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Chapter 16

Sanctions, Export Controls, and Certain Other Restrictions

This chapter discusses selected developments during 2011 relating to sanctions, export controls, and certain other restrictions relating to travel or U.S. government assistance. It does not cover developments in many of the United States' longstanding financial sanctions regimes, which are discussed in detail at www.treasury.gov/resource-center/sanctions/Pages/default.aspx. It also does not cover comprehensively developments relating to the export control programs administered by the Commerce Department or the defense trade control programs administered by the State Department. Detailed information on the Commerce Department's activities relating to export controls is provided in the U.S. Department of Commerce, Bureau of Industry and Security's Annual Report to the Congress for Fiscal Year 2011, available at www.bis.doc.gov/news/2012/bis_annual_report_2011.pdf. Details on the State Department's defense trade control programs are available at www.pmdtdc.state.gov.

A. IMPOSITION, IMPLEMENTATION, AND MODIFICATION OF SANCTIONS AND CERTAIN OTHER RESTRICTIONS

1. Libya

The United States took several steps in 2011 to protect civilians in Libya and target the regime of Muammar al-Qadhafi in response to its violent repression of peaceful protests, beginning in February 2011. U.S. actions were coordinated with the international community, including the Arab League and the United Nations. International and U.S. sanctions are discussed below. Chapter 3 discusses the UN Security Council's referral to the International Criminal Court. Chapter 6 discusses Libya's suspension from the Human Rights Council. Chapter 9 discusses recognition and succession of the new regime in Libya. And Chapter 18 discusses the use of force in halting the violence against civilians in Libya.

a. UN Security Council Resolutions

(1) Resolution 1970

On February 26, 2011, the UN Security Council, acting under Chapter VII, Article 41, adopted Resolution 1970 which was co-sponsored by the United States. U.N. Doc S/RES/1970. Resolution 1970 referred the situation in Libya to the International Criminal Court ("ICC"), imposed an arms embargo and other arms restrictions, imposed targeted sanctions on key figures in the Qadhafi regime, and provided for humanitarian assistance. The United States Mission to the United Nations issued a fact sheet on the resolution, available at <http://usun.state.gov/briefing/statements/2011/157194.htm> and excerpted below.

* * * *

The UN Security Council has adopted a comprehensive resolution to respond to the outrageous violence perpetrated by Muammar Qaddafi on the Libyan people. This resolution imposes immediate measures to stop the violence, ensure accountability and facilitate humanitarian aid.

The Security Council has demanded an end to the violence and urged Libyan authorities to respect human rights, ensure the safety of foreign nationals, allow the safe passage of humanitarian supplies and lift restrictions on all forms of media.

Significantly, the resolution:

- 1) Refers the situation to the International Criminal Court (ICC)
 - The Security Council referral gives the ICC jurisdiction over crimes committed in Libya after February 15, the day of the first protests in Benghazi. The ICC may investigate crimes including war crimes, crimes against humanity and genocide.
 - A referral to the ICC is necessary because Libya is not a party to the ICC Rome Statute.
 - The ICC Prosecutor will report regularly to the Security Council.
- 2) Imposes an arms embargo and other arms restrictions
 - All states are prohibited to provide any kind of arms to Libya.
 - All states are prohibited from allowing the transit to Libya of mercenaries.
 - Libya is prohibited from exporting any arms to any other state.
 - States are called upon to inspect suspicious cargo that may contain arms. When such arms are found, states are required to seize and dispose of them.
 - All states are called on to strongly discourage their nationals from traveling to Libya to contribute to human rights violations.
- 3) Imposes targeted sanctions on key regime figures
 - Seventeen Qaddafi loyalists are subject to an international travel ban.
 - Six of these individuals, including Qaddafi himself and his immediate family members, are also subject to a freeze of their assets.
 - The Security Council commits to ensure that any frozen assets will be made available to benefit the people of Libya.
 - A Sanctions Committee is established to impose targeted sanctions on additional individuals and entities who commit serious human rights abuses, including ordering attacks and aerial bombardments on civilian populations or facilities.
- 4) Provides for humanitarian assistance
 - All states are called upon to work together to facilitate humanitarian assistance and support the return of humanitarian agencies.
 - The Security Council expresses its readiness to consider additional measures to achieve the delivery of such assistance.
- 5) Commits to review the measures

* * * *

Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, delivered remarks hailing passage of the resolution, available at <http://usun.state.gov/briefing/statements/2011/157193.htm>:

* * * *

...When atrocities are committed against innocents, the international community must speak with one voice and today, it has. Tonight, acting under Chapter VII, the Security Council has come together to condemn the violence, pursue accountability, and adopt biting sanctions, targeting Libya's unrepentant leadership. This is a clear warning to the Libyan government: that it must stop the killing.

Those who slaughter civilians will be held personally accountable. The international community will not tolerate violence of any sort against the Libyan people by their government or security forces.

Resolution 1970 is a strong resolution. It includes a travel ban and an asset freeze for key Libyan leaders. It imposes a complete arms embargo on Libya. It takes new steps against the use of mercenaries by the Libyan government to attack its own people. And for the first time ever, the Security Council has unanimously referred an egregious human rights situation to the International Criminal Court.

As President Obama said today, when a leader's only means of staying in power is to use mass violence against his own people, he has lost the legitimacy to rule—and needs to do what is right for his country by leaving now.

The protests in Libya are being driven by the people of Libya. This is about people's ability to shape their own future, wherever they may be. It is about human rights and fundamental freedoms.

The Security Council has acted today to support the Libyan people's universal rights. These rights are not negotiable. They cannot be denied. Libya's leaders will be held accountable for violating these rights and for failing to meet their most basic responsibilities to their people.

* * * *

Ambassador Rice also answered questions from the press on the same day Resolution 1970 was passed. Her remarks, excerpted below, are available in full at <http://usun.state.gov/briefing/statements/2011/157195.htm>.

* * * *

Good evening, everyone. Tonight, the international community has spoken with one voice. Resolution 1970 imposes tough and binding measures that aim to stop the Libyan regime from killing its own people. We want to thank the delegation of the UK for its skillful leadership of this effort in the Council. And we're very pleased with the outcome, and also with the unity of purpose that the Council has showed in acting quickly and decisively in accordance with its responsibility to protect.

* * * *

...[I]t's very significant that the Council has acted so swiftly, and in unanimity around what are some outrageous and heinous crimes that are being committed by the government of Libya against its own people. The United States and all the members of the Council felt that what is transpiring is absolutely unacceptable and demanded an urgent and unanimous response. We are pleased to have supported this entire resolution and all of its measures, including the referral to the ICC. We are happy to have the opportunity to co-sponsor this and we think that it is a very powerful message to the leadership of Libya that this heinous killing must stop and that individuals will be held personally accountable.

* * * *

First of all, I can't remember a time in recent memory when the Council has acted so swiftly, so decisively, and in unanimity on an urgent matter of international human rights. So this in itself is mightily important. Secondly the resolution puts in place some very concrete enforcement mechanisms, a sanctions committee, panels to enforce and review these measures which we have learned are effective in helping the Security Council ensure the effective implementation of its resolutions. I think all members of the Security Council are united in their determination that these sanctions work, that they work as swiftly as possible, and that they have the intended effect of stopping the violence against innocent civilians.

* * * *

(2) *Resolution 1973*

On March 17, 2011, the Security Council adopted a second resolution on the situation in Libya, Resolution 1973. U.N. Doc S/RES/1973. Resolution 1973 authorized the use of force, imposed additional sanctions, and enhanced the existing sanctions regime. The March 18, 2011 fact sheet issued by the U.S. Mission to the UN describing the resolution appears below, and is available at <http://usun.state.gov/briefing/statements/2011/158614.htm>.

* * * *

Responding to urgent pleas from the Arab League and Libya's citizens, the UN Security Council has approved a significant resolution—the second in less than three weeks—to address the outrageous violence being perpetrated by Colonel Qadhafi on the Libyan people.

Resolution 1973 provides legal authority for the international community to use force to protect civilians.

To halt the violence, the Security Council:

- 1) Authorizes states to take all necessary measures to protect civilians
 - States may use force to protect civilians and civilian populated areas under threat of attack. To exercise this authority, states can act nationally or through regional organizations.

- The League of Arab States is requested to cooperate.
- 2) Imposes a no-fly zone
 - All flights are banned in Libyan airspace, except those for certain purposes like humanitarian aid delivery or evacuating foreign nationals.
 - States may use force to enforce this ban. States are required to notify the UN Secretary-General of actions taken to enforce the ban.
 - Other states are called upon to provide assistance, including over-flight approvals, for the states implementing the no-fly zone.
 - 3) Authorizes states to take all necessary measures to enforce the arms embargo
 - States are called upon to inspect cargo of aircraft and vessels suspected of transporting arms or mercenaries in violation of the UN arms embargo.
 - If permission to inspect cargo is denied, then states may use force to carry out such inspections.
 - The Security Council's Libya Sanctions Committee may impose targeted sanctions (asset freezes/travel bans) on individuals and companies who violate the arms embargo.
 - 4) Provides for freezing assets of the Libyan authorities
 - The Security Council directs its Libya Sanctions Committee to identify within thirty days state companies to be subject to an asset freeze.
 - In an Annex, the Security Council designates several major state-owned entities—including the Libyan Central Bank, Libya's sovereign wealth fund and the Libyan National Oil Corporation—that are immediately subject to an asset freeze.
 - States must require their nationals to exercise vigilance when doing business with Libyan companies to make sure such business does not contribute to violence against civilians.
 - 5) Imposes other aviation restrictions
 - States must deny permission to take off from, land or overfly their territory to any Libyan aircraft.
 - States must also deny permission to take off from, land or overfly their territory to any aircraft suspected of transporting arms or mercenaries in violation of the arms embargo.
 - 6) Imposes targeted sanctions on more regime figures
 - In an annex, five state-owned companies and seven individuals are identified to be subject to an asset freeze, including two of Qadhafi's sons, his Director of Military Intelligence and the Defense Minister.
 - Two additional individuals—a Libyan ambassador and a colonel who are both involved in recruiting mercenaries—are identified to be subject to an international travel ban.
 - 7) Establishes a UN Panel of Experts (POE) to improve sanctions implementation.
 - The UN Secretary-General will appoint eight experts to monitor to improve enforcement of the UN sanctions contained in Resolution 1970 and this resolution.
 - This expert panel will also recommend ways to tighten enforcement of these sanctions.

* * * *

Ambassador Rice delivered a statement explaining the U.S. vote on Resolution 1973, excerpted below, and available at <http://usun.state.gov/briefing/statements/2011/158559.htm>.

* * * *

...Today the Security Council has responded to the Libyan people's cry for help. This Council's purpose is clear: to protect innocent civilians.

On February 26, acting under Chapter VII, the Security Council demanded a halt to the violence in Libya and enabled genuine accountability for war crimes and crimes against humanity by referring the situation to the International Criminal Court. We adopted strong sanctions that target Libya's leadership. ... But Colonel Qadhafi and those who still stand by him continue to grossly and systematically abuse the most fundamental human rights of Libya's people. On March 12, the League of Arab States called on the Security Council to establish a no-fly zone and take other measures to protect civilians. Today's resolution is a powerful response to that call—and to the urgent needs on the ground.

This resolution demands an immediate cease fire and a complete end to violence and attacks against civilians. Responding to the Libyan people and to the League of Arab States, the Security Council has authorized the use of force, including enforcement of a no-fly zone, to protect civilians and civilian areas targeted by Colonel Qadhafi, his intelligence and security forces, and his mercenaries. The resolution also strengthens enforcement of the arms embargo and bans all international flights by Libyan-owned or -operated aircraft. The resolution freezes the assets of seven more individuals and five entities—including key state-owned Libyan companies. The resolution empowers the newly established Libyan Sanctions Committee to impose sanctions on those who violate the arms embargo, including by providing Qadhafi with mercenaries. Finally, the Council established a panel of experts to monitor and enhance short- and long-term implementation of the sanctions on Libya.

The future of Libya should be decided by the people of Libya. The United States stands with the Libyan people in support of their universal rights.

* * * *

Ambassador Rice also provided additional remarks and answered questions following passage of Resolution 1973 on March 17, 2011. Excerpts appear below and the full text is available at <http://usun.state.gov/briefing/statements/2011/158563.htm>.

* * * *

...[T]he U.S. is very pleased with today's vote and with the strong provisions of Resolution 1973. This resolution should send a strong message to Colonel Qadhafi and his regime that the

violence must stop, the killing must stop, and the people of Libya must be protected and have the opportunity to express themselves freely.

This resolution was designed to do two important things: protect civilians as well as strengthen the pressure on the Qadhafi regime through a substantial tightening of sanctions. Provisions for enforcement of the arms embargo, a ban on flights in and out of Libya with, in particular, a focus on those that may be carrying mercenaries, the designation of additional individuals and core Libyan-owned government companies for asset freezes, and a range of other very important measures. Taken together, the elements of Resolution 1973 are powerful and they ought to be heeded by the Qadhafi regime. ...

* * * *

...[T]he Council today acted in response to a strong request by the League of Arab States. This resolution was supported by the African members of the Council, by Lebanon, by a strong majority of the Council who agreed that the situation had become so grave that the provisions of 1970 had been flouted so dramatically and that the people of Libya were under imminent threat and continued risk of violence and took the decision to act. So I think the result speaks for itself. I won't characterize other countries' positions, but I will reiterate that the United States is pleased with the outcome.

* * * *

(3) *Lifting sanctions*

After the transition in government in Libya, the Security Council's Libya Sanctions Committee began lifting the sanctions. Some assets—including those of two sovereign wealth funds—remain subject to the sanctions regime because the government of Libya has not yet assured there are proper controls over these assets. Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, made the following statement on the removal of sanctions on December 16, 2011. The statement is available at <http://usun.state.gov/briefing/statements/2011/178964.htm>.

* * * *

The United States welcomes today's decision by the UN Security Council's Libya Sanctions Committee to remove the remaining financial sanctions on the Central Bank of Libya and the Libyan Arab Foreign Bank. This will allow the United States and other countries to unfreeze billions of dollars to help Libyans build their new democracy.

The financial sanctions imposed by UN Security Council resolutions 1970 and 1973 were important in halting Qadhafi's slaughter of the Libyan people. Now, as Libyans develop their new state, these sanctions can be ended responsibly. The United States will continue to work with the new government of Libya to ensure that it has the resources and support it needs, and we will stand with the Libyan people as they leave behind decades of tyranny and chart a prosperous, democratic and secure future for their country.

* * * *

b. U.S. sanctions and other controls

(1) Executive Order 13566

On February 25, 2011, President Barack Obama issued Executive Order 13566, “Blocking Property and Prohibiting Certain Transactions Related to Libya” (“E.O. 13566”) pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701-06 (“IEEPA”), the National Emergencies Act, 50 U.S.C. 1601, and 3 U.S.C. § 301. 76 Fed. Reg. 11,315 (Mar. 2, 2011). The order includes the President’s finding that the situation in Libya threatened the national security of the United States:

I... find that Colonel Muammar Qadhafi, his government, and close associates have taken extreme measures against the people of Libya, including by using weapons of war, mercenaries, and wanton violence against unarmed civilians. I further find that there is a serious risk that Libyan state assets will be misappropriated by Qadhafi, members of his government, members of his family, or his close associates if those assets are not protected. The foregoing circumstances, the prolonged attacks, and the increased numbers of Libyans seeking refuge in other countries from the attacks, have caused a deterioration in the security of Libya and pose a serious risk to its stability, thereby constituting an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

Section 1 of E.O. 13566 blocks all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of the persons listed in the annex to the order as well as those subsequently determined by the Treasury Department in consultation with the State Department:

- (i) to be a senior official of the Government of Libya;
- (ii) to be a child of Colonel Muammar Qadhafi;
- (iii) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses related to political repression in Libya;
- (iv) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of the activities described in subsection (b)(iii) of this section or any person whose property and interests in property are blocked pursuant to this order;
- (v) to be owned or controlled by, or to have acted or purported to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order; or

(vi) to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this order.

Section 2 of E.O. 13566 blocks property of the government of Libya, its agencies, instrumentalities, and controlled entities, and the Central Bank of Libya. On July 1, 2011, the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”) issued the Libyan Sanctions Regulations to implement E.O. 13566. 76 Fed. Reg. 38,562 (July 1, 2011).

On February 25, 2011, President Obama delivered a statement on the Libya sanctions:

The Libyan Government’s continued violation of human rights, brutalization of its people, and outrageous threats have rightly drawn the strong and broad condemnation of the international community. By any measure, Muammar al-Qadhafi’s Government has violated international norms and common decency and must be held accountable. These sanctions therefore target the Qadhafi Government, while protecting the assets that belong to the people of Libya.

Going forward, the United States will continue to closely coordinate our actions with the international community, including our friends and allies and the United Nations. We will stand steadfastly with the Libyan people in their demand for universal rights and a government that is responsive to their aspirations. Their human dignity cannot be denied.

Daily Comp. Pres. Docs., 2011 DCPD No. 00113, p. 1.

OFAC acted repeatedly pursuant to E.O. 13566, identifying and designating individuals and entities as subject to the asset freeze in the following notices in the Federal Register: 76 Fed. Reg. 17,188 (Mar. 28, 2011) (additional identifying information for five individuals listed in the annex to E.O. 13566); 76 Fed. Reg. 20,450 (Apr. 12, 2011) (nine individuals, including several members of Qadhafi’s family); 76 Fed. Reg. 21,801 (Apr. 18, 2011) (five individuals and two entities); 76 Fed. Reg. 25,783 (May 5, 2011) (30 entities); 76 Fed. Reg. 28,503 (May 17, 2011) (three entities); 76 Fed. Reg. 37,404 (June 27, 2011) (nine entities). Among those designated were individuals and entities listed for sanctions by the UN Security Council’s committee established pursuant to Resolution 1970. See www.un.org/sc/committees/1970/.

As officials defected from Qadhafi’s regime and then, subsequent to Qadhafi’s death, the United States began the process of unblocking assets by removing individuals and entities from the list of persons designated pursuant to E.O. 13566, in the following notices in the Federal Register: 76 Fed. Reg. 20,451 (Apr. 12, 2011); 76 Fed. Reg. 37,892 (June 28, 2011) (one individual); 76 Fed. Reg. 72,502 (Nov. 23, 2011) (42 entities).

After the United States recognized the Transitional National Council of Libya (“TNC”) as the legitimate governing authority for Libya (see Chapter 9), OFAC issued General License No. 6 authorizing all transactions involving the TNC, provided that (1) the transactions do not involve any other person whose property and interests in property are blocked; and (2) all property and interests in property blocked pursuant to E.O. 13566 remain blocked. OFAC later issued General License Nos. 7A, 8A, and 11 authorizing transactions involving the

government of Libya, subject to certain limitations. See OFAC, Overview of Sanctions, available at www.treasury.gov/resource-center/sanctions/Programs/Documents/libya.pdf.

(2) Implementing UN Security Council Resolutions

As discussed in Section A.1.b.(1) above, the United States implemented the asset freeze provisions in the Security Council resolutions via designations under E.O. 13566. At a February 28, 2011 White House press briefing, Ambassador Rice referred to steps the United States had already taken to implement the asset freeze imposed by Resolution 1970. See February 28, 2011 White House Press Briefing, available at www.whitehouse.gov/the-press-office/2011/02/28/press-briefing-press-secretary-jay-carney-and-us-permanent-representativ.

On April 26, 2011, President Obama directed the drawdown of resources under the Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2348a, of up to \$25 million to support efforts to protect civilians in Libya, in furtherance of the calls for humanitarian assistance in Security Councils Resolutions 1970 and 1973. 76 Fed. Reg. 27,845 (May 13, 2011).

Effective May 24, 2011, the U.S. Department of State amended the International Traffic in Arms Regulations (“ITAR”), 22 CFR Part 126, in order to implement the arms embargoes adopted by the UN Security Council in Resolutions 1970 and 1973. 76 Fed. Reg. 30,001 (May 24, 2011). ITAR lists countries to which exports of arms are prohibited due to Security Council action. The notice in the Federal Register explained:

This rulemaking implements the Security Council’s actions within the ITAR by adding Libya to Sec. 126.1(c) and revising the previous policy on Libya contained in Sec. 126.1(k) to announce a policy of denial for all requests for licenses or other approvals to export or otherwise transfer defense articles and services to Libya, except where not prohibited under UNSC embargo and determined to be in the interests of the national security and foreign policy of the United States.

(3) Invoking the extraordinary expenses exemption in UNSCR 1970

On August 8, 2011, the United States requested that the committee established pursuant to UNSCR 1970 approve an exemption to the asset freeze provisions under that resolution in order to allow frozen assets to be used to provide humanitarian aid to Libya. The letter making the request, addressed to Jose Felipe Maraes Cabral, chairman of the committee established pursuant to Resolution 1970, is excerpted below and available at www.state.gov/s/l/c8183.htm.

* * * *

Dear Ambassador:

The United States requests the Committee to approve, pursuant to paragraph 19(b) of resolution 1970 (2011), an exemption to the measures imposed in paragraph 17 of resolution 1970 (2011), as extended by paragraph 22 of resolution 1973 (2011), for funds that are necessary for extraordinary expenses. This exemption is requested for funds, financial assets and economic resources that are owned or controlled, directly or indirectly by listed entities, including the Central Bank of Libya, the Libyan Investment Authority, the Libyan Foreign Bank, the Libyan Africa Investment Portfolio and the Libyan National Oil Corporation.

Purposes

The purposes of this request are to ensure the delivery of urgently-needed humanitarian aid and to begin the process envisioned in paragraph 20 of resolution 1973 (2011) to ensure that frozen assets shall, at a later stage, as soon as possible be made available to and for the benefit of the people of Libya.

The United States requests that this exemption allow the unfreezing of assets for the amounts, recipients and purposes specified in Annex 1. These assets would be transferred to three categories of recipients:

- 1) Humanitarian organizations to respond to initial and currently anticipated humanitarian needs, in line with the UN Appeal and its expected revisions (up to \$500 million);
- 2) Third-party vendors supplying fuel and other urgently-needed humanitarian goods (up to \$500 million);
- 3) The Temporary Financial Mechanism (TFM) to pay for salaries and operating expenses of Libyan civil servants and for food subsidies, electricity and other humanitarian purchases (up to \$500 million)

Safeguards

To ensure an appropriate and balanced distribution of assistance:

- No funds will be provided for the purchase of arms, non-lethal military equipment or any other military-related activity.
- Payments to third-party vendors for fuel costs will be made for fuel used strictly for humanitarian and civilian purchases (e.g. generating electricity, hospitals), not military activity, based on written assurances from the National Transition Council (TNC).
- Funds to be transferred to the TFM will be subject to TFM procedures, including the TFM's existing accounting procedures and safeguards, such as significant oversight and audits.
- A substantial portion of the funds (up to 20 percent or \$100 million) transferred to the TFM would be allocated to benefit Libyans in areas not under the control of the TNC. The mechanism to ensure these transfers will be identified by the TNC (e.g. for food subsidies, electricity and other humanitarian purchases). The United States will retain the authority to hold back the release of up to \$100 million of these funds until the TNC devises a credible, transparent and effective means of delivering these resources to areas not under its control.
- The United States will submit to the Committee every 120 days a report containing additional and updated information regarding these expenses, including precise amounts unfrozen and disbursed, the needs being addressed by the unfrozen assets, steps taken to coordinate donor assistance and measures imposed to mitigate the risk of abuse and diversion.

Coordination

The United States anticipates that other Member States will also request exemptions pursuant to paragraph 19(b) of resolution 1970 (2011) for these same purposes. The United

States will coordinate with these other Member States, as appropriate, as well as relevant international organizations, to ensure coordinated and efficient allocation of unfrozen funds, in particular to ensure that transfers to humanitarian organizations meet the needs identified by OCHA.

Please accept, Excellency, the assurances of my highest consideration.

Sincerely,

Howard Wachtel
Adviser

* * * *

2. Iran

In 2011, the United States continued to pursue its dual-track approach to preventing Iran from gaining a nuclear weapons capability. See *Digest 2009* at 585–90 and 773–74. Together with its international partners, the United States reaffirmed its commitment to engaging Iran diplomatically while imposing extensive new sanctions to respond to Iran’s continued inflexibility.

a. Implementation of UN Security Council Resolutions

On June 9, 2010, the UN Security Council adopted Resolution 1929, which imposed additional sanctions with respect to Iran’s nuclear and ballistic missile programs under Article 41 of Chapter VII of the UN Charter. U.N. Doc. S/RES/1929. See *Digest 2010* at 632–45. Resolution 1929 was the fourth such Security Council Resolution to impose sanctions on Iran, following Resolution 1737 (2006), Resolution 1747 (2007) and Resolution 1803 (2008). U.N. Docs. S/RES/1737, S/RES/1747, and S/RES/1803. See *Digest 2006* at 1280–84, *Digest 2007* at 1031–36, *Digest 2008* at 969–75, and *Digest 2010* at 632–37 for discussions of the Security Council’s previous resolutions.

In 2011, the United States continued to demonstrate strong support for full implementation of the Security Council resolutions on Iran through statements at the Security Council and actions taken to implement the resolutions.

(1) Statements in the Security Council

On March 22, 2011, Ambassador Rosemary A. DiCarlo, U.S. Deputy Permanent Representative to the United Nations, addressed the Security Council at a briefing on Iran and Resolution 1737. Her remarks, excerpted below, are available at <http://usun.state.gov/briefing/statements/2011/158818.htm>.

* * * *

It has now been more than nine months since this Council adopted its sixth resolution on Iran—and its fourth to impose sanctions—in response to Iran’s continued refusal to comply with its international nuclear obligations. Unfortunately, once again, when it comes to Iran’s actions, little has changed since we met three months ago. Let me make three key points.

First, the IAEA Director General continues to report Iran’s ongoing violation of its NPT, Security Council, and IAEA safeguards obligations. Most troubling, the Director General has stated that Iran has once again refused to discuss the possible military dimensions to its nuclear program, including credible reports of Iranian efforts to develop a nuclear warhead—an issue Iran incorrectly asserts is “closed.”

The report details Iran’s many ongoing failures to cooperate with the Agency’s investigation and Iran’s violations of its international nuclear obligations, including its failure to suspend enrichment-related activities and its work on heavy-water-related projects. After a careful presentation of the facts, the Director General concludes that the Agency is unable “to provide credible assurance about the absence of undeclared nuclear material and activities in Iran,” and therefore is unable “to conclude that all nuclear material in Iran is in peaceful activities.” This conclusion is cause for grave concern for this Council and for the international community at large.

Second, Mr. President, it is absolutely critical that all member states continue to take the necessary steps to fully and robustly implement Security Council resolutions 1737, 1747, 1803, and 1929. This includes taking the necessary steps domestically to ensure effective implementation. It also includes submitting national-implementation reports and cooperating fully with the 1737 Committee and the Panel of Experts. In this regard, we welcome Nigeria’s excellent example of enforcing these measures, including its recent seizure of an Iranian shipment of arms and related materiel and its cooperation with the Committee and Panel in investigating this violation. Recent press reports of other potential violations, such as the Iranian weapons seized on the M/V Victoria, underline the continuing need for a high level of vigilance on the part of all Member States.

In addition to the important role played by member states, the 1737 Committee and the Panel of Experts are critical to better implementation and enforcement of the Iran sanctions regime. The United States thanks the Panel for its efforts in the few months that it has been operational. This group has started strong. We have been impressed by its hard work. The 1737 Committee should be prepared to act quickly to implement recommendations from the Panel—and take additional steps in line with its program of work to tighten sanctions enforcement.

A few weeks ago, my government hosted the Panel in Washington for a series of consultations. We encourage other member states to take similar steps and do what they can to fully support the Panel’s efforts.

Finally, let me reiterate my government’s commitment to a diplomatic solution. We met with Iran a little more than a month ago with the sincere intent of starting a process of meaningful and constructive engagement between the P5+1 and Iran. The P5+1 came to the meeting without preconditions—and with specific, practical proposals aimed at building confidence. We made every effort to secure agreement. We had hoped to have a detailed, constructive discussion about those ideas, but instead, Iran presented unacceptable preconditions. Iran’s performance in Istanbul was deeply disappointing. We now look to Iran to show the international community that it has decided to address the international community’s serious concerns about Iran’s troubling nuclear activities.

Our goal remains to prevent Iran from developing nuclear weapons. We remain committed to working closely with our partners in this Council and the international community toward that goal.

* * * *

Ambassador DiCarlo spoke again on the implementation of Resolution 1737 (2006) at a Security Council briefing on December 21, 2011. Her remarks, excerpted below, are available at <http://usun.state.gov/briefing/statements/2011/158818.htm>.

* * * *

Since we last met, the IAEA Director General has released a damning report on the status of Iran's implementation of its NPT Safeguards Agreement and its response to UN Security Council resolutions on Iran. The report concluded that Iran remains in noncompliance with its international nuclear obligations—and added to the mountain of evidence that Iran is misleading international community about its nuclear activities and its nuclear intentions.

Of even greater concern, this report addressed the question at the heart of the international community's concerns: has Iran carried out, and is it still carrying out, activities related to the development of a nuclear weapon? The report is clear: the IAEA's information indicates that Iran has carried out activities that are—and I quote—"relevant to the development of a nuclear explosive device." The report further states "that prior to the end of 2003, these activities took place under a structured program, and that some activities may still be ongoing."

* * * *

The decision by the IAEA Board of Governors last month to censure Iran demonstrated yet again the overwhelming view of the international community that Iran's illicit nuclear activities are unacceptable.

The Council therefore must redouble its efforts to implement the sanctions already imposed. Full implementation of these measures will show Iran there is a price to be paid for its deception. Full implementation can also slow down Iran's nuclear progress, buying us more time to resolve this crisis through diplomatic means.

The 1737 Committee and Panel of Experts are key to this effort. These bodies must continue effectively—and robustly—to implement their mandates and programs of work. The Committee must reinvigorate its efforts to implement the Panel's recommendations, including to publish further detailed Implementation Assistance Notices to help Member States meet their obligations. The Panel must continue to investigate sanctions violations and promote international awareness of the measures we have imposed.

The United States would like to express appreciation for the Panel's recent work, including its Midterm Report and its recent report on Iran's space-launch activity, which involved both projects related to ballistic missiles capable of delivering nuclear weapons and launches using ballistic missile technology in violation of resolution 1929 (2010). The Committee should review these reports carefully and take action in response. The Committee must also do more to respond to sanctions violations and sanctions violators, such as by designating violators for targeted sanctions. Resolution 1929 (2010) directed the Committee to

respond effectively to these violations; Resolutions 1803 (2008) and 1929 (2010) also decided that the Committee may designate additional individuals and entities that have assisted in evasion of sanctions or violations of Security Council resolutions. New designations of such individuals and entities would send a powerful signal of the Committee's commitment to enforce UN Security Council resolutions.

* * * *

Mr. President, sanctions are only a means to an end. Our ultimate goal is to ensure that Iran enters into full compliance with all its international nuclear obligations and takes the steps necessary to resolve outstanding questions. In the face of Iran's deception and intransigence, the international community must speak with one voice, making clear that Iranian actions jeopardize international peace and security and will only further isolate the regime.

* * * *

(2) Communication to the Committee established pursuant to Resolution 1737

On July 15, 2011, the United States Mission to the UN submitted a communication on behalf of the United States, France, Germany, and the United Kingdom to the Chairman of the Security Council Committee established pursuant to Resolution 1737 (2006). The communication brought to the attention of the 1737 Committee the violation by Iran of paragraph 9 of resolution 1929 that occurred when Iran successfully launched a satellite into space using its Safir space launch vehicle, which Iran had announced on June 15. The Safir is based on Iran's Shahab-3 medium range ballistic missile, which is a Missile Technology Control Regime ("MTCR") Category I system. Paragraph 9 of resolution 1929 prohibits any activity by Iran related to "ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology." Accordingly, Iran's launch using the Safir violated resolution 1929. The United States and the other states on whose behalf the communication was made expressed their intention to cooperate with the Committee in investigating and responding to the violation.

b. U.S. sanctions and other controls

(1) New Executive Order 13590 and other steps taken in November 2011

On November 21, 2011, the United States announced a series of steps to increase pressure on Iran following a report by the Director General of the International Atomic Energy Agency ("IAEA") and a vote by the IAEA Board of Governors holding the Iranian regime accountable for its refusal to comply with international obligations regarding its nuclear program. See State Department fact sheet dated November 21, 2011, available at www.state.gov/r/pa/prs/ps/2011/11/177609.htm. This section discusses two of these steps: a new executive order ("E.O.") expanding energy-related sanctions on Iran and the designation of Iran under the Patriot Act as a jurisdiction of "primary money laundering concern." A third step, designations under the existing E.O. 13382 on nonproliferation, is

discussed in section A.2.b.(3) below covering all Iran-related designations in 2011 pursuant to E.O. 13382.

Secretary of State Hillary Rodham Clinton and Treasury Secretary Tim Geithner held a joint press conference on November 21 to announce these coordinated measures of the U.S. government directed at Iran. Secretary Clinton's remarks are excerpted below and are available at www.state.gov/secretary/rm/2011/11/177610.htm.

* * * *

Recent days have brought new evidence that Iran's leaders continue to defy their international obligations and violate international norms, including the recent plot to assassinate the Saudi Ambassador here in the United States and as verified by the new report from the International Atomic Energy Agency that further documents Iran's conduct of activities directly related to the development of nuclear weapons. Now, this report from the IAEA is not the United States or our European partners making accusations; this is the result of an independent review and it reflects the judgment of the international community.

There have to be consequences for such behavior. So on Friday, Iran was condemned in votes at the UN in New York and at the IAEA in Vienna. And earlier today, the UN General Assembly again strongly reprimanded Iran for continuing human rights abuses, persecution of minorities, and forcible restrictions on political freedom. The message is clear: If Iran's intransigence continues, it will face increasing pressure and isolation.

Today the United States is taking a series of steps to sharpen this choice.

* * * *

Together, these measures represent a significant ratcheting up of pressure on Iran, its sources of income, and its illegal activities. They build on an extensive existing sanctions regime put into place by the UN Security Council and a large number of countries, including our own, acting nationally and multilaterally to implement the Council's measures. And these sanctions are already having a dramatic effect. They have almost completely isolated Iran from the international financial sector and have made it very risky and costly a place to do business.

Most of the world's major energy companies have left, undermining Iran's efforts to boost its declining oil production, its main source of revenues. Iran has found it much more difficult to operate its national airline and shipping companies, and to procure equipment and technology for its prohibited weapons programs. And those individuals and organizations responsible for terrorism and human rights abuses, including the Revolutionary Guard Corps and its Qods Force, have been specifically targeted.

The impact will only grow unless Iran's leaders decide to change course and meet their international obligations. And let me be clear: Today's actions do not exhaust our opportunities to sanction Iran. We continue actively to consider a range of increasingly aggressive measures. We have worked closely with Congress and have put to effective use the legislative tools they have provided. We are committed to continuing our collaboration to develop additional sanctions that will have the effect we all want: putting strong pressure on Iran.

Now, the Administration's dual-track strategy is not only about pressure. It is also about engaging Iran, engagement that would be aimed at resolving the international community's serious and growing concerns about Iran's nuclear program. And the United States is committed to engagement, but only—and I say only—if Iran is prepared to engage seriously and concretely without preconditions. So far, we have seen little indication that Iran is serious about negotiations on its nuclear program. And until we do, and until Iran's leaders live up to their international obligations, they will face increasing consequences.

* * * *

(i) *Executive Order 13590*

On November 19, 2011, President Obama signed Executive Order 13590, "Authorizing the Imposition of Certain Sanctions With Respect to the Provision of Goods, Services, Technology, or Support for Iran's Energy and Petrochemical Sectors." 76 Fed. Reg. 72,609 (Nov. 23, 2011). President Obama acted under the authority of the Constitution and U.S. laws including the International Emergency Economic Powers Act ("IEEPA"), the National Emergencies Act, and 3 U.S.C. § 301. The State Department fact sheet on the November measures, available at www.state.gov/r/pa/prs/ps/2011/11/177609.htm, excerpted below, outlines the main provisions of the new executive order.

* * * *

...E.O. 13590 ... significantly expands existing energy-related sanctions on Iran to authorize sanctions on persons that knowingly provide:

1. **Goods, Services, Technology, or Support for the Development of Petroleum Resources:** The sale, lease, or provision of goods, services, technology, or support to Iran that could directly and significantly contribute to the enhancement of Iran's ability to develop petroleum resources located in Iran could trigger sanctions if a single transaction has a fair market value of \$1 million or more, or if a series of transactions from the same entity have a fair market value of \$5 million or more in a 12-month period.

2. **Goods, Services, Technology, or Support for the Maintenance or Expansion of the Petrochemical Sector:** The sale, lease, or provision of goods, services, technology, or support to Iran that could directly and significantly facilitate the maintenance or expansion of its domestic production of petrochemical products could trigger sanctions if a single transaction has a fair market value of \$250,000 or more, or if a series of transactions from the same entity have a fair market value of \$1 million or more in a 12-month period.

If a person is found to have provided a good, service, technology, or support described in E.O. 13590, the Secretary of State, in consultation with other agencies, has the authority to impose sanctions, including prohibitions on: foreign exchange transactions; banking transactions; property transactions in the United States; U.S. Export-Import Bank financing; U.S. export licenses; imports into the United States; loans of more than \$10 million from U.S. financial

institutions; U.S. Government procurement contracts; and, for financial institutions, designation as a primary dealer or repository of U.S. Government funds.

* * * *

In a background briefing on the November 2011 measures against Iran, one senior U.S. government official explained how the new executive order fits in with existing sanctions targeting Iran's energy sector, such as those authorized by the Iran Sanctions Act ("ISA"), as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA"):

U.S. law already prohibits large-scale investment in these upstream oil and gas activities. And what's happened is the major oil companies have all left Iran, and what Iran has done to circumvent this sanction is to get domestic Iranian companies and smaller foreign companies to provide technology, equipment, and engineering services to help them develop their oil and gas resources. They're desperately in need of capital and technology because their oil production is declining. And what this measure will do is to impede their efforts to reverse this decline. And this is critical because oil production is critical to the Iranian economy. It's the main source of revenue for Iran. So this is a very important step.

A second step was also covered by this Executive Order 13590 and that is it allows us to impose sanctions on companies that provide goods, services, and technology to Iran's petrochemical industry. This is the first time we have targeted Iran's petrochemical industry. It's a very important sector of the Iranian economy. After crude oil, it's the biggest export earner for Iran. Indeed, about 50 percent of Iran's non crude oil exports come from the sale of petrochemicals.

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...Currently, the ISA-CISADA legislation covers large-scale investments in upstream oil and gas activities like exploration, development, extraction, so on. CISADA deals with refined petroleum in one of two ways: It sanctions the provision of goods and services and technology for Iran's refinery industry; it also sanctions the provision of refined petroleum products, for example the sale of gasoline to Iran. That's what existing measures call for.

This ... Executive Order does two very different things. For upstream oil and gas activities, it goes beyond investment to the provision of goods and services, for example, the sale of drilling equipment, the provision of engineering services. These are very, very important to help Iran develop its energy, its petroleum resources. And they're vital to enable Iran to reverse this long-term decline in its production of oil, which means a decline in oil revenue. So that's a vital loophole to fill.

Second, it deals for the first time with Iran's ... petrochemical industry, which is distinct from its refinery industry. And it allows us to sanction companies providing goods and services and technology to help maintain and expand the petrochemical industry. And as I also said, we're launching a diplomatic campaign to discourage

purchases of Iran's petrochemical products, which are a major source of export earnings for Iran.

Background briefing on the recently announced sanctions on Iran, available at www.state.gov/r/pa/prs/ps/2011/11/177613.htm.

Section 1 of the order, describing activity that subjects a person to sanctions, is set forth below.

* * * *

Section 1. The Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, and with the President of the Export-Import Bank, the Chairman of the Board of Governors of the Federal Reserve System, and other agencies and officials as appropriate, is hereby authorized to impose on a person any of the sanctions described in section 2 or 3 of this order upon determining that the person:

(a) knowingly, on or after the effective date of this order, sells, leases, or provides to Iran goods, services, technology, or support that has a fair market value of \$1,000,000 or more or that, during a 12-month period, has an aggregate fair market value of \$5,000,000 or more, and that could directly and significantly contribute to the maintenance or enhancement of Iran's ability to develop petroleum resources located in Iran;

(b) knowingly, on or after the effective date of this order, sells, leases, or provides to Iran goods, services, technology, or support that has a fair market value of \$250,000 or more or that, during a 12-month period, has an aggregate fair market value of \$1,000,000 or more, and that could directly and significantly contribute to the maintenance or expansion of Iran's domestic production of petrochemical products;

(c) is a successor entity to a person referred to in subsection (a) or (b) of this section;

(d) owns or controls a person referred to in subsection (a) or (b) of this section, and had actual knowledge or should have known that the person engaged in the activities referred to in that subsection; or

(e) is owned or controlled by, or under common ownership or control with, a person referred to in subsection (a) or (b) of this section, and knowingly participated in the activities referred to in that subsection.

* * * *

(ii) Designating Iran as a Jurisdiction of Primary Money Laundering Concern

On November 21, 2011, the Treasury Department designated the Islamic Republic of Iran ("Iran") as a jurisdiction of primary money laundering concern pursuant to § 311 of the USA PATRIOT Act, Pub. L. No. 107-56, 115 Stat. 272, 31 U.S.C. § 5318A (2002). 76 Fed. Reg. 72,756 (Nov. 25, 2011). See *Digest 2002* at 126-31, *Digest 2003* at 208-12, *Digest 2004* at

136-39, *Digest 2005* at 180-84, *Digest 2006* at 243-53 regarding previous designations pursuant to § 311. At the November 21, 2011 joint press conference with Secretary Clinton, Secretary Geithner described the action. The full text of the press conference is available at www.state.gov/secretary/rm/2011/11/177610.htm.

* * * *

Today, we are taking the very significant step of acting under Section 311 of the Patriot Act. For the first time, we are identifying the entire Iranian banking sector, including the Central Bank of Iran, as a threat to governments or financial institutions that do business with Iranian banks. If you are a financial institutions anywhere in the world and you engage in any transaction involving Iran's central bank or any other Iranian bank operating inside or outside Iran, then you are at risk of supporting Iran's illicit activities: ... its pursuit of nuclear weapons, its support for terrorism, and its efforts to deceive responsible financial institutions and to evade sanctions. Any and every financial transaction with Iran poses grave risk of supporting those activities, so financial institutions around the world should think hard about the risks of doing business with Iran.

We are taking this action, as the Secretary said, alongside our partners in the United Kingdom and Canada, who announced earlier today that they were implementing similar measures to insulate their banks from Iran. And as a result of this coordinated effort, Iran is now cut off from three of the world's largest financial sectors. We encourage other leaders around the world to take forceful steps like these actions to prevent Iran from simply shifting financial activity to banks within their nations.

As we put these new measures in place and as we continue to work to expand their reach around the world, we will continue to explore other measures. No option is off the table, including the possibility of imposing additional sanctions on the Central Bank of Iran. The policies Iran is pursuing are unacceptable, and until Iran's leadership agrees to abandon this dangerous course, we will continue to use tough and innovative means to impose severe economic and financial consequences on Iran's leadership.

* * * *

Section 311 of the PATRIOT Act identifies factors to be considered as grounds for finding that a jurisdiction is a primary money laundering concern. Treasury's finding, as published in the Federal Register and excerpted below (with footnotes omitted), presented the application of these factors to Iran. 76 Fed. Reg. 72,756, 72,757-63 (Nov. 25, 2011).

* * * *

A. Evidence That Organized Criminal Groups, International Terrorists, or Entities Involved in the Proliferation of Weapons of Mass Destruction or Missiles, Have Transacted Business in That Jurisdiction

1. Iran's Support for Terrorism and Pursuit of Nuclear and Ballistic Missile Capabilities

Support for Terrorism: The Department of State designated Iran as a state sponsor of international terrorism in 1984, and has reiterated this designation every year since 2000 in its annual Country Reports on Terrorism. Iran remains the most active of the listed state sponsors of terrorism, routinely providing substantial resources and guidance to multiple terrorist organizations. Iran has provided extensive funding, training, and weaponry to Palestinian terrorist groups, including Hamas and the Palestinian Islamic Jihad ("PIJ"). In fact, Hamas, PIJ, and Hizballah have maintained offices in Tehran to help coordinate Iranian financing and training of these groups.

Iran's Islamic Revolutionary Guard Corps ("IRGC") was founded in the aftermath of the 1979 Islamic Revolution to defend the government against internal and external threats. Since then, it has expanded far beyond its original mandate and evolved into a social, military, political, and economic force with strong influence on Iran's power structure. In addition, elements of the IRGC have been directly involved in the planning and support of terrorist acts throughout the Middle East region.

In particular, Iran has used the IRGC-Qods Force ("Qods Force") to cultivate and support terrorists and militant groups abroad. The Qods Force reportedly has been active in the Levant, where it has a long history of supporting Hizballah's military, paramilitary, and terrorist activities, and provides Hizballah with as much as \$200 million in funding per year. Additionally, the Qods Force provides the Taliban in Afghanistan with weapons, funding, logistics, and training in support of anti-U.S. and anti-coalition activity. Information dating from at least 2006 indicates that Iran has arranged frequent shipments to the Taliban of small arms and associated ammunition, rocket propelled grenades, mortar rounds, 107 mm rockets, and plastic explosives. Iran also has helped train Taliban fighters within Iran and Afghanistan. Taliban commanders have stated that they were paid by Iran to attend three month training courses within Iran. In August 2011, a Taliban commander claimed to have trained in Iran and been offered \$50,000 by Iranian officials in return for destroying a dam in Afghanistan. Most recently, on October 11, 2011, the Department of Justice charged two individuals for their alleged participation in a plot directed by the Qods Force to murder the Saudi ambassador to the United States with explosives while the Ambassador was in the United States. On the same day, the Treasury Department announced the designation of five individuals, including the commander of the Qods Force and three other senior Qods Force officers connected to the assassination plot, as well as the individual responsible for arranging the assassination plot on behalf of the Qods Force.

Iran has also permitted al-Qaida to funnel funds and operatives through its territory. In July 2011, the U.S. Department of the Treasury ("Treasury") designated an al-Qa'ida network headed by an individual living and operating in Iran under an agreement between al-Qa'ida and the Iranian government. The designation of six members of this network illustrated Iran's role as a critical transit point for funding to support al-Qa'ida's activities in Afghanistan and Pakistan as this network serves as a pipeline through which al-Qa'ida moves money, facilitators, and operatives from across the Middle East to South Asia.

Finally, Iran is known to have used state-owned banks to facilitate terrorist financing. In 2007, the Treasury designated Bank Saderat under E.O. 13224 for its financial support of terrorist organizations, noting that from 2001 to 2006 Bank Saderat transferred \$50 million from the Central Bank of Iran through its subsidiary in London to its branch in Beirut for the benefit of Hizballah fronts in Lebanon that support acts of violence.

Pursuit of nuclear/ballistic missile capabilities: Iran also continues to defy the international community by pursuing nuclear capabilities and developing ballistic missiles in violation of seven UNSCRs. Iran's failure to comply with these resolutions has resulted in the UN Security Council's imposition of sanctions against Iran. These have included specific provisions aimed at preventing Iran from accessing the international financial system in order to pursue nuclear capabilities and to develop ballistic missiles. To date, Iran has not complied with the UN Security Council resolutions regarding its nuclear and missile activities, and continues to assert that it will not abandon its program to create nuclear fuel and enrich uranium. This summer, Iran announced that it would triple production of its most concentrated uranium fuel, which is enriched to near 20% purity, and that some of this production would be transferred to Iran's facility near Qom. This is a significant development because the technical work required to produce 20% enriched uranium from 3.5% is more difficult than that required to advance from 20% to the 90% weapons-grade level.

2. Use of government agencies and state-owned or controlled financial institutions to facilitate WMD proliferation and financing

Iran uses government agencies and state-owned or controlled financial institutions to advance its nuclear and ballistic missile ambitions. Specifically, the government agencies rely on state-owned Iranian financial institutions to help finance illicit procurement activities related to WMD proliferation.

Government Agencies: Iran has used the Atomic Energy Organization of Iran ("AEOI"), which was designated by Treasury as the main Iranian organization for research and development activities in the field of nuclear technology, including Iran's uranium enrichment program, to manage the country's overall nuclear program. Additionally, Iran has relied on the Ministry of Defense and Armed Forces Logistics ("MODAFL"), which was designated by the State Department under Executive Order ("E.O.") 13382 for proliferation activities. Iran also controls the Defense Industries Organization ("DIO"), which has been designated by the UN and the United States, and the Aerospace Industries Organization ("AIO"), which is identified in the Annex to E.O. 13382 for its role in overseeing Iran's missile industries. AIO, the parent entity to Shahid Hemat Industrial Group (SHIG), which is also listed in the Annex to E.O. 13382, was identified for its ballistic missile research, development, and production activities, in addition to overseeing all of Iran's missile industries.

State-owned or controlled banks: Multiple Iranian financial institutions have been directly implicated in facilitating Iran's nuclear and ballistic missile activities. For example, Iranian state-owned Bank Sepah was designated by the Treasury Department under E.O. 13382 and designated in UNSCR 1747 for providing direct and extensive financial services to Iranian entities responsible for developing ballistic missiles, including AIO and SHIG. Iran's state-owned Bank Melli, which was identified in UNSCR 1803, has also facilitated numerous purchases of sensitive materials for Iran's nuclear and missile programs on behalf of UN-designated entities. Treasury found that Bank Melli has provided a range of financial services to known proliferators, including opening letters of credit and maintaining accounts. Additionally, Treasury found, following the designation of Bank Sepah under UNSCR 1747 for its support for AIO and AIO's subordinates, Bank Melli took precautions not to identify Bank Sepah in transactions. Treasury designated Bank Melli and associated subsidiaries and front companies under E.O. 13382 for its financial support to entities involved in the proliferation of weapons of mass destruction. Multiple jurisdictions also have designated Bank Melli under their respective legal authorities.

Treasury has also designated under E.O. 13382 Bank Mellat, another Iranian state-owned bank, for financially facilitating Iran's nuclear and proliferation activities by supporting AEOI and its main financial conduit, Novin Energy Company ("Novin"). Specifically, the designation noted that as of October 2007, Bank Mellat had facilitated the movement of millions of dollars for Iran's nuclear program since at least 2003. In November 2009, First East Export Bank was designated pursuant to E.O. 13382 as a subsidiary and for its support of Bank Mellat. Furthermore, the international community has raised concerns and taken action against Bank Mellat. In October 2009, the United Kingdom's ("UK") HM Treasury issued an order to all of its financial and credit institutions to cease all business with Bank Mellat, based on its connection to Iran's proliferation activities and for being involved in transactions related to financing Iran's nuclear and ballistic missile program. Noting that Bank Mellat itself has facilitated hundreds of millions of dollars in transactions for Iranian nuclear, missile, and defense entities, UNSCR 1929 designated First East Export Bank, a Bank Mellat subsidiary in Malaysia. Since the adoption of UNSCR 1929, the European Union ("EU"), Japan, South Korea, Australia, Canada, Norway, and Switzerland have implemented measures against Bank Mellat.

In October 2008, Treasury designated the Export Development Bank of Iran ("EDBI") under E.O. 13382 for providing or attempting to provide financial services to MODAFL. The designation further asserted that EDBI provides financial services to multiple MODAFL-subordinate entities and facilitated the ongoing procurement activities of various front companies associated with MODAFL-subordinate entities. Treasury's designation also noted that, since Bank Sepah's designation by the United States and identification by the UN Security Council, EDBI has served as one of the leading intermediaries handling Bank Sepah's financing, including WMD-related payments, and has facilitated transactions for other sanctioned proliferation-related entities.

As the Iranian banks described above have become increasingly isolated from the international financial system due to international sanctions, other Iranian banks have begun to play a larger role in Iran's illicit activities and efforts to circumvent sanctions. The Treasury Department has continued to target Iranian banks that engage in illicit behavior and act on behalf of U.S.-designated, Iranian-linked banks. Treasury designated Post Bank for operating on behalf of Bank Sepah; the Iranian-owned German bank EIH for providing financial services to Bank Mellat, Persia International Bank, EDBI, and Post Bank; Bank Refah for providing financial services to MODAFL; Bank of Industry and Mine for providing financial services to Bank Mellat and EIH; and Ansar Bank and Mehr Bank for providing financial services to the IRGC. The EU and other jurisdictions have recognized the risks posed by the vast majority of these financial institutions and have imposed similar measures to prohibit banks in their jurisdictions from doing business with these entities. As recently as May 2011, the EU designated EIH for playing a "key role in assisting a number of Iranian banks with alternative options for completing transactions disrupted by EU sanctions targeting Iran."

3. The Iranian Government's Use of Deceptive Financial Practices

Since 1979, Iran long has been subject to a variety of U.S. sanctions that have significantly expanded over time, including prohibition of the importation of Iranian-origin goods and services, prohibitions on certain transactions with respect to the development of Iranian petroleum resources, and prohibitions on exports and re-exports to Iran. Today, most trade-related transactions with Iran are prohibited, and U.S. financial institutions are generally prohibited, with only limited exceptions, from doing business with Iranian financial institutions.

To further amplify financial pressure on Iranian financial institutions involved in Iran's support for terrorism and weapons proliferation, President Obama signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA") on July 1, 2010, which includes a provision that authorizes the Secretary of the Treasury to impose sanctions on foreign financial institutions that knowingly facilitate certain activities related to Iran. On August 16, 2010, Treasury's Office of Foreign Assets Control ("OFAC") published a final rule implementing certain aspects of CISADA, and on October 5, 2011, FinCEN published a final rule to implement section 104(e) of CISADA to complement Treasury's ongoing efforts to protect the international financial system from abuse by Iran.

As a result of the strengthened U.S. sanctions and similar measures taken by the United Nations and other members of the global community, Iran now faces significant barriers to conducting international transactions. In response, Iran has used deceptive financial practices to disguise both the nature of transactions and its involvement in them in an effort to circumvent sanctions. This conduct puts any financial institution involved with Iranian entities at risk of unwittingly facilitating transactions related to terrorism, proliferation, or the evasion of U.S. and multilateral sanctions. Iranian financial institutions, including the Central Bank of Iran ("CBI"), and other state-controlled entities, willingly engage in deceptive practices to disguise illicit conduct, evade international sanctions, and undermine the efforts of responsible regulatory agencies around the world.

Iranian financial institutions: Iran employs numerous deceptive practices to disguise the Iranian origin of transactions in order to avoid scrutiny and evade international sanctions. These practices include the transfer of funds from Iran to exchange houses outside Iran and the use of back-to-back letters of credit. Iranian foreign bank branches transfer funds to local banks in the same jurisdiction for onward payments that may conceal the Iranian origin of funds.

In other examples, Bank Sepah has requested that its name be removed from transactions in order to make it more difficult for intermediary financial institutions to determine the true parties to a transaction. As noted in Treasury's designation, Bank Melli took precautions not to identify Bank Sepah in transactions following Bank Sepah's designation under UNSCR 1747 and employed similar deceptive banking practices to obscure its involvement from non-Iranian financial institutions when handling financial transactions on behalf of the IRGC.

In June 2010, Post Bank of Iran was designated by the Treasury Department under E.O. 13382 for facilitating transactions on behalf of Bank Sepah after Bank Sepah was designated by the UN and United States. The designation further notes that, in 2009, Post Bank facilitated business on behalf of Bank Sepah between Iran's defense industries and overseas beneficiaries and transacted millions of dollars worth of business between U.S.-designated Hong Kong Electronics and other overseas beneficiaries.

The Central Bank of Iran, which regulates Iranian banks, has assisted designated Iranian banks by transferring billions of dollars to these banks in 2011. In mid-2011, the CBI transferred several billion dollars to designated banks, including Saderat, Mellat, EDBI and Melli, through a variety of payment schemes. In making these transfers, the CBI attempted to evade sanctions by minimizing the direct involvement of large international banks with both CBI and designated Iranian banks. Additionally, the CBI transfers funds to designated Iranian bank branches outside Iran via non-Iranian foreign banks, often involving deliberate attempts on its part to conceal that the recipient is a designated Iranian bank. In some cases, this activity involves book-to-book transfers and the use of accounts at intermediary banks that hold accounts for the CBI and

designated banks. Further, the CBI was believed to have provided financing to the UN-sanctioned Khatem al-Anbiya Constructions Headquarters for defense-related projects.

Front companies: Iran has a well-established history of using front companies and complex corporate ownership structures to disguise the involvement of government entities known to be involved in Iranian proliferation activity when conducting commercial transactions. These companies transact substantial business in Iran and elsewhere around the world. For example, Novin, an AEOI front company that operates as the financial arm of AEOI, has transferred millions of dollars on behalf of AEOI to entities associated with Iran's nuclear program. Additionally, Mesbah Energy Company ("Mesbah"), was designated under EO 13382 for being controlled by, or acting or purporting to act for or on behalf of AEOI, and was cited in UNSCR 1737. Mesbah has been used to procure products for Iran's heavy water project. Heavy water is essential for Iran's heavy-water-moderated reactor, which will provide Iran with a potential source of plutonium that could be used for nuclear weapons.

In some cases, the connection to Iran is not readily apparent, as Iranian entities have formed front companies outside of Iran in an attempt to obtain dual-use items for Iran that could be used in Iran's nuclear or missile programs and that otherwise could not legally be exported directly to Iran. For example, Iranian companies and their fronts have also falsified end-user information on export forms to allow prohibited items to be exported into the country. Iran has colluded with some exporters to enter fictitious end-user names in the importer section of export forms in order to evade international and national controls on shipments to Iran. For example, in May 2010, Balli Aviation Ltd., a UK subsidiary of Balli Group PLC, pled guilty in the U.S. District Court for the District of Columbia to exporting three Boeing 747 aircraft to Iran without obtaining the proper authorization from the United States.

Iranian commercial entities deploy the above mentioned practices specifically to evade those controls put in place by the United States, international community, and responsible financial institutions, controls that are designed to enforce international sanctions, prevent the proliferation of nuclear weapons and their delivery systems, and protect the international financial sector from abuse by illicit actors. These practices by Iranian entities have allowed Iran to engage in illicit activities and operate undetected in the international economy.

The IRGC: The IRGC, which was designated by the Department of State as a primary proliferator under E.O. 13382 in October 2007, owns and/or controls multiple commercial entities across a wide range of sectors within the Iranian economy. For example, the IRGC established Khatam al-Anbiya, the largest major Iranian construction conglomerate, to generate income and fund IRGC operations while presenting the company as a legitimate company working on civilian projects. Khatam al-Anbiya was designated by Treasury in 2007 pursuant to E.O. 13382. U.S.-designated, Iranian-linked financial institutions have served as an important lifeline for Khatam al-Anbiya. The U.S. and EU-designated Iranian banks Melli, Mellat, and state-owned Iranian Bank Tejarat have provided financial support to Khatam al-Anbiya-related business before and after the UN designation of Khatam al-Anbiya and fourteen of its subsidiaries.

The IRGC has continued to expand its control over commercial enterprises within Iran. For example, Tidewater Middle East Company ("Tidewater"), a port operating company, was designated by Treasury under E.O. 13382 in June 2011 as a company that is owned by the IRGC. Tidewater has operations at seven Iranian ports, some of which the Iranian government has repeatedly used to export arms or related material in violation of UNSCRs. Treasury also designated Iran Air under E.O. 13382 for providing material support to the IRGC and MODAFL,

both of which used the commercial airline carrier to transport military-related equipment on passenger aircraft. Similarly, as noted in Treasury's designation of the leadership within the IRGC-Qods Force ("IRGC-QF"), the IRGC and the IRGC-QF engage in seemingly legitimate activities that provide cover for intelligence operations and support terrorist groups such as Hizballah, Hamas and the Taliban.

Islamic Republic of Iran Shipping Lines ("IRISL"): Treasury designated IRISL, Iran's national maritime carrier, and affiliated entities pursuant to E.O. 13382 for providing logistical services to MODAFL. The concern over IRISL's role in Iran's illicit activities has grown significantly within the international community. In October 2009, the UK and Bermuda also designated IRISL. Three IRISL-related entities, Irano Hind Shipping Company, IRISL Benelux NV, and South Shipping Line Iran (SSL), were sanctioned by the UN in June 2010. Subsequently, the EU, Australia, Canada, Japan, Norway, South Korea, and Switzerland adopted measures against IRISL. Additionally, as IRISL became increasingly unable to maintain adequate hull and protection-and-indemnity (P&I) insurance because of international sanctions, IRISL was forced to turn to Tehran-based Moallem Insurance Company, which was not in the business of providing maritime insurance. Treasury designated Moallem in December 2010 for providing marine insurance to IRISL vessels.

Iran's main shipping line has long relied upon deceptive techniques to conceal its behavior and to avoid international and U.S. sanctions. IRISL is increasingly employing deceptive practices to disguise its involvement in shipping operations and the designation of its cargo. Since being subjected to U.S. and international sanctions, IRISL has renamed as many as 80 of the ships in its fleet and changed ownership information and flag registries to evade sanctions. IRISL also has renamed its offices in China, Singapore, Germany, and South Korea, has tried to mask its operations in the UAE by using a network of front companies, and has moved its container operations to a subsidiary, HDS Lines. Moreover, IRISL has also since stopped referring to HDS Lines in bills of lading from its shipping agent.

These deceptive practices are designed to avoid scrutiny in financial transactions. As the U.S. and other jurisdictions have prohibited financial institutions from processing transactions involving sanctioned entities, IRISL's deceptive practices seek to disguise IRISL's involvement in order to permit the financial transaction. In an advisory to U.S. financial institutions, FinCEN noted IRISL's efforts to rename vessels and adjust information associated with financial transactions and suggested that the International Maritime Organization ("IMO") registration number, which is a unique identifier assigned to each vessel, could provide a useful indication of whether an IRISL vessel is involved in a transaction. In addition, OFAC issued an advisory to alert shippers, importers, exporters, and freight forwarders of IRISL's efforts to hide its involvement in transactions by using container prefixes registered to another carrier, omitting or listing invalid, incomplete or false container prefixes in shipping container numbers, and naming non-existent ocean vessels in shipping documents.

B. The Substance and Quality of Administration of the Bank Supervisory and Counter-Money Laundering Laws of That Jurisdiction

Iran's serious deficiencies with respect to anti-money laundering/countering the financing of terrorism ("AML/CFT") controls has long been highlighted by numerous international bodies and government agencies. Starting in October 2007, the FATF has issued a series of public statements expressing its concern that Iran's lack of a comprehensive AML/CFT regime represents a significant vulnerability within the international financial system. The statements further called upon Iran to address those deficiencies with urgency, and called upon FATF-

member countries to advise their institutions to conduct enhanced due diligence with respect to the risks associated with Iran's deficiencies.

The FATF has been particularly concerned with Iran's failure to address the risk of terrorist financing, and starting in February 2009, the FATF called upon its members and urged all jurisdictions to apply effective countermeasures to protect their financial sectors from the terrorist financing risks emanating from Iran. In addition, the FATF advised jurisdictions to protect correspondent relationships from being used to bypass or evade countermeasures and risk mitigation practices, and to take into account money laundering and financing of terrorism risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdictions. The FATF also called on its members and other jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions. Over the past three years, the FATF has repeatedly reiterated these concerns and reaffirmed its call for FATF-member countries and all jurisdictions to implement countermeasures to protect the international financial system from the terrorist financing risk emanating from Iran. In response, numerous countries, including all G7 countries, have issued advisories to their financial institutions.

The FATF's most recent statement in October 2011 reiterated, with a renewed urgency, its concern regarding Iran's failure to address the risk of terrorist financing and the serious threat this poses to the integrity to the international financial system. The FATF reaffirmed its February 2009 call to apply effective countermeasures to protect their financial sectors from ML/FT risks emanating from Iran, and further called upon its members to consider the steps already taken and possible additional safeguards or strengthen existing ones. In addition, the FATF stated that, if Iran fails to take concrete steps to improve its AML/CFT regime, the FATF will consider calling on its members and urging all jurisdictions to strengthen countermeasures in February 2012. The numerous calls by FATF for Iran to urgently address its terrorist financing vulnerability, coupled with the extensive record of Iranian entities using the financial system to finance terrorism, proliferation activities, and other illicit activity, raises significant concern over the willingness or ability of Iran to establish adequate controls to counter terrorist financing.

C. Whether the United States Has a Mutual Legal Assistance Treaty With That Jurisdiction, and the Experience of U.S. Law Enforcement Officials and Regulatory Officials in Obtaining Information About Transactions Originating in or Routed Through or to Such Jurisdiction

Iran has not entered into any mutual legal assistance treaties. Additionally, U.S. law enforcement and regulatory officials have found Iran to be uncooperative regarding access to information about financial transactions. Accordingly, Iran remains a safe haven for those who would commit financial crimes against the United States.

* * * *

As a consequence of finding Iran to be a jurisdiction of primary money laundering concern, the Treasury Department imposed a special measure against Iran. The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") filed a notice of proposed rulemaking in conjunction with the finding under Section 311. 76 Fed. Reg. 72,878 (Nov. 28, 2011). The State Department fact sheet on the new measures against Iran explained how the special measure against Iran imposed by the proposed rule would build on existing U.S. regulations prohibiting U.S. financial institutions from transacting with Iranian financial

institutions and “require U.S. financial institutions to implement additional due diligence measures in order to prevent any improper indirect access by Iranian banking institutions to U.S. correspondent accounts.” Fact sheet, November 21, 2011, available at www.state.gov/r/pa/prs/ps/2011/11/177609.htm. In a background briefing on the new sanctions, available at www.state.gov/r/pa/prs/ps/2011/11/177613.htm, a senior official in the Obama administration described the broad impact intended by the Section 311 finding and special measure:

... I think the impact is going to be much, much greater with respect to how the international financial community reacts to this act. As I said, this is an authority that we use at the Treasury Department very sparingly. It is an authority that we haven't used with respect to an entire jurisdiction in many years. And we've seen in the past that when we do use this action, foreign financial institutions take it very seriously, and I think it's going to create a serious chilling effect on the willingness of any foreign financial institution anywhere in the world to ... continue to do business with Iran.

...So I do think that when financial institutions see this action, when they hear the words that Secretary Geithner spoke today about his views about the risks of doing business with Iran of any kind, I do think that they're going to take this and act accordingly.

I also think that it provides us with a very strong platform for engagement with other countries, ...to have a conversation with them about the steps that they need to take with respect to Iran as a whole and with respect to Iranian entities like the Central Bank of Iran, to show in one place that this is the type of activity that the Central Bank of Iran is engaging in, and then we can have a conversation about what the appropriate next steps with the Central Bank of Iran are.

(2) Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

(i) Energy-related sanctions

On March 29, 2011, the State Department announced sanctions on Belarusneft, a state-owned Belarusian energy company, under the Iran Sanctions Act (“ISA”) of 1996, as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act (“CISADA”) of 2010, for its involvement in the Iranian petroleum sector. 76 Fed. Reg. 18,821 (Apr. 5, 2011). See *Digest 2010* at 646-53 for a discussion of the energy-related sanctions provisions under ISA as amended by CISADA. A State Department media note, available at www.state.gov/r/pa/prs/ps/2011/03/159309.htm, explained the basis for the sanctions on Belarusneft and the impact of CISADA more broadly:

In a thorough review, the Department confirmed that Belarusneft entered into a \$500 million contract with the NaftIran Intertrade Company in 2007 for the development of the Jofeir oilfield in Iran. The ISA requires that sanctions be imposed on companies that make certain investments over \$20 million.

* * * *

Since President Barack Obama signed CISADA into law on July 1, 2010, Iran's ability to attract new investment to develop its oil and natural gas resources, and to produce or import refined petroleum products, has been severely limited. The State Department's direct engagement with companies and governments to enforce CISADA is raising the pressure on the Government of Iran. In the past year, many foreign companies have abandoned their energy-related projects in Iran or have stopped shipping refined petroleum to Iran. This is an appropriate response to Iran's longstanding use of its oil and gas sector to facilitate its proliferation activities and thereby its noncompliance with its nuclear obligations.

On May 23, 2011, President Obama signed Executive Order 13574, "Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended." 76 Fed. Reg. 30,505 (May 25, 2011). When the U.S. government determines that a person has engaged in sanctionable activity under the energy sector provisions in ISA, as amended by CISADA, three or more out of nine possible sanctions must be imposed. Executive Order 13574 directs relevant agencies to carry out these sanctions. Section 1(a) of E.O. 13574 is set forth below.

* * * *

(a) When the President, or the Secretary of State pursuant to authority delegated by the President and in accordance with the terms of such delegation, which includes consultation with the Secretary of the Treasury, has determined that sanctions shall be imposed on a person pursuant to section 5 of ISA and has selected the sanctions set forth in section 6 of ISA to impose on that person, the Secretary of the Treasury, in consultation with the Secretary of State, shall take the following actions with respect to the sanctions imposed and maintained by the President or by the Secretary of State pursuant to and in accordance with the terms of such delegation:

- (i) with respect to section 6(a)(3) of ISA, prohibit any United States financial institution from making loans or providing credits to the ISA-sanctioned person consistent with section 6(a)(3) of ISA;
- (ii) with respect to section 6(a)(6) of ISA, prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the ISA-sanctioned person has any interest;
- (iii) with respect to section 6(a)(7) of ISA, prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the ISA-sanctioned person;
- (iv) with respect to section 6(a)(8) of ISA, block all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of the

ISA-sanctioned person, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; or (v) with respect to section 6(a)(9) of ISA, restrict or prohibit imports of goods, technology, or services, directly or indirectly, into the United States from the ISA-sanctioned person.

* * * *

Effective May 24, 2011, the State Department imposed sanctions pursuant to ISA, as amended by CISADA, on six additional entities (Associated Shipbroking, Petrochemical Commercial Company International, Petróleos de Venezuela S.A., Royal Oyster Group, Speedy Ship, and Tanker Pacific Management (Singapore) Pte. Ltd.) for their activities in support of Iran's energy sector. 76 Fed. Reg. 56,866 (Sept. 14, 2011). In a clarification of the May 24th announcement, sanctions were imposed on two additional entities (Allvale Maritime Inc. and Société Anonyme Monégasque D'Administration Maritime Et Aérienne) effective August 26, 2011. *Id.* OFAC subsequently implemented the sanctions imposed by the State Department in accordance with E.O. 13574. 76 Fed. Reg. 70,544 (Nov. 14, 2011). In a special briefing on these ISA sanctions, available at www.state.gov/r/pa/prs/ps/2011/05/164170.htm, senior U.S. government officials explained the reasoning behind the sanctions.

Security Council Resolution 1929 recognizes a connection between Iran's energy revenues and its nuclear and missile programs. The revenues it acquires through its energy sales do contribute to its proliferation program, so that was recognized internationally as a tie-in. And so ... this is one basis for going after the energy sector. Also, some of the equipment and technology you can acquire for the energy sector's dual use can have applications to certain military programs in Iran, so that's one reason we've gone after that particular sector in Iran. Our evidence, and this comes from reports, from countries that have embassies in Tehran and other anecdotal evidence, suggest that these measures that we have adopted have not adversely impacted the citizens of Iran and that the economic difficulties that exist in Iran, and they are substantial, are primarily the result of the mismanagement of the economy by the Iranian Government.

In addition to imposing sanctions under CISADA, the U.S. engaged in a diplomatic effort to convince other countries to increase the pressure on Iran to comply with its nonproliferation obligations by turning to alternate sources for supply of petroleum products. On December 5, 2011, Special Advisor for Nonproliferation and Arms Control Robert J. Einhorn traveled to South Korea as part of this effort, and remarked:

...[W]e began a diplomatic campaign to encourage purchasers of Iranian petrochemicals around the world, to encourage them to find alternative sources of

petrochemicals, to discontinue their import of petrochemicals from Iran and to find alternative sources of petrochemical supply.

* * * *

And now we're asking our partners all over the world to take additional steps and naturally we are coming to Korea to see what the Republic of Korea can do to sharpen the choice for the leaders of Iran.

Remarks, available at www.state.gov/t/isn/rls/rm/178407.htm.

(ii) Financial sanctions

On October 11, 2011, FinCEN issued a final rule to implement section 104(e) of CISADA. 76 Fed. Reg. 62,607 (Oct. 11, 2011). This final rule complements previous rulemaking to implement CISADA, including Treasury's issuance of the Iranian Financial Sanctions Regulations ("IFSR") in 2010. See *Digest 2010* at 654-55. A fact sheet issued by FinCEN summarized the rule:

The rule issued today requires a U.S. bank, upon request from FinCEN, to inquire of specified foreign banks for which the U.S. bank maintains a correspondent account, and report to the Treasury Department, with respect to whether each foreign bank:

- Maintains a correspondent account for an Iranian-linked financial institution designated under the International Emergency Economic Powers Act (IEEPA);
- Has processed one or more transfers of funds within the preceding 90 calendar days for or on behalf of, directly or indirectly, an Iranian-linked financial institution designated under IEEPA, other than through a correspondent account; or
- Has processed one or more transfers of funds within the preceding 90 calendar days for or on behalf of, directly or indirectly, Iran's Islamic Revolutionary Guard Corps (IRGC) or any of its agents or affiliates designated under IEEPA.

Fact sheet dated October 5, 2011, available at www.fincen.gov/news_room/nr/html/20111005.html.

(iii) Human rights sanctions

In February 2011, OFAC issued the Iranian Human Rights Abuses Sanctions Regulations in 31 C.F.R. Part 562, to implement Executive Order 13553, "Blocking Property of Certain Persons With Respect to Serious Human Rights Abuses by the Government of Iran and Taking Certain Other Actions." 76 Fed. Reg. 7695 (Feb. 11, 2011). E.O. 13553 authorizes sanctions

on Iranian officials determined to be responsible for or complicit in serious human rights abuses involving Iran and carries out Section 105(b) of the CISADA. See *Digest 2010* at 656-60 for a discussion of E.O. 13553. On February 23, 2011, OFAC designated two individuals pursuant to E.O. 13553: Abbas Jafari Dolatabadi, Prosecutor General of Iran, and Moahammed Reza Naqdi, head of the Basij Resistance Force (“Basij”). 76 Fed. Reg. 11,313 (Mar. 1, 2011). On June 9, 2011, OFAC designated three entities and one individual (Iran’s Islamic Revolutionary Guard Corps (“IRGC”), the Basij, and the Law Enforcement Forces (“LEF,” Iran’s national police) and its Chief, Ismail Ahmadi Moghadam) pursuant to E.O. 13553. 76 Fed. Reg. 34,805 (June 14, 2011). On December 13, 2011, OFAC designated two individuals (Hassan Firuzabadi, Chairman of the Joint Chiefs of Staff and Abdullah al-Argahi, Islamic Revolutionary Guard Corps Deputy Commander). 76 Fed. Reg. 82,042 (Dec. 29, 2011).

(3) *Sanctions under Executive Order 13382*

During 2011 the United States imposed targeted financial sanctions on Iranian entities, Iranian individuals and other entities linked to previously designated Iranian entities under Executive Order 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and their Supporters.” See 70 Fed. Reg. 38,567 (July 1, 2005); see also *Digest 2005* at 1125–31. The United States relies in part on the authorities in Executive Order 13382 to implement its obligations under the Security Council’s resolutions concerning Iran.

On January 13, 2011, OFAC designated 26 entities under E.O. 13382. 76 Fed. Reg. 15,366 (Mar. 21, 2011). The Treasury Department identified two of the entities as subordinates of Iran’s Aerospace Industries Organization (“AIO”) and the other 24 as affiliates of the Islamic Republic of Iran Shipping Lines (“IRISL”). Both AIO and IRISL had been designated previously under E.O. 13382. See Department of the Treasury press release, available at www.treasury.gov/press-center/press-releases/Pages/tg1022.aspx.

Effective February 1, 2011, OFAC designated an additional seven individuals and seven entities from Iran, Turkey, and Malta under E.O. 13382. 76 Fed. Reg. 22,167 (Apr. 20, 2011). A Treasury Department press release, available at www.treasury.gov/press-center/press-releases/Pages/tg1044.aspx, identified six of the individuals and five of the entities as part of a “multi-million dollar procurement network” led by Iranian Milad Jafari* and used to procure metal products for subordinates of AIO. The remaining individual (Adrian Baldacchino, director of IRISL Malta) and two entities (Royal-Med Shipping Agency Ltd. and Maraner Holdings Limited) were designated for their affiliation with IRISL.

* Editor’s note: The Treasury press release also related that, on the same day the Jafari network was designated under E.O. 13382, the Department of Justice announced the unsealing of a July 21, 2010 federal indictment charging Milad Jafari with one count of conspiracy to illegally export materials from the United States to Iran and to defraud the United States; five separate counts of illegal export and attempted illegal export of materials to Iran; and five additional counts of smuggling materials.

Effective February 17, 2011, OFAC designated one Iranian entity, Bank Refah Kargaran (and its aliases). 76 Fed. Reg. 12,414 (Mar. 7, 2011). A Treasury Department press release, available at www.treasury.gov/press-center/press-releases/Pages/tq1067.aspx, explained that Bank Refah was designated for, among other activity, its financial services to facilitate weapons purchases by the Iranian Ministry of Defense and Armed Forces Logistics (“MODAFL”), the arm of the Iranian military that oversees Iran’s ballistic missile program and a previous E.O. 13382 designee (in 2007).

In 2011, OFAC made several additional designations of entities related to, and vessels owned by, IRISL. On March 24, 2011, OFAC designated four vessels and updated information on 10 previously designated IRISL vessels. 76 Fed. Reg. 55,166 (Sep. 6, 2011). On October 27, 2011, OFAC identified one additional vessel as owned by IRISL and updated information on 14 vessels previously designated. 76 Fed. Reg. 72,500 (Nov. 23, 2011). Also on October 27, 2011, OFAC designated six more entities related to IRISL. 76 Fed. Reg. 72,499 (Nov. 23, 2011). Also on October 27, 2011, OFAC supplemented the identifying information for Soroush Sarzamin Asatir Ship Management Company, an entity designated in 2010 under E.O. 13382. 76 Fed. Reg. 72,501 (Nov. 23, 2011). On December 20, 2011, OFAC designated one individual and ten entities (shipping and front companies) affiliated with IRISL. 77 Fed. Reg. 2346 (Jan. 27, 2012).

Effective June 23, 2011, OFAC designated two additional entities, Mehr-E Eqtesad-E Iranian Investment Company and Tidewater Middle East Co. (and their aliases) under E.O. 13382. 76 Fed. Reg. 40,773 (July 11, 2011). Also effective June 23, 2011, OFAC designated Iran Air and Iran Air Tours and their aliases. 76 Fed. Reg. 40,772 (July 11, 2011). A Treasury Department fact sheet, available at www.treasury.gov/press-center/press-releases/Pages/tq1217.aspx, identified the entities as follows: the first entity is owned or controlled by Mehr Bank, a previous designee; Tidewater is “a port operating company owned by Iran’s Islamic Revolutionary Guard Corps (IRGC) that has been used by the IRGC for illicit shipments”; Iran Air is a commercial airline used by the IRGC and MODAFL to transport military related equipment; and Iran Air Tours is Iran Air’s subsidiary.

On November 21, 2011, the State Department designated four Iranian entities (Nuclear Reactors Fuel Company (SUREH), Noor Afzar Gostar Company (NAGCO), Fulmen Group, and Yasa Part, with their aliases) pursuant to E.O. 13382. 76 Fed. Reg. 73,758 (Nov. 29, 2011). A State Department fact sheet, available at www.state.gov/r/pa/prs/ps/2011/11/177608.htm, and excerpted below, explained the basis for the State Department designations and their relation to the International Atomic Energy Agency’s recent conclusions about Iran’s nuclear activities. OFAC also designated one individual and six entities on November 21, 2011, all linked to the Atomic Energy Organization of Iran (AEOI), the main Iranian organization responsible for research and development activities in the field of nuclear technology, which was listed in the Annex to E.O. 13382 and was designated by the UN Security Council in Resolution 1737. The November 21, 2011 designations pursuant to E.O. 13382 were made in conjunction with other measures announced that day directed at Iran. See discussion in Section A.2.b.(1), *supra*.

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Today, the United States is taking a series of actions to increase pressure on Iran to comply with its full range of international nuclear obligations and to engage in constructive negotiations on the future of its nuclear program. In his report to the International Atomic Energy Agency (IAEA) Board of Governors, which was released to the public last week, the IAEA Director General concluded that Iran has carried out activities relevant to the development of a nuclear explosive device, some of which have continued past 2003. Iran uses a wide network of procurement agents to procure items, equipment, and technology in support of this illicit nuclear program. The actions below target several of these entities involved in Iran's illicit nuclear programs.

As a result of today's actions, U.S. persons are prohibited from engaging in any transactions with today's designees and any assets they may hold under U.S. jurisdiction are frozen.

Department of State Designation of Entities under E.O. 13382:

The new State Department designees are entities that play an important role in Iran's nuclear procurement network. They support a variety of Iran's proscribed nuclear procurement-related activities, including centrifuge development, heavy water research reactor activities, and the uranium enrichment program.

The Nuclear Reactors Fuel Company

The Nuclear Reactors Fuel Company (SUREH) was created in 2009 to oversee Iran's fuel manufacturing facilities and organizations. SUREH is responsible for production of fuel for Iran's nuclear reactors—including the 40-megawatt heavy water research reactor (the IR-40)—and has sought commodities for the reactor's fuel assemblies.

SUREH regularly works with known Iranian procurement agents to acquire needed commodities for the IR-40. The IR-40 is currently under construction at Arak, Iran, and when operational, it will provide Iran the capability to produce plutonium in the reactor's spent fuel, which Iran could choose to reprocess for nuclear weapons. Iran claims the reactor will produce radioisotopes for medical and industrial use and to replace the aging Tehran Research Reactor.

In 2011, the IAEA Board of Governors [BOG] found that, contrary to the relevant resolutions of the BOG and UNSC, Iran has not suspended work on all heavy water-related projects, including the IR-40. SUREH's procurement activities are violations of Iran's NPT, IAEA, and UNSC obligations.

The European Union noted in Council Implementing Resolution 503/2011 (May 23, 2011) that SUREH is a company subordinate to the UN-sanctioned Atomic Energy Organization of Iran (AEOI), consisting of the Uranium Conversion Facility, the Fuel Manufacturing Plant, and the Zirconium Production Plant.

Noor Afzar Gostar Company

The Noor Afzar Gostar Company has been involved in the procurement efforts for materials for both the IR-40 and probably for Iran's uranium enrichment program.

The European Union noted in Council Implementing Resolution 503/2011 (May 23, 2011) that the Noor Afzar Gostar Company is a company that is a subsidiary of the UN-sanctioned AEOI and is involved in the procurement of equipment for the nuclear program.

Fulmen Group

The Fulmen Group was involved in procuring goods for the covert uranium enrichment facility at Qom while the facility was still an undeclared site from 2006 through 2008.

From May 2006 until at least September 2008, Fulmen was involved in many facets of the construction of Qom. Additionally, Fulmen has worked with the U.S.- and UN-designated firm Kalaye Electric on the construction of elements of the Natanz Uranium Enrichment Plant.

The preamble of UNSCR 1929 noted that Iran has not established full and sustained suspension of all enrichment-related and reprocessing activities, as set out in Resolutions 1696, 1737, 1747, and 1803, making Fulmen's activities at both Qom and Natanz a material contribution to those facilities' gas centrifuge plant for uranium enrichment.

Iran has failed to meet the requirements of the IAEA Board of Governors regarding disclosure of activity at Qom, including providing the IAEA with design information and permitting the IAEA to verify that information as required by its Safeguards Agreement and by Modified Code 3.1 of the Subsidiary Arrangement to its Safeguards Agreement. Iran also refuses to provide the IAEA with a chronology of the development of Qom, as requested by the IAEA.

The European Union noted in Council Implementing Resolution 668/2010 (July 26, 2010) that Fulmen was involved in the installation of electrical equipment on the Qom/Frodoo site at a time when the existence of the site had not yet been revealed. The EU also noted that Arya Niroo Nik is a shell company used by Fulmen for some of its operations. The EU has also designated Fereydoun Mahmoudian as the Director of Fulmen.

Yasa Part

The European Union noted in Council Implementing Resolution 668/2010 (July 26, 2010) that Yasa Part is a company involved with purchasing materials and technologies necessary to nuclear and ballistic programs.

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(4) Executive Order 13224 designations

On June 23, 2011, OFAC designated one Iranian individual (Behnam Shahriyari) and one Iranian company (Behnam Shahriyari Trading Company), pursuant to Executive Order 13224, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism." 76 Fed. Reg. 38,279 (June 29, 2011). In a fact sheet dated June 23, 2011, the Treasury Department explained that OFAC designated the individual, and the entity he owned and operated, for acting for or on behalf of an IRGC-linked shipping company previously designated under E.O. 13224." See fact sheet, available at www.treasury.gov/press-center/press-releases/Pages/tq1217.aspx.

On October 11, 2011, OFAC designated five individuals (Mansour Arbabsiar, a U.S. citizen; and Iranians Oasem Soleimani, Hamed Abdollahi, Abdul Reza Shahlai, and Ali Gholam Shakuri) pursuant to E.O. 13224. 76 Fed. Reg. 64,183 (Oct. 17, 2011). A Treasury Department press release, available at www.treasury.gov/press-center/press-releases/pages/tq1320.aspx, explained that the five were connected to a plot to assassinate the Saudi Arabian Ambassador to the United States, Adel Al-Jebeir and were designated for acting for or on behalf of the Islamic Revolutionary Guard Corps-Qods Force ("IRGC-QF"), a previously designated entity.

On October 12, 2011, OFAC designated one additional entity, Mahan Air, pursuant to E.O. 13224. 76 Fed. Reg. 64,427 (Oct. 18, 2011). For additional discussion of Executive Order 13224, see A.4.b. below.

3. Nonproliferation

a. *Democratic People's Republic of Korea*

(1) *Executive Order 13570*

On April 18, 2011, President Obama issued Executive Order 13570, "Prohibiting Certain Transactions With Respect to North Korea" ("E.O. 13570"). Acting pursuant to the Constitution and U.S. laws including the International Emergency Economic Powers Act ("IEEPA"), the National Emergencies Act ("NEA") and § 5 of the United Nations Participation Act of 1945, as amended ("UNPA"), the President took this step to address the national emergency declared in Executive Order 13466 of June 26, 2008 and expanded in Executive Order 13551 of August 30, 2010 and to ensure implementation of the import restrictions contained in UN Security Council Resolutions 1718 (2006) and 1874 (2009), and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*). See *Digest 2010* at 624-28 for background on E.O. 13551. Section 1 of E.O. 13570 prohibits imports from North Korea:

Section 1. Except to the extent provided in statutes or in licenses, regulations, orders, or directives that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea is prohibited.

Pursuant to E.O. 13570, goods, services, and technology from North Korea may not be imported into the United States, directly or indirectly, without a license from OFAC. This broad prohibition applies to goods, services, and technology from North Korea that are used as components of finished products of, or substantially transformed in, a third country.

On June 20, 2011, OFAC amended the North Korea Sanctions Regulations, 31 C.F.R. Part 510, ("NKSr") to implement E.O. 13570. 76 Fed. Reg. 35,740 (June 20, 2011). The notice in the Federal Register conveyed OFAC's intention to supplement these initial regulations with more comprehensive ones containing "additional interpretive and definitional guidance and additional general licenses and statements of licensing policy."

(2) *Executive Order 13551*

Executive Order 13551, signed by President Obama on August 30, 2010, targets North Korea's importation and exportation of arms, importation of luxury goods, and other illicit activities, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking. See *Digest 2010* at 624-28. On April 19, 2011, OFAC

designated one additional entity pursuant to E.O. 13551, Bank of East Land (aka Dongbang Bank). The Department of the Treasury issued a press release, which explained that the bank was designated for its facilitation of weapons-related transactions for, and other support to, Green Pine Associated Corporation, an entity listed in the annex to E.O. 13551. The press release is available at www.treasury.gov/press-center/press-releases/Pages/tq1146.aspx. On February 9, 2011, OFAC amended the Green Pine designation to include additional aliases. See www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20110209.aspx.

(3) Communication to the Committee established pursuant to Resolution 1718

On June 24, 2011, the United States sent a letter to the Chair of the Security Council Committee established pursuant to Resolution 1718 (2006) to inform the Committee of actions taken by North Korea to evade the measures imposed in resolutions 1718 and 1874 (2009). The U.S. letter related that a U.S. Navy ship had hailed a Belize-flagged vessel, *M/V Light*, in May 2011 after it departed North Korea. The U.S. Navy ship acted in accordance with paragraph 12 of resolution 1874 and pursuant to the Proliferation Security Initiative based on reasonable grounds to suspect transport of proliferation-related items. When the U.S. Navy ship's officers attempted to board and inspect the ship with the authorization of Belize, the flag state, *M/V Light's* master claimed the vessel was a North Korean ship and refused to allow boarding and inspection. The U.S. Navy ship monitored the *M/V Light* and the U.S. alerted other UN Member States to inspect its cargo if it entered their ports. On May 29, the *M/V Light* changed course and returned to North Korea. Based on the suspicious circumstances of this incident, the United States encouraged the Committee to review additional ways to improve enforcement of the prohibitions on illicit shipments by Iran imposed by resolutions 1718 and 1874.

b. Iran

See A.2. supra.

c. Iran, North Korea, and Syria Nonproliferation Act

Effective May 23, 2011, the Department of State imposed sanctions on 14 entities and two individuals under the Iran, North Korea, and Syria Nonproliferation Act, Pub. L. No. 106-178 (2000), as amended ("INKSNA"). 76 Fed. Reg. 30,986 (May 27, 2011). The sanctions affected entities from Belarus (two), China (three), Iran (five), North Korea (one), Syria (two), Venezuela (one), one Chinese national, and one Iranian national. Effective December 20, 2011, the Department of State imposed sanctions on seven entities and one individual under INKSNA. 76 Fed. Reg. 81,004 (December 27, 2011). The sanctions affected entities from Belarus (one), China (two), Iran (two), North Korea (one), Syria (one), and one Chinese national. The Federal Register notices in May and December included identical language explaining the basis for imposing sanctions:

A determination has been made that a number of foreign entities ... have engaged in activities that warrant the imposition of measures pursuant to Section 3 of the Iran, North Korea, and Syria Nonproliferation Act. The Act provides for penalties on entities and individuals for the transfer to or acquisition from Iran since January 1, 1999, the transfer to or acquisition from Syria since January 1, 2005, or the transfer to or acquisition from North Korea since January 1, 2006, of equipment and technology controlled under multilateral control lists (Missile Technology Control Regime, Australia Group, Chemical Weapons Convention, Nuclear Suppliers Group, Wassenaar Arrangement) or otherwise having the potential to make a material contribution to the development of weapons of mass destruction (WMD) or cruise or ballistic missile systems. The latter category includes (a) items of the same kind as those on multilateral lists but falling below the control list parameters, when it is determined that such items have the potential of making a material contribution to WMD or cruise or ballistic missile systems, (b) other items with the potential of making such a material contribution, when added through case-by-case decisions, and (c) items on U.S. national control lists for WMD/missile reasons that are not on multilateral lists.

The notices also set forth the sanctions, which were imposed for a period of two years:

1. No department or agency of the United States Government may procure, or enter into any contract for the procurement of any goods, technology, or services from these foreign persons, except to the extent that the Secretary of State otherwise may have determined;
2. No department or agency of the United States Government may provide any assistance to the foreign persons, and these persons shall not be eligible to participate in any assistance program of the United States Government, except to the extent that the Secretary of State otherwise may have determined;
3. No United States Government sales to the foreign persons of any item on the United States Munitions List are permitted, and all sales to these persons of any defense articles, defense services, or design and construction services under the Arms Export Control Act are terminated; and
4. No new individual licenses shall be granted for the transfer to these foreign persons of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations, and any existing such licenses are suspended.

d. Executive Order 13382

On August 10, 2011, OFAC designated two entities (Commercial Bank of Syria and Syrian Lebanese Commercial Bank) pursuant to E.O. 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and their Supporters.” 76 Fed. Reg. 50,813 (Aug. 16, 2011). All other E.O. 13382 designations in 2011 relate to Iran and are described in Section A.2.b.(3) above.

e. Modification of sanctions and assistance restrictions

Effective July 18, 2011, the Department of State lifted measures imposed on one individual (Shah Hakim Shahnazim Zim) sanctioned in 2009 for his involvement in the A.Q. Khan nuclear proliferation network. 76 Fed. Reg. 42,159 (July 18, 2011); see *Digest 2009* at 602-3.

Effective November 7, 2011 the Department of State terminated sanctions imposed on Gerhard Merz pursuant to the Arms Export Control Act. 76 Fed. Reg. 68,809 (November 7, 2011).

f. UN Nonproliferation Sanctions

On April 20, 2011, the United Nations Security Council unanimously adopted Resolution 1977, extending the mandate of the Committee established pursuant to Resolution 1540 by 10 years. U.N. Doc S/RES/1977(2011). Ambassador Susan E. Rice, U.S. Permanent Representative to the United Nations, provided the following statement on the adoption of Resolution 1977, available at <http://usun.state.gov/briefing/statements/2011/161363.htm>:

Today, with the adoption of Resolution 1977, the United Nations Security Council has taken a firm and unanimous stand against the proliferation of weapons of mass destruction. The threat of these dangerous weapons—especially in the hands of the non-state actors who are determined to acquire them—is just as serious today as it was in 2004, when the Council first enforced effective nonproliferation and counterterrorism measures. Today’s action sharpens the tools of the UN’s 1540 Committee, which helps states build their capacity to address these challenges. It provides the committee with a group of experts and additional technical assistance. And it extends by 10 years the committee’s mandate. The United States fully supports these efforts in our tireless pursuit of a world in which all people are free from nuclear threats.

In the two years since President Obama laid out his vision for a world without nuclear weapons in Prague, the United States has pursued an aggressive non-proliferation agenda at the United Nations. These efforts have yielded concrete successes—from President Obama’s leadership of the Security Council when it adopted Resolution 1887 in 2009 to the consensus outcome at the nuclear nonproliferation treaty (NPT) review conference in 2010—actions that have strengthened the world’s ability to curb the spread of dangerous weapons and to sanction those who violate their

international obligations. Today's action is a significant next step—for the United States and for all who are working toward a more peaceful, secure world.

4. Terrorism

a. *Security Council 1267 sanctions*

On June 17, 2011, the Security Council adopted Resolution 1988 in which it determined that those individuals and entities affiliated with the Taliban should no longer be included in the consolidated list maintained pursuant to Resolution 1267, but should be listed separately. U.N.Doc. S/RES/1988. Accordingly, the committee established pursuant to Resolution 1267 was renamed as the 1267/1988 (Al-Qaida) sanctions committee and a separate committee was established pursuant to Resolution 1988 to maintain the list of individuals and entities associated with the Taliban who are subject to sanctions and to designate for sanctions additional individuals and entities associated with the Taliban in constituting a threat to the peace and security of Afghanistan. See UN Press Release, July 7, 2011, available at www.un.org/News/Press/docs//2011/sc10312.doc.htm. The United States supported the change, as explained by Ambassador Rice in remarks at a Security Council debate on Afghanistan on July 6, 2011:

[W]e champion the Council's decision to split the 1267 sanctions regime and establish distinct sanctions for al-Qaeda and the Taliban. Resolution 1988 is an important tool for promoting reconciliation while isolating extremists and it sends a clear message to the Taliban: there is a future for those willing to rejoin the fold of peaceful Afghan society.

Remarks available at <http://usun.state.gov/briefing/statements/2011/167689.htm>.

On the same day, the Security Council adopted Resolution 1989, reaffirming the application of sanctions to individuals and entities associated with al-Qaida, including those previously on the 1267 Consolidated List as well as future designees. The U.S. Mission to the UN explained the significance of the resolution in a June 17 fact sheet, excerpted below and available at <http://usun.state.gov/briefing/statements/2011/166473.htm>.

* * * *

- The new 1267 resolution expands the mandate of the 1267 Ombudsperson, whose Office was established in UNSCR 1904 (2009) to help the 1267 Committee consider requests to delist individuals and entities.
- For the first time ever, the Ombudsperson will be able to make recommendations to the Committee whether to accept or reject a delisting request.
- If the Ombudsperson recommends against retaining a listing, then that listing will be removed unless the Committee decides by consensus to retain it, although the question can be submitted to the Security Council.

* * * *

- The resolution enhances the Security Council's ongoing efforts to refine and improve procedures used to add and remove people to the 1267 list.
- The state that initially requested a name be added to the sanctions list may request the name be removed at any time; upon such a request, the listing will be automatically removed unless the Committee decides otherwise, although the question can also be submitted to the Security Council.

* * * *

For background on the establishment of the office of the ombudsperson of the 1267 committee, see *Digest 2009* at 608-10. Prior to passage of Resolution 1989, six requests for delisting had been presented to the ombudsperson in 2011, including some requests pertaining to multiple entities and individuals. After passage of Resolution 1989, nine additional requests for delisting were presented in 2011. Nine of those 15 cases resulted in delisting and one resulted in an amendment to the listing, based on the ombudsman's recommendation and the acquiescence of the 1267 committee. Five of the cases submitted in 2011 have yet to be determined. Information about the status of cases considered by the ombudsperson is available at www.un.org/en/sc/ombudsperson/status.shtml.

During 2011, the 1267/1989 Committee updated its list by adding new names of individuals and entities subject to the sanctions regime and removing others pursuant to the procedures and criteria established by the Security Council. The United States continued to express its strong support for the 1267/1989 sanctions regime. For example, in response to one addition to the Al-Qaida list on July 29, 2011, Ambassador Rice stated:

The United States welcomes today's decision by the Security Council's Al Qaida Sanctions Committee (the 1267 Committee) to add the terrorist group Tehrik-E-Taliban Pakistan (TTP) to its sanctions list. Today's action sends a strong message to those who support and finance terrorism, and reinforces U.S. efforts to disrupt, dismantle and defeat Al Qaida.

In addition to attacks against the people of Pakistan, TTP has carried out several notorious terrorist attacks against United States interests, including a December 2009 attack on a U.S. military base in Afghanistan and an April 2010 bombing against the U.S. Consulate in Peshawar. The group also claimed responsibility for the failed Times Square bombing plot in 2010. The United States designated TTP as a Foreign Terrorist Organization in September 2010.

We encourage the 1267 Committee to continue its vigilance in designating groups that commit acts of terrorism worldwide.

Remarks available at <http://usun.state.gov/briefing/statements/2011/169254.htm>.

b. U.S. targeted financial sanctions implementing Resolution 1267 and other Security Council resolutions on terrorism

(1) Overview

The United States implements its counterterrorism obligations under UN Security Council Resolution 1267 (1999), subsequent UN Security Council resolutions concerning al-Qaida/Taliban sanctions including Resolution 1988 (2011) and 1989 (2011), and Resolution 1373 (2001) through Executive Order 13224 of September 24, 2001. Executive Order 13224 imposes financial sanctions on persons who have been designated in the annex to the executive order; persons designated by the Secretary of State for having committed or for posing a significant risk of committing acts of terrorism; and persons designated by the Secretary of the Treasury for working for or on behalf of, providing support to, or having other links to, persons designated under the executive order. See 66 Fed. Reg. 49,079 (Sept. 25, 2001); see also *Digest 2001* at 881–93 and *Digest 2007* at 155–58.

The United States had previously made some Taliban sanctions designations pursuant to a separate executive order (E.O. 13129) and accompanying OFAC-administered sanctions regulations. For a discussion of E.O. 13129, see *Digest 1991-99* at 1964–67. However, Executive Order 13268, issued by President George W. Bush in 2002, terminated E.O. 13129 and amended E.O. 13224 to include references to those sanctioned under E.O. 13129. See *Digest 2002* at 882–84. In 2011, OFAC revoked the Taliban Sanctions Regulations, leaving Taliban sanctions to be covered by its Global Terrorism Sanctions Regulations and E.O. 13224. 76 Fed. Reg. 31,470 (June 1, 2011).

(2) Department of State

In 2011, the Department of State announced the Secretary of State's designation of five entities and 16 individuals (including their known aliases) pursuant to E.O. 13224, as follows: Qari Hussain (76 Fed. Reg. 3931 (Jan. 21, 2011)); Sect of Revolutionaries (76 Fed. Reg. 10,634 (Feb. 25, 2011)); Miguel de Garikoitz Aspiazu Rubina (76 Fed. Reg. 16,652 (Mar. 24, 2011)); Jose Ignazio Reta de Frutos (76 Fed. Reg. 16,652 (Mar. 24, 2011)); Ibrahim Hassan Tali al-Asiri (76 Fed. Reg. 17,735 (Mar. 30, 2011)); Budruddin Haqqani (76 Fed. Reg. 28,299 (May 16, 2011)); Army of Islam (76 Fed. Reg. 29,812 (May 23, 2011)); Caucasus Emirate (76 Fed. Reg. 30,987 (May 27, 2011)); Othman al-Ghamdi (76 Fed. Reg. 35,938 (June 20, 2011)); Mumtaz Dughmush (76 Fed. Reg. 52,044 (Aug. 19, 2011)); Sangeen Zadran (76 Fed. Reg. 52,044 (Aug. 19, 2011)); Indian Mujahideen (76 Fed. Reg. 58,076 (Sep. 19, 2011)); Muhammed Hisham Muhammed Ismai'l Abu Ghazala (76 Fed. Reg. 58,853 (Sep. 22, 2011)); Jurdan Martitegui Lizaso (76 Fed. Reg. 59,768 (Sep. 27, 2011)); Ibrahim 'Awwad Ibrahim 'Ali al-Badri (76 Fed. Reg. 62,494 (Oct. 7, 2011)); Conspiracy of Fire Nuclei (76 Fed. Reg. 63,702 (Oct. 13, 2011)); Mali Khan (76 Fed. Reg. 69,318 (Nov. 8, 2011)); Ibrahim Suleiman Hamad al-Hablain (76 Fed. Reg. 73,760 (Nov. 29, 2011)); Jose Antonio Urruticoechea Bengoechea (AKA Ternera) (76 Fed. Reg. 78,716 (Dec. 19, 2011)); Saleh al-Qarawi (76 Fed. Reg. 78,717 (Dec. 19, 2011)).

During 2011 the Security Council's 1267/1989 Committee added three of these

individuals and one of these entities to its al-Qaida list (Ibrahim 'Awwad Ibrahim 'Ali al-Badri, Ibrahim Hassan Tali al-Asiri, Othman al-Ghamdi, and Caucasus Emirate,). The Committee also added one individual and one entity that had been designated by the State Department in 2011 (Doku Umarov and Tehrik-e Taliban Pakistan). See www.un.org/sc/committees/1267/index.shtml. The new 1988 Committee added two of the individuals designated by the State Department in 2011 to its list (Sangeen Zadran and Budruddin Haqqani). See www.un.org/sc/committees/1988/.

On October 24, 2011, Secretary Clinton determined that Shamil Salmanovich Basayev and Imad Fa'iz Mughniyah no longer met the criteria for designation under E.O. 13224 and revoked their previous designations. 76 Fed. Reg. 69,318 (Nov. 8, 2011); 76 Fed. Reg. 73,760 (Nov. 29, 2011).

(3) OFAC

(i) OFAC designations

OFAC designated 31 individuals (including their known aliases) and two entities pursuant to Executive Order 13224 during 2011. The designated individuals and entities typically are owned or controlled by, act for or on behalf of, or provide support for or services to individuals or entities the United States has designated as terrorist organizations pursuant to the order. See 76 Fed. Reg. 9073 (Feb. 16, 2011) (two individuals); 76 Fed. Reg. 37,891 (June 28, 2011) (four individuals); 76 Fed. Reg. 38,279 (June 29, 2011) (one individual and one entity); 76 Fed. Reg. 46,896 (Aug. 3, 2011) (six individuals); 76 Fed. Reg. 54,535 (Sep. 1, 2011) (three individuals); 76 Fed. Reg. 59,488 (Sep. 26, 2011) (three individuals); 76 Fed. Reg. 61,776 (Oct. 5, 2011) (five individuals) 76 Fed. Reg. 61,777 (Oct. 5, 2011) (two individuals); 76 Fed. Reg. 64,183 (Oct. 17, 2011) (five individuals); 76 Fed. Reg. 64,427 (Oct 18, 2011) (one entity).

During 2011 the Security Council's 1267 Committee added seven of these individuals to its Consolidated List (Khalil Haqqani, Said Jan 'Abd Al-Salam, Muhammed Jibril Abdul Rahman, Abdul Rahim Ba'Asyir, Umar Patek, 'Abd al-Rahman Ould Muhammad al-Husayn Ould, Muhammad Jibril Abdul Rahman). See www.un.org/sc/committees/1267/index.shtml.

(ii) OFAC de-listings

In 2011, OFAC determined that six individuals, who had been designated pursuant to E.O. 13224, should be removed from the Treasury Department's list of Specially Designated Nationals and Blocked Persons. 76 Fed. Reg. 16,855 (Mar. 25, 2011) (one individual); 76 Fed. Reg. 63,352 (Oct. 12, 2011) (three individuals); 76 Fed. Reg. 69,318 (Nov. 8, 2011) (one individual); 76 Fed. Reg. 73,781 (Nov. 29, 2011) (one individual). See also A.2.b. *supra*. The 1267 Committee previously removed two of the individuals (Moumou, Pitono) from its Consolidated List.

c. Countries not cooperating fully with antiterrorism efforts

On May 11, 2011, James B. Steinberg, Deputy Secretary of State, acting on delegated authority, determined and certified to Congress pursuant to § 40A of the Arms Export Control Act, 22 U.S.C. § 2781, and Executive Order 11958, as amended, that Cuba, Eritrea, Iran, the Democratic People's Republic of Korea ("DPRK" or "North Korea"), Syria, and Venezuela were not cooperating fully with U.S. counterterrorism efforts. 76 Fed. Reg. 31,390 (May 31, 2011). For information concerning the prohibition on U.S. assistance and the export controls that these designations trigger, see *Cumulative Digest 1991-99* at 508 or *Digest 2003* at 167.

d. Foreign terrorist organizations

In 2011, the Secretary of State continued to designate additional entities as Foreign Terrorist Organizations ("FTOs") under § 219 of the Immigration and Nationality Act, as amended. See Chapter 3.B.1.c.(2) for a discussion of the designations and other related developments in 2011. Many of the organizations the Secretary of State has designated as FTOs also have been designated pursuant to Executive Order 13224. Designated FTOs and their agents are subject to a variety of measures, including financial sanctions. See www.state.gov/j/ct/rls/other/des/123085.htm for background on the applicable sanctions and other legal consequences of designation as an FTO.

e. Possibility of Adding Venezuela to List of State Sponsors of Terrorism

On June 24, 2011, Ambassador Daniel Benjamin, Coordinator for Counterterrorism at the U.S. Department of State, testified at a joint U.S. House of Representatives subcommittee hearing on Venezuela's "sanctionable activity." Ambassador Benjamin's testimony is available at <http://foreignaffairs.house.gov/112/ben062411.pdf>. Portions of the testimony reprinted below discuss Venezuela's relationship with terrorist regimes and the possibility of designating Venezuela as a "State Sponsor of Terrorism."

* * * *

The Administration has significant concerns about connections between members of the Venezuelan government and U.S.-designated terrorist organizations such as the FARC, ELN, and ETA (Basque Fatherland and Liberty), all of which have been reported on in the press. As we have reported in the past, Hizballah has a presence in Venezuela, and the Department of the Treasury has done much to highlight these connections. . . .

Since coming to power in 1999, Hugo Chavez has chosen to develop close relations with Iran and Syria. Venezuela is Iran's closest political ally in the Western Hemisphere and President Chavez continues to define Iran as a "strategic ally." This close and highly publicized bond has led to public declarations to establish broad economic, military, and political cooperation,

although the extent of and accomplishments associated with such cooperation appear much less substantive.

Venezuela is required to fulfill its obligations under UN Security Council Resolutions 1373 and 1540, which form part of the legal basis of international counterterrorism efforts. These resolutions, adopted under Chapter VII of the UN Charter, require all states, including Venezuela, to take a series of measures to combat terrorism and prevent WMD and their means of delivery from getting into the hands of terrorists. It is our view that Venezuela has not done enough in this regard.

We would like to outline the significant and effective steps that the U.S. government has already taken to confront specific actions and activities by Venezuela and by Venezuelan officials. For the last five years, since May 2006, pursuant to section 40A of the Arms Export Control Act, Venezuela has been listed as a “Not Fully Cooperating With U.S. Antiterrorism Efforts” country, because of its inadequate response to our counterterrorism efforts. The effect of this listing is a prohibition against the sale or licensing for export to Venezuela of defense articles or services. The United States has also imposed an arms embargo on Venezuela since 2006, which ended all U.S. commercial arms sales and re-transfers to Venezuela. This sanction is a useful tool in signaling we are not satisfied with Venezuela’s counterterrorism cooperation, and has been used in situations where a state may not meet the high threshold for designation as an SST [State Sponsor of Terrorism].

* * * *

...[W]e remain concerned about Venezuela’s commitment to fighting terrorism, and we continue to consider all options in applying appropriate sanctions. One option available to us is the State Sponsor of Terrorism designation. The Department of State has a rigorous legal threshold in exercising its authority to make State Sponsor of Terrorism designations. Since 1979, the following countries have been placed on the SST list: Cuba, Libya, Iran, Iraq, North Korea, South Yemen, Sudan, and Syria. Of these, Cuba, Iran, Sudan, and Syria remain on the list today. The last time the Secretary of State used this authority was in 1993 when Sudan was added to the list.

Before designating a country as a State Sponsor of Terrorism, the Secretary must determine that the government of the country has repeatedly provided support for acts of international terrorism. Before making such a determination, information related to a government’s possible support towards terrorism is carefully reviewed to ensure that there is both credible and corroborated evidence of a government’s repeated support for acts of international terrorism. We believe this is a necessary step before we utilize one of the U.S. government’s broadest sanction tools. If we make decisions to designate states based on anything less, we would be setting the bar too low for future additions to the list. A lower threshold could possibly lead to additions to the list but some of these changes would be inimical to our foreign policy, economic, and counterterrorism interests.

* * * *

5. Armed Conflict: Restoration of Peace and Security

a. *Democratic Republic of the Congo*

On October 5, 2011 OFAC designated one individual pursuant to Executive Order 13413, of October 27, 2006, "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo." 76 Fed. Reg. 63,347 (Oct. 12, 2011); see also 71 Fed. Reg. 64,105 (Oct. 31, 2006); *Digest 2006* at 996–98. The individual was identified as Jamil Mukulu, Head of the Allied Democratic Forces. The Security Council's DRC Sanctions Committee added Mukulu to its list of individuals and entities subject to the UN Security Council's asset freeze and travel ban on October 12, 2011. See www.un.org/sc/committees/1533/index.shtml. On November 30, 2011, OFAC designated another individual pursuant to E.O. 13413, Ntabo Ntaberi Sheka, Commander in Chief of the Nduma Defense of Congo, Mai Mai Sheka Group. 76 Fed. Reg. 76,219 (Dec. 6, 2011). The Security Council's DRC Sanctions Committee added Sheka to its list of individuals and entities that are subject to the UN Security Council's asset freeze and travel ban on November 28, 2011. See www.un.org/sc/committees/1533/index.shtml. In a joint press release, the missions to the United Nations of France, the United Kingdom and the United States—the countries responsible for submitting Sheka's name to the sanctions committee—provided background on his activity:

Ntabo Ntaberi Sheka, born in 1976 in Walikale Territory, Democratic Republic of the Congo, is the Commander in Chief of the political branch of the Mai-Mai Sheka, a Congolese armed group that impedes the disarmament, demobilization, or reintegration of combatants. It operates from bases in Walikale territory in eastern DRC.

The Mai-Mai Sheka group has carried out attacks on mines in eastern DRC, including taking over the Bisiye mines and extorting from locals.

Ntabo Ntaberi Sheka has also committed serious violations of international law involving the targeting of children. Ntabo Ntaberi Sheka planned and ordered a series of attacks in Walikale territory from July 30 to August 2, 2010 to punish local populations accused of collaborating with Congolese government forces. In the course of the attacks, children were abducted, raped, subjected to forced labor and other human rights abuses. The Mai-Mai Sheka militia group also forcibly recruits boys and holds children in their ranks from recruitment drives.

Press release, November 29, 2011, available at <http://usun.state.gov/briefing/statements/2011/177846.htm>

b. *Iraq*

On May 17, 2011, President Obama continued the national emergency declared by Executive Order 13302 with respect to the stabilization of Iraq. 76 Fed. Reg. 29,141 (May 19, 2011); Daily Comp. Pres. Docs., 2011 DCPD No. 00360. E.O. 13302 protects the

Development Fund for Iraq and certain other property in which Iraq has an interest. In the Notice continuing the national emergency declared in E.O. 13302, President Obama stated:

Because the obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared in Executive Order 13303, as modified in scope and relied upon for additional steps taken in Executive Orders 13315, 13350, 13364, and 13438, must continue in effect beyond May 22, 2011. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the stabilization of Iraq.

c. Sudan

On December 8, 2011, OFAC issued a final rule amending the Sudanese Sanctions Regulations (“SSR”) to authorize activities related to the petroleum and petrochemical industries in the newly-created Republic of South Sudan. 76 Fed. Reg. 76,617 (Dec. 8, 2011). At the same time, OFAC also made other amendments, summarized in the notice in the Federal Register:

OFAC also is amending an existing general license to broaden its authorization with respect to the importation of certain Sudanese-origin services and to add an authorization for activities related to Sudanese persons’ travel to the United States. Finally, OFAC is making certain technical changes to the SSR, including changes to reflect the establishment of the independent state of the Republic of South Sudan and the separation of the Government of the Republic of South Sudan from the Government of Sudan.

d. Eritrea

On December 5, 2011, acting pursuant to Chapter VII of the UN Charter, the Security Council adopted Resolution 2023 imposing additional sanctions on Eritrea. U.N. Doc. S/RES/2023. The Council noted with concern the findings of the Somalia/Eritrea Monitoring Group report in 2011 that Eritrea continued to provide support to terrorist groups, including Al-Shabaab, and that a terrorist attack had been planned to disrupt the African Union summit in Addis Ababa in 2011. In remarks to the press following adoption of the new resolution, excerpted below, Ambassador Rice welcomed the action. Ambassador Rice’s remarks are available at <http://usun.state.gov/briefing/statements/2011/178292.htm>.

The United States is pleased with the adoption today of Resolution 2023, imposing additional sanctions on Eritrea for its failure to comply with its obligations under

previous Security Council resolutions, including 1907, passed two years ago this month.**

This resolution underscores the international community's condemnation of Eritrea's destabilizing behavior in the Horn and its support for terrorism. It strengthens the provisions of 1907 and imposes additional obligations on Eritrea and limits its ability to continue to use the mining sector and the diaspora tax to fund its illicit activities.

Ambassador Rice provided further background on the new resolution in her explanation of the United States' vote on Resolution 2023, excerpted below and available at <http://usun.state.gov/briefing/statements/2011/178287.htm>.

* * * *

The United States welcomes the Council's decision to impose new sanctions on Eritrea. Today we have sent a clear message to the Government of Eritrea that it must cease all illegal actions threatening international peace and stability in the Horn of Africa.

As we adopt this resolution, we should recall the events that led us to this decision. Exactly two years ago this month, the Council adopted Resolution 1907 in response to a disturbing pattern of behavior: Eritrea was not engaging constructively in resolving its border dispute with Djibouti, and, most alarmingly, it was providing political, financial and logistical support to armed groups seeking to undermine peace in Somalia. The Council imposed targeted sanctions on Eritrea to demonstrate that Eritrea's actions were unacceptable and would have negative consequences.

Mr. President, that was two years ago. What has happened since? As we heard again this morning, we have continually received evidence of Eritrean support for extremist groups in the region. Eritrea still has not resolved its border dispute with Djibouti. The UN's Somalia and Eritrea Monitoring Group has documented Eritrea's support for terrorism, including an appalling, planned attack on the January 2011 African Union Summit in Addis Ababa. According to the monitoring group, Eritrea is financing all of these activities through illicit means, including threats and the extortion of a "diaspora tax" from people of Eritrean descent living overseas.

In direct response, this Council has today imposed tougher sanctions. Our goal is to show Eritrea that it will pay an ever higher price for its actions. Building on Resolution 1907, this resolution imposes new obligations on Eritrea, including to cease illicit practices to extort funds from its diaspora.

We particularly welcome the Council's expression of concern over the potential use of mining revenues to fund violations of Security Council resolutions. The United States will work with Somalia, the Somalia and Eritrea Monitoring Group, and the Somalia and Eritrea Sanctions Committee to develop voluntary guidelines for companies from the United States and other Member States. Such guidelines can provide useful advice, best practices and information to help companies protect themselves from inadvertently contributing to Eritrea's violations. We intend to draw on this work in advising our own companies.

** Editor's note: For discussion of Resolution 1907, UN Doc. S/RES/1907, see *Digest 2009* at 613-15.

In addition to the obligations set forth in this and previous UN resolutions, today's resolution, 2023, provides further opportunities for Eritrea to show its good faith, including through releasing information on the status of Djiboutian combatants missing in action since June 2008. Eritrea must cease all direct and indirect efforts to destabilize States, particularly through support for armed opposition and terrorist groups, and it should cooperate fully with the Somalia and Eritrea Monitoring Group.

Mr. President, we hope this tightening of sanctions will finally convince the Government of Eritrea to reorder its priorities. The United States believes that the international community's concerns can and should be resolved through political engagement and dialogue. But Eritrea must clearly and affirmatively prove—not through its words but through its actions—that it is ready to reemerge as a law-abiding state. Until that time, the Council and UN Member States are committed to enforcing robustly the sanctions we have applied. We hope that Eritrea does not squander this second chance to change course.

* * * *

e. Somalia

(1) Security Council

On July 29, 2011, acting under Chapter VII of the UN Charter, the Security Council adopted Resolution 2002. U.N. Doc. S/RES/2002. The resolution concerns the Security Council's Somalia arms embargo sanctions regime and authorizes the sanctions committee established pursuant to Resolution 1844 to list additional individuals and entities for sanctions if they are designated:

- (a) as engaging in or providing support for acts that threaten the peace, security or stability of Somalia, including acts that threaten the Djibouti Agreement of 18 August 2008 or the political process, or threaten the TFIs or AMISOM by force;
- (b) as having acted in violation of the general and complete arms embargo reaffirmed in paragraph 6 of resolution 1844 (2008);
- (c) as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;
- (d) as being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law;
- (e) as being responsible for violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement;

U.N. Doc S/RES/2002, Para. 1.

(2) *Executive Order 13536*

On July 29, 2011, OFAC designated two individuals pursuant to Executive Order 13536, "Blocking Property of Certain Persons Contributing to the Conflict in Somalia." 76 Fed. Reg. 47,646 (Aug. 5, 2011) and 76 Fed. Reg. 47,647 (Aug. 5, 2011); see also 75 Fed. Reg. 19,869 (Apr. 15, 2010), *Digest 2010* at 687-90. The individuals were identified as Omar Hammami, a U.S. citizen, and Hassan Mahat Omar of Kenya. The Federal Register notice designating Hammami included the following description of his activities:

Omar Hammami is one of Al-Shabaab's key figures, who has commanded guerilla forces in combat, organized attacks, and plotted strategy with Al Qaeda. Omar Hammami's roles in Al-Shabaab include those of a military tactician, recruitment strategist and financial manager. Omar Hammami is featured in an Al-Shabaab video in which militia members are shown training and explicitly stating their allegiance to Osama bin Laden, in what appeared to be an attempt to increase recruiting among Somalis, including Somali émigrés in the United States. Omar Hammami was involved in organizing a suicide bombing attack carried out by a Somali-American from Minnesota who traveled to Somalia to join Al-Shabaab. That attack and four others organized by Omar Hammami and carried out on October 28, 2008, killed more than 20 people. Omar Hammami, a U.S. citizen, has been indicted in the Southern District of Alabama on a three-count indictment for allegedly providing material support, including himself as personnel, to terrorists; conspiring to provide material support to a designated foreign terrorist organization, Al-Shabaab; and providing material support to Al-Shabaab.

76 Fed. Reg. 47,646.

6. Threats to Democratic Processes

a. *Syria*

In 2011, acting pursuant to the International Emergency Economic Powers Act ("IEEPA"), the National Emergency Act, and 3 U.S.C. § 301, President Obama issued three executive orders responding to the Government of Syria's repression of the Syrian people. On April 29, 2011, he signed Executive Order 13572, "Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria." 76 Fed. Reg. 24,787 (May 3, 2011). E.O. 13572 includes the President's finding that:

...the Government of Syria's human rights abuses, including those related to the repression of the people of Syria, manifested most recently by the use of violence and torture against, and arbitrary arrests and detentions of, peaceful protestors by police, security forces, and other entities that have engaged in human rights abuses, constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States...

Section 1 of E.O. 13572 blocks property of the persons identified in the annex and authorizes the Treasury Secretary to make subsequent designations of persons involved in human rights abuses in Syria.

On May 4, 2011, OFAC provided additional identifying information for the three individuals (Lt. Col. Mahir Al-Asad of the Syrian Army's 4th Armored Division, Maj. Gen. Ali Mamluk of the General Intelligence Directorate, and Brigadier General Atif Najib of the Syrian Political Security Directorate for Dar'a Province) and two entities (the IRGC-Qods Force of Syria and the Syrian General Intelligence Directorate) listed in the Annex to E.O. 13572. 76 Fed. Reg. 27,377 (May 11, 2011). On August 10, 2011, OFAC designated an additional entity (Syriatel) pursuant to E.O. 13572. 76 Fed. Reg. 54,534 (Sep. 1, 2011)

On May 18, 2011, President Obama signed Executive Order 13573, "Blocking Property of Senior Officials of the Government of Syria." 76 Fed. Reg. 29,143 (May 20, 2011). President Obama acted in response to "the Government of Syria's continuing escalation of violence against the people of Syria—including through attacks on protestors, arrests and harassment of protestors and political activists, and repression of democratic change, overseen and executed by numerous elements of the Syrian government." E.O. 13573 blocks property of the persons listed in its annex and any persons subsequently determined by the Treasury Secretary to be, *inter alia*, a senior official or an agency or instrumentality of the Government of Syria, or to be owned or controlled by the Government of Syria or any official of the Syrian Government, or to have provided material assistance or certain types of support for persons whose property is blocked under the order. Those identified in the annex are: President Bashir Al-Assad, Vice President Farouk Al-Shar, Prime Minister Adel Safar, Minister of the Interior Mohammed Ibrahim Al-Shaar, Minister of Defense Ali Habib Mahmoud, Head of Military Intelligence Abdul Fatah Qudsiya, and Director of Political Security Directorate Mohammed Dib Zaitoun.

On August 30, 2011, OFAC designated three individuals pursuant to E.O. 13573: Walid Al-Moallem (Foreign and Expatriates Minister); Bouthaina Shaaban (Presidential Political and Media Advisor); and Ali Abdul Karim Ali (Syrian Ambassador to Lebanon). 76 Fed. Reg. 55,167 (Sep. 6, 2011).

On August 17, 2011, President Obama issued another order blocking property of the Government of Syria, Executive Order 13582, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions With Respect to Syria." 76 Fed. Reg. 52,209 (Aug. 22, 2011). President Obama acted in response to "Syria's continuing escalation of violence against the people of Syria." Section 1 of E.O. 13582 blocks all property of the Government of Syria as well as property of persons subsequently identified by the Treasury Secretary:

- (i) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, any person whose property and interests in property are blocked pursuant to this order; or
- (ii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

At the end of 2011, Treasury had not made any additional designations pursuant to E.O. 13582.

b. Belarus sanctions

On February 1, 2011, OFAC issued a final rule amending the Belarus Sanctions Regulations to revoke a general license that had been granted and extended previously to allow transactions with two blocked entities. 76 Fed. Reg. 5482 (Feb. 1, 2011). On August 11, 2011, OFAC designated four entities pursuant to Executive Order 13405, "Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus." 76 Fed. Reg. 52,384 (Aug. 22, 2011). For discussion of E.O. 13405, see *Digest 2006* at 983-84 and 71 Fed. Reg. 35,485 (June 20, 2006). The Department of State issued a media note describing the new sanctions, which is excerpted below and available at www.state.gov/r/pa/prs/ps/2011/08/170405.htm.

* * * *

Today, the United States imposed additional, new economic sanctions against four major Belarusian state-owned enterprises: the Belshina tire factory; Grodno Azot, which manufactures fertilizer; Grodno Khimvolokno, a fiber manufacturer; and Naftan, a major oil refinery. These four entities have been determined to be owned or controlled by the Belneftekhim conglomerate, an entity already designated under Executive Order 13405. The intent to levy additional sanctions was announced by President Obama on May 27 to respond to the continued incarceration of political prisoners and crackdown on political activists, journalists and civil society representatives. The new sanctions augment the travel restrictions, asset freezes and sanctions announced on January 31. These measures target those responsible for the repression in Belarus following the December 19 presidential elections.

The United States, in concert with our European partners, will continue to monitor developments in Belarus and to take measures to hold accountable those responsible for the repression of fundamental freedoms and the rule of law. These U.S. actions are not directed at the people of Belarus. An integral component of U.S. policy has been to increase support for the people of Belarus as they seek to build a modern, democratic and prosperous society. We reiterate our call on the Government of Belarus to release immediately and unconditionally all political prisoners.

* * * *

c. Zimbabwe

On December 9, 2011, OFAC designated two entities pursuant to E.O. 13469, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe." 76 Fed. Reg. 78,335 (Dec. 16, 2011); see *Digest 2008* at 800-03. The notice in the Federal Register identified the two entities as being owned by the Zimbabwe Mining Development Corporation, an entity previously designated pursuant to E.O. 13469.

d. Côte d'Ivoire

On March 30, 2011, the Security Council adopted Resolution 1975 imposing targeted sanctions on Laurent Gbagbo and his associates. UN Doc. No. S/RES/1975. The United States had previously designated Gbagbo and those same associates on January 6, 2011 pursuant to Executive Order 13396, "Blocking Property of Certain Persons Contributing to the Conflict in Côte d'Ivoire." 76 Fed. Reg. 2193 (Jan. 12, 2011). See *Digest 2010* at 692 for background on the post-election turmoil in Côte d'Ivoire and the travel restrictions imposed on Gbagbo and his associates in 2010.

e. Modification of Sanctions and Related Actions**(1) Cuba**

On January 14, 2011, President Obama directed the Secretaries of State, Treasury, and Commerce to take steps to continue efforts announced in 2009 to promote democracy and human rights in Cuba by facilitating purposeful contacts between Cubans and Americans. See *Digest 2009* at 635-638 for discussion of the new policy announced in 2009. President Obama directed that changes be made to regulations and policies governing: (1) purposeful travel; (2) non-family remittances; and (3) U.S. airports supporting licensed charter travel from Cuba. A White House press release, excerpted below, and available at www.whitehouse.gov/the-press-office/2011/01/14/reaching-out-cuban-people, described the steps the President directed the secretaries to take.

* * * *

Purposeful Travel. To enhance contact with the Cuban people and support civil society through purposeful travel, including religious, cultural, and educational travel, the President has directed that regulations and policies governing purposeful travel be modified to:

- Allow religious organizations to sponsor religious travel to Cuba under a general license.
- Facilitate educational exchanges by: allowing accredited institutions of higher education to sponsor travel to Cuba for course work for academic credit under a general license; allowing students to participate through academic institutions other than their own; and facilitating instructor support to include support from adjunct and part-time staff.
- Restore specific licensing of educational exchanges not involving academic study pursuant to a degree program under the auspices of an organization that sponsors and organizes people-to-people programs.
- Modify requirements for licensing academic exchanges to require that the proposed course of study be accepted for academic credit toward their undergraduate or graduate degree (rather than regulating the length of the academic exchange in Cuba).

- Allow specifically licensed academic institutions to sponsor or cosponsor academic seminars, conferences, and workshops related to Cuba and allow faculty, staff, and students to attend.
- Allow specific licensing to organize or conduct non-academic clinics and workshops in Cuba for the Cuban people.
- Allow specific licensing for a greater scope of journalistic activities.

Remittances. To help expand the economic independence of the Cuban people and to support a more vibrant Cuban civil society, the President has directed the regulations governing non-family remittances be modified to:

- Restore a general license category for any U.S. person to send remittances (up to \$500 per quarter) to non-family members in Cuba to support private economic activity, among other purposes, subject to the limitation that they cannot be provided to senior Cuban government officials or senior members of the Cuban Communist Party.
- Create a general license for remittances to religious institutions in Cuba in support of religious activities.

No change will be made to the general license for family remittances.

U.S. Airports. To better serve those who seek to visit family in Cuba and engage in other licensed purposeful travel, the President has directed that regulations governing the eligibility of U.S. airports to serve as points of embarkation and return for licensed flights to Cuba be modified to:

- Allow all U.S. international airports to apply to provide services to licensed charters, provided such airports have adequate customs and immigration capabilities and a licensed travel service provider has expressed an interest in providing service to and from Cuba from that airport.

The modifications will not change the designation of airports in Cuba that are eligible to send or receive licensed charter flights to and from the United States.

* * * *

On January 28, 2011, in implementing the President's January 14 statement, the Department of Homeland Security ("DHS") issued a final rule revising DHS regulations to allow additional airports to request approval of U.S Customs and Border Protection ("CBP") to process authorized flights between the United States and Cuba. 76 Fed. Reg. 5054 (Jan. 28, 2011).

Also on January 28, 2011, OFAC issued a final rule amending the Cuban Assets Control Regulations ("CACR"), 31 C.F.R. part 515, to implement the policy changes announced by the President in his January 14 statement. 76 Fed. Reg. 5072 (Jan. 28, 2011). The amendments "allow for greater licensing of travel to Cuba for educational, cultural, religious, and journalistic activities and expand licensing of remittances to Cuba." *Id.* at 5702. They also modify regulations regarding authorization of transactions with Cuban nationals residing outside of Cuba, and make certain technical and conforming changes.

(2) Burma

In December 2011, Secretary Clinton became the first U.S. Secretary of State to visit Burma in 50 years. During her meeting with Burma's president, Secretary Clinton conveyed the willingness of the United States to take modest steps in response to the government of Burma's release of political prisoners and other signs of increased respect for fundamental freedoms. Specifically, Secretary Clinton said that Burma would be invited to be an observer in the Lower Mekong Initiative; that the U.S. would support IMF and World Bank assessment missions to Burma; that the U.S. would support loosening restrictions on UNDP programs in Burma, particularly in the areas of health and microfinance; and that the U.S. would resume joint counter-narcotics missions and the search for missing Americans from World War II. See December 1, 2011 background briefing on Secretary Clinton's meeting with Burmese president, available at www.state.gov/r/pa/prs/ps/2011/12/178025.htm

Secretary Clinton also conveyed that the United States was not prepared to lift sanctions until Burma's government took further steps. She explained that the visit to Burma and the modest steps being taken on the part of the United States toward Burma were the result of an effort over the course of two years to re-engage with Burma and that the process was ongoing. Her answer to questions from the press regarding sanctions in Nay Pyi Taw, Burma, on December 1, 2011 appears below, and is available at www.state.gov/secretary/rm/2011/12/177994.htm.

* * * *

With regard to sanctions, we're in the early stages of our dialogue. And I want to state for the record that my visit today is the result of over two years of work on our behalf. We've had at least 20 high-level visits. We have Assistant Secretary Campbell, our former representative Scott Marciel. We've had a very active engagement by our chargé, and then we filled the position that the Congress created for a permanent special representative with Ambassador Derek Mitchell.

So for more than two years, ever since I asked that we do a review of our Burma policy in 2009, we have been reaching out, we've been trying to gather information, because we wanted to see change for the benefit of all of the people. And so we have been working toward this, and the reason that we were finally able to reach the decision that the president announced for me to visit is because of the steps that the government has taken.

We know more needs to be done, however, and we think that we have to wait to make sure that this commitment is real. So we're not only talking to senior members of the government, but we're talking to civil society members, we're talking to members of the political opposition, we're talking to representatives of ethnic minorities, because we want to be sure that we have as full a picture as possible.

So we're not at the point yet that we can consider lifting sanctions that we have in place because of our ongoing concerns about policies that have to be reversed. But any steps that the government takes will be carefully considered and will be, as I said, matched because we want to see political and economic reform take hold. And I told the leadership that we will certainly consider the easing and elimination of sanctions as we go forward in this process together. And it has to be not theoretical or rhetorical. It has to be very real, on the ground, that can be evaluated.

But we are open to that, and we are going to pursue many different avenues to demonstrate our continuing support for this path of reform.

* * * *

In response to questions from the press in Rangoon, Burma on December 2, 2011, Secretary Clinton elaborated on the United States position with regard to sanctions:

But I was very clear with the government that if we see enough progress, we would be prepared to begin to lift sanctions. But right now, we're not ready to discuss that because we obviously are only starting our engagement, and we want to see all political prisoners released, we want to see a serious effort at peace and reconciliation, we want to see dates set for the election, and then we will be very open to matching those actions with our own. And it was interesting, in our meetings with a lot of the people that I've talked with—and not just our meetings over the last two days but our meetings that many of our high officials have had over the last two years—there is a recognition that lifting sanctions would benefit the economy, but there needs to be some economic reforms along with the political reforms so that the benefits would actually flow to a broad-based group of people and not just to a very few.

Press availability in Rangoon, Burma, available at www.state.gov/secretary/rm/2011/12/178103.htm.

7. Transnational Crime

On July 24, 2011, acting pursuant to the Constitution and U.S. laws including the International Emergency Economic Powers Act (“IEEPA”), the National Emergencies Act, and section 301 of title 3 of the U.S. Code, President Obama issued Executive Order 13581, “Blocking Property of Transnational Criminal Organizations.” 76 Fed. Reg. 44,757 (July 27, 2011). President Obama acted based on his finding:

...that the activities of significant transnational criminal organizations, such as those listed in the Annex to this order, have reached such scope and gravity that they threaten the stability of international political and economic systems. Such organizations are becoming increasingly sophisticated and dangerous to the United States; they are increasingly entrenched in the operations of foreign governments and the international financial system, thereby weakening democratic institutions, degrading the rule of law, and undermining economic markets. These organizations facilitate and aggravate violent civil conflicts and increasingly facilitate the activities of other dangerous persons. I therefore determine that significant transnational criminal organizations constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

E.O. 13581 operates like other IEEPA executive orders, blocking property of those listed in its annex as well as persons designated subsequently. Section 1 of E.O. 13581 authorizes the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to determine which other persons constitute “a significant transnational criminal organization,” or have provided material support for, or are owned or controlled by, or acted for or on behalf of, other designees. The term “significant transnational criminal organization” is defined in Section 3(e):

(e) the term “significant transnational criminal organization” means a group of persons, such as those listed in the Annex to this order, that includes one or more foreign persons; that engages in an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states; and that threatens the national security, foreign policy, or economy of the United States.

The Annex lists four entities as significant transnational criminal organizations: the Brothers’ Circle; Camorra; the Yakuza; and Los Zetas. On August 11, 2011, OFAC provided additional identifying information for these four entities. 76 Fed. Reg. 51,125 (Aug. 17, 2011).

B. OTHER ISSUES

1. Litigation

a. Licensing requirement for Cuban company’s application to renew trademark

On March 29, 2011, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the lower court’s decision granting summary judgment for OFAC in *Empresa Cubana Exportadora de Alimentos y Productos Varios d/b/a Cubaexport v. OFAC*, 638 F.3d. 794 (D.C. Cir. 2011). Cubaexport had registered its HAVANA CLUB trademark with the U.S. Patent and Trademark Office (“PTO”) in 1976, and an affiliate of Cubaexport renewed it in 1996 under a general license in the Cuban Assets Control Regulations authorizing transactions related to the registration and renewal of trademarks. 31 CFR § 515.527(a). In 1998, Congress modified that regulatory authorization to exclude registration and renewal of trademarks connected to confiscated properties. Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. No. 105-277, § 211(a)(1), 112 Stat. 2681, 2681–88 (1988) (“Section 211”). In seeking renewal of the trademark, Cubaexport did not initially rely on the general license provision, and instead sought a specific license from OFAC to authorize payment of the registration fee. OFAC declined to grant the specific license based on foreign-policy guidance provided by the State Department and other factors. PTO accordingly denied Cubaexport’s request to renew the trademark registration. Cubaexport filed suit against OFAC in federal district court, and the court granted summary judgment for OFAC. For earlier developments in the case, see *Digest 2009* at 648–49, *Digest 2007* at 828–30, and *Digest 2006* at 1006–15.

The majority opinion of the D.C. Circuit rejected both of Cubaexport’s main arguments invoking the presumption against retroactivity and the substantive due process

doctrine. The court found the presumption against retroactivity inapplicable because the Cuban Assets Control Regulations had long stated that the Secretary of the Treasury's authorization to register and renew trademarks notwithstanding the general prohibition on transactions involving Cuban-owned companies could be revoked at any time. As to substantive due process, the parties agreed that the 1998 Act did not involve a fundamental right. The court found that the 1998 Act was rationally related to the legitimate government goal of isolating Cuba's government and hastening a transition to democracy. The Court also disagreed with Cubaexport's contention that OFAC's actions were arbitrary and capricious in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). In particular, the court rejected Cubaexport's complaint that OFAC should not have relied on the State Department's guidance: "The State Department and OFAC are parts of a single Executive Branch headed by one President... [T]he State Department is an active participant in the Nation's foreign policy, and the Cuban embargo is of course a tool of foreign policy." 638 F.3d. at 803. Judge Silberman dissented, opining that the 1998 Act should apply only when a trademark is initially registered after 1998. *Id.* at 806.***

b. Designation of Foreign Terrorist Organizations and related issues

See Chapter 3.B.1.c.(2).

2. Implementing Security Council Travel Bans

On July 24, 2011, President Barack Obama issued Proclamation 8693, "Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions." 76 Fed. Reg. 44,751 (July 27, 2011). The Proclamation suspends entry into the United States of all aliens subject to travel bans under U.N. Security Council resolutions (specific resolutions are listed in an annex) and all aliens whose property has been blocked pursuant to Executive Orders issued under the International Emergency Economic Powers Act ("IEEPA") (specific Executive Orders are listed in a separate annex).

3. OFAC Amendment to Method of Listing Blocked Persons

On June 30, 2011, OFAC published a final rule amending its regulations to remove the alphabetical lists (in appendices to those regulations) of all persons and vessels subject to blocking under its various economic sanctions programs, and replace those lists with references and instructions on where to find the most up-to-date information on those

*** Editor's note: On January 27, 2012, Cubaexport filed a petition for certiorari in the Supreme Court of the United States. The United States filed a brief opposing certiorari on April 2, 2012. On May 14, 2012, the Supreme Court issued an order denying certiorari.

persons and vessels. 76 Fed. Reg. 38,534 (June 30, 2011). The background section in the Federal Register notice explained the reason for the change:

The Department of the Treasury's Office of Foreign Assets Control ("OFAC") maintains a list of blocked persons, blocked vessels, specially designated nationals, specially designated terrorists, specially designated global terrorists, foreign terrorist organizations, and specially designated narcotics traffickers whose property and interests in property are blocked pursuant to the various economic sanctions programs administered by OFAC. OFAC previously has published that list as Appendix A to 31 CFR chapter V. OFAC is hereby amending Appendix A to replace this list with information on how to obtain up-to-date lists of such persons and vessels on OFAC's Web site or by other means, as well as with additional information pertaining to the lists. OFAC also is removing Appendix B to 31 CFR chapter V, which includes the names of certain blocked vessels, because more up-to-date information on such blocked vessels may be obtained on OFAC's Web site or by other means. Finally, OFAC is amending its regulations for a number of the sanctions programs it administers to revise references to Appendix A and remove references to Appendix B.

... Because new or updated information may be published in the Federal Register and added to OFAC's Web site at any time, the list of persons that previously appeared at Appendix A could be out-of-date at the time of its annual publication in the Federal Register. Frequently updated information on OFAC designations and other actions resulting in blocking is provided for examination on, or downloading from, OFAC's Web site (<http://www.treasury.gov/ofac>). Among other information, OFAC provides on its Web site the Specially Designated Nationals and Blocked Persons List ("SDN List"). OFAC updates the SDN List on an ongoing basis to reflect the inclusion or deletion of names as a result of new blocking, designation, identification, or delisting actions, as well as changes in identifying information, including alternative spellings and aliases. These updates also are published in notices in the Federal Register. Because the SDN List is updated on an ongoing basis to reflect additions and deletions of names, as well as changes in identifying information, it provides more up-to-date information than the list of persons previously published on an annual basis at Appendix A.

C. EXPORT CONTROLS

1. Commerce Department Entity List

During 2011 the Department of Commerce, Bureau of Industry and Security ("BIS"), amended the Export Administration Regulations ("EAR") to add 60 persons, located in Afghanistan, China, Cyprus, France, Greece, Hong Kong, Iran, Lebanon, Pakistan, Singapore, Syria, Ukraine, the United Arab Emirates, and the United Kingdom, to the Entity List. 76 Fed. Reg. 37,632 (June 28, 2011); 76 Fed. Reg. 44,259 (July 25, 2011); 76 Fed. Reg. 50,407 (Aug. 15, 2011); 76 Fed. Reg. 63,184 (Oct. 12, 2011); 76 Fed. Reg. 67,059 (Oct. 31, 2011); 76 Fed. Reg. 71,867 (Nov. 21, 2011). As BIS explained in the preambles to the final rules, "[t]he persons that are added to the Entity List have been determined by the U.S. Government to

be acting contrary to the national security or foreign policy interests of the United States.” Once a person is placed on the Entity List, BIS explained that “[a] BIS license is required for the export or reexport of any item subject to the EAR” to that person.

BIS also removed 6 persons, located in Hong Kong, New Zealand, Russia and the United Kingdom, from the Entity List. 76 Fed. Reg. 21,628 (Apr. 18, 2011); 76 Fed. Reg. 29,998 (May 24, 2011); 76 Fed. Reg. 63,184 (Oct. 21, 2011). Moreover, BIS amended 15 entries on the Entity List for persons in Canada, Iran, Russia, Syria, and the United Arab Emirates. 76 Fed. Reg. 21,628 (Apr. 18, 2011); 76 Fed. Reg. 29,998 (May 24, 2011); 76 Fed. Reg. 50,407 (Aug. 15, 2011); 76 Fed. Reg. 71,867 (Nov. 21, 2011).

In addition, effective January 25, 2011, BIS amended the EAR to implement several components of a bilateral understanding between India and the U.S. announced by President Obama and India’s Prime Minister Singh on November 8, 2010. The amendments included removing India’s defense and space-related entities (nine total) from the Entity List and removing India from three country groups in the EAR that are subject to end-use restrictions and adding it to one country group of members and adherents to the Missile Technology Control Regime (“MTCR”), as well as making conforming changes consistent with these steps. The notice of the final rule in the Federal Register explained that these changes “reflect India’s nonproliferation record and commitment to abide by multilateral export control standards.” 76 Fed. Reg. 4228 (Jan. 25, 2011).

2. Nonproliferation-related Changes

a. Australia Group

On April 20, 2011, the Department of Commerce, Bureau of Industry and Security (“BIS”) issued a final rule revising the EAR to implement changes the Australia Group adopted in 2010 to its “Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology and Software,” its “List of Biological Agents for Export Control,” and its “List of Animal Pathogens for Export Control.” 76 Fed. Reg. 22,017 (Apr. 12, 2011). On September 12, 2011, BIS issued a final rule revising the EAR to implement changes the Australia Group adopted in 2010 to its “List of Biological Agents for Export Control.” 76 Fed. Reg. 56,099 (Sep. 12, 2011).

b. Wassenaar Arrangement

On May 20, 2011, the Department of Commerce, Bureau of Industry and Security (“BIS”), issued a final rule amending the EAR to implement certain changes that governments participating in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies agreed in 2010 to make to the Wassenaar Arrangement’s List of Dual-Use Goods and Technologies (“Wassenaar List”). 76 Fed. Reg. 29,610 (May 20, 2011) (corrected at 76 Fed. Reg. 34,577 (June 14, 2011)). On June 24, 2011, BIS issued a final rule amending the EAR to implement certain changes to the Wassenaar List that were agreed on by participating governments in 2009. 76 Fed. Reg. 36,986 (June 24, 2011). For background on the Wassenaar Arrangement, see *II Cumulative Digest 1991–99* at 2265–66.

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Cross References

UN resolution condemning Iran-supported plot against Saudi ambassador, **Chapter 3.B.1.b.**

Designation of Foreign Terrorist Organizations, **Chapter 3.B.1.c.**

Trafficking in persons, **Chapter 3.B.3.**

Actions to counter piracy, Al-Shabaab, **Chapter 3.B.8.**

Human rights, **Chapter 6.**

Recognition of TNC in Libya, **Chapter 9.B.2.**

Requirement of OFAC license to garnish Cuban assets (Martinez v. Cuba), **Chapter 10.A.3.a.**

Sudan peace process, **Chapter 17.B.**

Nuclear nonproliferation issues in Iran, **Chapter 18.B.2.g.(2).**

Renewed mandate for 1540 Committee, **Chapter 18.B.3.**