

# How the Caesar Act Restricts Normalisation with Syria

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Articles & Testimony

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**The landmark legislation has played a critical role in the evolution of American sanctions, and follow-on congressional restrictions will largely prevent any efforts to bring Assad back into the economic fold.**

**D**ecember 2023 marks 44 years since the United States placed the Syrian Arab Republic on its inaugural list of state sponsors of terrorism after Washington failed in the wake of the 1973 War to woo President Hafez al-Assad away from Palestinian extremist groups and toward Arab-Israeli peace. As its support for Hezbollah and other US-designated terrorist organisations has grown, today Syria remains the state sponsor list's only remaining founding member and is under a slew of additional sanctions and executive orders concerning its 29-year military occupation of Lebanon, which officially ended in 2005.

The al-Assad regime's violent response to the 2011 Syrian uprising and war, including its use of chemical weapons and other strategic weapons on civilians and its atrocities committed against detainees, has brought US and international sanctions against al-Assad's Syria to a whole other level. This can be seen in the implementation of the Caesar Syria Civilian Protection Act of 2019 (the Caesar Act), which among other provisions contains extensive secondary or derivative sanctions on non-US entities facilitating transactions or activities related to reconstruction in Syria without a political settlement outlined under United Nations Security Council Resolution 2254.

As regional states welcome al-Assad's Syria back to the "Arab fold" following the 19 May Arab Summit in Jeddah, it is important to examine the evolution of US sanctions against Syria, the Caesar Act's critical role in that evolution, and

the degree to which it limits any commitments from Arab capitals to normalise economic relations with the al-Assad regime. It is also necessary to review the potential effect of the [Assad Regime Anti-Normalization Act \(https://www.congress.gov/bill/118th-congress/house-bill/3202/text?format=txt&q=%7B%22search%22%3A%22HR+3202%22%7D&r=1&s=6\)](https://www.congress.gov/bill/118th-congress/house-bill/3202/text?format=txt&q=%7B%22search%22%3A%22HR+3202%22%7D&r=1&s=6), which passed the US House of Representatives' Foreign Affairs Committee by a near-unanimous vote on 16 May, expanding the extension of sanctions in the Caesar Act and extending the sanctions that are set to expire next year to 2032. In short, it seems unlikely Caesar will be going away anytime soon, and any effort by Arab states to entice al-Assad away from his current policies through an expansion in economic ties will be met with significant sanctions risk.

## Multiple Layers of Sanctions

**W**hen Washington designated the al-Assad regime as a state-sponsor of terrorism in 1979, it placed broad restrictions on the export or re-export of certain controlled and “dual-use” items to Syria, among other measures. But general trade was largely permitted between the US and Syria.

A concerted effort to increase the application of sanctions against Damascus gained traction in 2003 when the Syria Accountability and Lebanese Sovereignty Restoration Act (SALSRA) was signed into law by the Bush administration. This law imposed additional sanctions on Syria, including a mandatory sanction prohibiting the export of US military or dual-use items, and mandated that the Executive Branch impose at least two on a menu of sanctions that included:

- Prohibiting US businesses from investing or operating in Syria
- Imposing travel restrictions on Syrian diplomats in New York and Washington, D.C.
- Prohibiting Syrian airlines from accessing US airspace or airports
- Reducing US diplomatic contacts with Syria
- Blocking transactions in property in which the government of Syria had an interest.

While earlier efforts to pass SALSRA were unsuccessful despite strong congressional support, in 2003 it received overwhelming support in the House and Senate due in part to Syrian-supported attacks on US and Coalition Forces in Iraq.

The Bush administration was lukewarm to the legislation initially, taking nearly six months to implement it and waiving certain sanctions at first. But the administration did not oppose the Syria Accountability Act, and it eventually increased economic pressure against Damascus, as did the US Congress.

The Obama administration initially attempted to engage the al-Assad government—centred around a peace treaty between Syria and Israel—but the 2011 uprising and the eventual outbreak of the Syrian war forced the administration to dramatically expand and fundamentally alter the Syria sanctions regime, transforming it from a country subject to targeted sanctions to a comprehensively sanctioned jurisdiction. This included sanctions that constitute the foundation of the modern sanctions regime in Executive Order 13572 on human rights abuses, Executive Order 13573 blocking the property of senior regime officials, and Executive Order 13582 blocking the property of and prohibiting transactions with the al-Assad regime, which imposed widespread prohibitions and sanctions on trade and investment with Syria.

It was in this environment that the Caesar Act was developed—legislation fundamentally altering the strategic calculus in Syria with respect to sanctions. The Caesar Act expanded the sanctions developed under the Obama administration through the application of enhanced sanctions targeting regime facilitators to prevent the regime from benefitting from efforts to take property from local or expatriate Syrians under the guise of reconstruction. It was the first major expansion of sanctions against the Syrian regime since 2005, and arguably the most significant

sanctions legislation against the al-Assad regime since 2003.

It also marked a significant change in the political environment. The Caesar Act not only received overwhelming political support from various corners of Capitol Hill but from the administration as well. Where the Bush administration had been lukewarm to congressional action, the Trump administration issued a statement of support for the legislation.

Another demonstration of the political support behind the Caesar Act can be found in how it ultimately became law through the National Defense Authorization Act (NDAA), the annual defence authorisation legislation. The Caesar Act, which was not placed in either the House or Senate version of the NDAA, was introduced into the legislation while the two houses were reconciling the differences in their bills, through a process known as “air dropping.”

Very seldom is this process used, much less for legislation as expansive as Caesar. However, Caesar was only given a 5-year lifespan that would have to be renewed by an act of Congress.

The Caesar law is different at its core in that it legislatively mandates secondary or derivative sanctions against al-Assad regime facilitators—meaning it does not only restrict US persons and entities from engaging in Syrian reconstruction under al-Assad but non-US persons and entities as well. All investors are placed on the horns of a dilemma—if they invest in Syrian reconstruction under al-Assad, they risk being cut off from trade and transactions with not only the United States but global financial institutions as well.

To demonstrate its potency, the Trump administration sanctioned 113 regime facilitators in the six months after Caesar was implemented in June 2020, all of which were subject to mandatory secondary or derivative sanctions against regime facilitators. Thus far, the Biden administration has only designated a handful, but nothing precludes either a reinvigoration in the sanctions enforcement posture from the current administration or a successor administration.

While the Biden administration has publicly committed to enforcing the Act, Congress has been concerned with the slow pace of sanctions designations, and the Biden administration’s seemingly calculated efforts to relax sanctions. The first concerned the administration’s permitting of in-kind payments to the Syrian government for transit fees of natural gas and electricity across Syria to Lebanon.

The second is concern over the unintended effects of the legislation, most notably concerning financial institutions cutting ties with humanitarian and other actors dealing with Syria through a process known as “de-risking,” even though humanitarian trade is specifically permitted and encouraged under the Caesar Act. This is particularly relevant in the aftermath of the devastating earthquake along the Turkish-Syrian frontier on 6 February, when the Biden administration issued a sanctions General License—a sort of waiver—that permitted transactions outlined as “earthquake relief.”

While that is standard US government practice, the Treasury Department did not specifically define what earthquake relief entailed, and to boot, permitted transactions with the “Government of Syria” (which is controlled by the al-Assad regime), despite its proven track record of diverting and weaponising humanitarian aid. Washington also issued the license for a duration 6 months, instead of the standard 3 months.

## **Normalisation Hastens Caesar 2.0**

**T**he Caesar Act continues to be a significant deterrent against investing in Syria’s reconstruction through the al-Assad regime, but it atrophies over time if not effectively enforced. Acting on this concern, a bipartisan coalition in the House has introduced the Anti-Assad Normalization Act, which passed out of the House Foreign Affairs Committee on 16 May. The legislation would extend the Caesar Act through 31 December 2032 and expand the sanctions that the administration must impose to include engaging in transactions with property seized or taken by

the regime.

The most critical components of the new bill that strengthen Caesar include targeting those involved in stealing the property of the Syrian people for political reasons or personal gain and preventing the Syrian regime and their affiliates from profiting from the ethnic cleansing associated with reconstruction. It also expands its targeting of senior regime leadership by levying sanctions, including secondary sanctions on all members of the Syrian People's Assembly and their immediate family members and senior officials of the Arab Socialist Ba'ath Party in Syria. It also attempts to determine whether Syrian First Lady Asma al-Assad's charity, the Syria Trust for Development, meets the criteria for sanctions under the Caesar Act, as well as define a "significant transaction" under the Act, which in turn would forbid in-kind payments to the al-Assad regime that the Biden administration has used to permit energy shipments from Jordan across Syrian territory to Lebanon.

## Eight Years to Sunset?

All of the above would significantly reduce Biden's or any future administration's ability to loosen sanctions—at least as long as al-Assad continues to block progress on a political and overall settlement to the war. Even if there is no action, and Arab diplomats put engagement with al-Assad to the test, Arab countries and their companies risk being sanctioned until Caesar "sunssets" at the end of 2024—which effectively means that getting around US sanctions will already be extremely difficult for at least another two years.

In this case, one loophole would remain: the General License for "earthquake relief" that is set to expire on 9 August. The Treasury Department could extend it—but its long duration would almost certainly trigger extreme scrutiny.

If the Anti-Normalization Bill is passed into law, Syria's sanctions would not only be extended for another eight years but strengthened with a specific goal of preventing the regime from benefiting from reconstruction. The door to real economic normalisation would be closed and with it, attempts to entice al-Assad with carrots instead of sticks toward a political settlement to the war.

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