

105TH CONGRESS
1ST SESSION

S. 1302

To permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist.

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 1997

Mr. FAIRCLOTH (for himself and Mr. MOYNIHAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Sovereign Im-
5 munity Technical Corrections Act of 1997”.

1 **SEC. 2. TECHNICAL CORRECTIONS WITH RESPECT TO A**
2 **LIMITATION ON FOREIGN SOVEREIGN IMMUN-**
3 **ITY.**

4 (a) IN GENERAL.—Section 1605(a)(7) of title 28,
5 United States Code, is amended to read as follows:

6 “(7) in which money damages are sought
7 against a foreign state for personal injury or death
8 caused by an act of torture, extrajudicial killing, air-
9 craft sabotage, hostage taking, or the provision of
10 material support or resources (as defined in section
11 2339A of title 18) for such as act, if—

12 “(A) such act or provision of material sup-
13 port for such act is engaged in by an official,
14 employee, or agent of such foreign state while
15 acting within the scope of his or her office, em-
16 ployment, or agency;

17 “(B) the foreign state against whom the
18 claim was brought—

19 “(i) was designated as a state sponsor
20 of terrorism under section 6(j) of the Ex-
21 port Administration Act of 1979 (50
22 U.S.C. App. 2405(j)) or section 620A of
23 the Foreign Assistance Act of 1961 (22
24 U.S.C. 2371) at the time the act occurred
25 or later so designated as a result of such
26 act; or

1 “(ii) had no treaty of extradition with
2 the United States at the time the act oc-
3 curred and no adequate and available rem-
4 edies conforming with fundamental fair-
5 ness and due process exist in such state;

6 “(C) the claimant or victim was a national
7 of the United States (as that term is defined in
8 section 101(a)(22) of the Immigration and Na-
9 tionality Act) when the act upon which the
10 claim is based occurred except that, in the case
11 brought under subparagraph (B)(ii), the victim
12 shall be a national of the United States (as de-
13 fined in such section 101(a)(22) when the act
14 upon which the claim is based occurred; and

15 “(D) in the case of an act that occurred in
16 the foreign state against which the claim has
17 been brought, the claimant has afforded the
18 foreign state a reasonable opportunity to arbi-
19 trate the claim in accordance with accepted
20 international rules of arbitration.”.

21 (b) TOLLING LIMITATION.—Section 1605(f) of title
22 28, United States Code, is amended by inserting before
23 the period the following: “, except that no action may be
24 brought under subsection (a)(7)(B)(ii) for a cause of ac-
25 tion that arose more than 20 years before the date of en-

1 actment of the Foreign Sovereign Immunity Technical
2 Corrections Act”.

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to any cause of action arising
5 before, on, or after the date of enactment of this Act.

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