

Libya Seeks Exemption for Its Debt to Victims



Col. Muammar el-Qaddafi, the Libyan leader, at an Arab summit meeting in Syria last month.

Ahmed Jadallah/Reuters

By Eric Lipton

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WASHINGTON One by one, top executives of American oil companies met privately over the last year with Libya's leader, Col. Muammar el-Qaddafi, often in his signature Bedouin tent, as they lined up contracts allowing them to tap into the country's oil reserves.

But now, the new allies are working Capitol Hill, trying to weaken a law that threatens those deals. The Libyan government, once a pariah, and the American oil industry have hired high-profile lobbyists, buttonholed lawmakers and enlisted help from the Bush administration, all in an effort to win an exemption from a law that Congress passed in January that is intended to ensure that victims of terrorist attacks are compensated.

The law allows victims of state-sponsored terrorism to collect court judgments by seizing foreign assets in the United States or money from those governments held by American companies doing business with them. If Libya loses a half-dozen court cases still pending, \$3 billion to \$6 billion could be at stake, according to lawyers' estimates.

"Libya is the first country in history to come out and denounce weapons of mass destruction," said Ali S. Aujali, Libya's ambassador to the United States. "We have worked very closely with the United States in recent years to fight terrorism. And now to be treated in this way, I feel like we are back to Square One."

But attorneys for victims of the attacks are eager to put pressure on Libya, which they argue has balked at fully paying some settlements and is still fighting over compensation in other cases.

"This really is a test of wills, a test to see if the United States is willing to stand up for American soldiers and others killed and wounded in attacks or for the oil companies and their profits," said Thomas Fortune Fay, who represents 37 American military service members injured in the bombing of a Berlin disco in 1986. He has used the new law to file liens against 13 corporations in the United States, including ExxonMobil and Occidental Petroleum, whose chief executives visited Colonel Qaddafi in the last year.

The Libyan leader, whom Ronald Reagan once called the “Mad Dog of the Middle East,” denounced terrorism and agreed to dismantle his nuclear weapons programs in 2003 — steps that led the Bush administration to lift sanctions against the country and later remove it from a list of states that sponsor terrorism. Two decades ago, though, Libya was linked to a half-dozen attacks in which Americans were killed, including the Pan Am 103 bombing over Lockerbie, Scotland, and the Berlin explosion.

Last month, the Libyan government went on the offensive against the new law (Congress would have to authorize the president to issue the waiver Libya is seeking.) It signed a \$2.4 million contract with the prominent Washington lobbying firm led by Robert L. Livingston, a former Republican congressman from Louisiana.

Escorted by lobbyists from the firm, Ambassador Aujali has had a series of meetings with Congressional leaders. Separately, David Goldwyn, head of an oil industry group, and the Libyan government said they had approached the White House, State Department, Energy Department and the Pentagon.

A battalion of top oil industry executives — from companies including ConocoPhillips, Hess, Occidental and Marathon Oil — have been making the rounds on Capitol Hill, focusing on members from refinery-rich Texas, according to two lobbyists who attended the gatherings. ExxonMobil, Chevron and Dow Chemical also support the effort, participants said.

Representatives of the oil companies say that victims of terrorism are entitled to appropriate compensation but that the law threatens to disrupt commerce that the United States is trying to encourage.

“The world is energy inter-dependent, and stronger commercial relationships between the U.S. and Libya would help the U.S. achieve greater energy security,” said Margaret Cooper, a Chevron spokeswoman, in a written statement.

The lobbying effort has already produced one important result: four Bush administration cabinet members wrote Congress last month urging lawmakers to agree to the waiver. Likening the asset-seizure provision to “a new form of economic sanctions,” the letter said it would have “a chilling effect on potentially billions of dollars in investments by U.S. companies in Libya’s oil sector.”

The law also puts the American oil companies at a disadvantage in competing for access to Libya’s 40 billion barrels of proven oil reserves, said the letter, which was signed by Robert M. Gates, the defense secretary; Condoleezza Rice, secretary of state; Samuel W. Bodman, the energy secretary; and Carlos M. Gutierrez, the commerce secretary.

The assets provision was added to a Defense Department authorization bill at the request of Senator Frank R. Lautenberg, Democrat of New Jersey, who has made it clear that he has no intention of backing down.

“My law is critical to providing justice for American victims of terrorism,” said Mr. Lautenberg, who has been an advocate for Pan Am 103 victims, many of whom came from New Jersey. “Some of these victims have waited decades for closure and for state sponsors of terrorism to be held accountable.” The Bush administration has once before sought an exemption from the law, successfully insisting in January that Iraq be excluded since compliance could result in the seizure of money intended for reconstruction. In addition to Libya, the measure applies to Iran, Syria, North Korea, Cuba and Sudan.

The dispute has dampened a moment of long-awaited celebration by the American oil giants, which have been blocked for two decades from the much coveted Libyan oil fields. The country’s proven reserves are the largest in North Africa, and its light, sweet crude is less expensive to turn into gasoline than that of some

Middle East producers.

In the 1960s and 1970s, American oil companies, particularly Occidental, led by Armand Hammer, earned enormous profits pumping Libyan oil. But that all came to an end in the mid 1980s after the United States imposed sanctions on Libya.

Companies including Occidental, ConocoPhillips, Marathon and Hess returned starting in 2005 to re-establish control over their facilities and to win new, bigger contracts, like a deal completed in February by ExxonMobil that included a \$72 million signing bonus for the Libyan government. The industry has promised to invest billions in Libya to help it become a major oil supplier to the United States.

But the anger of the terrorism victims whose lawsuits have been pending for years has posed a serious threat. While Libyan officials said they were committed to resolving the victims' claims, they dispute some and say others are unreasonable, including a recent \$1.7 billion court judgment in the case of a 1989 attack on a French jet over Niger that killed seven Americans.

Mr. Lautenberg and others in Congress who have taken up the victims' cause have blocked the appointment of an ambassador to Libya and money to build a new American Embassy there, saying that the terrorism cases should be settled first.

The provision adopted in January, fashioned with the assistance of lawyers and lobbyists working for attack victims, is forcing the Libyan government to make amends.

Libya has hired White & Case, the New York-based law firm that has successfully defended a long list of international clients in often touchy cases. Its goal is to try to negotiate a settlement to all the outstanding cases at once, which might reduce the payouts to a total of about \$1 billion or less.

The State Department, which is participating in those negotiations, has argued that Congress should agree to the waiver, which could help officials prod the Libyans to settle the cases quickly.

"Libya has gone from a country that supports terrorism to one that now actively works with us against terror targets," said Assistant Secretary of State C. David Welch, who is leading the settlement talks. "But there is this history. And the history is difficult for both sides to overcome."

For now, the oil industry lobbyists said the strategy was to focus on Representative John P. Murtha, a Pennsylvania Democrat, and Representative Ike Skelton, a Missouri Democrat, who lead the appropriations and armed services panels.

Mr. Murtha and Mr. Skelton, through spokesmen, declined to comment Monday. Separately, the Libyan ambassador and a State Department official have approached Senator Carl Levin, Democrat of Michigan, who is the chairman of the Armed Services Committee. Mr. Levin said he would be open to considering the waiver, but only after Libya settled claims related to the disco attack and the Pan Am 103 bombing.

"I would condition any support on that," Senator Levin said.

One oil industry lobbyist, speaking privately, conceded that getting Congress to change the law would be a hard sell.

"As an oil company we can never win," said the lobbyist, who asked not to be identified because the companies had agreed not to discuss the lobbying campaign publicly. "It is always going to seem that we care more about oil than the blood of victims of terrorism, even if that is not the case."

For that reason, backers of the provision say the outcome has been just as they hoped.

“It is working perfectly,” said Stuart H. Newberger, a partner at the Washington office of Crowell & Moring, the law firm that is handling several cases filed by victims against Libya. “And that means it is now clear to Libya that state-sponsored terrorism is expensive. You don’t take such acts and get off cheap.”