

# Exhibit A

One Hundred Tenth Congress  
of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,  
the third day of January, two thousand and eight*

An Act

To resolve pending claims against Libya by United States nationals, and for other purposes.

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Libyan Claims Resolution Act”.

**SEC. 2. DEFINITIONS.**

In this Act—

(1) the term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives;

(2) the term “claims agreement” means an international agreement between the United States and Libya, binding under international law, that provides for the settlement of terrorism-related claims of nationals of the United States against Libya through fair compensation;

(3) the term “national of the United States” has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(4) the term “Secretary” means the Secretary of State; and

(5) the term “state sponsor of terrorism” means a country the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

**SEC. 3. SENSE OF CONGRESS.**

Congress supports the President in his efforts to provide fair compensation to all nationals of the United States who have terrorism-related claims against Libya through a comprehensive settlement of claims by such nationals against Libya pursuant to an international agreement between the United States and Libya as a part of the process of restoring normal relations between Libya and the United States.

**SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS AGREEMENT.**

(a) DESIGNATION OF ENTITY.—

(1) DESIGNATION.—The Secretary, by publication in the Federal Register, may, after consultation with the appropriate congressional committees, designate 1 or more entities to assist in providing compensation to nationals of the United States, pursuant to a claims agreement.

(2) AUTHORITY OF THE SECRETARY.—The designation of an entity under paragraph (1) is within the sole discretion of the Secretary, and may not be delegated. The designation shall not be subject to judicial review.

(b) IMMUNITY.—

(1) PROPERTY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary designates any entity under subsection (a)(1), any property described in subparagraph (B) of this paragraph shall be immune from attachment or any other judicial process. Such immunity shall be in addition to any other applicable immunity.

(B) PROPERTY DESCRIBED.—The property described in this subparagraph is any property that—

(i) relates to the claims agreement; and

(ii) for the purpose of implementing the claims agreement, is—

(I) held by an entity designated by the Secretary under subsection (a)(1);

(II) transferred to the entity; or

(III) transferred from the entity.

(2) OTHER ACTS.—An entity designated by the Secretary under subsection (a)(1), and any person acting through or on behalf of such entity, shall not be liable in any Federal or State court for any action taken to implement a claims agreement.

(c) NONAPPLICABILITY OF THE GOVERNMENT CORPORATION CONTROL ACT.—An entity designated by the Secretary under subsection (a)(1) shall not be subject to chapter 91 of title 31, United States Code (commonly known as the “Government Corporation Control Act”).

**SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF LIBYA.**

(a) IMMUNITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, upon submission of a certification described in paragraph

(2)—

(A) Libya, an agency or instrumentality of Libya, and the property of Libya or an agency or instrumentality of Libya, shall not be subject to the exceptions to immunity from jurisdiction, liens, attachment, and execution contained in section 1605A, 1605(a)(7), or 1610 (insofar as section 1610 relates to a judgment under such section 1605A or 1605(a)(7)) of title 28, United States Code;

(B) section 1605A(c) of title 28, United States Code, section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 342;

28 U.S.C. 1605A note), section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), and any other private right of action relating to acts by a state sponsor of terrorism arising under Federal, State, or foreign law shall not apply with respect to claims against Libya, or any of its agencies, instrumentalities, officials, employees, or agents in any action in a Federal or State court; and

(C) any attachment, decree, lien, execution, garnishment, or other judicial process brought against property of Libya, or property of any agency, instrumentality, official, employee, or agent of Libya, in connection with an action that would be precluded by subparagraph (A) or (B) shall be void.

(2) CERTIFICATION.—A certification described in this paragraph is a certification—

(A) by the Secretary to the appropriate congressional committees; and

(B) stating that the United States Government has received funds pursuant to the claims agreement that are sufficient to ensure—

(i) payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2342); and

(ii) fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code, pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 342; 28 U.S.C. 1605A note)).

(b) TEMPORAL SCOPE.—Subsection (a) shall apply only with respect to any conduct or event occurring before June 30, 2006, regardless of whether, or the extent to which, application of that subsection affects any action filed before, on, or after that date.

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(c) AUTHORITY OF THE SECRETARY.—The certification by the Secretary referred to in subsection (a)(2) may not be delegated, and shall not be subject to judicial review.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

# **Exhibit B**

CLAIMS SETTLEMENT AGREEMENT BETWEEN  
THE UNITED STATES OF AMERICA AND  
THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA

In order to further the process of normalization of relations on the basis of equality and mutual benefit, the United States of America and the Great Socialist People's Libyan Arab Jamahiriya (collectively "the Parties") have agreed on the following:

ARTICLE I

The objective of this Agreement is to:

- (1) reach a final settlement of the Parties' claims, and those of their nationals (including natural and juridical persons);
- (2) terminate permanently all pending suits (including suits with judgments that are still subject to appeal or other forms of direct judicial review); and
- (3) preclude any future suits that may be taken to their courts

if such claim or suit is against the other Party or its agencies or instrumentalities, or against officials, employees, or agents thereof (whether such officials, employees, or agents are sued in an official and/or personal capacity), or (where the claim or suit implicates in any way the responsibility of any of the foregoing) against the other Party's nationals; and such claim or suit is brought by or on behalf of a Party's nationals (including natural and juridical persons) or such suit is brought by or on behalf of others (including natural and juridical persons); and such claim or suit arises from personal injury (whether physical or non-physical, including emotional distress), death, or property loss caused by any of the following acts occurring prior to June 30, 2006:

- (a) an act of torture, extrajudicial killing, aircraft sabotage, hostage taking or detention or other terrorist act, or the provision of material support or resources for such an act; or
- (b) military measures.

## ARTICLE II

1. The two Parties agree to authorize the establishment of a humanitarian settlement fund ("the Fund") as the basis for settling the claims and terminating and precluding the suits specified in Article I.
2. The Fund shall be established, operated, and financed as set out in the Annex to this Agreement. The Fund will allocate resources for distribution in accordance with the Annex.

## ARTICLE III

1. Each Party shall accept the resources for distribution as a full and final settlement of its claims and suits and those of its nationals as specified in Article I.
2. Upon receipt of resources from the Fund in accordance with the Annex, each Party shall:
  - (a) Secure, with the assistance of the other Party if need be, the termination of any suits pending in its courts, as specified in Article I (including proceedings to secure and enforce court judgments), and preclude any new suits in its courts, as specified in Article I.
  - (b) Provide the same sovereign, diplomatic and official immunity to the other Party and its property, and to its agencies, instrumentalities, officials and their property, as is normally provided within its legal system to other states and their property and to their agencies, instrumentalities, officials and their property.
  - (c) Refrain from presenting to the other Party, on its behalf or on behalf of another, any claim specified in Article I. If any such claim is presented directly by a national of one of the Parties to the other Party, the other Party should refer it back to the first Party.



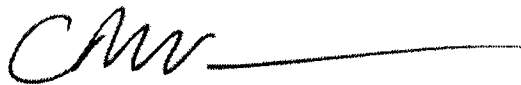
ARTICLE IV

Each Party shall take necessary measures to ensure that the Fund resources shall not be subject to attachment or any other judicial process that would in any way interfere with the Fund's possession of resources or the transfer of resources to the Fund or from the Fund in accordance with this Agreement.

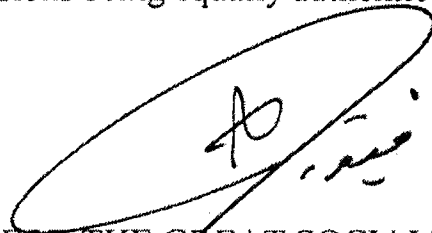
ARTICLE V

The Annex attached hereto is an integral part of this Agreement. The Agreement shall enter into force on the date of signature.

This Agreement was signed on August 14th, 2008 at Tripoli, in duplicate, in the English and Arabic languages, both versions being equally authentic.



FOR THE UNITED STATES  
OF AMERICA



FOR THE GREAT SOCIALIST  
PEOPLE'S LIBYAN ARAB  
JAMAHIRIYA

## ANNEX

1. The Parties have agreed to authorize the establishment of a humanitarian settlement fund (the "Fund") in furtherance of their Claims Settlement Agreement (the "Agreement"), of which this Annex is an integral part.
2. The Fund shall be established in accordance with the authorization. The Fund shall open an interest-bearing account (the "Fund Account") for the purpose of receiving contributions.
3. Each Party directly, or through its authorized representative, will direct the opening of an account for the purpose of depositing money received from the Fund Account. Account A will hold funds for distribution by the United States of America. Account B will hold funds for distribution by the Great Jamahiriya or its authorized representative. Funds held for distribution by each Party may be invested as is acceptable to the competent authorities of that Party.
4. Once contributions to the Fund Account reach the amount of U.S. \$1.8 billion (one billion eight hundred million U.S. dollars), the amount of U.S. \$1.5 billion (one billion five hundred million U.S. dollars) shall be deposited into Account A and the amount of U.S. \$300 million (three hundred million U.S. dollars) shall be deposited into Account B, which in both cases shall constitute the receipt of resources under Article III (2) of the Agreement.
5. No resources shall be distributed from Account A until the United States of America has implemented Article III (2) (b), and no resources shall be distributed from Account B until the Great Jamahiriya has implemented Article III (2) (b).
6. No resources shall be distributed to any claimant from Accounts A or B unless any suit of that claimant within the scope of Article I is terminated in accordance with Article III (2) (a).
7. The Fund will have a duration of six months from its creation unless otherwise agreed by the Parties. In the event there are any residual balances in the Fund Account at the time of the Fund's expiration, those balances will be transferred pursuant to arrangements agreed between the Parties.

# **Exhibit C**



United States Department of State

Washington, D.C. 20520

OCT 31 2008

Dear Mr. Chairman:

I am herein transmitting the certification of the Secretary of State under section 5(a) of the Libya Claims Resolution Act, 2008 (P.L. 110-103), covering receipt by the U.S. Government of funds sufficient to ensure payments described in the legislation. The reasons for the Secretary's certification are set forth in the attached Memorandum of Justification.

Please do not hesitate to contact us if we can be of any assistance on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew A. Reynolds".

Matthew A. Reynolds  
Assistant Secretary  
Legislative Affairs

Enclosure:  
As stated.

The Honorable  
Joseph R. Biden, Jr., Chairman,  
Committee on Foreign Relations,  
United States Senate.

CERTIFICATION UNDER SECTION 5(A)(2) OF THE LIBYAN CLAIMS  
RESOLUTION ACT RELATING TO THE RECEIPT OF FUNDS FOR  
SETTLEMENT OF CLAIMS AGAINST LIBYA

By virtue of the authority vested in me as Secretary of State and pursuant to section 5(a)(2) of the Libyan Claims Resolution Act (P.L. 110-103) (the "Act"), I hereby certify that the United States Government has received funds pursuant to the United States-Libya Claims Settlement Agreement that are sufficient to ensure:

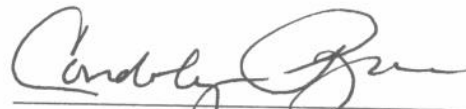
1) payment of the settlements referred to in section 654(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (Div. J, P. L. 110-161; 121 Stat. 2342) and;

2) fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of the Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code; pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 342; 28 U.S.C. 1605A note)).

This certification shall be published in the Federal Register and transmitted to the appropriate congressional committees.

OCT 31 2008

Date



Condoleezza Rice  
Secretary of State

## MEMORANDUM OF JUSTIFICATION

The Libyan Claims Resolution Act (P.L. 110-301) (the “Act”) provides Libya with legal protection from terrorism-related claims predating its removal from the state sponsors of terrorism list upon the Secretary of State certifying to the appropriate congressional committees that the United States Government has received sufficient funds to ensure payment of the Pan Am and LaBelle settlements and fair compensation for other U.S. death and physical injury claims in pending cases against Libya.

On August 14, 2008, the U.S.-Libya Claims Settlement Agreement (the “Agreement”) was signed by the U.S. Government and the Government of Libya. The Agreement establishes a process whereby each Party receives resources for the full and final settlement of its claims and suits and those of its nationals and, upon receipt, each party is obligated to take certain actions, including the restoration of sovereign immunity and the dismissal of all covered suits. On October 31, 2008, the United States received the agreed-upon amount of \$1.5 billion for distribution as a full and final settlement of its claims and suits and those of U.S. nationals.

This amount is sufficient to ensure the remaining payment of \$536 million for the Pan Am 103 settlement and \$283 million for the La Belle settlement, the two settlements referred to in section 654(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (Div. J, P. L. 110-161; 121 Stat. 2342). The remaining \$681 million is sufficient to ensure fair compensation for the claims of nationals of the United States for wrongful death or physical injury in those cases described in the Act which were pending against Libya on the date of enactment of the Act (August 4, 2008) as well as other terrorism-related claims against Libya.

The receipt of these funds provides the basis for the certification by the Secretary of State that the United States Government has received funds pursuant to the Agreement that, as required by Section 5(a)(2) of the Act, are sufficient to ensure:

- i. payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2342) and;

- ii. fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of the Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code, pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 342; 28 U.S.C. 1605A note)).



### Press Statement

**Sean McCormack, Spokesman**

Washington, DC

October 31, 2008

## Implementation of the Libyan Claims Settlement Agreement

On October 31, 2008, Secretary of State Condoleezza Rice certified to Congress that the United States has received \$1.5 billion pursuant to the U.S.-Libya Claims Settlement Agreement. These funds are sufficient to provide the required compensation to victims of terrorism under the Libyan Claims Resolution Act. Concurrently, the President issued an Executive Order to implement the Claims Settlement Agreement. The Administration will now move expeditiously to arrange for distribution of these funds in lieu of the pending U.S. court cases against Libya.

Libya's decision to resolve outstanding claims through the U.S.-Libya Claims Settlement Agreement is a laudable milestone in our bilateral relationship; providing a measure of justice to families of U.S. victims of terrorism and clearing the way for continued and expanding U.S.-Libyan partnership.

Indeed, Libya's return to the international community following its historic 2003 decision to renounce terrorism and dismantle its WMD program has been remarkable. Today, Libya is an important partner in the common effort against terrorism and serves as a model for other countries that may wish to renounce isolation and rejoin the community of nations.

We look forward to the future of our relationship with Libya as we expand cooperation across all areas, including education and culture, science and technology, commerce, human rights and good governance, and defense.

**2008/927**

Released on October 31, 2008



Published by the U.S. Department of State Website at <http://www.state.gov> maintained by the Bureau of Public Affairs.



# **Exhibit D**



## Executive Order: Settlement of Claims Against Libya

By the authority vested in me as President by the Constitution and the laws of the United States of America, and pursuant to the August 14, 2008, claims settlement agreement between the United States of America and Libya (Claims Settlement Agreement), and in recognition of the October 31, 2008, certification of the Secretary of State, pursuant to section 5(a)(2) of the Libyan Claims Resolution Act (Public Law 110-301), and in order to continue the process of normalizing relations between the United States and Libya, it is hereby ordered as follows:

[White House News](#)

Section 1. All claims within the terms of Article I of the Claims Settlement Agreement (Article I) are settled.

(a) Claims of United States nationals within the terms of Article I are espoused by the United States and are settled according to the terms of the Claims Settlement Agreement.

(i) No United States national may assert or maintain any claim within the terms of Article I in any forum, domestic or foreign, except under the procedures provided for by the Secretary of State.

(ii) Any pending suit in any court, domestic or foreign, by United States nationals (including any suit with a judgment that is still subject to appeal or other forms of direct judicial review) coming within the terms of Article I shall be terminated.

(iii) The Secretary of State shall provide for procedures governing applications by United States nationals with claims within the terms of Article I for compensation for those claims.

(iv) The Attorney General shall enforce this subsection through all appropriate means, which may include seeking the dismissal, with prejudice, of any claim of a United States national within the terms of Article I pending or filed in any forum, domestic or foreign.

(b) Claims of foreign nationals within the terms of Article I are settled according to the terms of the Claims Settlement Agreement.

(i) No foreign national may assert or maintain any claim coming within the terms of Article I in any court in the United States.

(ii) Any pending suit in any court in the United States by foreign nationals (including any suit with a judgment that is still subject to appeal or other forms of direct judicial review) coming within the terms of Article I shall be terminated.

(iii) Neither the dismissal of the lawsuit, nor anything in this order, shall affect the ability of any foreign national to pursue other available remedies for claims coming within the terms of Article I in foreign courts or through the efforts of foreign governments.

(iv) The Attorney General shall enforce this subsection through all appropriate means, which may include seeking the dismissal, with prejudice, of any claim of a foreign national within the terms of Article I pending or filed in any court in the United States.

Sec. 2. For purposes of this order:

(a) The term "United States national" has the same meaning as "national of the United States" in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), but also includes any entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches).

(b) The term "foreign national" means any person other than a United States national.

(c) The term "person" means any individual or entity, including both natural and juridical persons.

(d) The term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

Sec. 3. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH

THE WHITE HOUSE,

October 31, 2008.

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