

On October 21, 2002, the President signed into law the Sudan Peace Act of 2002 (P.L. 107-245).¹⁷ The Act, which passed the House by a vote of 359-8 and unanimously passed the Senate, was enacted to further the ongoing negotiations toward peace, encourage the parties to reach a deal, and allow for the imposition of certain penalties in the event that the Government of Sudan is determined not to be negotiating in good faith.

Section 6(b)(1)(A) of the Sudan Peace Act of 2002 (P.L. 107-245) requires the President, every six months, to determine and certify to Congress that the Government of Sudan and the Sudan People's Liberation Movement (SPLM) are "negotiating in good faith and that negotiations should continue." If the President instead determines and certifies that the Government of Sudan "has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, or has unreasonably interfered with humanitarian efforts," then the President is required to implement the following measures:

- Instructing the U.S. executive directors to the international financial institutions to continue to vote against and actively oppose extending any loan, credit, or guarantee to the Government of Sudan;
- Consider downgrading or suspending diplomatic relations between the U.S. and the Government of Sudan;
- Take all necessary and appropriate steps, including multilaterally, to deny the Government access to oil revenues; and
- Seek a U.N. Security Council resolution to impose an arms embargo against the Government of Sudan.

If the President determines and certifies that the SPLM has not engaged in such good faith negotiations, then the Act specifies that the above measures are not to be applied to the Government of Sudan.

The Sudan Peace Act—including the semi-annual determination and certification requirement—will remain in effect even upon conclusion of a peace agreement. Thus, section 6(b)(1)(D) provides that if the President certifies that the Government of Sudan is "not in compliance with the terms of a permanent peace agreement between the Government of Sudan and the [SPLM]," then the President shall implement the measures set forth above.

¹⁶ For information on the boycott, see *The Arab League (boycott of Israel)*, Treasury Department primer, available at http://www.ustr.gov/reports/nre/2003/arab_league_boycott.pdf.

¹⁷ The Sudan Peace Act, which was enacted on October 21, 2002, is available at <http://www.state.gov/documents/organization/19897.pdf>.

The President last made the determination called for in section 6(b)(1)(A) on October 22, 2003.¹⁸ The next determination is due to be submitted on April 21, 2004.

UN Sanctions Against Sudan

In the mid-1990's, the UN Security Council passed two resolutions imposing sanctions against Sudan. The first, UN Security Council Resolution 1054, passed on April 26, 1996, imposed diplomatic sanctions on Sudan, which few states implemented.¹⁹ The second, Resolution 1070, passed on August 16, 1996, would have imposed an air embargo against Sudan,²⁰ but its provisions were never imposed.²¹ On September 28, 2001, the Security Council unanimously passed Resolution 1372, which lifted the UN's sanctions against Sudan.²² (The United States abstained from the vote on Resolution 1372.)

REMOVAL OF SANCTIONS

The following section describes the available means for removing the statutory and administrative restrictions on assistance for, and transactions with, Sudan, where such means exist. Some of the laws affecting Sudan contain no internal waiver authorities. There are certain laws that authorize assistance for organizations or particular activities outside the control of the Government of Sudan. Other laws that authorize assistance "notwithstanding any other provision of law" or on the basis of certain extraordinary general authorities in the Foreign Assistance Act of 1961 could be relied upon to provide assistance in certain circumstances and for certain programs.

None of the existing sanctions provisions contain waiver authorities that relate directly to Sudan reaching a peace agreement. Removal from the terrorism list, if justifiable, would remove many impediments to providing assistance to Sudan, but other provisions would remain in effect that would effectively bar U.S. assistance to Sudan even if the terrorism list designation were rescinded, including those related to Sudan's debt and the military coup. The latter restriction may not be waived until there is a democratically elected government in Sudan.

¹⁸ Sudan Peace Act Presidential Determination, 2003/1077, October 22, 2003, available at <http://www.state.gov/r/pa/prs/ps/2003/25548.htm>.

¹⁹ UN Security Council Resolution 1054, S/Res/1054 (1996), available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N96/107/86/PDF/N9610786.pdf?OpenElement>. A longer description of the UN's Sudan sanctions is included in O'Sullivan's chapter on sanctioning Sudan in *Shrewd Sanctions*: 240-41.

²⁰ UN Security Council Resolution 1070, S/Res/1070 (1996), available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N96/214/20/PDF/N9621420.pdf?OpenElement>.

²¹ *Use of Sanctions Under Chapter VII of the UN Charter: Sudan*, Office of the UN Spokesman, January 2002, available at <http://www.un.org/News/ocsg/sudan.htm>.

²² UN Security Council Resolution 1372, S/Res/1372 (2001), available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N01/556/46/PDF/N0155646.pdf?OpenElement>.

Applicable Waiver Authorities

Sudan-specific

Section 501 of the International Malaria Control Act of 2000 (P. L. 106-570) provides special authorities for provision of certain types of assistance to Sudan.²³

- Section 501(a) provides that, 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 the 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.” (Emphasis added)
- Section 501(b) provides that, notwithstanding any other provision of law, the prohibitions in Executive Order 13067 shall not apply to any export (or transaction related to such export) from an area in Sudan outside the control of the Government of Sudan, if the President determines that the export or related transaction “would directly benefit the economic development of that area and its people.”

Removal from the Terrorism-List

The President may remove a country from the terrorism list under section 620A of the Foreign Assistance Act, section 40 of the Arms Export Control Act, and section 6(j) of the Export Administration Act by certifying, in a report to Congress, that:

- Prior to the removal taking effect, there has been a fundamental change in the leadership and policy of the government, it is not supporting acts of international terrorism, and it has provided assurances that it will not support such acts in the future; or
- At least 45 days prior to the removal taking effect, the government has not provided any support for international terrorism during the preceding six months and has provided assurances that it will not do so in the future.

Other Statutory Removal Provisions

Certain of the statutory provisions that apply to Sudan include waiver authority, as indicated in the following chart. Other provisions do not include the ability to waive, but assistance to Sudan could in certain circumstances be provided despite those provisions using extraordinary presidential authorities, such as those included in sections 451 and 614 of the Foreign Assistance Act, or on the basis of laws that authorize assistance “notwithstanding

²³ Section 534(j) of the FY 2004 FOIA provides that, upon conclusion of a peace agreement between the Government of Sudan and the Sudan People’s Liberation Movement, the terms “areas outside of control of the Government of Sudan” and “area in Sudan outside of control of the Government of Sudan,” as found in section 501 of P.L. 106-570, shall have the same meaning and application as they did immediately prior to the conclusion of such peace agreement.

any other provision of law.” Like the complex web of sanctions themselves, the waiver authorities also diverge across sanctions provisions, roughly breaking down as follows:

- *Terrorism list-related sanctions*: some may be waived if doing so is justified by “national security interests” or for humanitarian reasons. Some require a determination that the waiver is “essential to U.S. national security assistance.” (The tariff preference restrictions may be waived if doing so would be in the U.S. national economic interest.) Some terrorism list-related provisions do not include internal waiver authorities.
- *Sanctions related to debt to the United States*: these provisions may be waived upon a determination that assistance to the country in question is in the U.S. “national interest.”
- *Military coup-related provisions*: these provisions may be waived upon a determination that a democratically elected government has taken office.
- *Religious freedom sanctions*: these sanctions may be waived if (1) the country in question has ceased the violations; (2) waiver would further the purposes of the International Religious Freedom Act; or (3) U.S. national interests require the waiver. The statute also provides an exception for countries already subject to multiple, broad-based sanctions related to human rights abuses.
- *Trafficking in persons sanctions*: these sanctions may be waived if the country in question has come into substantial compliance with the statute’s “minimum standards,” or where a waiver would promote the purposes of the Victims of Trafficking and Violence Against Persons Act or is otherwise in the U.S. national interest. The statute also provides an exception for countries already under multiple, broad-based sanctions related to human rights violations.
- *Arab League boycott sanctions*: these may be waived upon certification that the country in question no longer maintains the boycott, or for periods of one-year if doing so is in the national interest and would promote the objectives of ending the boycott. (The restrictions on State Department contracts may be waived if doing so is in the national interest and is necessary to carry out the diplomatic functions of the U.S.)

Administrative Actions

The sanctions laid out in Executive Order 13067 can be lifted or suspended by the Treasury Department, through issuing general or specific licenses in OFAC regulations. To permanently lift the sanctions, the President must issue an order terminating the national emergency declared in the order.

Although certain of the underlying concerns that led to the imposition of the national emergency may remain in place—in particular the terrorism and human rights concerns—those could be addressed through other existing sanctions provisions, including the terrorism list restrictions, the IRFA, the Trafficking and Victims Protection Act, and the human rights provisions in the Foreign Assistance Act (sections 116 and 502B). Alternatively, even if the President continues the national emergency under Executive Order 13067, certain restrictions could be lifted through Treasury Department amendment of the Sudan Sanctions Regulations.

Conclusion

The United States will need to revisit its comprehensive sanctions regime against Sudan in order to allow for a robust and effective assistance package in the event the country reaches peace. This will require executing numerous waivers and amendments to existing provisions (both legislative and administrative), and could require enactment of legislation in order to overcome certain restrictions that will remain in place notwithstanding peace, removal from the terrorism list, or lifting of the embargo imposed under Executive Order 13067.

As argued in *To Guarantee the Peace*, a new version of the Sudan Peace Act could provide the necessary legislative authority to lift or waive current U.S. sanctions and authorize substantial resources for both the south and the north for the life of the interim period, contingent upon both parties' progress in implementing the agreement. A new act could also suggest penalties for noncompliance, to apply to both parties to the agreement.²⁴ Its passage would signal renewed and invigorated U.S. commitment to peace and reconstruction in Sudan.

Maintaining the current U.S. sanctions regime against Sudan will undermine the goals of lasting peace and successful reconstruction in that country.

²⁴ *To Guarantee the Peace*: 21. As it stands now, the Sudan Peace Act envisions penalties only against the Government of Sudan in the event of its non-compliance with a permanent peace deal. It says nothing about non-compliance with such a deal by the SPLM.

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism list	Foreign Assistance	Section 620A of the Foreign Assistance Act of 1961 (FAA)	No assistance under the FAA, the Agricultural Trade Development And Assistance Act of 1954, the Peace Corps Act, and the Export-Import Bank Act of 1945 to any terrorism list country.	The President may waive section 620A upon a determination that doing so is justified by national security interests or humanitarian reasons. A waiver would take effect 15 days after consulting with and reporting to Congress.
Terrorism list	Foreign Assistance	Section 527 of the FY 2004 Foreign Operations, Export Financing and Related Programs Appropriations Act (FOAA)	Prohibits the provision of bilateral U.S. assistance using funds appropriated under the FY 2004 and prior year FOAAs to any country that the President has determined supports international terrorism.	The President may waive the provision if he determines that national security or humanitarian reasons justify such waiver. He must notify the Committees on Appropriations 15 days prior to the waiver taking effect.
Terrorism list	Arms Exports	Section 40(a) of the Arms Export Control Act (AECA)	Prohibits exporting, re-exporting, licensing, or otherwise providing (by sale, lease, loan, grant, or other means) or facilitating the transfer, directly or indirectly, of any U.S. Munitions List item to a terrorism list country. Prohibits providing credits, guarantees, or other financial assistance with respect to the acquisition of any U.S. Munitions List item by such country.	The President may waive the section 40(a) ban upon a determination that the proposed transaction is "essential to U.S. national security interests." The President is required to submit a detailed report and justification to Congress 15 days prior to the transaction.

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism list	Dual Use Exports	Section 6(j) of the Export Administration Act (EAA)	Requires that the Commerce Department issue a “validated license” for any export or re-export to a terrorism list country of goods or technology that the Secretary of State determines “could make a significant contribution to the military potential of such country ... or could enhance the ability of such country to support acts of international terrorism.” An export on the basis of such a license can only take place 30 days after notification and justification are provided to Congress.	
Terrorism list	Dual Use Exports	Section 6(l) of the EAA	Prohibits the export of missile-related goods and technology to a terrorism list country.	
Terrorism list	Dual Use Exports	Regulations promulgated under section 6(a) of the EAA	Pursuant to regulations, a valid license is also required for most other exports or re-exports of dual use goods or technology to Sudan.	The President may amend the regulations according to administrative procedures.
Terrorism list	International Financial Institution (IFI) Loans	Section 1621 of the International Financial Institutions Act, 22 U.S.C. 262p-4q	Directs the U.S. executive directors to the IFIs to vote against IFI loans or other uses of IFI funds for terrorism list countries.	

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism list	Tariff preferences	Section 502(b)(2)(F) of the Trade Act of 1974, 19 U.S.C. 2462(b)(2)(F) [Other preferential tariff programs, including the African Growth and Opportunity Act (AGOA) contain similar provisions.]	Prohibits the President from designating any country that “aids or abets ... any individual or group which has committed an act of international terrorism” or which is a terrorism list country, or if such country has not taken steps to support the efforts of the U.S. to combat terrorism, as a “beneficiary developing country” entitled to duty free treatment under the Generalized System of Preferences (GSP).	Waiver is available if designating the country as a “beneficiary developing country” would be in the national economic interest of the United States, upon provision of a justification of the waiver to Congress.
Terrorism list	DOD funds	10 U.S.C. 2249a	Prohibits the use of DOD funds to provide financial assistance to terrorism list countries.	Provision may be waived if assistance is in the U.S. national security interests or for humanitarian reasons. Congress must be notified 15 days in advance of any waiver.
Terrorism list	DOD contracts	10 U.S.C. 2327	DOD may not enter into contracts exceeding \$100,000 in value with firms in which a terrorism list country owns or controls a significant interest.	The Secretary of Defense may waive this provision if he determines that the contract would not be inconsistent with U.S. national security interests.
Terrorism list	Services for security forces	Section 40 of the State Department Basic Authorities Act	Bars the provision of services involving serving in or training the security forces of a terrorism list country.	
Terrorism list	Foreign tax credits	Section 901(j) of the Internal Revenue Code	Prohibits U.S. corporations or individuals from claiming foreign tax credits on income earned in a terrorism list country.	

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism list	Financial transactions	Section 321, Antiterrorism and Effective Death Penalty Act of 1996	Bars financial transactions by U.S. persons who knowingly engage in financial transactions with the government of a terrorism list country, except for transactions exempted by the Treasury Department.	
Terrorism list	Spoils of war	Section 553 of the Foreign Relations Authorization Act (FY 1994-95)	Spoils of war may not be transferred to a terrorism list country.	
Terrorism list	Personal injury liability	Section 589 of the FY 1997 Foreign Operations Appropriations Act (FOAA)	Officials, employees, and agents of countries on the terrorism list are liable to U.S. persons for personal injury or death caused by certain terrorist acts, torture, or extrajudicial killing by those persons in their official capacity.	
Terrorism list	Sovereign Immunity	Section 1605(a)(7) of the Foreign Sovereign Immunities Act (FSIA)	Terrorism list states do not enjoy jurisdictional immunity in U.S. courts for money damages for personal injury or death caused by certain acts of terrorism, torture, or extrajudicial killing, or the provision of support or resources for such acts, taken by officials, employees, or agents of that state acting in their official capacities.	

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism list	Blocked assets	Section 201 of the Terrorism Risk Insurance Act (P.L. 107-297)	Allows attachment and execution of blocked assets of state sponsors of terrorism.	
Debt to the U.S.	Foreign Assistance	Section 620(q) of the FAA	Prohibits assistance to any country that is in default for more than six months in the repayment of loans using certain funds to the U.S. government.	The President may waive this provision if he determines that assistance to the country is in the national interest, upon congressional notification.
Debt to the U.S.	Foreign Assistance	Section 512 of the FY 2004 FOAA	No FOAA funds may be provided to the government of any country that is in default for more than one year on loans from the U.S. using funds appropriated under the FOAA.	The President may waive this provision upon a determination that assistance to the country is in the U.S. national interest, after consultations with the Committees on Appropriations.
Military coup	Foreign Assistance	Section 508 of the FY 2004 FOAA	Prohibits the obligation or expenditure of funds appropriated under the FY 2004 FOAA for “assistance to the government of any country whose duly elected head of government is deposed by decree or military coup.” Section 508 does <i>not</i> restrict assistance to promote democratic elections or public participation in democratic processes.	Assistance may be resumed if the President determines and certifies to the Committees on Appropriations that a democratically elected government has taken place since the termination of assistance.

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Military Coup	Debt Restructuring	Debt Restructuring heading in the FY 2004 FOAA	Provides that none of the funds appropriated in the FY 2004 FOAA or any other appropriations act may be used to finance debt restructuring for Sudan.	This provision would not apply if the Secretary of the Treasury determines and notifies the Committees on Appropriations that a democratically elected government has taken office in Sudan.
Special notification countries	Foreign Assistance	Section 520 of the FY 2004 FOAA	Provides that before obligation or expenditure of FOAA funds for Sudan (and several other listed countries), notification must be provided to the Committees on Appropriations.	
Sudan-specific	Foreign Assistance	Foreign Military Financing heading of the FY 2004 FOAA	Provides that no Foreign Military Financing (FMF) funds may be provided as assistance for Sudan.	
Sudan-specific	Assistance for commercial exports	Section 908 of the FY 2001 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act	Prohibits the provision, notwithstanding any other provision of law, of any U.S. government assistance (including foreign assistance, export assistance, and any U.S. credit or guarantees) for commercial exports for Sudan.	This provision may be waived upon a presidential determination that such assistance is in the national security interest or for humanitarian reasons.

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
No functioning system for reporting audits of military-related expenditures to civilian authorities	International Financial Institution loans and other funds	Section 576 of the FY 1997 FOAA, as amended	Directs the Secretary of the Treasury to instruct the U.S. executive directors to the international financial institutions (IFIs) to use the voice and vote of the United States to oppose any non-basic human needs loan to, or other utilization of funds for, the government of any country determined by the Secretary of the Treasury not to have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed and security forces.	
Religious freedom	Various sanctions	Section 402 of the International Religious Freedom Act of 1998 (H.R. 2431)	Requires the imposition of certain sanctions for any country designated as a “country of particular concern” for purposes of religious freedom.	Exception for countries already subject to multiple, broad-based sanctions related in large part to human rights abuses. (This exception has been applied to Sudan.) Waiver if (1) the government in question has ceased the violations; (2) a waiver would further the Act’s purposes; or (3) important U.S. national interests require the waiver.

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Terrorism, regional destabilization, human rights	Trade and other transactions, assets	Executive Order 13067	Prohibits most trade and other transactions with Sudan by U.S. persons or from the U.S.; freezes Government of Sudan assets in the U.S. or in the possession or control of U.S. persons, including overseas branches.	May be lifted or suspended through OFAC issuance of licenses and terminated by Presidential order lifting the national emergency with respect to Sudan.
Trafficking in persons	Various sanctions, including assistance restrictions	Section 110 of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386)	Requires the imposition of certain sanctions against countries that do not meet the Act's minimum standards for the elimination of trafficking in persons and is not making significant efforts to come into compliance.	Provides certain exceptions and waivers for countries already under multiple, broad-based sanctions related to human rights violations, countries that come into substantial compliance with the Act's minimum standards, or where a waiver would promote the purposes of the Act or is otherwise in the U.S. national interest. (The latter waiver authority was applied to Sudan in 2003 with respect to multilateral assistance to promote the peace process.)

Sudan Sanctions Chart

Reason	Impact	Provision	Restriction	Waiver Authority
Arab League boycott	U.S. government sales and leases of defense article and services	Section 564 of the FY 1994-95 Foreign Relations Authorization Act	Bans the U.S. government from selling or leasing defense articles or services to any country that, as a matter of policy or practice, has requested that U.S. firms comply with the Arab League's boycott of Israel.	The President may waive this provision upon a certification that the country does not currently maintain such policy or practice, or waive the provision, in the national interest, for one year periods if doing so will promote the removal of the boycott, or for national security interest reasons.
Arab League boycott	State Department contracts	Section 565 of the FY 1994-95 Foreign Relations Authorization Act	Prohibits the State Department from entering into any contract (except a real estate lease) to spend appropriated funds in excess of \$100,000 with a foreign person or entity that complies with the Arab League boycott or with any person that discriminates in the award of subcontracts on the basis of religion.	The Secretary of State may waive the provision for one-year periods if doing so is in the national interest and is necessary to carry out the diplomatic functions of the U.S. (This waiver was exercised with respect to Sudan on February 6, 2003.)