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Travel Restrictions: U.S. Government Limits on American Citizens' Travel Abroad

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Summary

The U.S. government currently maintains limitations or restrictions on travel to four countries: Cuba, Libya, Iraq, and North Korea. This paper briefly outlines the nature of such restrictions, who administers them and why, and compares the restrictions among the four targeted countries.

The U.S. government limits the use of passports, currency, and/or transportation alternatives, when American citizens seek to travel to four countries – Cuba, Iraq, Libya, and North Korea. The methods of restricting travel include requiring a license to travel to a specified country, limiting or prohibiting transactions in which a traveler may engage while in a targeted country, prohibiting the use of American passports to travel to or through a targeted country, or limiting the means of transportation to a targeted country. The Departments of Treasury and State are the lead agencies that implement such restrictions. On rare occasions, the Department of Transportation's Federal Aviation Administration (FAA) becomes involved by prohibiting landing rights to U.S. air carriers traveling to, from, or through a targeted country.

U.S. government officials assert that U.S. policies do not amount to restricting American citizens from traveling to any foreign destination, a position some observers believe is designed to avoid a debate over the constitutionality of limits on Americans' travel rights. Others contend that those rights are indirectly abridged by limitations on the tools required to travel – primarily transportation, expenditure of currency, and passports.

The Role of the President

The President has declared a state of national emergency exists for each of the four countries against which the United States has imposed some travel-related restrictions.

Declaration of a state of national emergency grants the President significant power to curtail or prohibit trade, transactions, and exchanges with a targeted country.[1] The President might declare that a state of national emergency exists for a variety of reasons including: an unfavorable change in government in the targeted country and a resulting change in bilateral relations, as in the case of Cuba in 1961; or armed conflict, as in the case of North Korea in 1950, or Iraq in 1990. For Libya, restrictions on passports, imposed in 1981, preceded the declaration of a national state of emergency, declared in 1986, but was part of a series of events between the two countries including the burning of the U.S. Embassy in Tripoli in 1979, the official closing of the U.S. Embassy in 1980, extraterritorial assassinations of Libyan nationals in Europe in 1980, and the exchange of fire between U.S. and Libyan military aircraft in 1981.

The Department of the Treasury

When the President declares a national emergency exists in relation to a country, he has the option of restricting financial transactions with that country. The Department of the Treasury's Office of Foreign Assets Control (OFAC) administers the aspects of economic sanctions imposed for foreign policy or national security reasons. OFAC may prohibit or limit transactions related to travel agents, air carriers, shipping, and any other travel-related service provider. OFAC issues licenses authorizing Americans to engage in transactions with or in certain countries, thus controlling the ability of U.S. citizens to spend money to get to, spend time in, or move about a targeted country.

The Office of Foreign Assets Control currently restricts the transactions in which American citizens may engage with Cuba, North Korea, Iraq, and Libya.

The Department of State

The Act of July 3, 1926, as amended,[2] authorizes the Secretary of State to grant and issue passports. The law also prohibits restricting travel with a U.S. passport unless such

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[1] Prior to 1977, the President invoked the authority granted his office under the Trading With the Enemy Act (TWEA) to declare a state of national emergency and thus to limit transactions – including those associated with travel – to Cuba and North Korea. Since 1977, the President has made use of the authority stated in the National Emergencies Act (NEA) and the International Emergency Economic Powers Act (IEEPA) to declare a state of national emergency and to limit transactions with targeted countries – including Libya and Iraq. Restrictions issued under the TWEA are grandfathered into the IEEPA; thus restrictions under all four countries are subject to the terms of the NEA and IEEPA. The National Emergencies Act, P.L. 94-412, may be found at 50 U.S.C. 1601. In the International Emergency Economic Powers Act, P.L. 95-223, sec. 101(b) grandfathers the restrictions imposed under the TWEA into the newer acts (50 U.S.C. App. 5 note), and sec. 203 and following states the President's new authority and responsibilities (50 U.S.C. 1702 *et seq*.)

The President also uses the authority granted his office in the IEEPA to implement United Nations Security Council resolutions. On occasion, such resolutions have required limiting or prohibiting citizens from traveling to, through or from a targeted country.

[2] 22 U.S.C. 211a. In Executive Order 11295 (August 5, 1966; 31 F.R. 10603), the President expanded the Secretary's authority to issue "rules governing the granting, issuing, and verifying of passports."

travel is to a country "with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travelers."

The Secretary of State currently maintains restrictions on the use of U.S. passports for most travel to, in, or through Libya (since1981) and Iraq (since 1991).[3]

The Secretary exercises the same authority to highlight areas considered dangerous for U.S. travelers. The State Department issues travel warnings and public announcements as recommendations to American travelers to avoid a particular country or region. It issues public announcements to emphasize short-term concerns, including coups, bomb threats to airlines, violence by terrorists, and anniversary dates of specific terrorist events. The Department issues travel warnings when it decides that the longer-term political climate of a country is dangerous to American travelers. The State Department currently maintains travel warnings for 26 countries, and public announcements for another 15 countries.[4] The State Department also has issued a series of Worldwide Cautions, the most recent posted on November 20, 2002, "to alert U.S. citizens to the need to remain vigilant and to remind them of the continuing threat of terrorist actions that may target civilians." Although a Worldwide Caution, travel warning, or public announcement does not prohibit or restrict international travel, it can have a chilling effect on a U.S. citizen's interests in travel if such activity creates a possibility that he or she "may be targeted for kidnapping or assassination."[5]

Restrictions by Country

Travel and transactions by American citizens are currently restricted in regard to four countries – Cuba, Iraq, Libya, and North Korea. (For a quick comparison, see **Table 1**, below.) Following are details on the current travel restrictions on American citizens, as well as exceptions, for each of these countries.

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[3] Libya: Initiated in Department of State Public Notice 787 (46 F.R. 60712), renewed annually by similar public notices. Iraq: initiated in Department of State Public Notice 1341 (56 F.R. 5242), renewed annually in similar public notices.

[4] Current lists of countries under travel warnings or public announcement status may be found at [http://travel.state.gov/travel_warnings.html].

[5] Department of State. *Worldwide Caution*. November 20, 2002, to continue to May 20, 2003.

Table 1. Current U.S. Government Travel Restrictions, by Country

	U.S. Passport Use Prohibited	In-Country Expenditures Prohibited/Limited	Transportation Restrictions	U.S. Diplomatic Relations
Cuba		X	X	No U.S. Embassy; U.S. Interests Section, Swiss Embassy.
Iraq	X	X	X	No U.S. embassy; U.S. Interests Section, Polish Embassy.
Libya	X	X	X	No U.S. Embassy; U.S. Interests Section, Belgian Embassy.
North Korea		X	X	No U.S. Embassy; Protection provided by Swedish Embassy.

Cuba. The United States imposed its first economic sanctions on Cuba in 1959 by limiting the amount of sugar to be imported into the United States, and by prohibiting arms sales to that country, in an attempt to isolate the government led by Fidel Castro. In 1963, the U.S. government first prohibited U.S. citizens from engaging in most transactions that would result in U.S. dollars ending up in the hands of the Cuban government, essentially prohibiting travel to that country. While the U.S. government did not restrict the use of passports, it eliminated direct flights and required licenses to spend money to travel to Cuba or to subsist while there. For a brief period, 1977-1982, President Carter lifted the travel ban, authorizing the Office of Foreign Assets Control to issue general licenses for travel-related expenses, and resumed the authorization of direct flights. President Reagan, however, reimposed many restrictions, although the new regulations allowed travel by certain categories of individuals and direct charter flights. Over the past 20 years, the range of travel possibilities under a general or specific license has changed somewhat.[6]

U.S. passports are valid in Cuba. The Department of the Treasury, however, requires that Americans travel there under a license, either a general or specific license, depending on the nature of the visit. Travel is, generally speaking, limited to the following: family visits, official U.S. government business, journalistic activities, professional research, educational activities, religious activities, date-specific cultural activities (i.e., sports competitions or exhibitions), support for the Cuban people (as encouraged in the Cuban

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[6] For fuller discussion and chronology, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives*,by Mark P. Sullivan. See also [http://www.treas.gov/ofac].

Democracy Act of 1994), humanitarian projects, private foundations or research or educational work, activities related to the exchange of informational materials, work related to U.S.-controlled foreign-owned firms, or work related to the commercial sale of agricultural commodities.[7] For most of these, OFAC must approve travel before it occurs.

In any one-year period, no more than $500 may be paid in fees levied by the Cuban government to travel to that country. While in Cuba, a U.S. traveler's daily expenses may not exceed $166 per day, based on State Department *per diem* calculations for Havana (less elsewhere in the country), and a traveler may bring back not more than $100 in goods, for personal use, in any 6-month period. Travel agents, air carriers, and all others involved in arranging travel to Cuba, must be licensed by OFAC. In 1998, OFAC authorized direct charter flights out of Miami. In 1999, the State Department announced that direct flights to Cuba could also originate out of Los Angeles and New York.

Congress further restricted travel when it enacted the Trade Sanctions Reform and Export Enhancement Act of 2000.[8] That Act rescinds OFAC's ability to issue licenses to persons other than those who strictly qualify under 12 categories stated in current regulations.

Iraq. Following Iraq's invasion of Kuwait in the fall of 1990, the President declared a national emergency existed in relation to Iraq and imposed unilateral comprehensive sanctions. The United Nations Security Council followed shortly thereafter with a multilateral sanctions regime.[9] The Executive Order authorized OFAC to restrict all transactions related to travel to Iraq. Subsequently, the use of a U.S. passport for travel to, in, or through Iraq, unless validated by the Department of State, was prohibited effective February 1, 1991. Regulations issued by OFAC to implement the President's Executive Order simply state that "Except as otherwise authorized, no U.S. person may engage in any transaction relating to travel by any U.S. citizen or permanent resident alien to Iraq..." Regulations allow for the departure of U.S. citizens and resident aliens from Iraq and Kuwait, and travel of journalists and U.S. government officials to Iraq. All expenses related to traveling to Iraq require an OFAC license or exemption.

Libya. U.S.-Libya relations soured when the Libyan military, led by Muammar Qadhafi, overthrew the ruling royal family in 1969. After a series of violent encounters between the two countries, including the burning of the U.S. Embassy in Tripoli in 1979 and an exchange of fire between U.S. and Libyan military forces in 1981, the Secretary of State announced that U.S. passports would not be valid for travel to or through Libya. In 1986, after determining that Libya played a role in deadly attacks on civilians in European airports, the President declared that a national emergency existed in relation to that country, and prohibited most transactions between the two nations.[10] OFAC issued

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[7] 31 CFR 515.560 and, for that relating to agricultural sales, see § 910 of P.L. 106-387 (114 Stat. 1549A-71).

[8] Title IX of P.L. 106-387; 114 Stat. 1549A-67.

[9] Executive Order 12722 (55 31803; August 2, 1990), and resulting regulations at 31 CFR Part 575.

[10] Executive Order 12543 (51 F.R. 875; January 7, 1986), and resulting regulations at 31 CFR

(continued...)

regulations to prohibit, among other things, all transactions relating to transportation to or from Libya or the provision of such transportation. Regulations issued later in 1986 authorize persons under jurisdiction of the U.S. government to travel to and from Libya, and spend money to cover personal requirements, if they were immediate family members of Libyan nationals and if they registered with the U.S. government. Regulations issued in 1999 to implement President Clinton's authorization of food and medicine sales to previously restricted countries allow U.S. persons negotiating contracts for the sale of food, medicine, or medical equipment to travel to Libya under a specific license issued by OFAC, provided the traveler also obtains a passport license required by the State Department.[11]

North Korea. Restrictions between North Korea and the United States continue from mid-1950, when North Korea invaded South Korea, a conflict that engaged the United States as part of a U.N. peacekeeping force, 1950-1953. Today, the U.S. government has no official policy prohibiting travel by American citizens to North Korea and U.S. passports are valid there. A few U.S. government-imposed obstacles, however, limit travel. The U.S. government does not maintain diplomatic relations with North Korea, though some support is available through the Embassy of Sweden. The State Department does not write letters for American citizens to obtain a visa to enter North Korea, documents that the North Korean government requires. Rather, Americans traveling to North Korea must apply for a visa from China for entry into China and North Korea. Transactions related to travel to and in the country have been allowed since 1995. The purchase of merchandise in North Korea, however, is still limited to $100 per person for personal use, and authorized only once every six months. No other transactions are allowed.[12] The North Korean government also imposes travel limitations, permitting entry only to U.S. tourists who are in officially organized groups that are authorized by North Korea.

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[10] (...continued)
Part 550.

[11] 31 CFR 550.573 (64 F.R. 41791; August 2, 1999).

[12] Transaction-related regulations: 31 CFR 500.563 (60 F.R. 8935; February 16, 1995).