FAXED TO SECRETARY

S/S#9613071
United States Department of State

Washington, D. C. 20520
July 26, 1996

ws 7/26

INFORMATION MEMORANDUM

CONFIDENTIAL S/S
DECL: 07/26/2001

TO: The Secretary

FROM: EB - Alan P. Larson, Acting

SUBJECT: Iran and Libya Sanctions Act of 1996

SUMMARY

The House passed the Iran and Libya Sanctions Act on July 23 by unanimous consent. The President has indicated that he will sign it. The Bill already has antagonized our allies, with the EU studying a possible blocking statute. The Act could conflict with U.S. trade and investment obligations. We expect Congress to monitor closely our implementation of the Act, with appropriate committee oversight hearings early next year. We are mapping a strategy to consult allies just prior to the Bill's signing to avoid reactions damaging to other areas of cooperation.

DISCUSSION

A detailed summary of the Act's provisions and implications is attached. In general, the new law requires that the President impose sanctions against persons or entities investing $40 million or more in the Iranian or Libyan oil and gas sectors in a 12-month period (the Iran trigger drops to $20 million after one year in countries which fail to implement sanctions on Iran). Both provisions affect only new investment; implementing existing agreements will not trigger sanctions. The law also will require the President to impose sanctions on persons exporting to Libya particular goods and services proscribed by certain UNSC sanctions.

If the President determines that sanctions have been triggered as described above, he must impose at least two of the following sanctions on a sanctioned firm within 90 days:

- o Prohibit ExIm Bank assistance;
- o Deny export licenses;

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- o Ban U.S. financial institutions from lending more than $10 million/year to a sanctioned firm;
- o Ban a sanctioned institution from serving as a primary dealer of USG debt or as a repository of USG funds;
- o Prohibit USG procurement from the firm; or,
- o Ban imports of products selected by the President.

If imposed against nationals of certain countries, some of these sanctions would present possible bilateral or multilateral treaty violations, for which formal international dispute settlement mechanisms may be applicable. Concerns may be raised over the government procurement, import, and loan sanctions.

The legislation provides opportunities to delay imposition of sanctions while the President seeks to halt the objectionable activities. The President may waive the imposition of sanctions on a specific individual or entity if he determines this is in the national interest, or on nationals of countries that agree to take substantive measures against Iran.

Investment-related sanctions also are triggered only for investments under new agreements arrived at after enactment of the legislation. Investment under preenactment agreements may continue. Our interpretation of "existing agreements" will be an important issue with implications for how we deal with firms already operating in Iran and Libya.

Foreign Reaction

Coming on the heels of the Helms-Burton Act, passage of the Iran-Libya Act already is provoking very strong hostility from key allies, particularly France, Germany, Italy, and the UK. We expect that trading partners will argue strongly that the law is an extraterritorial application of U.S. law and a secondary boycott.

The investment trigger in Libya is the provision that will most anger our allies. Foreign investment in Iran's petroleum sector is limited to Total's development of the Sirri field, and European investors were proceeding cautiously in any case. But our European partners have substantial interests in Libya, which supplies a significant amount of their oil imports, particularly for Italy.

EU officials have not yet indicated formally how they will respond to this new law, but we understand that the European Commission may amend a proposed "blocking statute," originally designed to prevent European firms from complying with Helms-Burton, to include this Act. This proposal may go to EU ministers for approval by the end of July if UK concerns over sovereignty issues are resolved.

We have begun to develop a strategy to proactively engage our allies on this issue at high levels. We will emphasize our determination to press Iran and Libya to stop their unacceptable behavior, while expressing our desire to work with our allies to accomplish this. We also are formulating plans to implement the Act. The Bill has had a chilling effect on European dealings with Iran, and we expect that it will continue to do so, if we can weather the storm of European reaction.

Attachment:

Iran/Libya Sanctions Act Summary