

Table of Contents

CHAPTER 16	634
Sanctions, Export Controls, and Certain Other Restrictions	634
A. IMPOSITION, IMPLEMENTATION, AND MODIFICATION OF SANCTIONS ..	634
1. Iran.....	634
a. <i>The Joint Comprehensive Plan of Action (“JCPOA”)</i>	634
b. <i>Implementation of UN Security Council resolutions</i>	635
c. <i>U.S. sanctions and other controls</i>	636
2. Syria.....	638
3. Cuba.....	639
a. <i>Amendments to the Cuban Assets Control Regulations</i>	639
b. <i>Rescission of designation as state sponsor of terrorism (“SST”)</i>	640
4. Sudan	643
5. Nonproliferation	644
a. <i>Democratic People’s Republic of Korea</i>	644
b. <i>Iran, North Korea, and Syria Nonproliferation Act</i>	647
c. <i>Executive Order 13382</i>	647
d. <i>Chemical and biological weapons sanctions</i>	647
6. Terrorism.....	648
a. <i>UN and other coordinated multilateral action</i>	648
b. <i>U.S. targeted financial sanctions</i>	654
c. <i>Annual certification regarding cooperation in U.S. antiterrorism efforts</i>	665
d. <i>State sponsor of terrorism designation</i>	665
7. Russia and Ukraine	665
a. <i>Sanctions in response to Russia’s actions in Ukraine</i>	665
b. <i>Magnitsky Act</i>	666
8. Targeted Sanctions Relating to Threats to Democratic Process and Restoration of Peace, Security, and Stability	666

a. <i>Burundi</i>	666
b. <i>Venezuela</i>	669
c. <i>Burma</i>	672
d. <i>Zimbabwe</i>	674
e. <i>Liberia</i>	674
f. <i>South Sudan</i>	674
g. <i>Central African Republic</i>	675
h. <i>Côte d’Ivoire</i>	676
i. <i>Libya</i>	676
j. <i>Balkans</i>	676
k. <i>Yemen</i>	676
9. Transnational Crime	677
10. Malicious Activities in Cyberspace.....	677
B. EXPORT CONTROLS	679
1. General.....	679
2. Export Control Litigation.....	680
<i>Defense Distributed, et al. v. United States Department of State, et al</i>	680
3. Export Control Reform	684
Cross References	685

CHAPTER 16

Sanctions, Export Controls, and Certain Other Restrictions

This chapter discusses selected developments during 2015 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 <https://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 2015, available at <http://www.bis.doc.gov/index.php/about-bis/newsroom/publications>. Details on the State Department's defense trade control programs are available at <http://www.pmdtcc.state.gov>.

A. IMPOSITION, IMPLEMENTATION, AND MODIFICATION OF SANCTIONS

1. Iran

a. *The Joint Comprehensive Plan of Action ("JCPOA")*

As discussed in more detail in Chapter 19, the P5+1 and Iran concluded the Joint Comprehensive Plan of Action ("JCPOA") to curtail Iran's nuclear program on July 14, 2015. On April 2, 2015, the P5+1 and Iran reached the parameters for the JCPOA, which set forth the outlines of Iran's nuclear-related commitments and the U.S. and EU sanctions relief commitments. Before the JCPOA was reached, the U.S. Department of State continued to extend sanctions relief under relevant statutes in order to implement the U.S. sanctions relief commitments under the Joint Plan of Action of 2013 ("JPOA"), which had also been extended. As the April 16, 2015 Federal Register notice setting

forth the renewal of sanctions relief under the National Defense Authorization Act of 2012 (NDAA) explains, “The JPOA was renewed ... on July 19, 2014, and again on November 24, 2014, extending the temporary sanction relief provided under the JPOA ..., in order to continue negotiations aimed at achieving a long-term comprehensive solution to ensure that Iran's nuclear program will be exclusively peaceful.” 80 Fed. Reg. 20,552 (Apr. 16, 2015); see *Digest 2013* at 466-71 for background on the JPOA.

Under the JCPOA, the U.S. committed to relieve sanctions on activities by non-U.S. persons with various sectors of Iran’s economy, including the energy, financial and banking, and shipping sectors, trade with Iran in precious metals and certain industrial metals, and exports to Iran’s automotive sector. In addition, the United States committed to license the export to Iran of aircraft and spare parts, the import of foodstuffs and carpets from Iran, and the activities of foreign subsidiaries of U.S. corporations involving Iran. President Obama issued a memorandum on October 18, 2015 (“Adoption Day” under the JCPOA), instructing federal agencies to prepare for implementation of the JCPOA. 80 Fed. Reg. 66,783 (Oct. 30, 2015). The presidential memo includes the following:

I hereby direct you to take all necessary steps to give effect to the U.S. commitments with respect to sanctions described in section 17 of Annex V of the JCPOA, including preparation for the termination of Executive Orders as specified in section 17.4 and the licensing of activities as set forth in section 17.5, to take effect upon confirmation by the Secretary of State that Iran has implemented the nuclear-related measures specified in sections 15.1–15.11 of Annex V of the JCPOA, as verified by the IAEA.

See also President Obama’s statement on Adoption Day. Daily Comp. Pres. Docs. 2015 DCPD Doc. No. 00734, p. 1 (Oct. 18, 2015).

In order to implement the U.S. commitments under the JCPOA under statutory sanctions related to Iran, on October 18, 2015, the Secretary of State issued contingent waivers and findings under relevant authorities that would take effect once Iran completed certain nuclear commitments (referred to as “Implementation Day” under the JCPOA). The waivers and findings were issued under the Iran Freedom and Counter-Proliferation Act of 2012, the Iran Threat Reduction and Syria Human Rights Act of 2012, the National Defense Authorization Act for Fiscal Year 2012, and the Iran Sanctions Act of 1996. 80 Fed. Reg. 67,470 (Nov. 3, 2015).

b. *Implementation of UN Security Council resolutions*

For discussion of past UN Security Council resolutions relating to Iran’s nuclear activities, see *Digest 2010* at 632-45, *Digest 2008* at 969–75, *Digest 2007* at 1031–36, and *Digest 2006* at 1280–84. In Resolution 1929 (2010), the Council established, for an initial period of one year, a Panel of Experts to assist the Committee in carrying out its mandate. The

Panel's mandate has been renewed yearly, most recently in Resolution 2224 (2015) on June 9, 2015.

On July 20, 2015, the UN Security Council unanimously adopted Resolution 2231, endorsing the Joint Comprehensive Plan of Action ("JCPOA"). U.N. Doc. S/RES/2231 (2015). Resolution 2231 provides that the provisions of prior UN Security Council Resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1929 (2010), and 2224 (2015) shall be terminated upon receipt by the Security Council of the report from the IAEA verifying that Iran has taken the actions specified in paragraphs 15.1-15.11 of Annex V of the JCPOA. Upon receipt of that report, Resolution 2231 also requires all States to comply with paragraphs 1, 2, 4, and 5 and the provisions of subparagraphs (a)-(f) of paragraph 6 of Annex B for the duration specified in each paragraph or subparagraph, and calls upon States to comply with paragraphs 3 and 7 of Annex B. Resolution 2231 also includes a procedure providing, under certain conditions, for the application of the provisions of resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), and 1929 (2010) in the same manner as they applied before the adoption of resolution 2231. For further discussion of Resolution 2231, see Chapter 19.

c. U.S. sanctions and other controls

Some sanctions programs relating to Iran are unaffected by the JCPOA. Further information on Iran sanctions is available at <https://www.state.gov/e/eb/tfs/spi/iran/index.htm> and <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/iran.aspx>.

(1) Iran Sanctions Act, as amended

As discussed in *Digest 2012* at 509-11, Congress amended the Iran Sanctions Act ("ISA") in 2012 with passage of the Iran Threat Reduction Act and Syria Human Rights Act of 2012 ("TRA") (Pub. L. 112-158).

Effective February 25, 2015, the Secretary of State terminated sanctions imposed under ISA on Republican Unitary Enterprise Production Association Belarusneft based on a determination that it was no longer engaging in sanctionable activity described in section 5(a) of ISA, as amended, and reliable assurances that it would not knowingly engage in such activities in the future. 80 Fed. Reg. 12,544 (Mar. 9, 2015). Effective November 2, 2015, the Secretary terminated ISA sanctions on Dettin S.p.A. based on the same determinations: that it was no longer engaging in sanctionable activity and had provided assurances that it would not in the future. 80 Fed. Reg. 73,866 (Nov. 25, 2015).

(2) *Iran Freedom and Counter-Proliferation Act*

See *Digest 2013* at 480-82 for background on the Iran Freedom and Counter-Proliferation Act of 2012 (“IFCA”), part of the National Defense Authorization Act for Fiscal Year 2013 (signed January 2, 2013). In addition to renewals of waivers under IFCA to implement U.S. sanctions relief under the JPOA, in 2015, the Department of State renewed waivers issued in 2014 to allow for a discrete range of transactions related to the provision of satellite connectivity services to the Islamic Republic of Iran Broadcasting (“IRIB”). 80 Fed. Reg. 22,762 (Apr. 23, 2015). See *Digest 2014* at 633-34. The Secretary issued waivers based on Iran’s commitment to ensure that harmful satellite interference does not emanate from its territory, and verification by the U.S. government that harmful satellite interference is not currently emanating from the territory of Iran. IFCA required the designation of the IRIB for the imposition of sanctions.

(3) *Section 1245 of the 2012 National Defense Authorization Act*

Section 1245(d) of the NDAA requires the U.S. Government to report to Congress on the availability of petroleum and petroleum products in countries other than Iran and determine whether price and supply permit purchasers of petroleum and petroleum products from Iran to “reduce significantly in volume their purchases from Iran.” If there is an affirmative determination in this regard, the statute requires the imposition of sanctions on foreign financial institutions that conduct or facilitate significant financial transactions with the Central Bank of Iran or other designated Iranian banks. Sanctions do not apply to countries that have made significant reductions in purchases of Iranian oil. See *Digest 2012* at 506-7. Effective January 20, 2014, President Obama delegated to the Secretary of State, in consultation with the Secretary of the Treasury, the authority conferred upon the President by section 1245(d)(5) of the NDAA. 79 Fed. Reg. 6453 (Feb. 4, 2014).

On February 19, 2015, the Secretary determined that Belgium, the Czech Republic, France, Germany, Greece, Italy, the Netherlands, Poland, Spain, Sri Lanka, and the United Kingdom, each once again qualified for the 180-day exception outlined in section 1245(d)(4)(D). 80 Fed. Reg. 10,563 (Feb. 26, 2015). Those countries again qualified for the exception on August 14, 2015. 80 Fed. Reg. 52,534 (Aug. 31, 2015). On May 20, 2015 the Secretary determined that Malaysia and Singapore qualified for the 180-day exception. 80 Fed. Reg. 33,006 (Jun. 10, 2015). Malaysia and Singapore again received the exception based on a determination on November 10, 2015. 80 Fed. Reg. 74,832 (Nov. 30, 2015).

In Presidential Determination No. 2015-06 of May 19, 2015, the President determined that the availability of petroleum and petroleum products was sufficient to permit purchasers to reduce their purchases from Iran. 80 Fed. Reg. 32,851 (June 9, 2015). The President made the determination again on November 18, 2015 in Presidential Determination No. 2016-03, noting, however, that:

...in the Joint Plan of Action, the interim arrangement to address concerns with Iran's nuclear program reached between the P5+1, European Union and Iran in November 2013, the United States committed to allow oil purchases from Iran to continue at the levels that prevailed at that time. Accordingly, my Administration is not seeking further reductions of Iranian oil purchases.

Daily Comp. Pres. Docs. 2015 DCPD No. 00822 (Nov. 18, 2015).

(4) *Modification of sanctions*

As discussed in *Digest 2013* at 483, OFAC issued a General License authorizing the exportation to Iran of certain services, software, and hardware incident to personal communications. As discussed in *Digest 2014* at 635, OFAC updated this license by issuing General License D-1, permitting the exportation and re-exportation of certain goods and services incident to personal communications. The State Department released a fact sheet on July 13, 2015, available at <http://www.state.gov/e/eb/rls/fs/2015/244863.htm>, identifying the authorization for Iran along with other regulatory authorizations that facilitate personal communications for the people of Cuba, and Sudan, as reflecting the "U.S. commitment to the principle of freedom of expression, as well as to ensuring that our sanctions do not unnecessarily or disproportionately impact ordinary people."

2. **Syria**

On March 31, 2015, OFAC blocked the property and interests in property of Batoul RIDA, an individual, pursuant to E.O. 13582, "Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria." 80 Fed. Reg. 20,078 (Apr. 14, 2015). Also on March 31, 2015, OFAC published the revised information about Adib MAYALEH, an individual whose property and interests in property are blocked pursuant to E.O. 13573, "Blocking Property of Senior Officials of The Government of Syria." *Id.* On July 21, 2015, OFAC designated three individuals pursuant to E.O. 13582. 80 Fed. Reg. 46,648 (Aug. 5, 2015). The three individuals—Mustafa BADR AL DIN, Ibrahim AQIL, and Fu'ad SHUKR—are all Lebanese and affiliated with Hizballah. On August 3, 2015, OFAC designated four individuals (Mustafa AYDIN, Serkan DUZGOREN, Erkan DUZGOREN, Ufuk KENAR) and seven entities (Aqua Shipping Ltd., Blue Energy Trade Ltd., Ebla Trade Services, S.A.L./Off-Shore, Green Shipping Ltd., Melenyum Energy S.A., the Eagles L.L.C., Morgan Additives Manufacturing Co.) pursuant to E.O. 13582. 80 Fed. Reg. 47,989 (Aug. 10, 2015). Also on August 3, 2015, OFAC identified six additional persons as falling within the definition of the Government of Syria as set forth in section 8(d) of E.O. 13582 and section 542.305 of the Syrian Sanctions Regulations, 31 CFR part 542: the General Directorate of Syrian Ports, Lattakia Port General Company, Syrian

Chamber of Shipping, Syrian General Authority for Maritime Transport, Syrian Shipping Agencies Company, Tartous Port General Company. *Id.* On November 25, 2015, OFAC blocked the property and interests in property of 4 individuals and 6 entities pursuant to E.O. 13582: Kirsan Nikolayevich ILYUMZHINOV, Mudalal HURI, Nicos NICOLAOU, George HASWANI, Ezegoo Investments Ltd., Hudsotrade Limited, Kremson Commercial Inc., Primax Business Consultants Limited, Russian Financial Alliance Bank, and Hesco Engineering & Construction Co. 80 Fed. Reg. 75,167 (Dec. 1, 2015).

3. Cuba

a. *Amendments to the Cuban Assets Control Regulations*

On January 16, 2015, OFAC amended the Cuban Assets Control Regulations (“CACR”) to implement the change in policy toward Cuba announced by President Obama in December 2014. See *Digest 2014* at 336; see also January 15, 2015 Treasury Department fact sheet, available at <https://www.treasury.gov/press-center/press-releases/Pages/jl9740.aspx>. As described in the Federal Register notice of OFAC’s final rule, 80 Fed. Reg. 2291 (Jan. 16, 2015):

The amendments facilitate travel to Cuba for authorized purposes, facilitate the provision by travel agents and airlines of authorized travel services and the forwarding by certain entities of authorized remittances, raise the limit on certain categories of remittances to Cuba, allow U.S. financial institutions to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions, authorize certain transactions with Cuban nationals located outside of Cuba, and allow a number of other activities related to, among other areas, telecommunications, financial services, trade, and shipping. These amendments also implement certain technical and conforming changes.

The CACR were amended again in September to further facilitate travel to Cuba, expand telecommunications and Internet-based services, authorize U.S. entities to establish a presence in Cuba, allow U.S. persons to have bank accounts in Cuba, allow additional financial transactions, authorize provision of U.S. goods and services to Cuban nationals outside of Cuba, and allow other activities such as legal services, sending of gifts to the United States, and educational activities. 80 Fed. Reg. 56,915 (Sep. 21, 2015); see also September 18, 2015 Treasury Department press release and fact sheet, available at <https://www.treasury.gov/press-center/press-releases/Pages/jl0169.aspx>.

Effective March 24, 2015, OFAC delisted and unblocked six individuals, 28 entities, and 11 vessels whose property and interests in property had been blocked pursuant to the Cuban Assets Control Regulations. 80 Fed. Reg. 17,153 (Mar. 31, 2015). Effective June 4, 2015, OFAC delisted and unblocked five individuals, 53 entities, and one vessel whose property and interests in property had been blocked pursuant to the

Cuban Assets Control Regulations. 80 Fed. Reg. 33,025 (Jun. 10, 2015). Effective August 27, 2015, OFAC delisted and unblocked 21 individuals, 36 entities, and three vessels designated pursuant to the Cuban Assets Control Regulations. 80 Fed. Reg. 53,227 (Sep. 2, 2015). On November 19, 2015, OFAC delisted and unblocked 19 more individuals. 80 Fed. Reg. 74,216 (Nov. 27, 2015).

b. *Rescission of designation as state sponsor of terrorism (“SST”)*

As discussed in Chapter 9, the United States and Cuba resumed diplomatic relations on July 20, 2015. As part of the process leading up to the restoration of diplomatic relations, the U.S. government reviewed Cuba’s designation as a state sponsor of terrorism (“SST”).

On April 14, 2015, President Obama submitted to Congress the statutorily required report indicating the Administration’s intent to rescind Cuba’s SST designation, including the requisite certifications. Daily Comp. Pres. Docs. 2015 DCPD No. 00271 (Apr. 14, 2015). The President certified, pursuant to section 6(j)(4)(B) of the Export Administration Act of 1979, Public Law 96–72, as amended (50 U.S.C. App. 2405(j)), and as continued in effect by Executive Order 13222 of August 17, 2001, that:

- (i) the Government of Cuba has not provided any support for international terrorism during the preceding 6-month period; and
- (ii) the Government of Cuba has provided assurances that it will not support acts of international terrorism in the future.

This certification also satisfied the provisions of section 620A(c)(2) of the Foreign Assistance Act of 1961, Public Law 87-195, as amended (22 U.S.C. 2371(c)), and section 40(f)(1)(B) of the Arms Export Control Act, Public Law 90-629, as amended (22 U.S.C. 2780(f)).

The White House press secretary issued a statement on the proposed rescission of Cuba’s SST designation on April 14, 2015. The White House statement is available at <https://www.whitehouse.gov/the-press-office/2015/04/14/statement-press-secretary-proposed-rescission-cuba-s-designation-state-s>. On April 14, 2015, senior Obama administration officials provided a background briefing on the process and requirements for rescinding Cuba’s SST designation and the outcome of the review of the designation. The briefing is available at <http://www.state.gov/r/pa/prs/ps/2015/04/240697.htm> and excerpted below.

* * * *

...[A]fter a careful review of Cuba's record, which was informed by the intelligence community as well as ... assurances provided by the Cuban Government, the Secretary of State concluded that Cuba met the conditions for rescinding its designation as a state sponsor of terrorism and forwarded that recommendation ... to the President last week and recommended he submit to Congress the statutorily required report and certification. Today, this afternoon, the President submitted to Congress that required report and certification indicating the Administration's intent to rescind Cuba's designation as a state sponsor of terrorism.

To recap and to provide a little context, a country remains a state sponsor of terrorism until its designation is rescinded in accordance with criteria that are established by statute. In Cuba's case, ... those criteria require the President to submit a report to Congress at least at a minimum of 45 days before the proposed rescission would take effect, justifying it and certifying, number one, that the Government of Cuba has not provided any support for international terrorism during the preceding six-month period and, number two, that the Government of Cuba has provided assurances that it will not support acts of international terrorism in the future.

As President Obama noted recently in a separate media interview and in comments subsequently to that, we're going to continue to have differences with Cuba, including some profound differences on issues that are important in terms of values of U.S. support for democracy and human rights. However, those differences are not necessarily going to be a factor in whether or not Cuba is a designee as a state sponsor of terrorism. Whether they engage in repressive or authoritarian activities in their own country, whether they have relationships with countries that are adversaries of the United States are not necessarily a factor in making this determination. This determination was based on the facts and the statutory criteria.

* * * *

...[T]here are three laws actually that we have to look at with respect to acts of international terrorism and the designation process. ...

... But notwithstanding the removal of Cuba from those [SST] regulations, most transactions involving Cuba or Cuban nationals, including transactions with the Government of Cuba, will continue to be prohibited by OFAC regulations under the Cuban asset control regulations.

...The statutes that we're talking about provide that no rescission can be made if within 45 days after the receipt of the report from the President the Congress enacts a joint resolution on the issue prohibiting the rescission. The President, of course, can veto any such joint resolution and Congress then, of course, can further act to override the veto. ...

...We continue to have the conversations on diplomatic relations. And as the President said, there are a number of issues we're still working out, and we expect those to continue to be resolved and to move ahead. We don't have a fixed date or a time for a next conversation or a response ...on those issues. But we hope that will be very soon.

...The two issues—state sponsor of terrorism designation removal and the OFAC financial sanctions—are two separate issues. But OFAC has taken steps to ease the situation and facilitate banking and banking for the Cuban Interests Section here in the United States.

... unlike with certain kinds of sanctions, for example with respect to foreign terrorist organization designations, we are required by law to periodically, at a certain time interval, review that designation and ensure that the individual or entity still meets the criteria.

That is not the case with respect to the designation of a state sponsor of terrorism. That said, we're completely cognizant of the fact that the circumstances change over time, and we do undertake reviews from time to time as we are called upon to do it or as we feel there is a rationale for so doing.

In this instance, it's not required that the President initiate that review—there may be other reasons or other specified instances or circumstances that call on us to do it—but in this instance we were specifically asked by the President to undertake it in light of, again, the evolving situation with Cuba. And that's why we undertook the process now.

...the four main categories of sanctions that result from the designation under the state sponsor of terrorism authorities include restrictions on U.S. foreign assistance, a ban on defense exports and sales, certain controls over the exports of dual-use items, and miscellaneous financial and other restrictions. So those are the kinds of things that are governed by this one designation.

... But just to confirm, economic sanctions under Cuba's—OFAC's Cuban Assets Control Regulations will remain in effect and most transactions with Cuba and with Cuban nationals and the Government of Cuba will remain prohibited absent authorization from Treasury.

* * * *

On April 14, 2015, Secretary Kerry publicly announced the State Department's recommendation to rescind Cuba's SST designation. See the State Department press statement available at <http://www.state.gov/secretary/remarks/2015/04/240687.htm>. The press statement summarizes the grounds for the recommendation of rescission.

As announced in a May 29, 2015 State Department press statement, the rescission of Cuba's SST designation became effective on May 29. The rescission of the 1982 designation was done in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), as continued in effect by Executive Order 13222 of August 17, 2001; section 620A(c) of the Foreign Assistance Act of 1961, Public Law 87-195, as amended (22 U.S.C. 2371(c)); and section 40(f) of the Arms Export Control Act, Public Law 90-629, as amended (22 U.S.C. 2780(f)). 80 Fed. Reg. 31,945 (June 4, 2015). The press statement is available at <http://www.state.gov/r/pa/prs/ps/2015/05/242986.htm> and excerpted below.

* * * *

... On April 8, 2015, the Secretary of State completed that review and recommended to the President that Cuba no longer be designated as a State Sponsor of Terrorism.

Accordingly, on April 14, the President submitted to Congress the statutorily required report indicating the Administration's intent to rescind Cuba's State Sponsor of Terrorism designation...

The rescission of Cuba's designation as a State Sponsor of Terrorism reflects our assessment that Cuba meets the statutory criteria for rescission. While the United States has significant concerns and disagreements with a wide range of Cuba's policies and actions, these fall outside the criteria relevant to the rescission of a State Sponsor of Terrorism designation.

* * * *

Effective June 15, 2015, in response to the rescission of Cuba's SST designation, OFAC amended the Terrorism List Governments Sanctions Regulations to replace the list of countries designated as supporting international terrorism and made a conforming amendment to the Cuban Assets Control Regulations. 80 Fed. Reg. 34,053 (June 15, 2015). Effective July 22, 2015, the Department of Commerce Bureau of Industry and Security ("BIS") amended the Export Administration Regulations ("EAR") to implement the rescission of Cuba's SST designation. 80 Fed. Reg. 43,314 (July 22, 2015).

4. Sudan

On February 12, 2015, Ambassador Power delivered the U.S. explanation of vote on the Security Council's renewal of the mandate of the Sudan sanctions panel of experts. Ambassador Power's statement is excerpted below and available at <http://usun.state.gov/remarks/6368>.

* * * *

In November, this Council was confronted with reports of an alleged mass rape in Thabit—a town in North Darfur, Sudan. The UN peacekeeping mission in Darfur attempted to investigate, but was systematically denied meaningful access. The one time the peacekeepers were permitted to reach Thabit, Sudanese military and intelligence officials refused to let them interview alleged rape victims in private, and in some cases recorded the interviews. To this day, the Government of Sudan has shamefully denied the UN the ability to properly investigate this incident, despite this Council's mandate for UNAMID to do precisely that.

* * * *

Nearly ten years after the Security Council first adopted Resolution 1591 with the aim of protecting civilians in Darfur and stopping the violence there, the horror of Thabit is just one attack, in one place, out of too many to count.

In 2014 alone, more than 450,000 additional people were displaced in Darfur—the highest number of new IDPs in any year since 2004—adding to the approximately two million people already displaced. In the first six weeks of this year, humanitarian organizations estimate an additional 36,000 people have been driven from their homes in North Darfur State.

* * * *

Today we renewed the mandate of an important UN panel that monitors the sanctions imposed by this Council—sanctions the government of Sudan continues to flout. The government and armed groups it supports routinely violate the arms embargo—a fact that they openly acknowledge. They continue to launch deliberate attacks on civilians, as well as on UNAMID peacekeepers; between December 2013 to April 2014 alone, 3,324 villages were destroyed in Darfur, according to the Panel of Experts. And the Sudanese government continues to allow individuals subject to sanctions to travel and access their finances.

Today we renewed a sanctions monitoring panel that has provided thorough, independent monitoring of the Government of Sudan and other armed groups in Darfur, with a resolution that is more forward-leaning than its predecessors.

But even as we take this important step, we are reminded that the sanctions regime is impotent when the Sudanese government systematically violates it, and the Council cannot agree to impose sanctions on those responsible for the violence and the abuses.

Nonetheless, today's resolution matters. It speaks to our deep concern with these ongoing violations, it presses the Government of Sudan to take the long-overdue steps necessary to protect the people of Darfur and stop the violence. For the first time, it condemns the violence perpetrated by the government-backed Rapid Support Forces, the heirs to the Janjaweed. And, for the first time, it urges the Sudanese government to account for the situation of civilian populations, who are suffering from devastating waves of attacks in North Darfur, like the reported mass rapes at Thabit.

Yet encouraging as it is to see some very modest improvements to today's renewals resolution, the most important measure of our efforts will be our ability to alleviate the immeasurable suffering of the people of Darfur. And on that front, this Council—and the international community—has failed. Our complacency is deadly for the people of Darfur. So perhaps today, with a slightly more robust sanctions resolution, we can reignite this Council's engagement on this continuing crisis.

People's lives depend on it, and so too does the credibility of this Council—because our ability to promote international peace and security depends on our ability to keep our word, and implement the measures that we impose. And we need to do it because for every Thabit we know about, there are so many more villages that have been the victims of unspeakable atrocities over the past decade in Darfur. They demand we find a way to stop this, and we must.

* * * *

5. Nonproliferation

a. Democratic People's Republic of Korea

(1) UN sanctions

In Resolution 2207 (2015), the Security Council renewed the mandate of the panel of experts created by Resolution 1874 (2009). U.N. Doc. S/RES/2207.

(2) *U.S. sanctions*

(a) *E.O. 13687*

On January 2, 2015, President Obama issued Executive Order 13687, "Imposing Additional Sanctions With Respect To North Korea." 80 Fed. Reg. 817 (Jan. 6, 2015). The order is based on the President's finding that:

the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its destructive, coercive cyber-related actions during November and December 2014, actions in violation of UNSCRs 1718, 1874, 2087, and 2094, and commission of serious human rights abuses, constitute a continuing threat to the national security, foreign policy, and economy of the United States...

The new executive order expands on sanctions previously authorized by E.O. 13466 of 2008, E.O. 13551 of 2010, and E.O. 13570 of 2011. Specifically section 1 of E.O. 13687 authorizes sanctions on "any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

- (i) to be an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea;
- (ii) to be an official of the Government of North Korea;
- (iii) to be an official of the Workers' Party of Korea;
- (iv) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the Government of North Korea or any person whose property and interests in property are blocked pursuant to this order; or
- (v) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of North Korea or any person whose property and interests in property are blocked pursuant to this order."

On March 16, 2015, the Department of the Treasury published the names of 10 individuals and three entities whose property and interests in property were blocked pursuant to E.O. 13687. 80 Fed. Reg. 13,667 (Mar. 16, 2015).

On July 23, 2015, OFAC designated one individual (Leonard Lai) and one entity (Senat Shipping Limited) pursuant to E.O. 13551. 80 Fed. Reg. 48,137 (Aug. 11, 2015).

On November 13, 2015, OFAC designated four individuals and one entity pursuant to E.O. 13687: Sok Chol KIM, Kwang Hyok KIM, Chong Chol RI, Su Man HWANG, and EKO DEVELOPMENT AND INVESTMENT COMPANY. 80 Fed. Reg. 72,147 (Nov. 18, 2015).

(b) *E.O. 12938, E.O. 13382, and Missile Proliferation Sanctions*

Effective September 24, 2015, the U.S. Government imposed sanctions on two North Korean entities that were determined to have engaged in proliferation activities pursuant to Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 28, 1998 and Executive Order 13382 of June 28, 2005. 80 Fed. Reg. 57,650 (Sep. 24, 2015). The two entities are Hesong Trading Corporation and Korea Mining and Development Corporation (“KOMID”). The sanctions include a procurement ban; an assistance ban; an import ban; and a two-year suspension on licenses for exports, transfers, and imports of defense articles and services pursuant to the International Traffic in Arms Regulations and the Arms Export Control Act.

Effective September 24, 2015, the same two entities, Hesong Trading and KOMID, were also subject to the imposition of measures pursuant to missile proliferation sanctions authorities in the Arms Export Control Act, as amended, and the Export Administration Act of 1979, as amended (as carried out under Executive Order 13222 of August 17, 2001). 80 Fed. Reg. 57,649 (Sep. 24, 2015). The missile sanctions imposed for a period of two years include: the denial of licenses for the transfer of U.S. Munitions List and Export Administration Act controlled items; the denial of U.S. Government contracts; and a prohibition on imports into the United States of their products. In addition, these same sanctions extend for two years to all activities of the North Korean government relating to the development or production of missile equipment or technology and all activities of the North Korean government affecting the development or production of electronics, space systems or equipment, and military aircraft. *Id.*

On December 8, 2015, the State Department announced the designation of North Korea’s Strategic Force pursuant to E.O. 13382. The December 8 media note concerning the designation is available at <http://www.state.gov/r/pa/prs/ps/2015/12/250478.htm>. As explained in the media note,

The Strategic Force conducted multiple ballistic missile launches during 2014. Specifically, it conducted the launches of two short-range Scud-class ballistic missiles, test-fired two medium-range No Dong-class ballistic missiles, and conducted the launch of a short-range ballistic missile. All missiles had a range of 500km or greater. The launches of these missiles materially contributed to North Korea’s ballistic missile program.

The media note also announced concurrent designations by the Department of the Treasury pursuant to E.O. 13382 and E.O. 13551 (“Blocking Property of Certain Persons With Respect to North Korea”).

b. *Iran, North Korea, and Syria Nonproliferation Act*

The Department of State imposed sanctions pursuant to the Iran, North Korea, and Syria Nonproliferation Act on multiple foreign persons based on a determination on August 28, 2015 that those persons had engaged in transfers or acquisitions to or from Iran, North Korea, or Syria of goods, services, or 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. 80 Fed. Reg. 53,222 (Sep. 2, 2015) and 80 Fed. Reg. 65,844 (Oct. 27, 2015) (correcting the effective date of the sanctions). Those sanctioned include individuals and entities in China, Iran, North Korea, Russia, Sudan, Syria, and the UAE. *Id.*

On November 19, 2015, the Department decided to modify the sanctions imposed on one of the entities listed in the September 2, 2015 notice in the Federal Register: Rosoboronexport (“ROE”). 80 Fed. Reg. 73,865 (Nov. 25, 2016). The modification allows that sanctions will not apply to “subcontracts at any tier with ROE and any successor, sub-unit, or subsidiary thereof made on behalf of the United States Government for goods, technology, and services for the maintenance, repair, overhaul, or sustainment of Mi-17 helicopters for the purpose of providing assistance to the security forces of Afghanistan, as well as for the purpose of combating terrorism and violent extremism globally.” *Id.*

c. *Executive Order 13382*

See section 5.a.(2)(b), *supra*, for sanctions imposed on two North Korean entities pursuant to E.O. 13382.

On March 31, 2015, OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated three entities whose property and interests in property are blocked pursuant to Executive Order 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”: DENISE COMPANY, SHADI FOR CARS TRADING, and SIGMA TECH COMPANY. 80 Fed. Reg. 20,078 (Apr. 14, 2015).

d. *Chemical and biological weapons sanctions*

On February 18, 2015, the State Department made a determination pursuant to Section 81(e) of the Arms Export Control Act and Section 11C(e) of the Export Administration Act of 1979, as amended, to waive nonproliferation sanctions imposed on two Chinese entities. 80 Fed. Reg. 9846 (Feb. 24, 2015). The two entities, Nanjing Chemical Industries Group (“NCI”) and Jiangsu Yongli Chemical Engineering and Technology Import/Export Company, were originally sanctioned in 1997.

6. Terrorism

a. *UN and other coordinated multilateral action*

On February 12, 2015, Ambassador Power delivered the U.S. explanation of vote at a Security Council session on threats to international peace and security caused by terrorist acts. Her remarks, lauding Resolution 2199 on countering ISIL, al-Nusra, and other groups associated with al-Qaeda, are excerpted below and available at <http://usun.state.gov/remarks/6369>.

* * * *

Today the Security Council adopted a robust Chapter VII resolution to counter the threat posed by the Islamic State in Iraq and the Levant, the al-Nusra Front, and other individuals and entities associated with al-Qaeda. The unanimous vote in favor of Resolution 2199 shows our joint commitment to confronting violent extremist groups that threaten our collective security and the human rights the United Nations was created to defend.

The United States strongly supports today's resolution, which is part of a comprehensive strategy to degrade and ultimately destroy ISIL. The strategy also includes coordinated efforts by many nations to conduct robust military operations to degrade ISIL's military capabilities; to enact tougher laws and foster better cooperation to stop the flow of foreign terrorist fighters who fill ISIL's ranks; and to counter the violent ideologies that attract people to ISIL and help fuel the group's attacks.

In recent weeks and months, we have seen what this strategy can yield. Together with partners, we are degrading ISIL's leadership capabilities; knocking out oil fields, refineries, and other associated infrastructure that ISIL controls; and supporting troops on the ground as they fight to recapture territory from the group, as was achieved in Kobani.

As a result of these and other efforts, ISIL is having a harder time generating new funds needed to carry out its operations. Today's resolution aims to make that effort even more challenging, by using sanctions and other punitive tools to target three ISIL income streams.

First, the resolution provides states with clear, practical instruction for how to cut off ISIL's illicit oil smuggling. UN sanctions already require states to stop this trade. But this resolution also presses states to step up their efforts to prevent and disrupt the movement of vehicles going to and from ISIL and al-Nusra Front-controlled areas, to stop the flow of assets traded by the groups—whether oil, precious metals and minerals, or refining equipment.

Second, by imposing a new ban on the trade in smuggled Syrian antiquities, this resolution both cuts off a source of ISIL revenue and helps protect an irreplaceable cultural heritage, of the region and of the world. To help stop this trade, the United States has sponsored the publication of so-called "Emergency Red Lists" of Syrian and Iraqi antiquities at risk, which can help international law enforcement catch antiquities trafficked out of these countries.

Third, the resolution reinforces the existing prohibition in UN sanctions on all payments and donations to ISIL, al-Nusra Front, and other al-Qaeda affiliates—including ransoms—which

perpetuate a cycle of horrific brutality, giving these groups resources to carry out more murderous acts and incentivizing them to take more people captive.

* * * *

The United States joined Italy and Saudi Arabia in 2015 to form a coalition to combat ISIL's financial networks, the Counter-ISIL Finance Group ("CIFG"). The Group held its inaugural meeting in Rome, Italy from March 19 to 20, 2015. See March 20, 2015 State Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/03/239592.htm>. Excerpts follow from the March 20, 2015 media note on the establishment of CIFG.

* * * *

Representatives from 26 countries and several multilateral organizations met to agree on an Action Plan to further their understanding of ISIL's financial and economic activities, share relevant information, and develop and coordinate efforts to combat ISIL's financial activities.

The CIFG was established as part of the Counter-ISIL Coalition effort to enhance coordination among international partners on key lines of effort to defeat ISIL. The CIFG will meet regularly to consult on efforts to counter ISIL's financial activities and economic sustainment. The next meeting of the CIFG is scheduled to take place in Saudi Arabia in early May 2015.

The CIFG Action Plan notes the unique terrorist financing challenges posed by ISIL, and identifies and establishes key steps that Coalition members, and potentially the entire international community, should undertake to disrupt ISIL's sources of revenue, movement and use of funds, and its overall economic sustainment. The key objectives of the CIFG will be to (1) prevent ISIL's use of the international financial system, including unregulated money remitters; (2) counter ISIL's extortion and exploitation of economic assets and resources—such as cash, oil, agricultural goods, cultural property, and other economic commodities—that transit, enter, or are derived from areas in which ISIL operates; (3) deny ISIL funding from abroad, including from external donors, foreign terrorist fighters, and kidnapping for ransom; and (4) prevent ISIL from providing financial or material support to foreign affiliates in an effort to expand its global ambitions. In addition, the CIFG will promote the implementation of United Nations Security Council Resolutions specifically targeted at ISIL and other al-Qaida associated groups in Iraq and Syria.

The CIFG will work to accomplish these goals through enhanced information collection and sharing, developing new countermeasures, providing technical assistance, coordinating sanctions efforts, strengthening internal anti-money laundering/counter-terrorist financing measures, and private sector outreach, among other steps.

* * * *

U.S. Treasury Secretary Jacob Lew chaired a special meeting of the UN Security Council on December 17, 2015 on countering the financing of terrorism. The meeting was the first ever where finance ministers represented the UN Security Council member states. As explained in the December 17, 2015 fact sheet on the meeting, available at <http://usun.state.gov/remarks/7058>, the UN Secretary-General and the President of the Financial Action Task Force (“FATF”), the international standard-setting body on countering terrorist financing, also spoke at the meeting. The meeting concluded with the adoption of Resolution 2253 (2015) on countering ISIL, Al-Qaida, and associated individuals, groups, undertakings, and entities. Excerpts follow from the U.S. fact sheet.

* * * *

Isolating ISIL from the international financial system is an integral part of the Administration's strategy to degrade and ultimately destroy ISIL. Successfully countering terrorist financing requires a global response. The goal of this meeting was to bolster international efforts to further disrupt ISIL's sources of revenue and isolate ISIL from the international financial system.

At this meeting, Security Council finance ministers unanimously adopted a Security Council resolution that improves the international community's ability to disrupt ISIL financing and to counter the financing of terrorism more broadly.

Key Topics Covered During the Meeting

Strengthening Global Efforts to Disrupt Financing of ISIL and other Terrorist Groups

Security Council finance ministers today focused on urgent steps needed to deny ISIL access to funds and other forms of support, limit what ISIL can do with its revenue, and impose sanctions on ISIL's supporters and financial facilitators to isolate them from the international financial system. Ministers focused on efforts to ensure the international community is implementing global standards on countering the financing of terrorism. They emphasized the importance of sharing information on ISIL financing and committed to making the international financial system a hostile environment for ISIL.

The discussion built on work started over a year ago when the Global Coalition to Counter ISIL established the Counter ISIL Finance Group, chaired by the United States, Italy, and Saudi Arabia. The [Counter ISIL Finance Group](#), which is made up of more than 30 members worldwide, is focused on enhancing the exchange of information on ISIL's financial activities, targeting ISIL's oil revenues, combatting the financing of ISIL's affiliates, and addressing its sales of antiquities, among other topics.

Ministers also focused on means to more effectively disrupt terrorist financing more broadly, beyond ISIL. The international community already has an array of authorities and standards in place to combat terrorist financing, including UN and other multilateral legal and regulatory frameworks, such as the FATF's international standards. However, it is important that countries now *implement* these measures more rigorously.

Background on the Resolution Adopted at this High-Level Event

Sharpening UN Tools to Counter Terrorist Finance

The principal UN tool to counter ISIL and Al-Qaida-related financing is the Security Council's 1267/1989 Al Qaida sanctions regime. For over fifteen years, the UN has had in place robust sanctions—including an asset freeze, travel ban and ban on transferring arms—against Al-

Qaida and associated groups and individuals. These are binding measures taken under Chapter VII of the United Nations Charter, and UN Member States are required to enforce them without delay.

During this meeting, Security Council members, represented by their finance ministers unanimously adopted a resolution to review the UN sanctions on Al-Qaida and adapt these measures to the evolving terrorist threat. The Security Council has adopted a new 1267 resolution every 18 months to focus these sanctions on the latest trends in terrorist finance. This resolution will incorporate the substantial knowledge the international community has gained since the Security Council last reviewed these sanctions in June 2014, in particular to address ISIL's finances and the new ways in which terrorists and terrorist organizations acquire funding and support.

The key provisions of this new resolution include:

- Recognizing the increasing prominence of ISIL as a global threat by renaming the current 1267/1989 Al-Qaida Sanctions Regime and List to the 1267/1989 *ISIL (Da'esh) and Al Qaida Sanctions Regime and List*.
- Establishing "association with ISIL" as a new stand-alone criterion for imposing new sanctions designations (the previous criterion was "association with Al-Qaida").
- Calling upon countries to criminalize financial transactions related to terrorism, including all transactions with individual terrorists and terrorist groups, not just those transactions tied to terrorist acts, in order to better disrupt the activities of foreign terrorist fighters.
- Providing guidance on stopping ISIL's oil smuggling, extortion and taxation, robbery, kidnapping for ransom, foreign donations, trade in antiquities, and human trafficking.
- Calling on countries to improve communication and information sharing on terrorist financing among their government agencies.
- Encouraging countries to enhance engagement with the private sector to better identify terrorist financing activity, particularly by encouraging governments to develop stronger relationships with financial institutions.
- Underscoring the need for countries to better implement the international standards and guidelines developed by FATF to counter terrorist financing.
- Requesting regular UN reporting on ISIL's efforts to radicalize and recruit members, including foreign terrorist fighters, its sources of finance, including through illicit trade in oil, antiquities, and other natural resources, and its planning and facilitation of attacks.
- Adding two new experts to the UN's Al-Qaida Sanctions Monitoring Team to focus on ISIL (the Monitoring Team is composed of eight specialists who monitor implementation of the UN sanctions).
- Requesting countries to provide a report to the UN on their progress in implementing the measures in this resolution.

* * * *

Secretary Lew's remarks at the special Security Council meeting on December 17, 2015 are excerpted below and available at <http://usun.state.gov/remarks/7059>.

* * * *

... We come together at a consequential time, and in a historic setting: never before have finance ministers convened for an official Security Council meeting. This unprecedented session underscores the importance of combating the financing of terrorism, the international community's dedication to destroying ISIL, and the critical role of finance ministries and the broader international financial community in this fight.

* * * *

After the September 11th attacks, the United States and our international partners vowed to counter terrorism with every tool at our disposal. Early on, we recognized the need to target the financial resources of terror networks, depriving them of the funds they need to recruit, train, travel, equip, attack, and murder.

Since that time, we have greatly strengthened the transparency and resilience of the international financial system and developed tools to track and disrupt terror funding streams. The impact is real. Regulators and financial institutions alike are far more sophisticated and attuned to the threat of terror financing, and have made it harder for terror groups, like Al-Qaida and Hizballah, to place and move funds. Our financial system is more transparent, resilient, and stronger as a result. We have uncovered and cut off channel after channel of support to Al-Qaida, leaving its branches hungry for funding, and less capable of plotting and carrying out attacks. We've also improved our ability to deploy these tools in effective and sophisticated ways against other illicit finance threats, most notably in our successful, multilateral effort to bring Iran to the negotiating table over its nuclear program.

But we have also seen the terror threat evolve in dangerous ways. Different tactics, like lone wolf attacks or shootings, are examples we have seen on American soil. And new groups have emerged, with innovative messaging, recruiting, military, and financing strategies. ISIL is the most dangerous manifestation of this new threat. Since it emerged, ISIL has terrorized the people of Iraq and Syria with its attacks in Paris and elsewhere, killed and wounded people from many nations and religions. Our governments, in coordination with the UN and other multilateral organizations, have been countering ISIL for some time, but we all know there is more we need to do together to degrade and destroy this brutal force of terror.

Since 2014, the United States has been working to destroy ISIL by, as President Obama made clear again last week, "drawing upon every aspect of American power." A critical part of the U.S. whole-of-government strategy is the use of counterterror financing tools and authorities to stop ISIL's operations by isolating it financially and economically.

As many of you know, ISIL is a challenging financial target. Unlike other terror groups, ISIL derives a relatively small share of its funding from donors abroad. Instead, ISIL generates wealth from economic activity and resources within territory under its control. And ISIL's financing has evolved from seizing territory and looting bank vaults to leveraging more renewable revenue streams: so far, ISIL has reaped an estimated \$500 million dollars from black market oil and millions more from people it brutalizes and extorts.

At the same time, ISIL has financial vulnerabilities. And the U.S. approach has evolved as well to attack these vulnerabilities; ISIL's newer financing methods are now targets. Because of its need to control territory, ISIL requires large and renewable streams of income to pay fighters, procure weapons, and provide basic services for local populations. And in order to

sustain its oil infrastructure and its military efforts, ISIL needs access to the international financial system. Those dependencies present opportunities for attack.

To cut off ISIL resources and funding streams, most importantly revenue from its oil sales, the United States military has been working with coalition partners to attack ISIL's entire oil supply chain: its oil fields, refineries, and its tanker trucks. Over the past month, nearly 400 of ISIL's oil tanker trucks have been destroyed. While these attacks are having a real and growing impact, the United States and the international community must also work with countries bordering Iraq and Syria to enhance border security to help stop illicit cross-border flows.

To sever ISIL from the international financial system, the United States is working with its partners to actively target ISIL's key financial facilitators, sanctioning more than 30 of its senior leaders and financiers; U.S. officials have worked with the Government of Iraq to deny ISIL access to the Iraqi financial system; and, in collaboration with law enforcement and foreign partners, U.S. officials have worked with financial institutions as they refine their ability to detect activity associated with ISIL supporters.

While we are making progress to financially isolate ISIL, if we are to succeed we must all intensify our efforts, on our own and together at an international level.

Today, we adopted a new UN Security Council resolution that builds on previous measures and strengthens our existing tools. It expands the focus of UN Security Council resolution 1267 Al-Qaida sanctions to specifically emphasize ISIL in the designation criteria, making ISIL-association grounds for targeted sanctions. It calls on Member States to ensure they have the legal tools to criminalize the financing of individual terrorists and terrorist organizations for any purpose—recruiting, training, travel, and other activities—even in the absence of a link to a specific terrorist act. It calls upon Member States to increase engagement with the private sector to prevent terrorist use of the financial system. And it encourages governments to better share information, internally and between nations, to avoid missing critical information about terrorist activities.

This resolution is a critical step, but the real test will be determined by the actions we each take after adoption. We need meaningful implementation, coordination, and enforcement from each country represented here, and many others. As we have all learned—with our work to counter Al-Qaida, ISIL, and other groups to date—the successful use of these counterterrorism financing tools requires robust domestic implementation, deep collaboration with private partners, and intense multilateral coordination and information-sharing. The importance of this coordination was exemplified this year when we at Treasury worked with our French and European counterparts in real time to provide over 1,300 leads immediately following the horrific Paris attacks in January and November. This type of coordination is ongoing and essential, and we must combine it with a relentless desire to adapt and change our tools as these groups adapt to us. The nations of the world standing together, acting together represents a more powerful force than our individual actions alone.

We must also work through other multilateral organizations. Last week, FATF held a meeting on investigating and prosecuting terrorist financiers and implementing targeted financial sanctions. And the Counter-ISIL Finance Group, which the United States leads along with Italy and Saudi Arabia, is focused on, among other things, expanding information-sharing and combatting the financing of ISIL affiliates.

Even as we continue this important work, we must also remain steadfast in our commitment to both protect the stability of the international financial system and expand financial inclusion so the benefits of global growth are broadly shared. These two objectives—

protecting the financial system from illicit activity while increasing access to financial services—are complementary, not conflicting, as we know that financial exclusion undermines the integrity of the entire financial sector and inclusion creates stakeholders around the world committed to positive change.

In conclusion, our joint work on counterterror financing over the past 14 years has taught us we can meet the long-term, evolving terror challenge, but we must keep adapting and we must stay focused to do so. This enhanced sanctions regime, and robust implementation of it and other counterterror financing measures, will help us meet the terror threat, whether from ISIL; or others, like Al-Qaida, Al-Shabab, Boko Haram, Hizballah, and Nusrah; or new individuals and groups.

* * * *

In large part, the United States implements its counterterrorism obligations under UN Security Council resolutions concerning ISIL, al-Qaida and Afghanistan sanctions, as well as its obligations under UN Security Council resolutions concerning counterterrorism, through Executive Order 13224 of September 24, 2001. Among the resolutions with which the United States has addressed domestic compliance through E.O. 13224 designations are Resolutions 1267 (1999), 1373 (2001), 1988 (2011), 1989 (2011), 2253 (2015), and 2255 (2015). Executive Order 13224 imposes financial sanctions on persons who have been designated in the annex to the 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 order. See 66 Fed. Reg. 49,079 (Sept. 25, 2001); see also *Digest 2001* at 881–93 and *Digest 2007* at 155–58.

b. U.S. targeted financial sanctions

(1) Department of State

In 2015, the Department of State announced the Secretary of State’s designation of numerous entities and individuals (including their known aliases) pursuant to E.O. 13224.

In a Federal Register notice dated January 21, 2015, the State Department announced the January 8 designation pursuant to E.O. 13224 of ‘Abdallah al-Ashqar 80 Fed. Reg. 3004 (Jan. 21, 2015). A January 14, 2015 Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/01/235955.htm>, provides further information about the designation:

‘Abdallah al-Ashqar is a Palestinian national reported to be a leader of the Mujahidin Shura Council in the Environs of Jerusalem (MSC), a designated Foreign Terrorist Organization (FTO) and Specially Designated Global Terrorist entity under E.O. 13224, and serves on their military committee. Al-Ashqar also

serves as a foreign relations official for the group. In addition to his leadership activity, al-Ashqar has sought missiles and other materials with which to attack Israel.

An umbrella group composed of several terrorist sub-groups based in Gaza, MSC has claimed responsibility for numerous attacks on Israel since the group's founding in 2012. For example, in August 2013, MSC claimed responsibility for a rocket attack targeting the southern Israeli city of Eilat. Previous attacks have also included improvised explosive devices, claiming civilian lives.

The Department designated Denis Cuspert on January 9, 2015. 80 Fed. Reg. 4619 (Jan. 28, 2015). In a February 9, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/02/237324.htm>, the Department provides background on Cuspert:

Cuspert is also listed by the United Nations 1267/1989 al-Qa'ida Sanctions Committee. ...

Denis Cuspert is a foreign terrorist fighter and operative for ISIL, a designated foreign terrorist organization. Cuspert joined ISIL in 2012 and has appeared in numerous videos on its behalf, the most recent dating from early November, in which he appears holding a severed head he claims belongs to a man executed for opposing ISIL. Born in Berlin, the 39-year-old Cuspert spent time in jail for various offenses. Now calling himself Abu Talha al-Almani, Cuspert has pledged an oath of loyalty to ISIL leader Abu Bakr al-Baghdadi and appears to serve as an ISIL recruiter with special emphasis on recruiting German speakers to ISIL. Cuspert is emblematic of the type of foreign recruit ISIL seeks for its ranks—individuals who have engaged in criminal activity in their home countries who then travel to Iraq and Syria to commit far worse crimes against the people of those countries. Foreign terrorist fighters are reported to have played significant roles in some of ISIL's most egregious crimes, including the massacres of the Sh'aitat tribe in Syria and the Abu Nimr tribe in Iraq, as well as the almost daily public executions in Raqqa. Cuspert has been a willing pitchman for ISIL atrocities. Cuspert is also wanted by the German government on suspicion of involvement in terrorist activities in his home country.

Also on January 9, 2015, the Department designated Maulana Fazlullah. 80 Fed. Reg. 2771 (Jan. 20, 2015). A January 13, 2015 Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/01/235901.htm>, provides the following information about Fazlullah:

Maulana Fazlullah was elected commander of Tehrik-e Taliban Pakistan (TTP) in November 2013, following the death of former TTP leader Hakimullah Mehsud. The Department of State designated TTP as a Foreign Terrorist Organization and

a Specially Designated Global Terrorist on September 1, 2010. TTP was also listed at the United Nations 1267/1989 Al-Qaida Sanctions Committee on July 29, 2011.

Under the leadership of Fazlullah, TTP claimed responsibility for the December 16, 2014 attack on a school in Peshawar, Pakistan that resulted in the deaths of at least 148 individuals, mostly students. Prior to becoming the leader of TTP, Fazlullah claimed he was behind the killing of Pakistani Army Major General Sanaullah Niazi in September 2013, as well as ordering the shooting of schoolgirl and activist Malala Yousafzai in 2012. Fazlullah was responsible for the beheading of 17 Pakistani soldiers after an attack in June 2012 and also ordered the targeted killings of elders who led peace committees against the Taliban.

The Secretary's March 18 designation of Aliaskhab Kebekov was published in the Federal Register on March 27, 2015. 80 Fed. Reg. 16,492 (Mar. 27, 2015). A March 25, 2015 State Department media note on the designation, available at <http://www.state.gov/r/pa/prs/ps/2015/03/239759.htm>, includes the following on Kebekov:

Kebekov is also listed by the United Nations 1267/1989 al-Qa'ida Sanctions Committee. ...

Aliaskhab Kebekov is the current leader of the Caucasus Emirate, a Specially Designated Global Terrorist entity operating primarily in the Russian North Caucasus. He became head of the group following the death of its former leader, Doku Umarov. In the summer of 2014, Kebekov issued a video statement proclaiming the Caucasus Emirate's "structural subordination" to al-Qa'ida and noted his group's readiness to execute orders and instructions from al-Qa'ida's leaders. In late December 2014, Kebekov praised the killing of 14 Chechen law enforcement officers by militants who claimed allegiance to him and the Caucasus Emirate. In 2013, Caucasus regional police sources reported that Kebekov ordered the killing of Sheikh Said-Afandi Chirkeyskiy, a prominent moderate religious leader in the Republic of Dagestan, also in the North Caucasus region of Russia, who was ideologically opposed to the Caucasus Emirate.

The Federal Register notice of the March 30, 2015 designation of Ali Ouni Harzi was published on April 16, 2015. 80 Fed. Reg. 20,552 (Apr. 16, 2015). The State Department issued a media note on April 14, 2015, available at <http://www.state.gov/r/pa/prs/ps/2015/04/240667.htm>, announcing the designation of Ali Ouni Harzi pursuant to E.O. 13224. Ali Ouni Harzi was also added to the UN 1267/1989 al-Qaida Sanctions List. The media note provides the following background on Ali Ouni Harzi:

Syrian-based Tunisian national Ali Ouni Harzi joined Ansar al-Sharia in Tunisia

(AAS-T) in 2011 and was a high-profile member known for recruiting volunteers, facilitating the travel of AAS-T fighters to Syria, and for smuggling weapons and explosives into Tunisia. AAS-T was designated as a Foreign Terrorist Organization (FTO), and a Specially Designated Global Terrorist entity under E.O. 13224, by the U.S. Department of State on January 13, 2014, and was added to the UN 1267/1989 al-Qaida Sanctions List on September 23, 2014.

The State Department designated Ahmed Diriye and Mahad Karate pursuant to E.O. 13224 on April 10, 2015. 80 Fed. Reg. 22,605 (Apr. 22, 2015). An April 21, 2015 State Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/04/240932.htm>, provides background information on Ahmed Diriye and Mahad Karate:

Ahmed Diriye became the leader of al-Shabaab following the death of the group's former leader, Ahmed Abdi Godane, in September 2014. Prior to replacing Godane, Diriye served in several positions within al-Shabaab, including as Godane's assistant, the deputy governor of Lower Juba region in 2008, and al-Shabaab's governor of Bay and Bakool regions in 2009. By 2013, he was a senior adviser to Godane, and served in al-Shabaab's "Interior Department," where he oversaw the group's domestic activity. He shares Godane's vision for al-Shabaab's terrorist attacks in Somalia as an element of al-Qa'ida's greater global aspirations.

Mahad Karate, also known as Abdirahim Mohamed Warsame, played a key role in the Amniyat, the wing of al-Shabaab responsible for the recent attack on Garissa University College in Kenya that resulted in nearly 150 deaths. The Amniyat is al-Shabaab's intelligence wing, which plays a key role in the execution of suicide attacks and assassinations in Somalia, Kenya, and other countries in the region, and provides logistics and support for al-Shabaab's terrorist activities.

The April 20, 2015 designations of Nikolaos Maziotis and Christodoulos Xiros pursuant to E.O. 13224 were published in the Federal Register on April 28, 2015. 80 Fed. Reg. 23,635 & 23,636 (Apr. 28, 2015) and announced in an April 21, 2015 Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/04/240928.htm>. The media note explains:

Christodoulos Xiros was one of the chief assassins of 17 November, until his arrest in 2002. In January 2014, Xiros was serving multiple life terms at the Korydallos Prison near Athens, Greece, when he disappeared while on furlough from the prison, after being granted temporary leave to visit his family in northern Greece. 17 November was active beginning in the 1970s through the early 2000s, claiming attacks against Greek politicians and businessmen, as well as Western interests. After his escape, he publicized a manifesto focusing on his discontent with the Greek government. Xiros was re-arrested by Greek police in

January 2015 while planning to carry out armed assaults in Greece, possibly with the intent to free other prisoners. At the time of his arrest, Xiros was likely coordinating with members of Conspiracy of Fire Nuclei, a group designated by the State Department under E.O. 13224 in 2011.

Nikolaos Maziotis is the leader of the Greek terrorist organization, Revolutionary Struggle. He was arrested with six other alleged members of Revolutionary Struggle in 2010, but went missing in the middle of his trial. In April 2014, under the leadership of Maziotis, Revolutionary Struggle claimed responsibility for a bomb blast in central Athens outside the branch offices of the Greek central bank. On July 16, 2014, Maziotis was re-arrested by Greek police after a shootout in Athens' central tourist district, which left four people wounded. Revolutionary Struggle was designated a foreign terrorist organization by the U.S. Department of State on May 18, 2009 and is most well-known for a rocket-propelled grenade attack on the U.S. Embassy in Athens in 2007.

In a Federal Register notice dated May 1, 2015, the Department announced the April 22, 2015 designation of Hussein Atris under E.O. 13224. 80 Fed. Reg. 25,000 (May 1, 2015). Meliad Farah and Hassan el-Hajj Hassan were designated at the same time. 80 Fed. Reg. 25,001 (May 1, 2015). The designations of Meliad Farah, Hassan el-Hajj Hassan, and Hussein Atris are further explained in an April 28, 2015 Department media note, available at <http://www.state.gov/r/pa/prs/ps/2015/04/241205.htm>:

On July 18, 2012, a bombing at the airport in Burgas, Bulgaria killed six people, including five Israeli tourists and a Bulgarian citizen. In July 2013, Meliad Farah and Hassan el-Hajj Hassan were publicly identified as key suspects in the bombing, which has been attributed to Hizballah, a designated Foreign Terrorist Organization (FTO). Both are believed to be located in Lebanon.

Hussein Atris is a member of Hizballah's overseas terrorism unit. In 2012, Atris was arrested in Thailand in connection with a terror warning about a possible attack in Bangkok. Atris was found to be hiding nearly three tons of ammonium nitrate, a component in the manufacture of explosives. In 2013, a Thai court sentenced Atris to two years and eight months in prison for illegally possessing the materials. He was released in September 2014, and traveled to Sweden and later Lebanon, where he is believed to be located currently.

The State Department designated Abdul Aziz Haqqani pursuant to E.O. 13224 on June 1, 2015. 80 Fed. Reg. 51,860 (Aug. 26, 2015).

The State Department designated Sajid Mohammad Badat pursuant to E.O. 13224 on August 3, 2015. 80 Fed. Reg. 51,861 (Aug. 26, 2015). On August 4, 2015, the Department designated Abu 'Ubaydah Yusuf al 'Anabi. 80 Fed. Reg. 54,650 (Sep. 10, 2015).

On August 19, 2015, the Department designated Muhammed Deif. 80 Fed. Reg. 54,366 (Sep. 9, 2015). Yahya Ibrahim Hassan Sinwar and Rawhi Mushtaha were

designated on August 27, 2015. 80 Fed. Reg. 54,366, 54,367 (Sep. 9, 2015). The Department provided further information about Yahya Sinwar, Rawhi Mushtaha, and Muhammed Deif in a September 8, 2015 media note available at <http://www.state.gov/r/pa/prs/ps/2015/09/246687.htm>:

Yahya Sinwar is a Hamas operative known for his role in founding the forerunner of the Izzedine al-Qassam Brigades, the military wing of Hamas, a designated Foreign Terrorist Organization (FTO) and SDGT. He was arrested by Israel in 1988 for his terrorist activity. Sinwar was later released from prison in 2011 as part of a prisoner swap for kidnapped Israeli soldier Gilad Shalit. Sinwar was serving four life sentences for the abduction and murder of two Israeli soldiers in the late 1980s. He is considered to be one of the most senior and prominent prisoners to be exchanged, and has called on militants to capture more Israeli soldiers.

Rawhi Mushtaha is a Hamas operative known for his role in founding the forerunner of the Izzedine al-Qassam Brigades. He was arrested by Israel in 1988 for his terrorist activity, but was released from prison in 2011 as part of a prisoner swap for kidnapped Israeli soldier Gilad Shalit. Mushtaha was serving four life sentences for murder and acts of terrorism. In 2015, Mushtaha also publicly called on Hamas's al-Qassam Brigades to kidnap more Israeli citizens in order to strike more prisoner exchange deals to free Hamas members.

Muhammed Deif is the top commander of the Izzedine al-Qassam Brigades. He is known for deploying suicide bombers and directing the kidnapping of Israeli soldiers. During the 2014 conflict between Israel and Hamas, Deif was the mastermind of Hamas's offensive strategy.

The Department designated Samir Kuntar on August 31, 2015. 80 Fed. Reg. 54,366 (Sep. 9, 2015). In a September 8, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/09/246687.htm>, the Department provided information regarding the designation of Samir Kuntar:

In April 1979, Samir Kuntar participated in the attempted kidnapping of an Israeli family in Nahariya, Israel that resulted in the deaths of five Israelis, including two young children. Kuntar was convicted in an Israeli court for the murders. Kuntar was later released from prison in 2008 as part of a prisoner exchange.

On his return to Lebanon, Kuntar was welcomed by Hizballah, a U.S. Department of State-designated Foreign Terrorist Organization, and he has since emerged as one of the group's most visible and popular spokesmen. Since Kuntar's return, he has also played an operational role, with the assistance of Iran and Syria, in building up Hizballah's terrorist infrastructure in the Golan Heights.

On September 7, 2015, the Department designated Peter Cherif. 80 Fed. Reg. 54,366 (Sep. 9, 2015). Emilie Konig was also designated on September 7, 2015. 80 Fed.

Reg. 58,805 (Sep. 30, 2015). Both were identified in a September 29, 2015 media note explaining multiple designations of foreign terrorist fighters (“FTFs”), which is available at <http://www.state.gov/r/pa/prs/ps/2015/09/247433.htm>. Descriptions of Konig and Cherif follow:

French citizen **Emilie Konig** traveled to Syria in 2012 to join and fight for ISIL. While in Syria, Konig directed individuals in France to attack French government institutions. In a video posted on May 31, 2013, Konig was shown training with weapons in Syria.

French citizen **Peter Cherif** is a foreign fighter and member of al-Qa’ida in the Arabian Peninsula (AQAP). In 2004, he was captured while fighting for al-Qa’ida in Iraq (AQI) near Fallujah. He was convicted in Baghdad in July 2006 for illegally crossing the border, and sentenced to 15 years in prison. He escaped in March 2007 after an insurgent attack and prison break, and traveled to Syria. He was later arrested in Syria, extradited, and served 18 months in jail in France. He was released pending trial and fled the country to Yemen. Cherif was sentenced to five years in prison, in absentia, for being a member of a terrorist organization.

In a September 9, 2015 media note, the Department announced the designation pursuant to E.O. 13224 of Algerian citizen Abu Ubaydah Yusuf al-Anabi. The media note, available at <http://www.state.gov/r/pa/prs/ps/2015/09/246716.htm>, identifies Abu Ubaydah Yusuf al-Anabi as a member of al-Qa’ida in the Islamic Maghreb (“AQIM”) who “is the leader of AQIM’s Council of Notables and serves as AQIM’s Media Chief. In an April 25, 2013 video, al-Anabi called for armed conflict by violent extremists against French interests throughout the world, presumably in response to France’s Mali intervention.”

Gulmurod Khalimov was designated pursuant to E.O. 13224 on September 16, 2015. 80 Fed. Reg. 58,806 (Sep. 30, 2015). The Department designated Sally-Anne Frances Jones, Maxime Hauchard, and Boubaker Ben Habib Ben Ali Hakim on September 21, 2015. 80 Fed. Reg. 58,803, 58,805 (Sep. 30, 2015). The entities, Mujahidin Indonesia Timur (“MIT”) and Jaysh Rijal al-Tariq al-Naqshabandi (Army of the Men of the Naqshabandi Order) were also designated on September 21, 2015. 80 Fed. Reg. 58,806 & 58,803 (Sep. 30, 2015). The Department designated Rustam Aselderov on September 22, 2015. 80 Fed. Reg. 59,221 (Oct. 1, 2015). ISIL-Caucasus Province was also designated on September 22, 2015. 80 Fed. Reg. 59,222 (Oct. 1, 2015). Jund al-Khilafah in Algeria was designated on September 24, 2015. 80 Fed. Reg. 59,221 (Oct. 1, 2015). On September 24, 2015, the State Department designated Tarkhan Ismailovich Gaziyeu, Shamil Izmaylov, and Nasser Muthana. 80 Fed. Reg. 59,220 & 59,221 (Oct. 1, 2015). On September 28, 2015, the State Department designated ISIL Khorasan. 80 Fed. Reg. 60,431 (Oct. 6, 2015). These individuals and entities were identified in a September 29, 2015 media note explaining multiple designations of foreign terrorist fighters (“FTFs”), which is excerpted below and available

at <http://www.state.gov/r/pa/prs/ps/2015/09/247433.htm>.

* * * *

The Department of State's designations today, and those carried out by the Treasury Department, highlight the scope of the foreign terrorist fighter challenge facing the international community. At the same time, these U.S. sanctions also underscore our resolve to counter the threat posed to international peace and stability by foreign terrorist fighters. The Counter-ISIL Coalition has taken a number of steps to address the flow of Foreign Terrorist Fighters, but it is clear that more work remains to be done.

Credible reports published recently on the topic of foreign terrorist fighters in Syria and Iraq have provided first-hand accounts of the barbaric injustices and nihilistic violence perpetrated by ISIL—the result of which has been defections from ISIL. The United States will continue to work closely with its partners and multilateral bodies to apply sanctions against ISIL's tyranny of violence and oppression.

The Islamic State of Iraq and the Levant – Caucasus Province (ISIL-CP) became ISIL's newest regional group on June 23, 2015 when the spokesman for ISIL leader Abu Bakr al-Baghdadi released an audio recording accepting the sworn allegiance of the fighters of four Caucasus regions—Dagestan, Chechnya, Ingushetia, and Kabardino-Balkaria. The statement also appointed Rustam Aselderov as the emir of the new ISIL-CP. On September 2, 2015, ISIL-CP claimed responsibility for an attack on a Russian military base in Magaramkent, southern Dagestan, which resulted in the deaths and injuries of a number of Russian citizens.

Islamic State of Iraq and the Levant Khorasan's (ISIL-K) formation was announced in an online video on January 10, 2015. The group is led by former Tehrik-e Taliban (TTP) commander Hafiz Saeed Khan, and consists of former Pakistani and Afghan Taliban faction commanders who swore an oath of allegiance to Abu Bakr al-Baghdadi. On January 26, 2015, ISIL spokesman Abu Muhammad al-Adnani announced ISIL's expansion into Khorasan by reporting that Baghdadi had accepted Khan's pledge and appointed him as Governor of Khorasan.

Rustam Aselderov is a former commander of the North Caucasus extremist group Caucasus Emirate, a designated SDGT, and the current leader of ISIL-CP. Aselderov defected from Caucasus Emirate, and swore allegiance to Abu Bakr al-Baghdadi in early December 2014. A spokesman for al-Baghdadi accepted this pledge of allegiance and appointed Aselderov as the "emir" of ISIL-CP, which conducted its first attack in September 2015, which resulted in the deaths of Russian citizens.

ISIL member and foreign fighter **Boubaker Hakim** appeared in an ISIL video where he claimed responsibility for the assassinations of two Tunisian political leaders in 2013. Previously, Hakim was reported to have ties with U.S. designated FTO Ansar al-Sharia Tunisia (AAS-T) and to have worked with related associates to target Western diplomats in North Africa.

Maxime Hauchard is a French national who traveled to Syria to join ISIL in August 2013. Hauchard was identified among the ISIL fighters who appeared in the November 2014 execution video which depicted the beheadings of several Syrian soldiers and showed the severed head of an American hostage.

Tarkhan Ismailovich Gaziyeu is a North Caucasian foreign terrorist fighter who has

been involved in the Chechen insurgency since 2003. In 2007, he became the Caucasus Emirate Commander of the Southwestern Front of the Province of Chechnya, and carried out numerous attacks in this role. Gaziyevev later split from the group in 2010 and then entered Syria through Turkey, where he now leads an ISIL-linked group known as Tarkhan Jamaat.

Shamil Izmaylov is a well-known Russian foreign terrorist fighter currently in Syria. Before arriving in Syria in 2012, Izmaylov trained in—and later set up his own—training center in Egypt. In mid-2013, Izmaylov established his own Russian-speaking ISIL faction in Raqqa. In addition to participating in combat in Syria, Izmaylov has also been associated with Caucasus Emirate.

Nasser Muthana traveled to Syria from his home in Cardiff, UK in November 2013, to fight for ISIL. In June 2014, Muthana was featured in an ISIL video where he admits to having participated in battles in Syria.

British citizen **Sally Jones** traveled from the UK to Syria in 2013 to join ISIL and fight alongside her husband, deceased ISIL hacker Junaid Hussain. Jones and Hussain targeted American military personnel through publication of a “hit list” online to encourage lone offender attacks. Jones has used social media to recruit women to join ISIL. In August 2015, Jones encouraged individuals aspiring to conduct attacks in Britain by offering guidance on how to construct homemade bombs.

Jund al-Khilafah in Algeria (JAK-A) emerged on September 13, 2014, when senior al-Qaida in the Islamic Maghreb (AQIM) military commanders broke away from the group and announced its allegiance to ISIL. JAK-A is best known for its abduction and subsequent beheading of French national Herve Gourdel in September 2014.

Mujahidin Indonesian Timur (MIT) is an ISIL-linked terrorist group operating in Indonesia. MIT members have ties to other U.S. Department of State designated FTOs, including Jemmah Anshorut Tauhid (JAT) and Jemaah Islamiya (JI). In July 2014, MIT’s leader, Abu Warda Santoso, pledged allegiance to ISIL. MIT has become increasingly bold in its attacks on security forces, which includes the use of explosives and shootings.

Former Tajikistan special operations colonel, police commander, and military expert **Gulmurod Khalimov** is a Syria-based ISIL member and recruiter. Khalimov was the commander of a special paramilitary unit in the Tajikistan Ministry of Interior. Khalimov appeared in a propaganda video confirming that he fights for ISIL.

In addition to the E.O. 13224 designations listed above, the Department of State has designated **Jaysh Rijal al-Tariq al Naqshabandi (JRTN)** as a Specially Designated Global Terrorists (SDGT) under E.O. 13224, and as a Foreign Terrorist Organization (FTO) under the Immigration and Nationality Act (INA). JRTN is a terrorist group that first announced insurgency operations against Coalition Forces in Iraq in December 2006 in response to the hanging of Saddam Hussein. JRTN claimed numerous attacks on Coalition Forces until their withdrawal in 2011. JRTN’s other goals include overthrowing the government of Iraq for a Ba’athist or similar regime. JRTN played an important role in some of ISIL’s most significant military advances, including the seizure of Mosul, Iraq’s second largest city.

Also under the FTO and E.O. 13224 authorities, the designations of Ansar Bayt al-Maqdis (ABM) have been amended to add several aliases, including **ISIL Sinai Province (ISIL SP)**. In November 2014, ABM pledged allegiance to ISIL, and has since used ISIL Sinai Province as its primary name. ISIL leadership accepted ABM’s pledge that same month. ISIL Sinai Province continues to attack Egyptian targets.

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On September 21, 2015, the Department amended the designation of the Islamic State of Iraq and the Levant to add the additional aliases the Islamic State, ISIL, and ISIS. 80 Fed. Reg. 58,804 (Sep. 30, 2015). On September 22, 2015, the Department amended the designation of Ansar Bayt al-Maqdis to include new aliases (as described in the September 29 media note excerpted above): ISIL Sinai Province, also known as Islamic State-Sinai Province, also known as Wilayat Sinai, also known as Sinai Province, also known as The State of Sinai, also known as Islamic State in the Sinai. 80 Fed. Reg. 58,806 (Sep. 30, 2015).

On October 29, 2015, the State Department designated Maghomed Maghomedzakirovich Abdurakhmanov pursuant to E.O. 13224. 80 Fed. Reg. 72,130 (Nov. 18, 2015). A November 13, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/11/249469.htm>, provides the following background information on Abdurakhmanov's designation:

Abdurakhmanov was also added to the UN 1267/1989 al-Qaida Sanctions List, requiring all member states to implement an assets freeze, a travel ban, and an arms embargo against Maghomed Maghomedzakirovich Abdurakhmanov.

Abdurakhmanov was accused of beheading three individuals in Syria and was subsequently arrested by Turkish authorities in July 2013. In July 2015, a Turkish court sentenced him and an associate to seven and a half years in prison for being members of a terrorist organization.

Emrah Erdogan was designated pursuant to E.O. 13224 in December 2015. 80 Fed. Reg. 77,691 (Dec. 15, 2015). A December 9, 2015 media note, available at <http://www.state.gov/r/pa/prs/ps/2015/12/250497.htm>, contains further information about Emrah Erdogan:

Erdogan has also been added to the UN 1267/1989 al-Qaida Sanctions List, requiring all member states to implement an assets freeze, a travel ban, and an arms embargo against Erdogan.

As a member of al-Qa'ida and al-Shabaab, Erdogan—a German national born in Turkey—recruited foreign terrorist fighters, participated in fighting, and raised funds for both groups. He was known to have trained with al-Shabaab and to have carried out attacks in Kenya and Uganda before being apprehended in Dar es Salaam, Tanzania; and extradited to Germany. Emrah Erdogan was sentenced to and is currently serving seven years in prison in Germany for joining militant groups in Pakistan and Somalia and for phoning in a false terror threat of attacks in Pakistan and Germany in November 2010.

The State Department also continued to review designations and delist persons who had been designated under E.O. 13224. On August 26, 2015 the Department revoked the designation of Revolutionary Organization 17 November as a Specially

Designated Global Terrorist pursuant to Section 1(b) of E.O. 13224. 80 Fed. Reg. 53,382 (Sep. 3, 2015). On November 3, 2015, the Department revoked the designation of Nasir al-Wahishi. 80 Fed. Reg. 72,470 (Nov. 19, 2015).

(2) OFAC

(a) OFAC designations

OFAC designated numerous individuals (including their known aliases) and entities pursuant to Executive Order 13224 during 2015. 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 80 Fed. Reg. 13,468 (Mar. 13, 2015) (three individuals—Fouzi Reda Darwish FAWAZ, Mustapha Reda Darwish FAWAZ, and Abdallah Asad TAHINI—and three entities—AMIGO SUPERMARKET LIMITED, KAFAK ENTERPRISES LIMITED, and WONDERLAND AMUSEMENT PARK AND RESORT LTD.); 80 Fed. Reg. 30,762 (May 29, 2015) (one individual—Issam SHAMMOUT—and two entities—AL-NASER AIRLINES and SKY BLUE BIRD AVIATION); 80 Fed. Reg. 34,791 (June 17, 2015) (three individuals—Kassem HEJEIJ, Husayn Ali FA'UR, and Adham Husayn TABAJA—and four entities—CAR CARE CENTER, AL-INMAA ENGINEERING AND CONTRACTING, AL-INMAA FOR ENTERTAINMENT AND LEISURE PROJECTS, and AL-INMAA GROUP FOR TOURISM WORKS, LLC); 80 Fed. Reg. 38,275 (July 2, 2015) (one individual—Abdul RASHID BALUCH); 80 Fed. Reg. 46,648 (Aug. 5, 2015) (one individual—Abd Al Nur SHALAN); 80 Fed. Reg. 48,136 (Aug. 11, 2015) (two individuals—'Abd al-Latif Bin 'Abdallah Salih Muhammad AL-KAWARI, Sa'd bin Sa'd Muhammad Shariyan AL-KA'BI); 80 Fed. Reg. 55,414 (Sep. 15, 2015) (four individuals—Mahir Jawad Yunis SALAH, Mohammed Reda Mohammed Anwar AWAD, Salih AL-ARURI, and Abu Ubaydah Khayri Hafiz AL-AGHA—and one entity—ASYAF INTERNATIONAL HOLDING GROUP FOR TRADING AND INVESTMENT); 80 Fed. Reg. 59,854 (Oct. 2, 2015) (fifteen individuals—Husayn Al-Salihin Salih AL-SHA'IRI, Bajro IKANOVIC, Mu'tassim Yahya 'Ali AL-RUMAYSH, Nasir Muhammad 'Awad al-Ghidani AL-HARBI, Muwaffaq Mustafa Muhammad AL-KARMUSH, Mounir Ben Dhaou Ben Brahim Ben HELAL, Tuah FEBRIWANSYAH, Muhammad Sholeh IBRAHIM, Tarad Mohammad ALJARBA, Aqsa MAHMOOD, Omar HUSSAIN, Hafiz Saeed KHAN, Ali Musa AL-SHAWAKH, Morad LAABOUDI, and Sami Jasim Muhammad AL-JABURI); 80 Fed. Reg. 60,749 (Oct. 7, 2015) (one individual—Aseel MUTHANA); 80 Fed. Reg. 60,957 (Oct. 8, 2015) (three individuals—Islam Seit-Umarovich ATABIYEV, Zaurbek GUCHAYEV, and Akhmed CHATAYEV); 80 Fed. Reg. 65,287 (Oct. 26, 2015) (one individual—Torek AGHA); 80 Fed. Reg. 70,080 (Nov. 12, 2015) (two individuals—Fadi Hussein SERHAN and Adel Mohamad CHERRI—and four entities—VATECH SARL, LE-HUA ELECTRONIC FIELD CO. LIMITED, AERO SKYONE CO. LIMITED, and LABICO SAL OFFSHORE); 80 Fed. Reg. 75,899 (Dec. 4, 2015) (two individuals—Mohammed NUR, and Mustapha CHAD).

(b) *OFAC de-listings*

In 2015, OFAC determined that ten persons that had been designated pursuant to E.O. 13224 should be removed from the Treasury Department's list of Specially Designated Nationals and Blocked Persons. Effective February 26, 2015, OFAC delisted one individual (Youssef NADA) and eight entities (ASAT TRUST REG., BA TAQWA FOR COMMERCE AND REAL ESTATE COMPANY LIMITED, BANK AL TAQWA LIMITED, NADA INTERNATIONAL ANSTALT, NADA MANAGEMENT ORGANIZATION SA, WALDENBERG, AG, YOUSSEF M. NADA, and YOUSSEF M. NADA & CO. GESELLSCHAFT M.B.H.). 80 Fed. Reg. 13,467 (Mar. 13, 2015). On June 24, 2015, OFAC delisted Son Hadi BIN MUHADJIR. 80 Fed. Reg. 38,275 (July 2, 2015).

c. *Annual certification regarding cooperation in U.S. antiterrorism efforts*

See Chapter 3 for discussion of the Secretary of State's 2015 determination regarding countries not cooperating fully with U.S. antiterrorism efforts.

d. *State sponsor of terrorism designation*

See discussion in Section 3 *supra* of the determination to rescind Cuba's designation as a state sponsor of terrorism ("SST").

7. **Russia and Ukraine**

a. *Sanctions in response to Russia's actions in Ukraine*

On March 11, 2015, OFAC designated 14 individuals and one entity pursuant to E.O. 13660, "Blocking Property of Certain Persons Contributing to the Situation in Ukraine," and one entity pursuant to E.O. 13685, "Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to the Crimea Region of Ukraine." 80 Fed. Reg. 13,957 (Mar. 17, 2015). For background on E.O. 13660, see *Digest 2014* at 646. For background on E.O. 13685, see *Digest 2014* at 651-52.

OFAC issued General Licenses 5, 6, 7, 8, and 9 under the Ukraine-related sanctions program in 2015. 80 Fed. Reg. 45,276 (July 29, 2015). General License No. 5 authorizes transactions and activities that would have been prohibited by E.O. 13685 but are necessary to wind down operations involving the Crimea region of Ukraine. General License No. 6 authorizes noncommercial, personal remittances to or from the Crimea region of Ukraine or for or on behalf of an individual ordinarily resident in the Crimea region of Ukraine. General License No. 7 authorizes the operation of accounts in U.S. financial institutions for individuals ordinarily resident in the Crimea region of Ukraine. General License No. 8 authorizes transactions related to the receipt and transmission of telecommunications and mail. General License No. 9 authorizes the

exportation of certain services and software incident to the exchange of Internet-based communications.

On July 30, 2015, OFAC blocked the property and interests in property of: four individuals and one entity pursuant to E.O. 13660; seven individuals and eight entities pursuant to E.O. 13661, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine”; and six entities pursuant to E.O. 13685. 80 Fed. Reg. 47,990 (Aug. 10, 2015). Simultaneously, OFAC identified eighteen entities as subject to the prohibitions of Directive 1 (as amended) of September 12, 2014, pursuant to E.O. 13662, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine” and seventeen entities as subject to the prohibitions of Directive 2 (as amended) and Directive 4 of September 12, 2014, pursuant to E.O. 13662. *Id.* The Federal Register notice lists all the persons and explains the bases for their designations. For background on E.O. 13662 and Directives 1, 2, and 4, see *Digest 2014* at 647-49.

b. *Magnitsky Act*

For background on the Sergei Magnitsky Rule of Law Accountability Act of 2012 (“Magnitsky Act”), see *Digest 2013* at 505-06.

8. Targeted Sanctions Relating to Threats to Democratic Process and Restoration of Peace, Security, and Stability

a. *Burundi*

On July 2, 2015, the Department of State announced that it was suspending several forms of assistance to Burundi in response to actions taken by the Government of Burundi, and particularly President Pierre Nkurunziza. The July 2 press statement announcing the suspension is excerpted below and available at <http://www.state.gov/r/pa/prs/ps/2015/07/244595.htm>. See Chapter 11 for a discussion of Burundi’s termination as a beneficiary under the African Growth and Opportunity Act.

* * * *

Burundian President Pierre Nkurunziza’s continued disregard for the Arusha Agreement has resulted in dozens of deaths, the exodus of over 144,000 Burundians to neighboring countries, and a freefall in the Burundian economy causing suffering to millions of Burundians. The Burundian Government’s decision to push forward with the June 29 parliamentary elections despite the complete absence of the necessary conditions for credible elections and widespread calls, including from the African Union and United Nations, to delay the voting further exacerbated an already dire situation.

With presidential elections now scheduled for July 15, the United States joins with the African Union, the United Nations, the European Union, and other regional bodies and leaders in urging President Nkurunziza to place the welfare of Burundi’s citizens above his own political

ambitions and participate in dialogue with the opposition and civil society to identify a peaceful solution to this deepening crisis. This solution should include the delay of the July 15 presidential elections until conditions are in place for free, fair, and peaceful elections.

Due to the precarious political and security situation in Burundi and the Government of Burundi's unwillingness to engage in good faith efforts to negotiate a solution, the United States has today suspended several security assistance programs on which it has cooperated with Burundi. In response to the abuses committed by members of the police during political protests, we are suspending all International Law Enforcement Academy and Anti-Terrorism Assistance training that we provide to Burundian law enforcement agencies.

Recognizing that Burundi's National Defense Force has generally acted professionally in protecting civilians during protests, the United States continues to value our partnership with the Burundian military and urges them to maintain professionalism and respect for the rule of law. However, due to the instability caused by the Burundian Government's disregard for the Arusha Agreement and its decision to proceed with flawed parliamentary elections, the United States is unable to conduct peacekeeping and other training in Burundi. As a result, the United States has suspended upcoming training for the Burundian military under the Department of Defense's Section 1206 Train and Equip program, as well as training and assistance under the Africa Military Education Program. We remain deeply concerned that the current crisis will further hamper our ability to support the important contribution of the Burundian military to international peacekeeping.

Finally, during our upcoming review of Burundi's eligibility for the trade preferences available to it under the African Growth and Opportunity Act, we will be taking into consideration ongoing violence and instability and the Government of Burundi's lack of respect for the rule of law in determining their eligibility for these trade preferences moving forward.

* * * *

On November 22, 2015, President Obama issued Executive Order 13712. 80 Fed. Reg. 73,633 (Nov. 25, 2015). He found the situation in Burundi, "which has been marked by the killing of and violence against civilians, unrest, the incitement of imminent violence, and significant political repression," constitutes the basis for declaring an emergency under IEEPA. Section 1 identifies as being subject to blocking and denial of entry into the U.S. the persons listed in the Annex to the order and:

(ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) to be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following in or in relation to Burundi:

(1) actions or policies that threaten the peace, security, or stability of Burundi;

(2) actions or policies that undermine democratic processes or institutions in Burundi;

(3) human rights abuses;

(4) the targeting of women, children, or any civilians through the commission of acts of violence (including killing, maiming, torture, or

rape or other sexual violence), abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through other conduct that may constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(5) actions or policies that prohibit, limit, or penalize the exercise of freedom of expression or freedom of peaceful assembly;

(6) the use or recruitment of children by armed groups or armed forces;

(7) the obstruction of the delivery or distribution of, or access to, humanitarian assistance; or

(8) attacks, attempted attacks, or threats against United Nations missions, international security presences, or other peacekeeping operations;

(B) to be a leader or official of:

(1) an entity, including any government entity or armed group, that has, or whose members have, engaged in any of the activities described in subsection (a)(ii)(A) of this section; or

(2) an entity whose property and interests in property are blocked pursuant to this order;

(C) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:

(1) any of the activities described in subsection (a)(ii)(A) of this section; or

(2) any person whose property and interests in property are blocked pursuant to this order; or

(D) 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.

The persons listed in the Annex are Alain Guillaume Bunyoni (Minister of Public Security); Cyrille Ndayirukiye (Former Defense Minister); Godefroid Niyombare (Major General) and Godefroid Bizimana.

On December 18, 2015, OFAC designated four additional individuals under E.O. 13712. 80 Fed. Reg. 80,462 (Dec. 24, 2015). A State Department press statement, "United States Imposes New Sanctions, Calls for Immediate Burundi Talks," available at <http://www.state.gov/r/pa/prs/ps/2015/12/250797.htm>, includes the following about the crisis in Burundi:

The United States is gravely concerned about the ongoing crisis in Burundi and the potential for additional violence and has imposed new targeted sanctions against four individuals whose actions threaten the peace, security, and stability of Burundi.

Our senior officials remain engaged at the highest levels with regional leaders to support immediate, internationally-mediated peace talks. The United

States continues to call upon Burundian President Nkurunziza, his government, and the opposition to de-escalate tensions, refrain from further violence, and fully participate in talks. We stand ready to support the African Union and the region in taking all necessary steps – including possible deployment of an intervention force – to prevent further violence and achieve a consensual, political resolution to this crisis.

b. *Venezuela*

On March 8, 2015, President Obama issued Executive Order 13692, “Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela.” 80 Fed. Reg. 12,747 (Mar. 11, 2015). The predicate finding underlying the order is that the situation of Venezuela:

including the Government of Venezuela's erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the exacerbating presence of significant public corruption, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.

Seven persons are listed in the Annex as being subject to the sanctions in E.O. 13692, which include both blocking property and a prohibition on entry into the United States. In addition, Section 1(a)(ii) of the E.O. authorizes the Secretaries of Treasury and State to designate additional persons determined to meet the following criteria:

(A) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, directly or indirectly, any of the following in or in relation to Venezuela:

(1) actions or policies that undermine democratic processes or institutions;

(2) significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014;

(3) actions that prohibit, limit, or penalize the exercise of freedom of expression or peaceful assembly; or

(4) public corruption by senior officials within the Government of Venezuela;

(B) to be a current or former leader of an entity that has, or whose members have, engaged in any activity described in subsection (a)(ii)(A) of this section or of an entity whose property and interests in property are blocked pursuant to this order;

- (C) to be a current or former official of the Government of Venezuela;
- (D) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:
 - (1) a person whose property and interests in property are blocked pursuant to this order; or
 - (2) an activity described in subsection (a)(ii)(A) of this section;
- (E) 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.

The White House issued a fact sheet on the new executive order, available at <https://www.whitehouse.gov/the-press-office/2015/03/09/fact-sheet-venezuela-executive-order>, and excerpted below.

* * * *

... The targeted sanctions in the E.O. implement the Venezuela Defense of Human Rights and Civil Society Act of 2014, which the President signed on December 18, 2014, and also go beyond the requirements of this legislation.

We are committed to advancing respect for human rights, safeguarding democratic institutions, and protecting the U.S. financial system from the illicit financial flows from public corruption in Venezuela.

This new authority is aimed at persons involved in or responsible for the erosion of human rights guarantees, persecution of political opponents, curtailment of press freedoms, use of violence and human rights violations and abuses in response to antigovernment protests, and arbitrary arrest and detention of antigovernment protestors, as well as the significant public corruption by senior government officials in Venezuela. The E.O. does not target the people or the economy of Venezuela.

Specifically, the E.O. targets those determined by the Department of the Treasury, in consultation with the Department of State, to be involved in:

- actions or policies that undermine democratic processes or institutions;
- significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014;
- actions that prohibit, limit, or penalize the exercise of freedom of expression or peaceful assembly; or
- public corruption by senior officials within the Government of Venezuela.

The E.O. also authorizes the Department of the Treasury, in consultation with the Department of State, to target any person determined:

- to be a current or former leader of an entity that has, or whose members have, engaged in any activity described in the E.O. or of an entity whose property and interests in property are blocked or frozen pursuant to the E.O.; or
- to be a current or former official of the Government of Venezuela;

Individuals designated or identified for the imposition of sanctions under this E.O., including the seven individuals that have been listed today in the Annex of this E.O., will have their property and interests in property in the United States blocked or frozen, and U.S. persons are prohibited from doing business with them. The E.O. also suspends the entry into the United States of individuals meeting the criteria for economic sanctions.

We will continue to work closely with others in the region to support greater political expression in Venezuela, and to encourage the Venezuelan government to live up to its shared commitment, as articulated in the OAS Charter, the Inter American Democratic Charter, and other relevant instruments related to democracy and human rights.

The President imposed sanctions on the following seven individuals listed in the Annex to the E.O.:

1. Antonio José Benavides Torres: Commander of the Strategic Region for the Integral Defense (REDI) of the Central Region of Venezuela's Bolivarian National Armed Forces (FANB) and former Director of Operations for Venezuela's Bolivarian National Guard (GNB).
 - Benavides Torres is a former leader of the GNB, an entity whose members have engaged in significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014. In various cities in Venezuela, members of the GNB used force against peaceful protestors and journalists, including severe physical violence, sexual assault, and firearms.
2. Gustavo Enrique González López: Director General of Venezuela's Bolivarian National Intelligence Service (SEBIN) and President of Venezuela's Strategic Center of Security and Protection of the Homeland (CESPPA).
 - González López is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or has participated in, directly or indirectly, significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014. As Director General of SEBIN, he was associated with the surveillance of Venezuelan government opposition leaders.
 - Under the direction of González López, SEBIN has had a prominent role in the repressive actions against the civil population during the protests in Venezuela. In addition to causing numerous injuries, the personnel of SEBIN have committed hundreds of forced entries and extrajudicial detentions in Venezuela.
3. Justo José Noguera Pietri: President of the Venezuelan Corporation of Guayana (CVG), a state-owned entity, and former General Commander of Venezuela's Bolivarian National Guard (GNB).
 - Noguera Pietri is a former leader of the GNB, an entity whose members have engaged in significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014. In various cities in Venezuela, members of the GNB used excessive force to repress protestors and journalists, including severe physical violence, sexual assault, and firearms.
4. Katherine Nayarith Haringhton Padron: national level prosecutor of the 20th District Office of Venezuela's Public Ministry.
 - Haringhton Padron, in her capacity as a prosecutor, has charged several opposition members, including former National Assembly legislator Maria Corina Machado and, as

- of February 2015, Caracas Mayor Antonio Ledezma Diaz, with the crime of conspiracy related to alleged assassination/coup plots based on implausible—and in some cases fabricated—information. The evidence used in support of the charges against Machado and others was, at least in part, based on fraudulent emails.
5. Manuel Eduardo Pérez Urdaneta: Director of Venezuela’s Bolivarian National Police.
 - Pérez Urdaneta is a current leader of the Bolivarian National Police, an entity whose members have engaged in significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014. For example, members of the National Police used severe physical force against peaceful protesters and journalists in various cities in Venezuela, including firing live ammunition.
 6. Manuel Gregorio Bernal Martínez : Chief of the 31st Armored Brigade of Caracas of Venezuela’s Bolivarian Army and former Director General of Venezuela’s Bolivarian National Intelligence Service (SEBIN).
 - Bernal Martínez was the head of SEBIN on February 12, 2014, when officials fired their weapons on protestors killing two individuals near the Attorney General’s Office.
 7. Miguel Alcides Vivas Landino: Inspector General of Venezuela’s Bolivarian National Armed Forces (FANB) and former Commander of the Strategic Region for the Integral Defense (REDI) of the Andes Region of Venezuela’s Bolivarian National Armed Forces.
 - Vivas Landino is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or has participated in, directly or indirectly, significant acts of violence or conduct that constitutes a serious abuse or violation of human rights, including against persons involved in antigovernment protests in Venezuela in or since February 2014.

* * * *

c. Burma

In 2015, the United States continued to modify sanctions in response to the government of Burma’s implementation of democratic reforms, while maintaining targeted sanctions on those who pose a threat to Burma’s peace and stability. On April 23, 2015, the State Department released a press statement, available at <http://www.state.gov/r/pa/prs/ps/2015/04/241034.htm>, announcing the delisting of Win Aung and two of his businesses that had been designated pursuant to E.O. 13448, “Blocking Property and Prohibiting Certain Transactions Related to Burma.” The Federal Register notice of the unblocking of Win Aung identifies the two entities (DAGON INTERNATIONAL LIMITED and DAGON TIMBER LIMITED) that were delisted on the same effective date, April 23, 2015. 80 Fed. Reg. 23,856 (Apr. 29, 2015).

Effective July 9, 2015, OFAC removed from its SDN list the names of three individuals whose property had been blocked pursuant to E.O. 13310 “Blocking Property of the Government of Burma and Prohibiting Certain Transactions” and E.O. 13448. 80 Fed. Reg. 41,560 (July 15, 2015). The individuals are Thidar ZAW, Maung BO, and Soe WIN.

The Treasury Department issued General License 20 relating to Burma on December 7, 2015. The State Department released a media note on December 7, explaining the rationale for the General License—a technical fix to allow Burmese trade while maintaining sanctions on designated persons. The State Department media note is excerpted below and available in full at <http://www.state.gov/r/pa/prs/ps/2015/12/250427.htm>.

* * * *

In response to reports of unintended interruptions of Burmese trade due to sanctions concerns with a key Rangoon port, the Treasury Department issued General License 20 (GL 20) today. GL 20 is a technical fix to support exports to and from Burma, while maintaining the integrity of U.S. sanctions and pressure on Specially Designated Nationals (SDNs).

GL 20 is aimed at solving a discrete set of problems connected to use of critical infrastructure, as sanctions concerns were disproportionately affecting exports to and from Burma. GL 20 addresses this by authorizing certain ordinarily incident transactions with SDNs in relation to exports to or from individuals or entities not subject to sanctions. Prior to GL 20, these exports may have been subject to U.S. sanctions if they transited critical Burmese infrastructure—such as ports, toll roads, or airports—in a way that involved ordinarily incident transactions in which an SDN, or any other person whose property or interests in property are blocked pursuant to the Burma sanctions, had an interest.

The United States remains committed to maintaining pressure on Burma's SDNs. GL 20 does not permit business dealings with SDNs outside the scope of transactions ordinarily incident to exports to and from Burma. For example, GL 20 does not authorize new investment with an SDN, including expansion of or upgrades to transportation facilities. Calibrated sanctions remain in place. These include, but are not limited to: a ban on new investment with the Ministry of Defense and SDNs; and a ban on the importation into the United States of Burmese-origin rubies, jadeite, and jewelry containing them.

GL 20 is not a response to the recent election and does not signal a change in U.S. sanctions policy toward Burma. Its duration is limited to six months, unless renewed or revoked. The outcome of Burma's recent elections remains to be implemented as Aung San Suu Kyi's National League for Democracy, the current government, and the military work toward a political transition that reflects the outcome of the elections and the will of the Burmese people.

Despite structural flaws, the elections were an important step forward in Burma's democratic process. The U.S. government will continue to review all of our policies in light of continued progress on a range of issues; including a full political transition to democratic civilian government; the peace process; respect for human rights of all Burma's diverse people, including the Rohingya population; and constitutional reforms.

* * * *

d. Zimbabwe

Effective September 3, 2015, OFAC removed from its list of those designated under the Zimbabwe sanctions program the names of three individuals (Louise S. NKOMO, Lovemore SEKERAMAYI, and Nathan Marwirakuwa SHAMUYARIRA) and one entity (ORYX NATURAL RESOURCES) whose property and interests in property had been blocked pursuant to Executive Order 13288 of March 6, 2003, "Blocking Property of Persons Undermining Democratic Institutions in Zimbabwe," as amended by Executive Order 13391, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe," and Executive Order 13469 of July 25, 2008, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe." 80 Fed. Reg. 54,370 (Sep. 9, 2015)

e. Liberia

On November 12, 2015, President Obama issued Executive Order 13710, terminating the emergency that had been declared in 2004 with respect to former Liberian President Charles Taylor. 80 Fed. Reg. 71,679 (Nov. 16, 2015). President Obama found that circumstances had changed in Liberia, noting in particular:

Liberia's significant advances to promote democracy and the orderly development of its political, administrative, and economic institutions, including presidential elections in 2005 and 2011, which were internationally recognized as freely held; the 2012 conviction of, and 50-year prison sentence for, former Liberian President Charles Taylor and the affirmation on appeal of that conviction and sentence; and the diminished ability of those connected to former Liberian President Charles Taylor to undermine Liberia's progress.

On December 1, 2015, OFAC identified 46 individuals and entities as no longer subject to the blocking provisions of Section 1(a) of E.O. 13348 and removed them from the Specially Designated Nationals List and Blocked Persons (SDN List) as of the effective date of Executive Order 13710. 80 Fed. Reg. 75,897 (Dec. 4, 2015). Two individuals were identified who, although they were delisted pursuant to E.O. 13348, would remain listed and subject to blocking pursuant to E.O. 13413 "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo." *Id.*

f. South Sudan

On March 3, 2015, the UN Security Council adopted Resolution 2206, establishing a targeted sanctions regime for South Sudan. On July 1, 2015, Ambassador Power released a statement on the Security Council sanctions imposed on six South Sudanese individuals under UNSCR 2206. Her statement is excerpted below and available at <http://usun.state.gov/remarks/6386>.

* * * *

Today, the Security Council took strong action in support of a peaceful end to the conflict in South Sudan by sanctioning six South Sudanese individuals for fueling the ongoing conflict and contributing to the devastating humanitarian crisis in their country.

Major-General Marial Chanuong Yol Mangok; Lieutenant-General Gabriel Jok Riak; Major-General Santino Deng Wol; Major-General Simon Gatwech Dual; Major-General James Koang Chuol; and Major-General Peter Gadet will now be subject to a global travel ban and asset freeze for their contributions to a conflict that has left more than 6.5 million people in need of humanitarian assistance and forced more than 2 million from their homes.

As the members of the Security Council demonstrated today, those who commit atrocities and undermine peace will face consequences. The United States joins other members of the Security Council in demanding that both parties immediately cease offensive military action and commit themselves to the difficult but necessary task of negotiating a peace agreement. Today's Council action also supports negotiation efforts by designating military leaders who all have committed abuses or violated the Cessations of Hostilities agreement. This step also responds directly to the May 22 and June 13 AU Peace and Security Council statements, which called on the Security Council to sanction those undermining the peace process.

The United States is appalled by recent reports of the targeting of women and girls for sexual abuse, including gang rape, and the burning alive of civilians in their homes, as detailed in UNMISS's June 29 human rights report on the Upper Nile region. Such allegations must be fully investigated and perpetrators held accountable. In the meantime, the way to avoid further designations is to put an end to such violence against civilians, stop the fighting and come to a peace agreement.

Next week, South Sudan will celebrate four years as an independent state. In the intervening years, however, South Sudan's political leadership has squandered the international goodwill that accompanied its independence and pursued political and economic self-interest that has produced only violence, displacement and suffering for the South Sudanese people. Political and military leaders on all sides of this conflict must put aside their self-serving ambitions, end the fighting, and engage in negotiations to establish a transitional government. The Security Council will continue to closely monitor the situation in South Sudan and stands ready to impose additional sanctions as may be warranted by the situation on the ground.

* * * *

On July 2, 2015, OFAC designated two individuals (Simon Gatwech Dual and Gabriel Jok Riak) pursuant to E.O. 13664, "Blocking Property of Certain Persons With Respect to South Sudan." 80 Fed. Reg. 39,836 (July 10, 2015).

g. Central African Republic

As discussed in *Digest 2014* at 663-64, the President issued E.O. 13667, "Blocking Property of Certain Persons Contributing to the Conflict in the Central African Republic,"

in 2014. On August 21, 2015, OFAC blocked the property of three individuals and two entities, supplemented information about an individual whose property is blocked, and removed the listing of one individual whose property had been blocked, pursuant to E.O. 13667. 80 Fed. Reg. 51,871(Aug. 26, 2015). On December 18, 2015, OFAC blocked the property of two individuals pursuant to E.O. 13667. 80 Fed. Reg. 80,462 (Dec. 24, 2015).

h. Côte d'Ivoire

On July 30, 2015, OFAC delisted two individuals who had been subject to the blocking provisions of E.O. 13396, "Blocking Property of Certain Persons Contributing to the Conflict in Côte d'Ivoire (Alcide Ilahiri DJEDJE and Pascal Affi N'GUESSAN). 80 Fed. Reg. 47,988 (Aug. 10, 2015).

i. Libya

On November 13, 2015, OFAC unblocked the property of Humayd 'ABD-AL-SALAM and removed him from the SDN list. 80 Fed. Reg. 72,146 (Nov. 18, 2015). He had been designated pursuant to E.O. 13566.

j. Balkans

Effective June 11, 2015, OFAC unblocked the property and interests in property of one individual (Milenko VRACAR) and one entity (PRIVREDNA BANKA SARAJEVO AD) designated under E.O. 13219, "Blocking Property of Persons Who Threaten International Stabilization Efforts in the Western Balkans," as amended by E.O. 13304 "Termination of Emergencies With Respect to Yugoslavia and Modification of Executive Order 13219 of June 26, 2001." 80 Fed. Reg. 33,338 (Jun. 11, 2015).

k. Yemen

On February 24, 2015, the UN Security Council adopted resolution 2204 on Yemen. U.N. Doc. S/RES/2204 (2015). Resolution 2204 renews the sanctions regime in resolution 2140 (2014), which authorizes the sanctions committee established pursuant to resolution 2140 to designate individuals or entities as "engaging in or providing support for acts that threaten the peace, security or stability of Yemen." On April 14, 2015, the UN Security Council adopted resolution 2216 on Yemen. U.N. Doc. S/RES/2216 (2015). The resolution imposes a targeted arms embargo on Ali Abdullah Saleh, Abdullah Yahya Al Hakim, Abd Al-Khaliq Al-Huthi, and the individuals and entities designated by the sanctions committee established pursuant to resolution 2140 (2014), as well as the individuals and entities listed in the annex of the resolution, and those acting on their behalf or at their direction in Yemen. The resolution also lists, in an annex, additional

persons subject to the measures imposed in resolution 2140 (2014). For background on resolution 2140, see *Digest 2014* at 659-60.

On April 14, 2015, the United States designated two individuals pursuant to E.O. 13611, "Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen." 80 Fed. Reg. 23,329 (Apr. 27, 2015). For background on E.O. 13661, see *Digest 2012* at 530-31. The designated individuals are Ahmed Ali SALEH, former ambassador to the United Arab Emirates and former commander of the Republican Guard; and Abdel-Malek HOUTHY, a leader of the Houthi group.

9. Transnational Crime

On April 16, 2015, OFAC designated three individuals pursuant to Executive Order 13581, "Blocking Property of Transnational Criminal Organizations." 80 Fed. Reg. 27,231 (May 12, 2015). For background on E.O. 13581, see *Digest 2011* at 518-19. On April 21, 2015, OFAC designated one additional individual and one entity pursuant to E.O. 13581. 80 Fed. Reg. 23,639 (Apr. 28, 2015). On November 12, 2015, OFAC designated two entities pursuant to E.O. 13581. 80 Fed. Reg. 72,147 (Nov. 18, 2015). On December 9, 2015, OFAC designated one individual pursuant to E.O. 13581. 80 Fed. Reg. 77,416 (Dec. 14, 2015).

10. Malicious Activities in Cyberspace

On April 1, 2015, President Obama issued Executive Order 13694, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities." 80 Fed. Reg. 18,077 (Apr. 2, 2015). The President issued the order based on his finding "that the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The order includes property blocking provisions as well as visa sanctions. Section 1(a) of E.O. 13694, describing those who are subject to sanction, follows.

* * * *

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be responsible for or complicit in, or to have engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably

likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of:

(A) harming, or otherwise significantly compromising the provision of services by, a computer or network of computers that support one or more entities in a critical infrastructure sector;

(B) significantly compromising the provision of services by one or more entities in a critical infrastructure sector;

(C) causing a significant disruption to the availability of a computer or network of computers; or

(D) causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, or financial information for commercial or competitive advantage or private financial gain; or

(ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(A) to be responsible for or complicit in, or to have engaged in, the receipt or use for commercial or competitive advantage or private financial gain, or by a commercial entity, outside the United States of trade secrets misappropriated through cyber-enabled means, knowing they have been misappropriated, where the misappropriation of such trade secrets is reasonably likely to result in, or has materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States;

(B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, any activity described in subsections (a)(i) or (a)(ii)(A) of this section or any person whose property and interests in property are blocked pursuant to this order;

(C) 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; or

(D) to have attempted to engage in any of the activities described in subsections (a)(i) and (a)(ii)(A)-(C) of this section.

* * * *

On December 31, 2015, OFAC issued regulations to implement E.O. 13694. 80 Fed. Reg. 81,752 (Dec. 31, 2015). The Cyber-Related Sanctions Regulations were published in December 2015 in abbreviated form, to be supplemented with a more comprehensive set of regulations “which may include additional interpretive and definitional guidance, including regarding ‘cyber-enabled’ activities, and additional general licenses and statements of licensing policy. *Id.*

B. EXPORT CONTROLS

1. General

On May 21, 2015, Puneet Talwar, Assistant Secretary of State for the Bureau of Political-Military Affairs, delivered remarks at the Aerospace Industries Association annual spring Board of Governors meeting, held in Williamsburg, Virginia. Mr. Talwar's remarks are excerpted below and are also available at <http://www.state.gov/t/pm/rls/rm/2015/242717.htm>.

* * * *

Now, many of you know that there are serious challenges in today's defense trade market. It's a competitive marketplace with other technology. The defense budget is tight here at home. Other governments can be more aggressive and often have fewer restrictions on what they are willing to sell and to whom.

We also realize that our licensing and regulatory system is imperfect... that sometimes the waits are too long or the process too opaque. And that's exactly why we are implementing Export Control Reform—to unshackle ourselves from Cold War regulations and adapt to the 21st century... to focus our efforts on a narrower set of items that really matter... and to provide greater clarity and transparency to you in industry.

But Export Control Reform is not a panacea. Which is why we're also refining other tools at our disposal.

Today, I'd like to discuss three objectives we have outlined in this area—and three specific actions we are taking to improve our defense trade advocacy.

First, when we in government work together, we are much more effective and powerful. It's true that there are many players in the security cooperation enterprise and we do a lot to coordinate. I could throw so many acronyms and names at you: the Arms Transfer Technology Steering Group; the Security Cooperation Enterprise Group; the Senior Warfighter Integration Group's work to expedite procurement.

But there are instances—specific sales—that require a tailored, unified effort to advocacy. That's why we are building a single group, the Defense Advocacy Working Group, to identify areas that require heightened communication and an extra advocacy effort. At our different agencies, we share the same goals, but we don't always synchronize our actions as well as we should. One central list and one central advocacy working group will lock in coordination from start to finish.

I'll give you an example. Over the past year, we've piloted this process for our advocacy with Poland, which as many of you know is engaged in a historic \$45 billion defense modernization program. Across every agency, we supported and advocated for U.S. solutions to Poland's missile defense needs. Deputy Assistant Secretary Greg Kausner and Admiral Rixey travelled to Warsaw. You may have seen in the press that the Defense Department put PATRIOTs on display at a strategic time. And we had senior-level engagement to help move the

ball forward. And as a result, the successful sale means supporting American jobs at home, deepening interoperability, and strengthening the security of Poland, a stalwart NATO ally.

This approach is proven—and we are now working to build on the success we saw with Poland elsewhere around the world.

Second, we in government need to project power in a more coordinated way at trade shows. Running into each other for the first time at the pavilions just doesn't cut it. We need to do a better job coordinating our meetings, delivering consistent messages, and identifying areas we want to target. Some of you have likely seen progress already, as we are getting more in sync with each other. We want to build on this progress and are establishing an interagency working group to ensure that this coordination becomes institutionalized. Admiral Rixey's deputy, Jenn Zakriski and I will be going to the Paris Air Show next month, and we're looking forward to arriving ready with a common strategy for targeted outreach and advocacy.

Third, we need to be more transparent and responsive to industry. As our partners in the private sector, you should be able to ask us any time about our objectives. And you shouldn't have to go agency to agency to get answers.

That's why, starting in July, we are launching a senior-level, quarterly industry outreach forum to have a two-way conversation with you. This quarterly forum will allow us to get input from you, assess upcoming sales, and build an advocacy strategy rooted in unity.

I know these three changes may not seem earthshattering. But as leaders of large companies, you know that sometimes different arms of your organizations don't talk to each other as well as they should. You've probably spent a lot of time on breaking down stovepipes, and you know it can have a huge impact. When we have all the oars in the water, rowing at the same time, we improve the outcome for all of us.

Yes, these are targeted actions, but we think their impact can be quite significant. Coordinating earlier and more often. Projecting our power, together, at trade shows. And continuing to deepen our engagements with industry.

Again, we have to do these things because it's in our interest. Because the demands for our leadership are growing. Because we are more engaged in more places than ever before. You can see it in the headlines—whether it's in the GCC or talks with Iran—but you can also see it in the trendlines that we're so focused on, in the Asia-Pacific, where 60 percent of the world's population is... where half of all GDP growth outside the U.S. is expected to come from in the next four years... where over half the world's maritime commerce flows. And it's security that underpins the economic growth—and the tremendous potential—that we are seeing in that region.

* * * *

2. Export Control Litigation

Defense Distributed, et al. v. United States Department of State, et al.

On April 29, 2015, plaintiffs—Defense Distributed, a non-profit organization that designs firearms, and the Second Amendment Foundation (“SAF”)—filed an action against the Department of State, Secretary of State, Directorate of Defense Trade Controls (“DDTC”), and DDTC employees, asserting five claims related to a prepublication approval requirement imposed for the export of “technical data” related to “defense

articles” under the International Traffic in Arms Regulations (“ITAR”). *Def. Distributed v. U.S. Dep’t of State*, 121 F. Supp. 3d 680, 688 (W.D. Tex. 2015). Specifically, the plaintiffs asserted that the requirement constituted: “(1) an ultra vires government action; (2) a violation of their rights to free speech under the First Amendment; (3) a violation of their right to keep and bear arms under the Second Amendment; and (4) a violation of their right to due process of law under the Fifth Amendment. Plaintiffs also contend the violations of their constitutional rights entitled them to monetary damages under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).” *Id.* The plaintiffs sought “a preliminary injunction enjoining the enforcement of any prepublication approval requirement against unclassified information under the ITAR,” *id.*, specifically as to computer files used for the three-dimensional “printing” of firearms and components that Defense Distributed sought to make publicly available through its website. Excerpts below (with footnotes omitted) from the opinion denying the preliminary injunction explain why the district court concluded that the plaintiffs did not show a substantial likelihood of success on the merits of their First and Second Amendment claims.

* * * *

Plaintiffs next argue Defendants’ interpretation of the AECA violates their First Amendment right to free speech. In addressing First Amendment claims, the first step is to determine whether the claim involves protected speech, the second step is to identify the nature of the forum, and the third step is to assess whether the justifications for exclusion from the relevant forum satisfy the requisite standard. *Cornelius v. NAACP Legal Defense & Educ. Fund, Inc.*, 473 U.S. 788, 797, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985).

As an initial matter, Defendants argue the computer files at issue do not constitute speech and thus no First Amendment protection is afforded. . . . Although the precise technical nature of the computer files at issue is not wholly clear to the Court, Plaintiffs made clear at the hearing that Defense Distributed is interested in distributing the files as “open source.” That is, the files are intended to be used by others as a baseline to be built upon, altered and otherwise utilized. Thus, at least for the purpose of the preliminary injunction analysis, the Court will consider the files as subject to the protection of the First Amendment.

* * * *

The ITAR, on its face, clearly regulates disclosure of “technical data” relating to “defense articles.” The ITAR thus unquestionably regulates speech concerning a specific topic. Plaintiffs suggest that is enough to render the regulation content-based, and thus invoke strict scrutiny. Plaintiffs’ view, however, is contrary to law. The Fifth Circuit rejected a similar test, formulated as “[a] regulatory scheme that requires the government to ‘examine the content of the message that is conveyed’ is content-based regardless of its motivating purpose,” finding the proposed test was contrary to both Supreme Court and Fifth Circuit precedent. *Asgeirsson*, 696 F.3d at 460.

The ITAR does not regulate disclosure of technical data based on the message it is communicating. The fact that Plaintiffs are in favor of global access to firearms is not the basis

for regulating the “export” of the computer files at issue. Rather, the export regulation imposed by the AECA is intended to satisfy a number of foreign policy and national defense goals, as set forth above. Accordingly, the Court concludes the regulation is content-neutral and thus subject to intermediate scrutiny. *See United States v. Chi Mak*, 683 F.3d 1126, 1135 (9th Cir.2012) (finding the AECA and its implementing regulations are content-neutral).

The Supreme Court has used various terminologies to describe the intermediate scrutiny standard. . . .The Court will employ the Fifth Circuit’s most recent enunciation of the test, under which a court must sustain challenged regulations “if they further an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest.” *Time Warner Cable, Inc. v. Hudson*, 667 F.3d 630, 641 (5th Cir.2012)

The Court has little trouble finding there is a substantial governmental interest in regulating the dissemination of military information. Plaintiffs do not suggest otherwise. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 28, 130 S.Ct. 2705, 177 L.Ed.2d 355 (2010) (noting all parties agreed government’s interest in combating terrorism “is an urgent objective of the highest order”). Nor do Plaintiffs suggest the government’s regulation is directed at suppressing free expression. Rather, they contend the regulations are not sufficiently tailored so as to only incidentally restrict their freedom of expression.

* * * *

Plaintiffs’ challenge here is based on their contention that Defendants have applied an overbroad interpretation of the term “export.” Specifically, Plaintiffs argue that viewing “export” as including public speech, including posting of information on the Internet, imposes a burden on expression which is greater than is essential to the furtherance of the government’s interest in protecting defense articles.

But a prohibition on Internet posting does not impose an insurmountable burden on Plaintiffs’ domestic communications. This distinction is significant because the AECA and ITAR do not prohibit domestic communications. As Defendants point out, Plaintiffs are free to disseminate the computer files at issue domestically in public or private forums, including via the mail or any other medium that does not provide the ability to disseminate the information internationally.

* * * *

The Court also notes, as set forth above, that the ITAR provides a method through the commodity jurisdiction request process for determining whether information is subject to its export controls. *See* 22 C.F.R. § 120.4 (describing process). The regulations include a ten day deadline for providing a preliminary response, as well as a provision for requesting expedited processing. 22 C.F.R. § 120.4(e) (setting deadlines). Further, via Presidential directive, the DDTC is required to “complete the review and adjudication of license applications within 60 days of receipt.” 74 Fed.Reg. 63497 (December 3, 2009). Plaintiffs thus have available a process for determining whether the speech they wish to engage in is subject to the licensing scheme of the ITAR regulations.

Accordingly, the Court concludes Plaintiffs have not shown a substantial likelihood of success on the merits of their claim under the First Amendment.

* * * *

The Second Amendment provides: “A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. Const. amend. II. The Supreme Court has recognized that the Second Amendment confers an individual right to keep and bear arms. *See District of Columbia v. Heller*, 554 U.S. 570, 595, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008). The Fifth Circuit uses a two-step inquiry to address claims under the Second Amendment. The first step is to determine whether the challenged law impinges upon a right protected by the Second Amendment—that is, whether the law regulates conduct that falls within the scope of the Second Amendment’s guarantee. The second step is to determine whether to apply intermediate or strict scrutiny to the law, and then to determine whether the law survives the proper level of scrutiny. *Nat’l Rifle Ass’n*, 700 F.3d at 194.

* * * *

While the founding fathers did not have access to such [three-dimensional printing] technology, Plaintiffs maintain the ability to manufacture guns falls within the right to keep and bear arms protected by the Second Amendment. Plaintiffs suggest, at the origins of the United States, blacksmithing and forging would have provided citizens with the ability to create their own firearms, and thus bolster their ability to “keep and bear arms.” While Plaintiffs’ logic is appealing, Plaintiffs do not cite any authority for this proposition, nor has the Court located any. The Court further finds telling that in the Supreme Court’s exhaustive historical analysis set forth in *Heller*, the discussion of the meaning of “keep and bear arms” did not touch in any way on an individual’s right to manufacture or create those arms. The Court is thus reluctant to find the ITAR regulations constitute a burden on the core of the Second Amendment.

The Court will nonetheless presume a Second Amendment right is implicated and proceed with the second step of the inquiry, determining the appropriate level of scrutiny to apply. Plaintiffs assert strict scrutiny is proper here, relying on their contention that a core Second Amendment right is implicated. However, the appropriate level of scrutiny “depends on the nature of the conduct being regulated *and* the degree to which the challenged law burdens the right.” *Nat’l Rifle Ass’n*, 700 F.3d at 195 (emphasis added).

The burden imposed here falls well short of that generally at issue in Second Amendment cases. SAF members are not prevented from “possess[ing] and us[ing] a handgun to defend his or her home and family.” *Id.* at 195 (citations omitted). . . . In this case, SAF members are not prohibited from manufacturing their own firearms, nor are they prohibited from keeping and bearing other firearms. Most strikingly, SAF members in the United States are not prohibited from acquiring the computer files at issue directly from Defense Distributed. The Court thus concludes only intermediate scrutiny is warranted here. *See also Nat’l Rifle Ass’n of Am., Inc. v. McCraw*, 719 F.3d 338, 347–48 (5th Cir.2013), *cert. denied* *700, — U.S. —, 134 S.Ct. 1365, 188 L.Ed.2d 297 (2014) (applying intermediate scrutiny to constitutional challenge to state statute prohibiting 18–20-year-olds from carrying handguns in public).

As reviewed above, the regulatory scheme of the AECA and ITAR survives an intermediate level of scrutiny, as it advances a legitimate governmental interest in a not unduly

burdensome fashion. *See also McCraw*, 719 F.3d at 348 (statute limiting under 21-year-olds from carrying handguns in public advances important government objective of advancing public safety by curbing violent crime); *Nat'l Rifle Ass'n*, 700 F.3d at 209 (“The legitimate and compelling state interest in protecting the community from crime cannot be doubted.”).

Accordingly, the Court finds Plaintiffs have not shown a substantial likelihood of success on the merits.

3. Export Control Reform

In 2015, the U.S. Government continued to propose new rules to carry out extensive export control reforms. *See Digest 2013* at 515-16 for a discussion of the initial sets of new rules reforming U.S. export controls. Rules proposed in 2015 include revisions to several categories of the U.S. Munitions List, 80 Fed. Reg. 34,572 (Jun. 17, 2015), 80 Fed. Reg. 25,821 (May 5, 2015); revisions to definitions in the ITAR, 80 Fed. Reg. 31,525 (Jun. 3, 2015); and revisions to licensing and registrations provisions of the ITAR, 80 Fed. Reg. 30,001 (May 26, 2015), 80 Fed. Reg. 29,565 (May 22, 2015).

Cross References

Visa Waiver Program changes relating to terrorism, **Chapter 1.B.2.**

Visa restrictions and limitations, **Chapter 1.B.3.**

Foreign terrorist organizations, **Chapter 3.B.1.**

Organized crime, **Chapter 3.B.5.**

Designations under the International Religious Freedom Act, **Chapter 6.L.1.a.**

Relations with Cuba, **Chapter 9.A.3.**

Aviation arrangement with Cuba, **Chapter 11.A.3.**

Termination of Burundi as beneficiary under AGOA, **Chapter 11.D.2.b.**

Syria, **Chapter 17.B.2.**

Burundi, **Chapter 17.B.3.**

Central African Republic, **Chapter 17.B.4.**

South Sudan, **Chapter 17.B.8.**

Burma, **Chapter 17.B.9.**

Yemen, **Chapter 17.B.11**

North Korea, **Chapter 19.B.6.a.**

Iran, **Chapter 19.B.6.b.**

Syria chemical weapons, **Chapter 19.D.2.**