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## CHAPTER 16

### Sanctions, Export Controls, and Certain Other Restrictions

This chapter discusses selected developments during 2017 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. Details on the State Department's defense trade control programs are available at <http://www.pmddtc.state.gov>.

#### **A. IMPOSITION, IMPLEMENTATION, AND MODIFICATION OF SANCTIONS**

##### **1. Iran**

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

As discussed in *Digest 2015* at 634-35, the P5+1 and Iran concluded the Joint Comprehensive Plan of Action ("JCPOA") on July 14, 2015, to address the international community's concerns with Iran's nuclear program. Under the JCPOA, the U.S. committed to lift nuclear-related secondary sanctions, which are generally directed toward non-U.S. persons for specified conduct involving Iran that occurs entirely outside of U.S. jurisdiction and does not involve U.S. persons. See Chapter 19 for discussion of the Trump administration's review of the JCPOA.

##### ***b. Implementation of UN Security Council resolutions***

As discussed in *Digest 2015* at 636, the UN Security Council endorsed the JCPOA via Resolution 2231. Resolution 2231 terminated prior UN Security Council Resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1929 (2010), and 2224 (2015)

based on receipt by the Security Council of the report from the IAEA verifying that Iran had taken the actions specified in paragraphs 15.1-15.11 of Annex V of the JCPOA.

**c. *U.S. sanctions and other controls***

Sanctions relating to Iran that are outside the scope of the JCPOA have remained in place and are being enforced. 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) *E.O. 13382***

On February 3, 2017, the Treasury Department’s Office of Foreign Assets Control (“OFAC”) designated nine individuals and eight entities pursuant to E.O. 13382 (“Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”), subjecting them to sanctions for their ties to or support for persons previously designated under E.O. 13382 based on involvement in Iran’s WMD programs. 82 Fed. Reg. 9960 (Feb. 8, 2017). The individuals are: Abdollah ASGHARZADEH; Tenny DARIAN; Qin XIANHUA; Richard YUE; Carol ZHOU; Mohammad MAGHAM; Mostafa ZAHEDI; Ghodrat ZARGARI; and Kambiz ROSTAMIAN. *Id.* The entities are: COSAILING BUSINESS TRADING COMPANY LIMITED; EAST STAR COMPANY; NINGBO NEW CENTURY IMPORT AND EXPORT COMPANY, LTD.; OFOG SABZE DARYA COMPANY; ERVIN DANESH ARYAN COMPANY; ZIST TAJHIZ POOYESH COMPANY; MKS INTERNATIONAL CO. LTD.; and ROYAL PEARL GENERAL T.R.D. *Id.*

On May 17, 2017, OFAC designated three individuals and four entities pursuant to E.O. 13382 for their support of, or ties to, previously-designated entities involved in Iran’s WMD program. 82 Fed. Reg. 23,715 (May 23, 2017). The individuals are: Ruan RUNLING (for support of SHIRAZ ELECTRONICS INDUSTRIES); Rahim AHMADI (linked to SHAHID BAKERI INDUSTRIAL GROUP); and Morteza FARASATPOUR (linked to DEFENSE INDUSTRIES ORGANIZATION). *Id.* The entities are: SHANGHAI GANG QUAN TRADE CO. (for support of SHIRAZ ELECTRONICS INDUSTRIES); SHANGHAI NORTH BEGINS INTERNATIONAL (for support of SHIRAZ ELECTRONICS INDUSTRIES); SHANGHAI NORTH TRANSWAY INTERNATIONAL TRADING CO. (for support of SHIRAZ ELECTRONICS INDUSTRIES); and MATIN SANAT NIK ANDISHAN (for support of SHAHID HEMMAT INDUSTRIES GROUP). *Id.*

On July 18, 2017, OFAC designated five individuals\* and seven entities\*\* pursuant to E.O. 13382 for support of or links to persons previously designated under E.O. 13382.

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\* Editor’s note: Two additional individuals listed in the same Federal Register notice, along with others linked to Iranian entities and previously designated pursuant to E.O. 13382, were designated pursuant to E.O. 13581, “Blocking Property of Transnational Criminal Organizations.” They are Mohammed Saeed AJILY and Mohammed Reza REZAKHAH.

\*\* Editor’s note: Two additional entities listed in the same Federal Register notice, along with others linked to persons designated for Iran-related actions, were designated pursuant to E.O. 13581, “Blocking Property of Transnational Criminal Organizations.” They are AJILY SOFTWARE PROCUREMENT GROUP and ANDISHEH VESAL MIDDLE EAST COMPANY.

82 Fed. Reg. 33,943 (July 21, 2017). The individuals are: Emily LIU (linked to SHIRAZ ELECTRONICS INDUSTRIES); Seyyed Reza GHASEMI (linked to RAYAN ROSHD AFZAR COMPANY); Farshad HAKEMZADEH (linked to RAYAN ROSHD AFZAR COMPANY); Mohsen PARSAJAM (linked to RAYAN ROSHD AFZAR COMPANY); Resit TAVAN (linked to QESHM MADKANDALOO SHIPBUILDING COOPERATIVE CO). *Id.* The designated entities are: ABASCIENCE TECH CO. LTD. (linked to SHIRAZ ELECTRONICS INDUSTRIES and Emily LIU); RAYBEAM OPTRONICS CO. LTD. (linked to Emily LIU); RAYTRONIC CORPORATION, LIMITED (linked to Emily LIU); SUNWAY TECH CO., LTD. (linked to SHIRAZ ELECTRONICS INDUSTRIES and Emily LIU); RAYAN ROSHD AFZAR COMPANY (a.k.a. RAYAN ROSHD COMPANY; a.k.a. “RAYAN ROSHD”) (linked to ISLAMIC REVOLUTIONARY GUARD CORPS); QESHM MADKANDALOO SHIPBUILDING COOPERATIVE CO (linked to ISLAMIC REVOLUTIONARY GUARD CORPS); and RAMOR GROUP (linked to Resit TAVAN). *Id.* The State Department issued a press statement on the July 18, 2017 designations, available at <https://www.state.gov/r/pa/prs/ps/2017/07/272635.htm>, and excerpted below.

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\* \* \* \*

The United States remains deeply concerned about Iran’s malign activities across the Middle East, which undermine regional stability, security, and prosperity. Iran continues to support terrorist groups—such as Hizballah, Hamas, and Palestinian Islamic Jihad—that threaten Israel and stability in the Middle East. Iran has maintained its steadfast support for the Assad regime, despite Assad’s atrocities against his own people. Iran also continues to provide the Houthi rebels in Yemen with advanced weaponry that threatens freedom of navigation in the Red Sea, has been used to attack Saudi Arabia, and is prolonging the Yemen conflict. Additionally, Iran continues to test and develop ballistic missiles, in direct defiance of UN Security Council Resolution 2231. The Joint Comprehensive Plan of Action (JCPOA) states the anticipation of JCPOA participants that “full implementation of this JCPOA will positively contribute to regional and international peace and security.” However, Iran’s other malign activities are serving to undercut whatever “positive contributions” to regional and international peace and security were intended to emerge from the JCPOA.

In response to these continued Iranian threats, the Administration today announces that it has designated 18 entities and individuals supporting Iran’s ballistic missile program and for supporting Iran’s military procurement or Iran’s Islamic Revolutionary Guard Corps (IRGC), as well as an Iran-based transnational criminal organization and associated persons. Today’s actions were taken pursuant to Executive Order (E.O.) 13382, which targets proliferators of weapons of mass destruction and their means of delivery and supporters of such activity, as well as E.O. 13581, which targets transnational criminal organizations.

Specifically, the U.S. Department of State designated two entities pursuant to E.O. 13382 for engaging, or attempting to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery. The State Department designated the IRGC Aerospace Force Self Sufficiency Jihad Organization (ASF SSJO), which is involved in Iranian ballistic

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missile research and flight test launches. In addition, the State Department designated the IRGC Research and Self Sufficiency Jihad Organization (RSSJO), which is responsible for the research and development of ballistic missiles.

Additionally, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), designated seven entities and five individuals for engaging in activities in support of Iran's military procurement or the IRGC, as well as an Iran-based transnational criminal organization and three associated persons. Today's action targets three networks supporting Iran's military procurement or the IRGC through the development of unmanned aerial vehicles and military equipment for the IRGC, the production and maintenance of fast attack boats for the IRGC-Navy, or the procurement of electronic components for entities that support Iran's military. OFAC also designated two Iranian businessmen and associated entities who orchestrated the theft of U.S. and western software programs which, at times, were sold to the Government of Iran.

The Iranian regime also continues to detain U.S. citizens and other foreigners on fabricated national-security related charges. We call upon Iran to release U.S. citizens Baquer Namazi, Siamak Namazi, and Xiyue Wang, and all other unjustly detained U.S. citizens, so that they can be reunited with their families. The United States is deeply concerned about reports of the declining health of the Namazis, Wang, and other detained U.S. citizens. Iran should immediately release all of these U.S. citizens on humanitarian grounds. It has also been more than a decade since Robert Levinson disappeared from Iran's Kish Island. Iran committed to cooperating with the United States in bringing Bob home and we call on Iran to fulfill this commitment. The United States remains unwavering in its efforts to return Bob to his family. The Federal Bureau of Investigations (FBI) has offered a \$5 million reward for any information that could lead to Bob's safe return. We call on anyone with information about this case to contact the FBI at <http://tips.fbi.gov> or email the FBI at [levinsonfbireward@ic.fbi.gov](mailto:levinsonfbireward@ic.fbi.gov). Information will be kept confidential and can be provided anonymously.

Iran's regime has an egregious human rights record, which includes denial of the freedom of religion or belief as well as other human rights and fundamental freedoms to individuals in Iran. Notably, arbitrary arrest and detention of members of religious minorities and political activists, is common as is the use of torture and other forms of abuse in detention. On June 27, the United States released its annual report on Trafficking in Persons. In the report, Iran is again ranked as a Tier 3 country because it does not take significant steps to address its extensive trafficking problem nor does it fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. Iran is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Notably, Iran also coerces Afghan refugees into participating in combat in Syria, deporting those who refuse to do so, and it supports militias fighting in Iraq that recruited and used child soldiers. These abhorrent abuses only fuel conflict throughout the Middle East.

The Administration is continuing to conduct a full review of U.S. policy toward Iran. During the course of this review, the United States will continue to aggressively counter Iran's malign activities in the region. While the review is ongoing, the United States will also continue to expect strict Iranian adherence to Iran's nuclear commitments under the JCPOA and look to the International Atomic Energy Agency to continue to monitor and verify all of Iran's nuclear commitments. In addition, the United States will continue to comply with its commitments under the JCPOA. As a result, we communicated to the U.S. Congress on July 17 that the United States continues to waive sanctions as required to continue implementing U.S. sanctions-lifting

commitments in the JCPOA, and is certifying to Congress that, based on available information, the conditions of Section 135(d)(6) of the Atomic Energy Act of 1954 (AEA), as amended, including as amended by the Iran Nuclear Agreement Review Act of 2015 (Public Law 114-17), enacted on May 22, 2015, are met as of July 17, 2017. We also note Iran's continued malign activities outside the nuclear issue undermine the positive contributions to regional and international peace and security that the deal was supposed to provide. The United States will continue to use sanctions to target those who lend support to Iran's destabilizing behavior and above all, the United States will never allow the regime in Iran to acquire a nuclear weapon.

\* \* \* \*

On July 28, 2017, OFAC designated the following entities pursuant to E.O. 13382: AMIR AL MO'MENIN INDUSTRIES; SHAHID CHERAGHI INDUSTRIES; SHAHID KALHOR INDUSTRIES; SHAHID KARIMI INDUSTRIES; SHAHID RASTEGAR INDUSTRIES; and SHAHID VARAMINI INDUSTRIES. 82 Fed. Reg. 39,154 (Aug. 17, 2017).

On September 14, 2017, OFAC designated SADID CARAN SABA ENGINEERING COMPANY pursuant to E.O. 13382 for having provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS. 82 Fed. Reg. 44,026 (Sep. 20, 2017).

On October 13, 2017, OFAC designated four entities pursuant to E.O. 13382 for their support of previously-designated entities involved in Iran's WMD program. 82 Fed. Reg. 48,591 (Oct. 18, 2017). 82 Fed. Reg. 48,591 (Oct. 18, 2017). The entities are: FANAMOJ, RASTAFANN ERTEBAT ENGINEERING COMPANY, SHAHID ALAMOLHODA INDUSTRIES, and WUHAN SANJIANG IMPORT AND EXPORT CO. LTD. *Id.*

## (2) CAATSA

The Countering America's Adversaries Through Sanctions Act of 2017, Public Law 115-44, Aug. 2, 2017, 131 Stat. 886 (22 U.S.C. § 9401 *et seq.*) ("CAATSA") was signed into law on August 2, 2017. See Chapter 1.B.2.d. for discussion of the President's signing statement. On October 31, 2017, OFAC published amendments to the Global Terrorism Sanctions Regulations ("GTSR") to implement Section 105 of CAATSA, which requires the President to impose sanctions under E.O. 13224 on Iran's Islamic Revolutionary Guard Corps ("IRGC") and IRGC officials, agents, and affiliates. 82 Fed. Reg. 50,313 (Oct. 31, 2017). The functions and authorities of the President in section 105 of CAATSA were delegated to the Secretaries of State and Treasury by an October 11, 2017 Presidential Memorandum. OFAC designated the IRGC on October 13, 2017, pursuant to E.O. 13224, for providing support to the IRGC-Qods Force, which previously had been designated for its support to various terrorist groups. On November 9, 2017, OFAC published the names of 41 persons previously designated whose property and interests in property are blocked pursuant to section 594.201(a)(5) of the GTSR. These persons were identified on the SDN List as officials, agents, or affiliates of the IRGC. 82 Fed. Reg. 50,313 (Oct. 31, 2017). Accordingly, OFAC added the reference "[SDGT]" to their SDN List entries. 82 Fed. Reg. 54,467 (Nov. 17, 2017).

(3) *Comprehensive Iran Sanctions Accountability and Divestment Act of 2010 ("CISADA")*

In a May 17, 2017 media note, available at <https://www.state.gov/r/pa/prs/ps/2017/05/270925.htm>, the State Department announced the release of the its semi-annual report to Congress detailing sanctions imposed on persons involved in human rights abuses in Iran. The report, available at <https://www.state.gov/e/eb/rls/othr/2017/270917.htm>, lists individuals and entities determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to meet the criteria in Sections 105(b) and 105B(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 ("CISADA") (Public Law 111-195). Executive Order 13553 implements Section 105 of CISADA, as amended by the Iran Threat Reduction and Syria Human Rights Act of 2012 ("TRA"). Acting Assistant Secretary of State for Near Eastern Affairs Ambassador Stuart Jones gave the following statement on the report:

As we continue to closely scrutinize Iran's commitment to the JCPOA and develop a comprehensive Iran policy, we will continue to hold Iran accountable for its human rights abuses with new actions. We urge our partners around the world to join us in calling out individuals and entities who violate international sanctions targeting Iran's human rights abuses.

Whether it's imprisoning people arbitrarily, inflicting physical abuse and torture, or executing juvenile offenders, the Iranian regime has for decades committed egregious human rights violations against its own people and foreign nationals, and this pattern of behavior must come to an end. The U.S. and its partners will continue to apply pressure on Iran to protect the human rights and fundamental freedoms for everyone in Iran. This includes the U.S. citizens wrongfully detained or missing in Iran, and we call on Iran to immediately return them to their families.

In addition to the actions taken today, we are communicating to the U.S. Congress that the United States continues to waive sanctions as required to continue implementing U.S. sanctions-lifting commitments in the Joint Comprehensive Plan of Action. This ongoing review does not diminish the United States' resolve to continue countering Iran's destabilizing activity in the region, whether it be supporting the Assad regime, backing terrorist organizations like Hezbollah, or supporting violent militias that undermine governments in Iraq and Yemen. And above all, the United States will never allow the regime in Iran to acquire a nuclear weapon.

The persons designated under E.O. 13553 as of May 17, 2017 are:

- **Abdollah Araghi**, Islamic Revolutionary Guard Corps (IRGC) Ground Forces Deputy Commander
- **Abbas Jafari Dolatabadi**, Prosecutor General of Tehran



- **Hassan Firouzabadi**, senior military advisor to the Supreme Leader, former Chairman of Iran's Joint Chiefs of Staff
- **Mohammad Ali Jafari**, Commander of the IRGC
- **Ismail Ahmadi Moghadam**, former Commander of the Law Enforcement Forces
- **Sadeq Mahsouli**, former Minister of Welfare and Social Security, former Minister of the Interior and Deputy Commander-in-Chief of the Armed Forces for Law Enforcement
- **Qolam-Hossein Mohseni-Ejei**, Judiciary Spokesman, former Prosecutor-General of Iran, former Minister of Intelligence
- **Saeed Mortazavi**, former head of Iranian Anti-Smuggling Task Force, former Prosecutor-General of Tehran
- **Heydar Moslehi**, former Minister of Intelligence
- **Mostafa Mohammad Najjar**, former Minister of the Interior and Deputy Commander-in-Chief of the Armed Forces for Law Enforcement
- **Mohammad Reza Naqdi**, Commander of the Basij Guard Corps (IRGC)
- **Ahmad-Reza Radan**, former Deputy Chief of Iran's Law Enforcement Forces, Senior Iranian Law Enforcement Official
- **Hossein Taeb**, Deputy Commander of the IRGC, Commander of the IRGC Intelligence Organization, former Commander of the Basij Forces
- **Asghar Mir-Hejazi**, Intelligence advisor to the Supreme Leader
- **Sohrab Soleimani**, Supervisor of the Office of the Deputy for Security and Law Enforcement of the State Prisons Organization, former Director General of the Tehran Prisons Organization
- **The Islamic Revolutionary Guard Corps**
- **The Basij Resistance Force**
- **Law Enforcement Forces of the Islamic Republic of Iran**
- **The Iranian Ministry of Intelligence and Security**
- **Abysec**
- **Tehran Prisons Organization**

Sohrab Soleimeini and the Tehran Prisons Organization were designated under E.O. 13553 on April 13, 2017. 82 Fed. Reg. 18,342 (Apr. 18, 2017).

(4) *Iran, North Korea, and Syria Nonproliferation Act ("INKSNA")*

On March 21, 2017, the United States imposed sanctions on entities and individuals from 10 countries pursuant to the Iran, North Korea, and Syria Nonproliferation Act ("INKSNA"). 82 Fed. Reg. 15,780 (Mar. 30, 2017); 82 Fed. Reg. 15,547 (March 29, 2017). INKSNA authorizes sanctions on persons who transfer to, or acquire from, Iran, North Korea, or Syria, items that contribute to WMD or missile development. Those sanctioned are the following (and any successors, sub-units, or subsidiaries):

- Ministry of Defense Directorate of Defense Industries (DDI) (Burma)
- Beijing Zhong Ke Electric Co., LTD. (ZKEC) (China)

- Dalian Zhenghua Maoyi Youxian Gongsi (China)
- Jack Qin (Chinese individual)
- Jack Wang (Chinese individual)
- Ningbo New Company Import
- Export Company Limited (China)
- Karl Lee [aka Li Fangwei] (Chinese individual)
- Shanghai Horse Construction [aka Forrisio International Group] (China)
- Shenzhen Yataida High-Tech Company Ltd. (China)
- Sinotech (Dalian) Carbon and Graphite Corporation (SCGC) (China)
- Sky Rise Technology [aka Reekay Technology Limited] (China)
- Sun Creative (Zhejiang) Technologies, Inc. (China)
- T-Rubber Co. Ltd (China)
- Special Defense Research Center (SDRC) (Egypt)
- Eritrean Navy (Eritrea)
- Aerospace Industries Organization (AIO) (Iran)
- Saeng Pil Trading Corporation (SPTC) (North Korea)
- 150th Aircraft Repair Plant (Russia)
- Aviaexport (Russia)
- Bazalt (Russia)
- Kolomna Design Bureau of Machine- Building (KBM) (Russia)
- Rosoboronexport (ROE) (Russia)<sup>\*\*\*</sup>
- Ulyanovsk Higher Aviation Academy of Civil Aviation (UVAUGA) (Russia)
- Ural Training Center for Civil Aviation (UUTsGA) (Russia)
- Zhukovskiy and Gagarin Academy (Z&G Academy) (Russia)
- Madar Yara Medical Company (Saudi Arabia)
- Giad Heavy Industries (GHI) (Sudan)
- Military Industries Corporation (MIC) (Sudan)
- Muhammad al-Husayn Yusuf (Sudanese individual)
- Mabrooka Trading (United Arab Emirates)

The measures imposed on the sanctioned persons include a ban on U.S. Government procurement; a prohibition on U.S. Government assistance; a ban on U.S. Government sales of U.S. Munitions List or defense articles or services; and a ban on export licenses for controlled items.

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<sup>\*\*\*</sup> Editor's note: With respect to ROE, the measures applied include an exception to the procurement ban 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" and an exception for "the Digital Electro Optical Sensor OSDCAM4060 to improve the U.S. ability to monitor and verify Russia's Open Skies Treaty compliance." 82 Fed. Reg. at 15,548.

Senior State Department officials held a briefing on the sanctions on March 30, 2017. The briefing is available at <https://www.state.gov/r/pa/prs/ps/2017/03/269329.htm>, and excerpts discussing Iran-related sanctions appear below.

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**SENIOR STATE DEPARTMENT OFFICIAL TWO:** ... Iran's destabilizing activities in the region are provocative and undermine regional security, stability, and prosperity. The imposition of these measures today underscores our commitment to counter these activities, which include Iran's sponsorship of terrorism, its ballistic missile program, and its support for the Houthi rebels in Yemen.

These sanctions today include designations targeting Iran's missile programs that remains one of our most significant security concerns in the region as it contributes to regional tensions and poses a serious threat to international stability and security.

Through this action, we have sanctioned 11 individuals and entities for their support for Iran's ballistic missile program. These steps we have taken are outside the JCPOA. The JCPOA is limited to Iran's nuclear program, and the United States continues to implement its commitments under the JCPOA.

We have consistently said that we will continue to counter Iran's support for terrorism, its ballistic missile program, its human rights abuses, including through sanctions where appropriate. It should not be of any surprise to Iran that we would take actions against entities and individuals that engage in proliferation activity with Iran, North Korea, and Syria.

\* \* \* \*

**SENIOR STATE DEPARTMENT OFFICIAL TWO:** ...[W]e've got a number of measures—and they're not just sanctions that we engage in—to slow down or prevent Iran from advancing its ballistic missile program. One of those [is] sanctions, of course. But they include interdictions—interdictions in conjunction with partner governments, our activities at the United Nations to spotlight those—Iran's ballistic missile activities, and other activities we engage in as well. So this is just part of a series of things that we do to counter Iran's ballistic missile program.

Sanctions alone are important. Sanctions shine a public spotlight. They limit the activities of the sanctioned entities. And they also discourage other entities from engaging in those kinds of activities, but will admit that alone they are ... just one tool that's part of a larger toolkit.

\* \* \* \*

## 2. Syria

On January 12, 2017, the Department of State imposed sanctions on an entity associated with Syria's weapons of mass destruction ("WMD")-capable ballistic missile program. The entity, Organization for Technological Industries ("OTI"), was designated

under Executive Order 13382. 82 Fed. Reg. 6686 (Jan. 19, 2017). The media note on the designation, available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266898.htm>, provides additional information on OTI:

According to a June 26, 2012 report broadcast by Syrian Satellite Channel Television of an address by Syrian President Bashar al-Asad to the then-new Syrian Cabinet, OTI belongs to the Syrian Ministry of Defense, was established in 2010, and is involved in “high level technical industries.” OTI’s primary mission is to import advanced strategic technologies for surface-to-surface missile (SSM) and surface-to-surface rocket (SSR) programs in Syria. OTI is involved in furthering Syria’s WMD-capable ballistic missile program. As of May 2014, OTI changed its purpose to include producing components for SSMs and SSRs produced by the Syrian Scientific Studies and Research Center (SSRC)—Syria’s leading advanced weapons development and production entity. SSRC was designated by President George W. Bush in the Annex to E.O. 13382 issued on June 29, 2005.

The Department’s action follows findings by the Organization for the Prohibition of Chemical Weapons–United Nations Joint Investigative Mechanism (JIM) that the Syrian regime used chemicals as a weapon against its own citizens. In reports issued in August and October 2016, the JIM—established by the United Nations Security Council in 2015 to identify those involved in the use of chemical weapons—determined that the Syrian government was involved in three attacks involving chemicals used as weapons. Specifically, the JIM found that the Syrian Arab Armed Forces used chemicals as weapons against the Syrian people in three separate incidents.

OFAC made concurrent designations of 18 senior regime officials connected to Syria’s WMD programs and five Syrian military branches as part of the Government of Syria.

Also on January 12, 2017, OFAC made designations relating to Syria pursuant to multiple executive orders. 82 Fed. Reg. 8260 (Jan. 24, 2017). Seven individuals were designated pursuant to E.O. 13382, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters,” based on their links to the Scientific Studies and Research Center: Ghassan ABBAS; Firas AHMAD; Samir DABUL; Habib HAWRANI; Zuhayr HAYDAR; Ali WANUS; and Bayan BITAR. *Id.* Five individuals were designated pursuant to E.O. 13572, “Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria,” due to links to Syrian intelligence and security agencies: Suhayl Hasan AL-HASAN; Muhammad Nafi BILAL; Yasin Ahmad DAHI; Muhammad Mahmud MAHALLA; and Muhammad Khalid RAHMUN. *Id.* Five individuals were designated pursuant to E.O. 13573, “Blocking Property of Senior Officials of the Government of Syria:” Ahmad BALLUL; Saji Jamil DARWISH; Muhammad IBRAHIM; Talal Shafiq MAKHLUF; and Badi MUALLA. *Id.* One individual, Rafiq Shihadah, was designated pursuant to E.O. 13582, “Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria. *Id.* And, OFAC identified the following five entities 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: SYRIAN AIR FORCE; SYRIAN ARAB AIR DEFENSE FORCES; SYRIAN ARAB ARMY; SYRIAN ARAB NAVY; and SYRIAN ARAB REPUBLICAN GUARD. *Id.*

On February 23, 2017, OFAC designated one Syrian entity pursuant to E.O. 13382 (“Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”): METALLIC MANUFACTURING FACTORY. 82 Fed. Reg. 12,702 (Mar. 6, 2017). On April 24, 2017, OFAC designated 271 persons pursuant to E.O. 13582, “Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria.” 82 Fed. Reg. 19,786 (Apr. 28, 2017). On May 16, 2017, OFAC designated two persons pursuant to E.O. 13582; two persons pursuant to E.O. 13382; and six persons pursuant to E.O. 13572, “Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria”. 82 Fed. Reg. 23,721 (May 23, 2017). The E.O. 13582 designations are: Iyad MAKHLUF and CHAM ISLAMIC BANK. The E.O. 13382 designations are: Muhammed Bin-Muhammed Faris QUWAYDIR and SYRIAN COMPANY FOR INFORMATION TECHNOLOGY. The E.O. 13572 designations are: Muhammad ABBAS, Ihab MAKHLUF, Samir Sakhir DARWISH, AL-BUSTAN CHARITY, AL-AJNIAH, and BARLY OFF-SHORE.

On July 17, 2017, the State Department issued a press statement welcoming sanctions imposed by the European Union on officers in the Syrian regime and scientists involved in the use of chemical weapons in Syria. The press statement, available at <https://www.state.gov/r/pa/prs/ps/2017/07/272643.htm>, includes the following:

We applaud today’s decision by the European Council to sanction sixteen senior military officials and Syria’s Scientific Studies and Research Centre Scientists (SSRC) for their roles in the development and use of chemical weapons against civilian populations. This action follows sanctions designations recently undertaken by the United States, similarly aimed at holding the Syrian regime accountable for its repeated use of chemicals weapons on the Syrian people, including the April 4 Khan Shaykhun attack. In April 2017, the United States sanctioned numerous employees of the SSRC, the Syrian government agency responsible for developing and producing non-conventional weapons in support of Syria’s chemical weapons program. Additionally, in May 2017, the United States sanctioned a number of Syrian individuals and entities in response to acts of violence committed by the Government of Syria against its own citizens.

### 3. Cuba

#### ***Amendments to the Cuban Assets Control Regulations***

See *Digest 2016* at 626-27, *Digest 2015* at 639-40, and *Digest 2014* at 336 regarding amendments to the Cuban Assets Control Regulations (“CACR”) to implement the 2014 policy on Cuba. On January 6, 2017, OFAC removed from the specially designated nationals list (“SDN List”) the following individuals and entities, whose property and

interests in property were blocked pursuant to the CACR: Alejandro Abood ANGELINI, Carlos DOMINGUEZ, Naomi A. DE FRANCE, Wilfred EGGLETON, Daniel GARCIA, Carlos Alfonso GONZALEZ, Guadalupe ORTIZ, Lazaro PONCE DE LEON GOMEZ, Anabel SANTO, Melvia Isabel Gallegos YAM, CARIBSUGAR INTERNATIONAL TRADERS, CUREF METAL PROCESSING BV, MANZPER CORP., NIPPON-CARIBBEAN CO., LTD., BELMEX IMPORT EXPORT CO., LTD., COLONY TRADING, CORPORACION ARGENTINA DE INGENIERIA Y ARQUITECTURA, S.A., EXPORTADORA DEL CARIBE, KYOEI INTERNATIONAL COMPANY, LIMITED, LEVERYE, S.A., MARISCO DE FARALLON, S.A., PANOAMERICANA, PROMOCIONES ARTISTICAS (a.k.a. PROARTE), SHIPLEY SHIPPING CORP. 82 Fed. Reg. 4460 (Jan. 13, 2017).

On June 16, 2017, the President signed the National Security Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba (“NSPM”). As required by the NSPM, on November 9, 2017, OFAC published amendments to the CACR and the Department of Commerce’s Bureau of Industry and Security (“BIS”) published amendments to the Export Administration Regulations (“EAR”) regarding Cuba. 82 Fed. Reg. 51,998 (Nov. 9, 2017). The amendment to the CACR prohibits direct financial transactions with certain entities and subentities identified on the State Department’s Cuba Restricted List. The EAR amendment provides that BIS will generally deny applications to export or reexport items for use by entities or subentities identified on the Cuba Restricted List. The Cuba Restricted List is available at <http://www.state.gov/e/eb/tfs/spi/cuba/cubarestrictedlist/index.htm>. The Cuba Restricted List identifies entities or subentities, as appropriate, that are under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel, and with which direct financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.

On November 9, 2017, the Department of State published the Cuba Restricted List of persons with which direct financial transactions are prohibited under the CACR. 82 Fed. Reg. 52,089 (Nov. 9, 2017). Background information on the Cuba Restricted List from the Federal Register notice follows:

#### **Travel and Related Transactions**

*Educational travel.* In accordance with section 3(b) of the NSPM, OFAC is revising the categories of educational travel currently set forth in § 515.565(a)(1)–(6) to authorize travel that was permitted by regulation in effect on January 27, 2011.

In addition, OFAC is adding the requirement set forth in the NSPM that certain categories of educational travel authorized by § 515.565(a), which were not permitted by regulation in effect on January 27, 2011, take place under the auspices of an organization that is a person subject to U.S. jurisdiction. This requirement is incorporated in § 515.565(a)(2). The same provision also now will require that all travelers must be accompanied by a person subject to U.S. jurisdiction who is an employee, paid consultant, agent, or other representative of the sponsoring organization, except in cases where the traveler is an employee, paid consultant, agent, or other representative traveling individually

(not as part of a group), if the individual obtains a letter from the sponsoring organization. Such a letter must state that: (1) The individual is traveling to Cuba as an employee, paid consultant, agent, or other representative (including specifying the responsibilities of the individual that make him or her a representative) of the sponsoring organization; (2) the individual is acting for or on behalf of, or otherwise representing, the sponsoring organization; and (3) the individual's travel to Cuba is related to his or her role at the sponsoring organization.

In addition, OFAC is adding a "grandfathering" provision in § 515.565(d) to authorize certain travel that previously was authorized where the traveler has already completed at least one travel-related transaction (such as purchasing a flight or reserving accommodation) prior to November 9, 2017.

*People-to-people educational travel.*

In accordance with section 3(b)(ii) of the NSPM, OFAC is amending § 515.565(b) to require that people-to-people educational travel be conducted under the auspices of an organization that is subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact, and that such travelers be accompanied by a person subject to U.S. jurisdiction who is an employee, paid consultant, agent, or other representative of the sponsoring organization. Travel-related transactions authorized pursuant to this section must be for the purpose of engaging, while in Cuba, in a full-time schedule of activities that enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities; and result in meaningful interactions with individuals in Cuba. In addition, OFAC is adding a "grandfathering" provision in § 515.565(e) to authorize certain people-to-people travel that previously was authorized where the traveler has already completed at least one travel-related transaction (such as purchasing a flight or reserving accommodation) prior to June 16, 2017.

*Support for the Cuban people.* In accordance with section 3(b)(ii) of the NSPM, OFAC is amending § 515.574 to require that each traveler engage in a full-time schedule of activities that result in meaningful interaction with individuals in Cuba and that enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities.

#### **Other Amendments**

*Definition of prohibited officials of the Government of Cuba.* In accordance with section 3(d) of the NSPM, OFAC is amending the definition of the term *prohibited officials of the Government of Cuba* in § 515.337 to include certain additional individuals. The revised definition corresponds to that which was in place prior to October 17, 2016.

#### **4. Venezuela**

##### **a. U.S. Sanctions**

On May 18, 2017, OFAC designated eight individuals pursuant to Executive Order 13692, “Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela.” 82 Fed. Reg. 23,982 (May 24, 2017). The eight were designated for being current or former officials of the Government of Venezuela: Luis Fernando DAMIANI BUSTILLOS, Arcadio de Jesus DELGADO ROSALES, Gladys Maria GUTIERREZ ALVARADO, Juan Jose MENDOZA JOVER, Maikel Jose MORENO PEREZ, Calixto Antonio ORTEGA RIOS, Lourdes Benicia SUAREZ ANDERSON, and Carmen Auxiliadora ZULETA DE MERCHAN. The Treasury Department’s May 18, 2017 press release, available at <https://www.treasury.gov/press-center/press-releases/Pages/sm0090.aspx>, provides further information about the eight individuals:

The designated officials, members of Venezuela's Supreme Court of Justice (*Tribunal Supremo de Justicia* or TSJ), are responsible for a number of judicial rulings in the past year that have usurped the authority of Venezuela's democratically-elected legislature, the National Assembly, including by allowing the Executive Branch to rule through emergency decree, thereby restricting the rights and thwarting the will of the Venezuelan people. The National Assembly has been controlled by a majority of opposition-party members since January 2016.

“The Venezuelan people are suffering from a collapsing economy brought about by their government's mismanagement and corruption. Members of the country’s Supreme Court of Justice have exacerbated the situation by consistently interfering with the legislative branch's authority,” said Secretary of the Treasury Steven T. Mnuchin. “By imposing these targeted sanctions, the United States is supporting the Venezuelan people in their efforts to protect and advance democratic governance in their country.”

On July 26, 2017, OFAC designated 13 individuals pursuant to E.O. 13692. 82 Fed. Reg. 35,870 (Aug. 1, 2017). They were designated for being current or former officials of the Government of Venezuela: Rocco ALBISINNI SERRANO, Alejandro Antonio FLEMING CABRERA, Franklin Horacio GARCIA DUQUE, Elias Jose JAUA MILANO, Tibusay LUCENA RAMIREZ, Carlos Erik MALPICA FLORES, Carlos Alfredo PEREZ AMPUEDA, Nestor Luis REVEROL TORRES, Sergio Jose RIVERO MARCANO, Tarek William SAAB HALABI, Jesus Rafael SUAREZ CHOURIO, Maria Iris VARELA RANGEL, and Simon Alejandro ZERPA DELGADO. On July 31, 2017, OFAC designated Nicolas MADURO MOROS pursuant to E.O. 13692 for being a current or former official of the Government of Venezuela. 82 Fed. Reg. 37,290 (Aug. 9, 2017).

On August 9, 2017, OFAC designated eight individuals—Francisco Jose AMELIACH ORTA, Adan Coromoto CHAVEZ FRIAS, Tania D’AMELIO CARDIET, Hermann Eduardo ESCARRA MALAVE, Erika del Valle FARIAS PENA, Bladimir Humberto LUGO ARMAS,



Carmen Teresa MELENDEZ RIVAS, Ramon Dario VIVAS VELASCO—pursuant to E.O. 13692 for being a current or former official of the Government of Venezuela. 82 Fed. Reg. 37,984 (Aug. 14, 2017).

On November 9, 2017, OFAC designated Manuel Angel FERNANDEZ MELENDEZ, Socorro Elizabeth HERNANDEZ DE HERNANDEZ, Elvis Eduardo HIDROBO AMOROSO, Jorge Elieser MARQUEZ MONSALVE, Sandra OBLITAS RUZZA, Carlos Alberto OSORIO ZAMBRANO, Carlos Enrique QUINTERO CUEVAS, Julian Isaías RODRIGUEZ DIAZ, and Ernesto Emilio VILLEGAS POLJAK, each pursuant to E.O. 13692 for being a current or former official of the Government of Venezuela. 82 Fed. Reg. 54,466 (Nov. 17, 2017). In addition, OFAC updated the designations of persons under the Foreign Narcotics Kingpin Designation Act to indicate they are also designated under E.O. 13692 for being a current or former official of the Government of Venezuela. *Id.*

On August 24, 2017, the President issued Executive Order 13808, entitled “Imposing Additional Sanctions With Respect to the Situation in Venezuela.” 82 Fed. Reg. 41,155 (Aug. 29, 2017). E.O. 13808 responds to actions of the Government of Venezuela, including: human rights abuses; the establishment of an illegitimate Constituent Assembly; rampant public corruption; and repression of political opposition. Excerpts follow from E.O. 13808. Ambassador Haley made a statement at the UN announcing the new U.S. financial sanctions relating to Venezuela on August 25, 2017. That statement (not excerpted herein) is available at <https://usun.state.gov/remarks/7943>.

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**Section 1.** (a) All transactions related to, provision of financing for, and other dealings in the following by a United States person or within the United States are prohibited:

(i) new debt with a maturity of greater than 90 days of Petroleos de Venezuela, S.A. (PdVSA);

(ii) new debt with a maturity of greater than 30 days, or new equity, of the Government of Venezuela, other than debt of PdVSA covered by subsection (a)(i) of this section;

(iii) bonds issued by the Government of Venezuela prior to the effective date of this order; or

(iv) dividend payments or other distributions of profits to the Government of Venezuela from any entity owned or controlled, directly or indirectly, by the Government of Venezuela.

(b) The purchase, directly or indirectly, by a United States person or within the United States, of securities from the Government of Venezuela, other than securities qualifying as new debt with a maturity of less than or equal to 90 or 30 days as covered by subsections (a)(i) or (a)(ii) of this section, respectively, is prohibited.

(c) The prohibitions in subsections (a) and (b) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the effective date of this order.

**Sec. 2.** (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

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**b. UN Sanctions**

On July 26, 2017, Ambassador Nikki Haley, U.S. Permanent Representative to the United Nations, delivered a statement of support on sanctioning individuals associated with corruption and violence in Venezuela. Ambassador Haley’s statement follows and is available at <https://usun.state.gov/remarks/7910>.

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The United States made a promise to the Venezuelan people when we said we would not stand by and watch the Maduro regime continue to brutalize its citizens and destroy their democracy. Today, we keep that promise through sanctions on individuals associated with corruption and violence against the Venezuelan people.

The United States will keep all options on the table, including sanctioning anyone who joins the Constituent Assembly, and will look into additional measures to hold the Maduro regime accountable. We will also continue to have the backs of the Venezuelan people as they fight to save their once prosperous democracy—even in the face of violence, intimidation, and denial of services by their own government.

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**5. Democratic People’s Republic of Korea**

**a. State Sponsor of Terrorism Designation**

In November 2017, the Secretary of State determined that the Democratic People’s Republic of Korea (“DPRK”) has repeatedly provided support for acts of international terrorism. The determination was made in accordance with section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. § 2405(j)), [now 50 U.S.C. § 4605(j)], as continued in effect by Executive Order 13222 of August 17, 2001, section 620A(a) 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)). 82 Fed. Reg. 56,100 (Nov. 27, 2017).

**b. Human rights**

On January 11, 2017, the State Department issued a press statement on the release of its second report on human rights abuses and censorship in North Korea, submitted in compliance with Section 304 (a) of the North Korea Sanctions and Policy Enhancement Act of 2016, Public Law 114-122, enacted on February 18, 2016. The press statement is available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266857.htm>. The Act provides for a report every 180 days that: (1) identifies each person the Secretary determines to be responsible for serious human rights abuses or censorship in North Korea and describes the conduct of that person; and (2) describes serious human rights abuses or censorship undertaken by the Government of the DPRK or any person acting for or on behalf of the DPRK in the most recent year ending before the submission of the report. For further information on the North Korea Sanctions and Policy Enhancement Act of 2017, see *Digest 2016* at 629 and 646.

The January 2017 report identifies Kim Won Hong (Minister of State Security), Kim Yo Jong (Vice Director of the Propaganda and Agitation Department), Choe Hwi (Vice Director KWP Propaganda and Agitation Department), Kim Il-nam (Chief of South Hamgyong Province State Security), Min Byong Chol (Director of the Inspection Division of the Organization and Guidance Department), Jo Yong-won (Vice Director of the Organization and Guidance Department), Kang Pil Hoon (Director of the Political Bureau in the Ministry of People's Security), the State Planning Commission, and the Ministry of Labor, as being responsible for serious human rights abuses or censorship in North Korea. In conjunction with this report, the Department of the Treasury is adding the seven individuals and two entities to the List of Specially Designated Nationals and Blocked Persons. The report is available at <https://www.state.gov/j/drl/rls/266853.htm>.

On October 26, 2017, Scott Busby, Deputy Assistant Secretary of State for the Bureau of Democracy, Human Rights, and Labor, provided a briefing on the release of the next periodic report on human rights abuses and censorship in North Korea. In conjunction with the issuance of the report, the Department of Treasury added persons and entities identified in the report to the SDN List. The briefing is excerpted below and available at <https://www.state.gov/r/pa/prs/ps/2017/10/275123.htm>.

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... Today, as part of our continuing efforts to promote accountability for North Korean officials, ... we're releasing our third report on serious human rights abusers from the DPRK. And this report identifies seven individuals and three entities as responsible for serious human rights abuses or censorship in North Korea.

In conjunction with the report, the Treasury Department has added these 10 North Korean individuals and entities to the Specially Designated Nationals and Blocked Persons List. Both actions are consistent with the North Korean Sanctions and Policy Enhancement Act of 2016. Like the two prior reports, this report shines a spotlight on serious human rights abuses

committed by the DPRK regime, including extrajudicial killings, forced labor, torture, prolonged arbitrary detention, as well as rape, forced abortions, and other sexual violence.

In particular, this report focuses on the many human rights abuses that underwrite the regime's weapons program, including forced labor, re-education through labor camps, and overseas labor contracts. Thousands of North Koreans are sent abroad every year to work in slave-like conditions, earning revenue for the regime. The government also deploys security officials abroad to monitor the activities of North Korean citizens and to forcibly repatriate individuals who seek asylum. This report includes individuals and entities responsible for these types of abuses.

With these efforts, we aim to send a signal to all DPRK Government officials, particularly prison camp managers and mid-level officials, that we can and we will expose human rights abuses and censorship in the DPRK and that these individuals will suffer consequences for such actions.

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Also on October 26, 2017, the State Department released a media note, available at <https://www.state.gov/j/drl/rls/275095.htm>, which summarizes the report and provides information on the designated persons under the Act. Excerpts follow from the media note.

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The **Military Security Command** (MSC) monitors military personnel for anti-regime activity and investigates political crimes in the military. According to the UN Commission of Inquiry (COI) on the situation in the DPRK, it is “the military’s own secret police.” While technically part of the Korean People’s Army General Staff Department, the MSC reports to the Ministry of State Security. In practice, its jurisdiction extends beyond the military to ordinary citizens of the DPRK, as well. COI witnesses have stated that the MSC extracts information through torture and those accused of political crimes can be executed without trial by the MSC. Defectors and numerous non-governmental organizations (NGOs) report that the MSC operates special prison camps where military personnel are held indefinitely without trial for political offenses.

**Jo Kyong-Chol** is the commander of the MSC. According to NGO reports, he is responsible for human rights abuses in the DPRK’s defense-industrial complex. Jo is also responsible for communication and implementation of state policies, including those involving human rights abuses, passed directly to him by Supreme Leader Kim Jong Un to elements of the security apparatus. South Korean media has reported he is considered one of three “angels of death” for his direct involvement in purges soon after Kim Jong Un assumed power, which targeted Kim’s uncle, Jang Song-taek, as well as people close to Jang. According to various NGO and media reports, the purges for which Jang and his associates are responsible involved arbitrary arrest and detention, banishment, and executions conducted without due process. In addition, family members and associates of officials purged with Jang were rounded up and sent to political prison camps without trial.

**Sin Yong Il** is the deputy director of the MSC. In his capacity as one of four deputies, Sin Yong Il conducts the daily on-the-ground operations for the MSC and has direct knowledge of the special investigations it conducts. He reports to the commander of the MSC, who takes orders directly from Kim Jong Un. According to reports, including reports by foreign governments, he is responsible for tasking and verifying the implementation of orders of censorship, including the crackdown on the flow of foreign information and media devices, and orders to abduct and detain DPRK citizens abroad suspected of seeking asylum.

**Jong Yong Su** is the minister of labor. In this capacity, he oversees the Ministry of Labor (MOL), which the Department of State identified as responsible for serious human rights abuses in the January 11, 2017, report. As that report notes, the MOL works together with the State Planning Commission (SPC) to implement an economic system based on forced labor. Through the combined efforts of the SPC and the MOL, the government compels lower-class North Koreans to join paramilitary forced labor brigades that essentially serve as slave labor for the regime. According to Human Rights Watch, these brigades work extended periods of time without pay. They are often forced to work up to 14 hours a day, six or seven days a week, with no compensation. In this position, Jong directs the day-to-day activities of the MOL, including direct supervision over the placement of workers in positions of forced labor.

**Ri Thae-chol** is first vice minister of the Ministry of People's Security (MPS) and a colonel general in the Korean People's Army. In the July 6, 2016, report, the Department of State identified the MPS as responsible for serious human rights abuses and censorship. Ri reports directly to the minister of people's security and communicates policies to the rest of the ministry through the chief of staff. Ri directly oversees the 50 bureaus of the MPS as they restrict the freedoms of expression and movement and operate labor camps known for abuse and torture.

**Kim Kang Jin** is the director of the **External Construction Bureau**, a DPRK government agency that manages the construction firms that send laborers from the DPRK to work in countries across the world. The UN special rapporteur on the situation of human rights in the DPRK noted in a February 2017 report that these laborers are reportedly kept under strict supervision by officials from the DPRK and are consequently unable to exercise freedoms of expression, movement, and peaceful assembly. The report further notes that these laborers are subject to "serious violations of international labour standards, including long working hours, delayed and below-minimum-wage payments and lack of safety measures." The European Alliance for Human Rights in North Korea noted in July 2016 that DPRK laborers sent abroad frequently worked exceedingly long shifts for six days a week, yet most of their pay was repatriated back to the DPRK government, rendering them "state-sponsored slaves." As director of this bureau, Kim sets policies that allow for dangerous working conditions, long hours, and withholding of pay. These directives create a system of forced labor, which constitutes a serious human rights abuse.

**Ku Sung Sop** (AKA Ku Young Hyok) is the North Korean consul general in Shenyang, China. Prior to serving in this capacity, Ku was the Ministry of State Security director for foreign counterintelligence. According to foreign government reports, Ku's primary responsibilities in China include surveillance and monitoring of overseas workers, who are forced to work long hours and have their pay withheld by the DPRK government, and supervising the forced repatriation of North Korean asylum seekers in China.

**Kim Min Chol** is a second secretary at the DPRK embassy in Vietnam and the Ministry of State Security safety representative. Kim's responsibilities at the embassy include hands-on participation in the forced repatriations from and disappearances in Vietnam of North Korean

asylum seekers from the DPRK. According to a foreign government, in 2013, he led the kidnapping of South Korean missionary Kim Jong Wook, who was later sentenced to hard labor in North Korea.

**Chol Hyun Construction** is a North Korean company, acting on behalf of the DPRK government, which exports workers from the DPRK to other countries, primarily Gulf States and Africa. According to media reports, Chol Hyun Construction requires its workers in Kuwait to log extremely long hours (on average, 14 hours per day) and confines its workers to their quarters when they are not working. The same report indicates these workers are paid meager salaries. The report explains workers receive roughly \$800-\$1000 per month, 40 percent of which is paid directly into a North Korean government bank account, 20 percent is withheld by the site supervisor for company operating costs, and another 10 percent is withheld for room and board expenses. The remaining \$165-\$200 per month belongs to the worker, but workers are often required to give their cash to the site supervisor for “safe-keeping.” These workers are also forbidden from leaving the work site and group housing facility without permission from the North Korean security officer assigned to the work site. A South Korean media outlet also reports that North Korean workers in the Middle East, including employees of Chol Hyun Construction are kept in slave-like conditions, including having salaries and passports withheld by DPRK security officials assigned as site supervisors, meager food rations, poor living conditions, and severe restrictions on their freedom of movement.

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**c. Nonproliferation**

**(1) UN sanctions**

On June 2, 2017, Ambassador Nikki Haley, U.S. Permanent Representative to the UN, delivered the U.S. explanation of vote at the adoption of UN Security Council Resolution 2356 on DPRK sanctions. Ambassador Haley’s statement is excerpted below and available at <https://usun.state.gov/remarks/7822>.

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The Security Council is sending a clear message to North Korea today: Stop firing ballistic missiles, or face the consequences. The members of this Council—including three of North Korea’s closest neighbors—agreed that North Korea’s missiles are a threat to international peace and security, and that the international community must respond to the threat. It is long past time for North Korea to see the writing on the wall. The international community is coming together to take action, and the pressure will not cease until North Korea complies fully with this Council’s resolutions.

North Korea’s provocative and illegal missile launches are a direct threat to the security of numerous countries, including my own. Missiles have already fallen perilously close to South Korea, Japan, and most recently, Russia. Each North Korean rocket has the potential to hit an airplane or ship, which threatens civilian lives. Each test ratchets up tensions in the region. But

despite all the risks, and the sanctions this Council has imposed so far, North Korea still chooses to keep escalating.

The reason that North Korea keeps launching these missiles is obvious: they openly say they want the ability to deliver their weapons of mass destruction over long distances to U.S., South Korean, and Japanese cities. That is why the regime's ballistic missile tests are increasing. With each launch, North Korea gains valuable technical data to make even more progress. But bit by bit, North Korea wants to extend its reach.

The Security Council has rightfully—and repeatedly—condemned these launches and required North Korea to suspend all activities related to its ballistic missile program. Foreign ministers gathered here one month ago to demand that North Korea stop. Today's resolution shows that these were not just words.

The United States will work tirelessly to make sure that the international community never gets used to North Korea's violations or looks the other way. And North Korea must understand that the international community will never accept the regime's development and testing of nuclear weapons.

Until North Korea reconsiders, all UN Member States must do their part to increase pressure. North Korea is a global threat that requires a global response. There is still a lot of room to improve implementation of this Security Council's sanctions on North Korea. This is why the United States renews its call on responsible states to sever diplomatic ties and cease illegal trade with North Korea. Countries must also do more to break up North Korean smuggling rings, and cut off the sources of funding North Korea uses to pay for the development of weapons of mass destruction and the means to deliver them.

The United States will continue to seek a peaceful, diplomatic resolution to this situation. We want a negotiated solution, but North Korea must fulfill its basic obligations by first stopping all ballistic missile launches and nuclear weapons testing, and taking concrete steps towards getting rid of its nuclear weapons program.

Our goal is not regime change. The United States has no wish to threaten the North Korean people or destabilize the Asia-Pacific region. And we have never closed the door to dialogue with North Korea.

But as we have said before, all options for responding to future provocations must remain on the table. Beyond diplomatic and financial consequences, the United States remains prepared to counteract North Korean aggression through other means, if necessary.

The United States is fully committed to defending ourselves and our allies against North Korean aggression. It is again up to North Korea to decide whether to stay on this dangerous path. As the Security Council showed today, future missile launches and nuclear tests are absolutely unacceptable. We hope North Korea sees this response, and chooses a more constructive path toward stability, security, and peace.

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On August 5, 2017, the UN Security Council adopted resolution 2371, strengthening sanctions on North Korea. Ambassador Haley delivered the U.S. explanation of vote, which is excerpted below and available at <https://usun.state.gov/remarks/7923>.

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Today the full Security Council has come together to put the North Korean dictator on notice. And this time, the Council has matched its words and actions.

The resolution we've passed is a strong, united step toward holding North Korea accountable for its behavior. Today, the Security Council increased the penalty of North Korea's ballistic missile activity to a whole new level.

North Korea's irresponsible and careless acts have just proved to be quite costly to the regime.

This resolution is the single largest economic sanctions package ever leveled against the North Korean regime. The price the North Korean leadership will pay for its continued nuclear and missile development will be the loss of one-third of its exports and hard currency.

This is the most stringent set of sanctions on any country in a generation.

These sanctions will cut deep, and in doing so, will give the North Korean leadership a taste of the deprivation they have chosen to inflict on the North Korean people.

Nuclear and ballistic missile development is expensive. The revenues the North Korean government receives are not going towards feeding its people.

Instead, the North Korean regime is literally starving its people and enslaving them in mines and factories in order to fund these illegal nuclear programs.

Even as famine looms on the horizon; even as the regime continues to ask for international assistance to cope with devastating floods and a possible drought later this year; their displays of aggression take precedence over their own people.

Even as we respond to the North Korean nuclear threat, the United States will continue to stand up for the human dignity and rights of the North Korean people.

It is the continued suffering of the North Korean people that should remind the Security Council that, while this resolution is a significant step forward, it is not nearly enough.

The threat of an outlaw, nuclearized North Korean dictatorship remains. The unimaginable living conditions of so many of the North Korean people are unchanged.

The North Korean regime continues to show that widespread violations of human rights go hand in hand with threats to international peace and security.

I thank each and every one of my colleagues who worked so hard to bring this resolution to a vote. I have previously pointed out that China has a critical role to play on matters related to North Korea. I want to personally thank the Chinese delegation for the important contributions they made to this resolution.

While the Security Council has done good work, the members of the Security Council—and all UN Member States—must do more to increase the pressure on North Korea.

We must work together to fully implement the sanctions we imposed today and those imposed in past resolutions.

The step we take together today is an important one. But we should not fool ourselves into thinking we have solved the problem. Not even close. The North Korean threat has not left us. It is rapidly growing more dangerous. We've seen two ICBMs fired in just the last month. Further action is required.

The United States is taking—and will continue to take—prudent defensive measures to protect ourselves and our allies. Our annual joint military exercises, for instance, are transparent, and defense-oriented. They have been carried out regularly and openly for nearly 40 years. They will continue.



Our goal remains a stable Korean peninsula, at peace, without nuclear weapons. We want only security and prosperity for all nations—including North Korea.

Until then, this resolution and prior ones will be implemented to the fullest to maximize pressure on North Korea to change its ways.

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The U.S. Mission to the UN published a fact sheet on August 5, 2017 regarding resolution 2371 strengthening DPRK sanctions. The fact sheet is excerpted below and available at <https://usun.state.gov/remarks/7924>.

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Resolution 2371 (2017), adopted unanimously by the United Nations Security Council on August 5, 2017, strengthens UN sanctions on North Korea in response to its two intercontinental ballistic missile (ICBM) tests conducted on July 3, 2017 and July 28, 2017. As such, this resolution sends a clear message to North Korea that the Security Council is united in condemning North Korea's violations and demanding North Korea give up its prohibited nuclear and ballistic missile programs.

Resolution 2371 (2017) includes the strongest sanctions ever imposed in response to a ballistic missile test. These measures target North Korea's principal exports, imposing a total ban on all exports of coal (North Korea's largest source of external revenue), iron, iron ore, lead, lead ore and seafood. Banning these exports will prevent North Korea from earning over a \$1 billion per year of hard currency that would be redirected to its illicit programs. North Korea earns approximately \$3 billion per year from export revenues. Additional sanctions target North Korea's arms smuggling, joint ventures with foreign companies, banks, and other sources of revenue.

Resolution 2371 (2017) includes the following key elements:

- **Condemns North Korea July 3 and July 28 ballistic missile tests** in the strongest terms, and reaffirms North Korea's obligations not to conduct any further nuclear tests or launches that use ballistic missile technology, to abandon all nuclear weapons and existing nuclear programs in a complete, verifiable and irreversible manner, to suspend all activities related to its ballistic missile program, and to abandon all other WMD programs.
- **Imposes several full sectoral bans** on exports North Korea uses to fund its nuclear and ballistic missile programs, namely:
  - A ban on its largest export, **coal**, representing a loss to North Korea of over \$401 million in revenues per year;
  - A ban on **iron and iron ore** exports, worth roughly \$250 million per year;
  - A ban on **seafood** exports, worth roughly \$300 million in revenue each year; and
  - A ban on **lead and lead ore** exports, worth roughly \$110 million per year;
- **Imposes additional restrictions on North Korea's ability to generate revenue and access the international financial system**, by:

- Adding new sanctions designations against North Korean individuals and entities that support the country's nuclear and missile programs, including the state-owned **Foreign Trade Bank (FTB)**, which acts as North Korea's primary foreign exchange bank, while protecting diplomatic, consular, and humanitarian activities.
  - Prohibiting **all new joint ventures** or cooperative commercial entities between North Korea and other nations, as well as ban additional investment in existing ones.
  - Banning countries from allowing in additional numbers of **North Korean laborers** who will earn revenue for the illicit programs.
- Requests the Security Council's North Korea Sanctions Committee to identify additional **conventional arms-related** and **proliferation-related** items to be banned for transfer to/from North Korea.
- Enables the Security Council's North Korea Sanctions Committee to **designate vessels** tied to violations of Security Council resolutions and prohibit their international port access.
- Takes steps to **improve sanctions enforcement**, including by asking **Interpol to publish Special Notices** on listed North Koreans for travel ban purposes.
- **Provides additional analytical resources** to the UN's Panel of Experts to enhance its capacity to monitor sanctions enforcement.
- Regrets North Korea's **massive diversion** of its scarce resources toward its development of nuclear weapons and a number of expensive ballistic missile programs and expresses its deep concern at the **grave hardship** to which the people in North Korea are subjected;
- Includes **sanctions exemptions** to make sure these measures do not impede foreign diplomatic activities in North Korea or legitimate humanitarian assistance.
- Reaffirms the Council's **support for the Six Party Talks**, calls for their resumption, reiterates its support for commitments made by the Six Parties, and reiterates the importance of maintaining peace and stability on the Korean Peninsula and in Northeast Asia.
- Expresses the Council's determination to take **further significant measures** if North Korea conducts another nuclear test or ballistic missile launch.

This resolution has two annexes. These are:

1. An annex of 9 North Korean individuals operating abroad as representatives of designated entities designated for targeted sanctions (asset freeze and travel ban);
2. Another annex of 4 North Korea commercial entities designated for an asset freeze.

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The UN Security Council imposed further sanctions on North Korea on September 11, 2017 when it adopted resolution 2375. Ambassador Haley's statement on that resolution is excerpted below and available at <https://usun.state.gov/remarks/7970>.

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North Korea's neighbors, its trading partners, and the entire international community are united against its dangerous and illegal actions. Today's resolution builds on what were already the deepest cutting sanctions ever leveled against North Korea. We've been down this road before. The Security Council has expressed its condemnation. We've leveled sanctions. But today is different. We are acting in response to a dangerous new development: North Korea's September 3 test of a claimed hydrogen bomb.

Today, we are saying the world will never accept a nuclear-armed North Korea. And today, the Security Council is saying that if the North Korean regime does not halt its nuclear program, we will act to stop it ourselves.

Over the years, we have learned many things about the North Korean regime. We have learned that it does not care about being a part of the community of decent, law-abiding nations. It has violated every United Nations resolution against it. We have learned that the North Korean regime doesn't care about its own people. It has denied them the most basic necessities to finance its weapons program. And we have learned that half-measures against the regime have not worked.

Previous efforts to bring North Korea to the negotiating table have failed. They have repeatedly walked back every commitment they have made. Today, the Security Council has acted in a different way. Today, we are attempting to take the future of the North Korean nuclear program out of the hands of its outlaw regime.

We are done trying to prod the regime to do the right thing. We are now acting to stop it from having the ability to continue doing the wrong thing. We are doing that by hitting North Korea's ability to fuel and fund its weapons program. Oil is the lifeblood of North Korea's effort to build and deliver a nuclear weapon. Today's resolution reduces almost 30 percent of oil provided to North Korea by cutting off over 55 percent of its gas, diesel, and heavy fuel oil. Further, today's resolution completely bans natural gas and other oil byproducts that could be used as substitutes for the reduced petroleum. This will cut deep.

Further, a large portion of North Korea's revenues come from exports, revenues they use to fund their nuclear program. Last month, we passed a resolution banning its coal and iron exports. Today's resolution bans all textile exports. That's an almost \$800 million hit to its revenue.

When these new stronger sanctions are added to those passed last month, over 90 percent of North Korea's publicly reported exports are now fully banned. Moreover, this resolution also puts an end to the regime making money from the 93,000 North Korean citizens it sends overseas to work and heavily taxes. This ban will eventually starve the regime of an additional \$500 million or more in annual revenues. Beyond the \$1.3 billion in annual revenues we will cut from North Korea, new maritime authorities will help us stop them from obtaining funds by smuggling coal and other prohibited materials around the world by ship.

Furthermore, this resolution prohibits all joint ventures with the regime, resulting in a significant amount of lost revenue. But more importantly, the regime can no longer obtain critically needed foreign investments, technology, and know-how needed for its commercial industries.

Finally, this resolution imposes asset freezes on the most central North Korean regime entities, affecting both the military and the government itself. In short, these are by far the strongest measures ever imposed on North Korea. They give us a much better chance to halt the regime's ability to fuel and finance its nuclear and missile programs.

But we all know these steps only work if all nations implement them completely and aggressively. Today's resolution would not have happened without the strong relationship that has developed between President Trump and Chinese President Xi, and we greatly appreciate both teams working with us. We have seen additional encouraging signs that other nations in Asia have stepped up to the plate. The Philippines has cut off all trade with Pyongyang. Thailand has drastically cut its economic ties with North Korea. And states much further away are also doing their part. Mexico recently declared the North Korean ambassador to its country persona non grata. Along with strictly enforcing sanctions, these are important steps toward complete international unity. They make clear that all nations can act to deny North Korea the funds to build its nuclear arsenal.

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The U.S. fact sheet on resolution 2375 is excerpted below and available at <https://usun.state.gov/remarks/7969>.

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Resolution 2375 (2017), adopted unanimously by the United Nations Security Council on September 11, 2017, strengthens UN sanctions on North Korea in response to the North Korea nuclear test conducted on September 2, 2017. As such, this resolution sends a very clear message to North Korea that the Security Council is united in condemning North Korea's violations and demanding North Korea give up its prohibited nuclear and ballistic missile programs.

Resolution 2375 (2017) includes the strongest sanctions ever imposed on North Korea. These measures target North Korea's last remaining major exports by fully banning the export of textiles (nearly \$800 million each year) and preventing overseas workers from earning wages that finance the North Korean regime (over \$500 million each year), reduces about 30% of oil provided to North Korea by cutting off over 55% of refined petroleum products going to North Korea, and fully bans all joint ventures with North Korea to cut off foreign investments, technology transfers, and other economic cooperation with North Korea. The resolution also includes strong maritime provisions enabling countries to counter North Korean smuggling activities of prohibited exports by sea.

Resolution 2375 (2017) includes the following key elements:

Oil/Petroleum

- This resolution **reduces about 30% of oil provided to North Korea** by cutting off over 55% of refined petroleum products going to North Korea.
  - It will achieve this through imposing an annual cap of 2 million barrels per year of all refined petroleum products (gasoline, diesel, heavy fuel oil, etc.)
  - North Korea currently receives a total of about 8.5 million barrels of oil/petroleum: 4.5 million in refined form and 4 million in crude form.
- The resolution freezes the current amount of crude oil provided to North Korea by banning countries from providing additional crude oil beyond what China provides through the Dandong-Sinuifu pipeline.
- The resolution also bans the supply to North Korea of all natural gas and condensates—this will prevent North Korea from obtaining substitutes for refined petroleum products.

### Textiles

- The resolution **bans all North Korean textile** exports.
- Textile exports—North Korea’s largest economic sector that the Security Council had not previously restricted—earned North Korea an average of \$760 million in the past three years.
- Combined with the previous Security Council resolutions, over 90% of North Korea’s publicly reported 2016 exports of \$2.7 billion are now banned (coal, textiles, iron, seafood), which does not include revenues from overseas workers.

### Overseas Laborers

- This provision we adopt today will eventually **deny the regime another half billion dollars each year it takes from the nearly 100,000 North Korean citizens** working around the world to earn wages.
- In order to minimize business disruptions to existing contracts and work authorizations involving North Korean overseas workers, this provision allows existing authorizations to reach their original expiration dates but does not authorize any renewals.

### Interdiction

- The resolution provides member states **new tools to stop high seas smuggling of prohibited products** (e.g., conventional arms, coal, textiles, seafood, etc.). North Korea has been smuggling coal and iron ore to other countries using very sophisticated evasion techniques by sea.
  - If flag states refuse to allow inspections of suspicious vessels, then the flag state is required to redirect the vessels to a port for inspection.
  - If a flag state or vessel does not cooperate with inspections, then the vessel can be designated for an asset freeze, denied port access, de-registered, and suffer other penalties.

### Joint Ventures

- The resolution requires the **end of all joint ventures with North Korea**. This will not only starve the regime of any revenues generated through such arrangements, it will now stop all future foreign investments and technology transfers to help North Korea’s nascent and weak commercial industries.
- However, to protect civilian needs of the North Korean people and continue facilitating international commerce involving the North Korean port of Rajin, the China-DPRK hydroelectric power stations on the Yalu River and the Russia-DPRK Khasan-Rajin rail and port project to transshipment of Russian coal to other markets are exempted.

### Designations

- The resolution imposes asset freezes on the **most important North Korean regime organs**: Organizational Guidance Department, Central Military Commission, and Propaganda and Agitation Department that run the DPRK government, military, and keep its people down.
- The resolution facilitates the listing of additional dual-use items and technology that could be used for WMD or conventional arms-related purposes that will be banned for transfer to and from North Korea.
- The resolution also facilitates a process to identify vessels caught smuggling prohibited North Korean goods to other countries.

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On December 22, 2017, the Security Council again adopted new sanctions on North Korea in resolution 2397. Ambassador Haley's explanation of vote at the adoption of the resolution is excerpted below and available at <https://usun.state.gov/remarks/8239>.

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Today, for the tenth time, this Council stands united against a North Korean regime that rejects the pursuit of peace. The Kim regime continues to defy the resolutions of this Council, the norms of civilized behavior, and the patience of the international community. Their arrogance and hostility to anything productive has set their country on a destructive path.

Nine times before today, we have asked the North Korean regime to choose the path of peace. And if they do, we would welcome them back into the community of nations. But Pyongyang has chosen the path of isolation.

As we have in the past, we will continue to match the Kim regime's choice of aggressive actions with actions of international sanction. I commend the members of the Security Council for their unity and persistence in this sustained international defense of peace and security.

On November 29, Pyongyang launched an intercontinental ballistic missile. This was another attempt by the Kim regime to masquerade as a great power, while their people starve and their soldiers defect. But for the international community, this is an unprecedented challenge from a defiant state. So we have leveled an unprecedented response.

This resolution ratchets up the pressure on North Korea even further, building on our last resolution, which included the strongest sanctions ever imposed on them. Those sanctions fully banned textile exports from North Korea. They banned all joint ventures and all new work permits for overseas North Korean laborers. And, critical to the regime's ability to develop its nuclear and missile programs, the previous resolution cut off 55 percent of refined petroleum products going to North Korea.

Today, we cut deeper.

After North Korea's September nuclear test, this Council capped refined petroleum exports into North Korea. Today's resolution achieves an 89 percent total reduction of the Kim regime's ability to import gasoline, diesel, and other refined products. And should the North Korean regime conduct another nuclear or ballistic missile test, this resolution commits the Security Council to take even further action. It sends the unambiguous message to Pyongyang that further defiance will invite further punishment and isolation.

The September resolution banned all new permits for North Koreans who work abroad and send the majority of their earnings to Pyongyang. This is a source of over \$500 million each year to the Kim regime. Today's resolution goes further—it requires that countries expel all North Korean workers within 24 months.

Previous resolutions banned 90 percent of North Korea's exports. This resolution bans all remaining categories of major North Korean exports—a loss of nearly \$250 million in revenue to the regime.

Previous resolutions cracked down on smuggling of banned items like oil and coal. But sanctions evasion has continued. So this resolution closes the loopholes in the system and requires countries to seize and impound ships caught smuggling illicit goods.

The list goes on.

The unity this Council has shown in leveling these unprecedented sanctions is a reflection of the international outrage at the Kim regime's actions. But we're not the only ones who are appalled by the North Korean regime. We're not the only ones sacrificing for a solution—not even close.

At our last meeting on North Korea, I called on all nations to sever diplomatic and trade relations with North Korea. I reiterate that call today. For any nation that continues to support the Kim regime, I ask you to consider the nature of this regime. Consider this crisis through the eyes of the North Korean people.

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The U.S. fact sheet on resolution 2397 is excerpted below and available at <https://usun.state.gov/remarks/8238>.

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In response to the November 29, 2017 intercontinental ballistic missile (ICBM) launch by North Korea, United Nations Security Council resolution (UNSCR) 2397 imposes strong new sanctions on North Korea's energy, export, and import sectors with new maritime authorities to help shut down North Korea's illicit smuggling activities. UNSCR 2397 builds on UNSCR 2375 (2017), which included the strongest sanctions ever imposed on North Korea, and prior resolutions. This resolution imposes the following measures:

1. **Refined Petroleum Products (OP5):** Reduces UNSCR 2375 annual cap on refined petroleum exports by 75% to allow a maximum of 500,000 barrels/year to North Korea.

- In 2016, North Korea imported 4.5 million barrels/year of refined petroleum.
- After the September nuclear test, the Security Council capped refined petroleum exports to North Korea at 2 million barrels.
- By reducing this cap to 500,000 barrels, North Korea's import of gasoline, diesel, and other refined products will be **cut by a total of 89%** from summer 2017.

2. **Crude Oil (OP4):** Strengthens UNSCR 2375 freeze on crude oil by establishing a 4 million barrels/year or 525,000 tons/year annual limit. Increases transparency of crude oil provided to North Korea by requiring supplying member states to provide quarterly reports to the 1718 Sanctions Committee on amounts of crude oil provided to North Korea.

3. **Commitment to Future Oil Reductions (OP27):** Commits the Security Council to reduce further petroleum exports to North Korea following another nuclear test or an ICBM launch, sending a strong new political signal to North Korea about future Security Council responses.

4. **Countering Maritime Smuggling (OPs 9-15):** Provides additional tools to crack down on smuggling and sanctions evasion, including a new requirement for countries to seize and impound ships caught smuggling illicit items including oil and coal.

5. **North Korean Overseas Workers (OP8):** Requires countries to expel all North Korean laborers earning income abroad immediately but no later than 24 months later (end of 2019).

- The North Korean regime is believed to be earning over \$500 million each year from heavily taxing the nearly 100,000 overseas North Korean workers, with as many as 80,000 working in China (about 50,000) and Russia (about 30,000) alone.
- Exempts the repatriation of North Korean defectors, refugees, asylum seekers, and trafficking victims who will face persecution and torture when repatriated by the North Korean regime.

**6. Ban DPRK Exports (OP6):** Bans all remaining categories of major DPRK exports.

- Previous Security Council resolutions banned North Korea's export sectors covering around 90% of its export revenue (e.g., coal, textiles, seafood, iron).
- Banning the remaining major export sectors—including food, agricultural products, minerals machinery, electrical equipment—will cut off \$200 million or more of annual export revenues.
- Revenues from these exports in 2016 constituted nearly 10% of total exports or \$264 million.

**7. Ban DPRK Imports (OP7):** Bans North Korea from importing heavy machinery, industrial equipment, and transportation vehicles, which constituted about 30% of North Korea's 2016 imports worth nearly \$1.2 billion. Exempts the provision of spare parts for civilian passenger aircraft for air safety reasons.

**8. Protects Humanitarian and Diplomatic Activities in North Korea:** Imposes new measures aimed at the North Korean regime and the elite by targeting industrial and other major economic activities while preventing North Korea from exporting food and agricultural products. Provides a number of exemptions aimed at protecting the delivery of humanitarian assistance to the North Korean people and not impeding the work of diplomatic and consular missions operating in North Korea.

**9. Sanctions Designations (Annexes):** Adds 16 new individuals and 1 entity connected to the financing and development of North Korea's nuclear and ballistic missile programs to the UN's sanctions list.

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(2) *U.S. sanctions*

(a) *E.O. 13687*

See *Digest 2015* at 645 for background on Executive Order 13687, "Imposing Additional Sanctions With Respect To North Korea." On January 11, 2017, OFAC designated seven individuals pursuant to E.O. 13687: Won Hong KIM; Yo Jong KIM; Il-Nam KIM; Hwi CHOE; Yong-Won JO; Byong Chol MIN; and P'il-Hun KANG. 82 Fed. Reg. 5646 (Jan. 18, 2017). On March 30, 2017, OFAC blocked the property and interests in property of one individual—Yong Su KIM—pursuant to subsection 1(a)(ii) of E.O. 13687, for being an official of the Government of North Korea. 82 Fed. Reg. 17,331 (Apr. 10, 2017). On June 1, 2017, OFAC designated SU-KWANG KIM pursuant to E.O. 13687 for being an official of the Government of North Korea. 82 Fed. Reg. 26,841 (June 9, 2017). On September 26, 2017, OFAC designated Su Nam PANG pursuant to both E.O. 13687 and E.O. 13810 (see section (d), *infra*). 82 Fed. Reg. 45,946 (Oct. 2, 2017). Also on September 26, 2017, OFAC designated Tong Chol KIM, Chol Man KO, Chun Hwan RI, Chun Song RI, So'k-min CH'OE,



Kyong Il KIM, and Ja Hyong KU pursuant to E.O. 13687 for being officials of the Government of North Korea. *Id.* On October 26, 2017, OFAC designated seven individuals—Yong Su JONG; Kyong-Chol JO; Kang Jin KIM; Sung Sop KU; Min Chol KIM; Thae Chol RI; and Yong Il SIN—pursuant to E.O. 13687. 82 Fed. Reg. 50,484 (Oct. 31, 2017). On December 26, 2017, OFAC designated Jong Sik KIM and Pyong Chol RI pursuant to E.O. 13687. 82 Fed. Reg. 61,813 (Dec. 29, 2017).

(b) *E.O. 13722*

See *Digest 2016* at 646 for background on Executive Order 13722, “Blocking Property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea.” On January 11, 2017, OFAC designated two entities pursuant to E.O. 13722: MINISTRY OF LABOR and STATE PLANNING COMMISSION. 82 Fed. Reg. 5646 (Jan 18, 2017). On March 30, 2017, OFAC designated several individuals and one entity pursuant to E.O. 82 Fed. Reg. 17,331 (Apr. 10, 2017). The individuals designated are: Chun Yong CHOE, Nam Ung KIM, Mun Chol KIM, and Tong-ho KIM; and the entity is PAEKSOL TRADING CORPORATION. On April 4, 2017, OFAC blocked the property and interests in property of one entity—KORYO CREDIT DEVELOPMENT BANK—pursuant to E.O. 13722. 82 Fed. Reg. 17,331 (Apr. 10, 2017).

On June 1, 2017, OFAC designated one individual—Song-hyok RI—and eight entities—SONGI TRADING COMPANY, INDEPENDENT PETROLEUM COMPANY, AO NNK—PRIMORNEFTEPRODUCT, KOREA COMPUTER CENTER, KOREA ZINC INDUSTRIAL GROUP, KOREAN PEOPLE’S ARMY, MINISTRY OF PEOPLE’S ARMED FORCES, and STATE AFFAIRS COMMISSION—pursuant to E.O. 13722. 82 Fed. Reg. 26,841 (June 9, 2017). On June 29, 2017, OFAC designated Hong Ri LI and DALIAN UNITY GLOBAL SHIPPING CO., LTD. pursuant to E.O. 13722. 82 Fed. Reg. 35,054 (July 27, 2017). On August 22, 2017, OFAC designated the following individuals pursuant to E.O. 13722: Mikhail Yur’evich PISKLIN (for operating in the energy industry in the North Korean economy); Andrey SERBIN (for operating in the energy industry in the North Korean economy); Irina Igorevna HUIISH (for links to Velmur Management PTE. LTD., also designated under E.O. 13722); Yupeng CHI, (for links to DANDONG ZHICHENG METALLIC MATERIAL CO., LTD.); Tong-chol KIM (for links to MANSUDAE OVERSEAS PROJECT GROUP OF COMPANIES). 82 Fed. Reg. 40,644 (Aug. 25, 2017). And OFAC also designated the following entities on August 22, 2017 pursuant to E.O. 13722: DANDONG ZHICHENG METALLIC MATERIAL CO., LTD. (for transacting with North Korea to benefit its WMD or missile programs); TRANSATLANTIC PARTNERS PTE LTD (for operating in the energy industry); VELMUR MANAGEMENT PTE LTD (for links to Transatlantic Partners); JINHOUI INTERNATIONAL HOLDINGS CO. LTD (for operating in the mining industry and other activities); DANDONG TIANFU TRADE CO., LTD (for transacting with North Korea to benefit its nuclear or missile programs); MANSUDAE OVERSEAS PROJECTS ARCHITECTURAL AND TECHNICAL SERVICES (PTY) LIMITED (for links to MANSUDAE OVERSEAS PROJECT GROUP OF COMPANIES; QINGDAO

CONSTRUCTION (for links to MANSUDAE OVERSEAS PROJECT GROUP OF COMPANIES and other designated entities).

On September 26, 2017, OFAC designated two entities pursuant to E.O. 13722: CENTRAL BANK OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA, and FOREIGN TRADE BANK OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA. 82 Fed. Reg. 45, 946 (Oct. 2, 2017). On October 26, 2017, OFAC designated three entities pursuant to E.O. 13722: CH’OLHYO’N OVERSEAS CONSTRUCTION COMPANY, EXTERNAL CONSTRUCTION BUREAU, and MILITARY SECURITY COMMAND. On November 21, 2017, OFAC designated several entities pursuant to E.O. 13722: KOREA SOUTH–SOUTH COOPERATION CORPORATION; MARITIME ADMINISTRATION OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA; MINISTRY OF LAND AND MARITIME TRANSPORTATION OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA.

(c) *E.O. 13382*

E.O. 13382 (“Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”) also continued to be used in 2017 to sanction entities and individuals linked to North Korean WMD programs. On March 31, 2017, OFAC designated several individuals pursuant to E.O. 13382: Chol Su KANG (linked to KOREA RYONBONG GENERAL CORPORATION); Il-Kyu PAK (linked to KOREA PUGANG TRADING CORPORATION); Sung Nam JANG (linked to KOREA TANGUN TRADING CORPORATION); Chol Song JO (linked to KOREA KWANGSON BANKING CORP); Su Yong RI (linked to KOREA RYONBONG GENERAL CORPORATION); and Jang Su HAN (chief representative of Foreign Trade Bank). 82 Fed. Reg. 17,331 (Apr. 10, 2017). On June 1, 2017, OFAC designated one individual—Igor Aleksandrovich MICHURIN—and one entity—ARDIS-BEARINGS LLC—pursuant to E.O. 13382. 82 Fed. Reg. 26,841 (June 9, 2017). On June 29, 2017, OFAC designated Wei SUN pursuant to E.O. 13382 for links to Foreign Trade Bank. 82 Fed. Reg. 35,054 (July 27, 2017). On August 22, OFAC designated Ruben Ruslanovich KIRAKOSYAN pursuant to E.O. 13382 for links to North Korea proliferation. 82 Fed. Reg. 40,644 (Aug. 25, 2017). Also on August 22, OFAC designated three entities pursuant to E.O. 13382: GEFESE–M LLC (for links to KOREA TANGUN TRADING CORPORATION); MINGZHENG INTERNATIONAL TRADING LIMITED, (for links to FOREIGN TRADE BANK OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA; and DANDONG RICH EARTH TRADING CO., LTD (for links to KOREA KUMSAN TRADING CORPORATION). *Id.* On October 31, 2017, the State Department published its finding that the Korea Kuryonggang Trading Corporation is an alias of Korea Tangun Trading Corporation, and that the Korea Taeryonggang Trading Corporation is an alias of Namchongang Trading Corporation, both of which had been designated pursuant to Executive Order 13382. 82 Fed. Reg. 50,478 (Oct. 31, 2017).

(d) *E.O. 13810 (“Imposing Additional Sanctions with respect to North Korea”)*

On September 20, 2017, the President issued Executive Order 13810, entitled “Imposing Additional Sanctions With Respect to North Korea.” 82 Fed. Reg. 44,705 (Sep. 25, 2017).

E.O. 13810 was a response to, among other things, North Korea's intercontinental ballistic missile launches on July 3 and July 28, 2017 and its nuclear test on September 2, 2017. The text of E.O. 13810 is excerpted below.

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**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:

Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to operate in the construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea;

(ii) to own, control, or operate any port in North Korea, including any seaport, airport, or land port of entry;

(iii) to have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology;

(iv) to be a North Korean person, including a North Korean person that has engaged in commercial activity that generates revenue for the Government of North Korea or the Workers' Party of Korea;

(v) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order; or

(vi) 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.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the effective date of this order. The prohibitions in subsection (a) of this section are in addition to export control authorities implemented by the Department of Commerce.

\* \* \* \*

**Sec. 2.** (a) No aircraft in which a foreign person has an interest that has landed at a place in North Korea may land at a place in the United States within 180 days after departure from North Korea.

(b) No vessel in which a foreign person has an interest that has called at a port in North Korea within the previous 180 days, and no vessel in which a foreign person has an interest that has engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, may call at a port in the United States.

(c) The prohibitions in subsections (a) and (b) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the effective date of this order.

\* \* \* \*

On September 26, 2017, OFAC designated the following individuals pursuant to E.O. 13810: Chong-chol KWAK; Hui-bong RYOM; Mun Il PAK; Yong Il HO; Min KANG; Sang-ho KIM; Jong Man KIM; Hyok Chol KIM; Kyong Hwan MUN; Won Uk PAE; Bong Nam PAK; Hyo'k CHU; U'n-so'ng RI; Su Nam PANG; Sung Jun CHA; Sang Jun JI; Kyong Hyok KIM; Chol Nam PAK; and Ho Nam RI. 82 Fed. Reg. 45,946 (Oct. 2, 2017). OFAC also designated the following entities under E.O. 13810 on September 26: AGRICULTURAL DEVELOPMENT BANK; CHEIL CREDIT BANK; HANA BANKING CORPORATION LTD; INTERNATIONAL INDUSTRIAL DEVELOPMENT BANK; JINMYONG JOINT BANK; JINSONG JOINT BANK; KORYO COMMERCIAL BANK LTD.; and RYUGYONG COMMERCIAL BANK. *Id.*

On November 21, 2017, OFAC designated one individual—Sidong SUN—and several entities—DANDONG DONGYUAN INDUSTRIAL CO., LTD., KOREA KUMBYOL TRADING COMPANY, YUSONG SHIPPING CO, DAWN MARINE MANAGEMENT CO LTD, KOREA DAEBONG SHIPPING CO, KOREA RUNGRADO RYONGAK TRADING CO, KOREA RUNGRADO SHIPPING CO, DANDONG HONGDA TRADE CO. LTD., DANDONG XIANGHE TRADING CO., LTD., and DANDONG KEHUA ECONOMY & TRADE CO., LTD.—as well as 20 vessels, all pursuant to E.O. 13810.

## 6. Terrorism

### a. *UN and other coordinated multilateral action*

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 acting for or on behalf of, or providing material support for, or being otherwise associated with, 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.

On July 20, 2017 Ambassador Michele J. Sison, U.S. Deputy Permanent Representative to the United Nations, delivered remarks following the vote by the Security Council to adopt Resolution 2368, renewing sanctions on designated associates

of ISIL and Al-Qaida. Ambassador Sison's remarks are excerpted below and available at <https://usun.state.gov/remarks/7905>.

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\* \* \* \*

With today's vote, this Security Council is taking another important step to help defeat ISIS and Al-Qaida. Thank you to the co-sponsors of the resolution for your support.

For the United States, there is no higher priority. That is why we are leading a 72-member Coalition that is making great strides to liberate territory from the grip of ISIS.

The United States has supported the Iraqi government to push ISIS out of Mosul. ISIS' last strongholds in Syria are coming under intense pressure.

But even as ISIS is losing ground in Syria and Iraq, the threat is far from over. ISIS will continue looking to spread its ideology and radicalize new groups around the world. They will create new offshoots in new places. Fighters that trained with ISIS in Syria are now starting to return home.

The Security Council needs to show that it can adapt with these changing threats. That is the goal of today's resolution.

The provisions recognize the need to focus not just on ISIS, but also on its affiliates, wherever they may appear.

We also redoubled our commitment to enforcing these measures—the resolution urges more international cooperation to cut off terrorist funding, prevent the travel of terrorists, and stop these groups from acquiring arms.

And to help make sure these sanctions are being implemented fully and fairly, we reaffirmed our support for the 1267 Monitoring Team and its Ombudsperson.

As another important step, today the Security Council added in this resolution eight new individuals and entities to the 1267 sanctions list.

This includes ISIS leaders in Southeast Asia, foreign fighters from the Caucasus, illicit money exchange businesses, and ISIS-affiliated terrorist groups in Syria. And there will be more designations to come.

To make the best use of this tool, the Security Council must regularly add more names to the sanctions list of any new ISIS- or Al-Qaida-affiliated individual or group, wherever they are in the world.

Implementing these sanctions is essential, yet it's only one part of a broader strategy to defeat ISIS and the violent extremist ideology that feeds it.

All member states of the United Nations must work together to prevent groups from declaring allegiance to ISIS and becoming one of its affiliates.

We must mobilize action to address ex-ISIS fighters who return or relocate to other countries—we can't allow them to become a new threat elsewhere.

And we must do more—especially here at the UN—to help countries prevent and counter violent extremism before it takes root. To do so, it's essential we build strong partnerships with civil society, faith leaders, youth, and local communities.

ISIS and similar groups threaten not just our security, but our values, like tolerance, human dignity, and freedom. For this reason, in every region of the world, and people of all faiths, have come together to condemn terrorism.

The United States will continue to lead this effort. Today's unanimous vote reinforces this global resolve to defeat terrorism wherever it is found.

\* \* \* \*

***b. U.S. targeted financial sanctions***

*(1) Department of State*

*(a) State Department designations*

In 2017, 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. For an up-to-date list of State Department designations under E.O. 13224 by date, see <https://www.state.gov/j/ct/rls/other/des/143210.htm>.

On January 10, 2017, the Department of State announced the designation of Jamaah Ansharut Daulah ("JAD") as a Specially Designated Global Terrorist ("SDGT") under E.O. 13224. In the January 10, 2017 media note announcing the designation, available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266763.htm>, the Department provided the following background on JAD:

JAD is a terrorist group based in Indonesia that was formed in 2015 and is composed of almost two dozen Indonesian extremist groups that pledged allegiance to ISIL leader Abu Bakr al-Baghdadi. ISIL is a U.S. Department of State-designated Foreign Terrorist Organization (FTO) and SDGT, and al-Baghdadi is a U.S. Department of State designated SDGT. In January 2016, four people were killed and 25 wounded following an attack by a suicide bomber and gunmen in central Jakarta. The attack was attributed to JAD militants financially supported by an Indonesian ISIL militant based in Syria.

Also on January 10, 2017, the Department announced the designation of Alexandra Amon Kotey under E.O. 13224 in a media note available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266762.htm>. The media note includes the following on Kotey:

Alexandra Amon Kotey, a British national, is one of four members of an execution cell for the Foreign Terrorist Organization (FTO) and SDGT group, the Islamic State of Iraq and the Levant (ISIL). The notorious cell, dubbed "The Beatles" and once headed by now-deceased SDGT Mohamed Emwazi (also known as Jihadi John), is responsible for holding captive and beheading approximately two dozen hostages, including several Westerners. Among them: American journalists James Foley and Steven Sotloff, and American aid worker Peter Kassig. As a guard for the cell, Kotey likely engaged in the group's executions and exceptionally cruel torture methods, including electronic shock and

waterboarding. Kotey has also acted as an ISIL recruiter and is responsible for recruiting several UK nationals to join the terrorist organization.

On February 25, 2017, the Secretary determined that Alsayed Murtadha Majeed Ramadhan Alawi should be designated pursuant to E.O. 13224. 82 Fed. Reg. 15,548 (Mar. 29, 2017). He also made the determination to designate Ahmad Hasan Yusuf on February 25, 2017. *Id.* In a March 17, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/03/268504.htm>, the following information was provided about the designations of Yusuf and Alawi:

... This marks yet another step in our continued effort to aggressively target Iran's destabilizing and terrorism-related activities in the region. We will continue to stand with Bahrain in addressing these threats, even as we encourage the government to clearly differentiate its response to violent militia groups from its engagement with peaceful political opposition.

Alawi is affiliated with the Bahrain-based al-Ashtar Brigades (AAB). Yusuf is an Iran-based AAB senior member. AAB receives funding and support from the Government of Iran—a state sponsor of terrorism. AAB has claimed responsibility for numerous terrorist attacks—some of which have resulted in casualties—mainly against police and security targets in Bahrain. In March 2014, AAB conducted a bomb attack that killed two local police officers and an officer from the United Arab Emirates. AAB targets the security services of Gulf countries, such as Bahrain and Saudi Arabia.

On February 28, 2017, Shane Dominic Crawford was designated. 82 Fed. Reg. 16,466 (Apr. 4, 2017).

On March 13, 2017, the Secretary made the determination under E.O. 13224 to designate El Shafee Elsheikh and Anjem Choudary. 82 Fed. Reg. 16,653 (Apr. 5, 2017). On March 14, 2017, he made the determination with regard to Sami Bashur Bouras. *Id.* Also on March 14, 2017, the Secretary determined that Mark John Taylor met the criteria for designation under E.O. 13224. 82 Fed. Reg. 16,467 (Apr. 4, 2017). A March 30, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/03/269306.htm>, provides further information on the designations of Elsheikh, Choudary, Bouras, Crawford, and Taylor:

El Shafee Elsheikh traveled to Syria in 2012, joined al-Qa'ida's (AQ) branch in Syria, and later joined ISIS. In May 2016, Elsheikh was identified as a member of the ISIS execution cell known as "The Beatles," a group accused of beheading more than 27 hostages and torturing many more. Elsheikh was said to have earned a reputation for waterboarding, mock executions, and crucifixions while serving as an ISIS jailer.

Anjem Choudary is a British extremist with links to convicted terrorists and extremist networks in the UK, including the proscribed Al-Muhajiroun group. In September 2014, Choudary was arrested for pledging allegiance to ISIS and for

acting as a key figure in ISIS' recruitment drive. He was sentenced to prison in September 2016. Choudary has stated that he will continue his recruitment activities from prison.

Sami Bouras is a Swedish citizen of Tunisian descent who is a member of AQ and who has been involved with planning suicide attacks.

Shane Dominic Crawford is a citizen of Trinidad and Tobago and is currently believed to be a foreign terrorist fighter in Syria carrying out terrorist activity on behalf of ISIS, including acting as an English language propagandist for the group.

Mark John Taylor is a New Zealand national who has been fighting in Syria with ISIS since the fall of 2014. Taylor has used social media, including appearing in a 2015 ISIS propaganda video, to encourage terrorist attacks in Australia and New Zealand.

On March 23, 2017, the Secretary made the determination under E.O. 13224 to designate Mubarak Mohammed A Alotaibi. 82 Fed. Reg. 19,308 (Apr. 26, 2017). The April 27, 2017 State Department media note on the designation, available at <https://www.state.gov/r/pa/prs/ps/2017/04/270472.htm>, explains that Alotaibi "is the Syria-based deputy leader of Islamic State of Iraq and Syria's (ISIS) affiliate in Saudi Arabia..." On March 27, 2017, Tarek Sakr and Farah Mohamed Shirdon were designated. 82 Fed. Reg. 18,521 (Apr. 19, 2017). In an April 13, 2017 media note, available at <https://www.state.gov/r/pa/prs/ps/2017/04/270150.htm>, the State Department provided the following on Sakr: "Tarek Sakr is a Syrian-born Canadian citizen who has conducted sniper training in Syria and periodically travels to Turkey. Sakr has been linked to the Foreign Terrorist Organization (FTO) and SDGT al-Nusrah Front, al-Qa'ida's affiliate in Syria." The same media note also provides information on Farah Mohamed Shirdon: "Farah Mohamed Shirdon is a Canadian citizen who travelled to Iraq and Syria to fight with the FTO and SDGT the Islamic State of Iraq and Syria (ISIS). Shirdon is a prominent ISIS fighter and recruiter and has also been involved in fundraising."

On April 12, 2017, the State Department announced the designation of Abu Anas al-Ghandour pursuant to E.O. 13224. 82 Fed. Reg. 17,716 (Apr. 12, 2017). The April 6, 2017 State Department media note on the designation, available at <https://www.state.gov/r/pa/prs/ps/2017/04/269504.htm>, provides the following background on al-Ghandour:

Abu Anas al-Ghandour is a military commander for the Foreign Terrorist Organization and SDGT group, Hamas. He leads a Hamas brigade in Gaza and has been involved in many terrorist operations. Ghandour was involved in the 2006 attack on the Israel Defense Forces (IDF) outpost at the Kerem Shalom border crossing, which killed two IDF soldiers and wounded four others, and led to the kidnapping of dual French-Israeli citizen, Corporal Gilad Shalit. Ghandour has also served on the Hamas Shura Council and political bureau.



On April 20 2017, Marwan Ibrahim Hussayn Tah al-Azawi was designated by the State Department pursuant to E.O. 13224. 82 Fed. Reg. 27,754 (June 16, 2017). On April 20, 2017, the Secretary made the determination under E.O. 13224 to designate Majelis Mujahidin Indonesia (“MMI”). 82 Fed. Reg. 27,754 (June 16, 2017). In a June 12, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/06/271689.htm>, the following information about the designations was provided:

Marwan Ibrahim Hussayn Tah al-Azawi is an Iraqi ISIS leader connected to ISIS’s development of chemical weapons for use in ongoing combat against Iraqi Security Forces. ISIS has repeatedly used sulfur mustard in chemical weapons attacks in Syria as well as in Iraq.

Majelis Mujahidin Indonesia (MMI) is an Indonesia-based terrorist group formed in 2000 by Abu Bakar Bashir, leader of the designated Foreign Terrorist Organization (FTO) and SDGT group, Jemaah Islamiya (JI). The group has conducted attacks in Indonesia, including claiming responsibility for a May 2012 attack at the book launch of Canadian author Irshad Manji; the attack left three attendees hospitalized. MMI also has links to al-Qa’ida’s affiliate in Syria, the FTO and SDGT group al-Nusrah Front.

On May 9, 2017, Muhammad Ahmad ‘Ali al-Isawi was designated. 82 Fed. Reg. 24,425 (May 26, 2017). On May 15, 2017, the Secretary made the determination to designate Hashem Safieddine under E.O. 13324. 82 Fed. Reg. 24,425 (May 26, 2017). A May 19, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/05/270982.htm>, provides background on the designations of Safieddine and al-Isawi:

The Kingdom of Saudi Arabia joined the United States in designating Hashem Safieddine. The Kingdom of Saudi Arabia designated Safieddine under its Law of Terrorism Crimes and Financing and Royal Decree A/44. As a result, any of his assets held in Saudi Arabia are frozen, and transfers through the Kingdom’s financial sector, are prohibited.

Hashem Safieddine is a senior leader in Hizballah, a Foreign Terrorist Organization (FTO) and SDGT entity supported by Iran. Safieddine is a key member of Hizballah’s executive council, which oversees Hizballah’s political, organizational, social, and educational activities. Hizballah is responsible for such terrorist attacks as the suicide truck bombings of the U.S. Embassy and U.S. Marine barracks in Beirut in 1983, the U.S. Embassy annex in Beirut in 1984, and the 1985 hijacking of TWA flight 847.

Muhammad al-Isawi, more commonly known as Abu Usama al-Masri, has been ISIS’ affiliate in the Sinai’s leader since the death of Abu Du’a al-Ansari in August 2016. Prior to being selected as leader of ISIS’ affiliate in the Sinai, he was the group’s media spokesman. He also spent time in an Egyptian prison before escaping during the 2011 Egyptian revolution. ISIS’ affiliate in the Sinai originally

operated under the name Ansar Bayt al-Maqdis, which was designated as an FTO in September 2014. The State Department amended the group's FTO designation to include ISIS' affiliate in the Sinai on September 30, 2015.

On June 1, 2017, the Secretary of State designated Mohammad Shafi Armar pursuant to E.O. 13224. 82 Fed. Reg. 27,753 (June 16, 2017). On the same day, he also designated Oussama Ahmad Atar. 82 Fed. Reg. 27,754 (June 16, 2017). In a June 15, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/06/271921.htm>, the designations of Armar, Atar, and Al Binali were explained as follows:

Mohammad Shafi Armar is a leader and head recruiter in India for the Foreign Terrorist Organization (FTO) and Specially Designated Global Terrorist (SDGT) group, ISIS. He has cultivated a group of dozens of ISIS sympathizers who are involved in terrorist activities across India, such as plotting attacks, procuring weapons, and identifying locations for terrorist training camps.

Oussama Ahmad Atar is a senior leader of ISIS's external operations efforts and has established a network to carry out attacks in Europe. He was a leading coordinator of the November 2015 Paris attacks and March 2016 attacks in Brussels. The Belgian-Moroccan national was responsible for recruiting, training, and sending at least some of the individuals to Paris to launch the November 2015 attacks, which killed and injured hundreds, including Americans. He also recruited and mentored two of the bombers involved in the March 2016 Brussels attacks that killed 32 and left many more wounded.

Mohammed Isa Yousif Saqar Al Binali is a senior member of ISIS. Binali departed Bahrain to join the terrorist group in 2014 and has since appeared in multiple ISIS propaganda videos calling on Bahrainis, specifically members of Bahrain's security forces, to join ISIS.

On June 26, 2017, the Secretary made the determination under E.O. 13224 to designate Mohammad Yusuf Shah. 82 Fed. Reg. 29,973 (June 30, 2017). A June 26, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/06/272168.htm>, provides information on Shah:

Mohammad Yusuf Shah, AKA Syed Salahuddin, is the senior leader of the militant group Hizbul Mujahideen (HM). In September, 2016, Salahuddin vowed to block any peaceful resolution to the Kashmir conflict, threatened to train more Kashmiri suicide bombers, and vowed to turn the Kashmir valley "into a graveyard for Indian forces." Under Salahuddin's tenure as senior HM leader, HM has claimed responsibility for several attacks, including the April 2014 explosives attack in Indian-administered Jammu and Kashmir, which injured 17 people.

In an August 16, 2017 media note, the Department of State announced the designation of Hizbul Mujahideen (“HM”) under E.O. 13224. The media note, available at <https://www.state.gov/r/pa/prs/ps/2017/08/273468.htm>, includes the following on HM:

Formed in 1989, HM is one of the largest and oldest militant groups operating in Kashmir. Hizbul Mujahideen is led by Specially Designated Global Terrorist Mohammad Yusuf Shah, also known as Syed Salahuddin. Hizbul Mujahideen has claimed responsibility for several attacks, including the April 2014, explosives attack in the state of Jammu and Kashmir, which injured 17 people.

The designation of HM was published in the Federal Register on August 17, 2017. 82 Fed. Reg. 39,151 (Aug. 17, 2017). On August 23, 2017, the State Department published the designation of Ahmad Alkhald under E.O. 13224. 82 Fed. Reg. 40,057 (Aug. 23, 2017). The designation of Abu Yahya al-Iraqi was also published on August 23, 2017. *Id.* An August 17, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/08/273499.htm>, announced the designations of Ahmad Alkhald and Abu Yahya al-Iraqi, providing the following information on the two ISIS leaders:

Ahmad Alkhald is an ISIS bomb-maker responsible for the deaths of numerous civilians in Europe. He is the explosives chief of the terrorist cell that carried out the November 2015, attacks in Paris and the March 2016 attacks in Brussels. A Syrian national, Alkhald traveled to Europe, where he helped plan the Paris attacks and manufacture the explosive belts used in that plot, which killed and injured hundreds of people, including a number of Americans. Following his return to Syria shortly before the attacks in Paris, Alkhald continued to guide ISIS operatives in Europe on making the bombs used in the March 2016, Brussels attacks. Alkhald is wanted internationally and a European warrant for his arrest has been issued.

Abu Yahya al-Iraqi, also known as Iyad Hamed Mahl al-Jumaily, is a senior ISIS figure who reports to ISIS leader and designated SDGT Abu Bakr al-Baghdadi. Al-Iraqi has reportedly played a key role in security for al-Baghdadi and oversees ISIS security in Iraq and Syria. ...

On August 17, 2017, the State Department issued a fact sheet, available at <https://www.state.gov/r/pa/prs/ps/2017/08/273500.htm>, identifying all the ISIS-related designations pursuant to E.O. 13224, including the recent additions of Alkhald and al-Iraqi. As explained in the fact sheet:

The Department of State has designated over 30 ISIS leaders and operatives under Executive Order (E.O.) 13224, and will continue to target the group to deny it access to the U.S. financial system. These designations are part of a larger comprehensive plan to defeat ISIS that, in coordination with the 73-member

Global Coalition, has made significant progress toward that goal. This whole-of-government effort is destroying ISIS in its safe havens, denying its ability to recruit foreign terrorist fighters, stifling its financial resources, negating the false propaganda it disseminates over the internet and social media, and helping to stabilize liberated areas in Iraq and Syria so the displaced can return to their homes and begin to rebuild their lives.

The fact sheet also identifies the ISIS branches designated by the U.S. Department of State and other ISIS-related groups. On August 28, 2017, the Secretary designated Tony-Lee Thulsie. 82 Fed. Reg. 44,023 (Sep. 20, 2017). Brandon-Lee Thulsie was also designated on August 28, 2017. 82 Fed. Reg. 44,024 (Sep. 20, 2017). In a September 19, 2017 State Department media note available at <https://www.state.gov/r/pa/prs/ps/2017/09/274253.htm>, the following information was provided about the designations of Tony-Lee Thulsie and Brandon-Lee Thulsie:

In July 2016, Tony-Lee Thulsie and Brandon-Lee Thulsie were arrested during raids in South Africa for their links to ISIS. At the time of their arrest, the twin brothers had been plotting attacks targeting Jewish individuals and institutions and foreign embassies, including the U.S. Embassy in South Africa. Both Tony-Lee Thulsie and Brandon-Lee Thulsie attempted to travel to Syria to fight for ISIS and recruited others to join the terrorist group. Tony-Lee Thulsie also communicated with individuals linked to ISIS to discuss how to build and obtain explosive devices for the purpose of carrying out attacks.

*(b) State Department revocation of, and amendments to, designations*

The State Department continued to amend and revoke designations under E.O. 13224. On May 10, 2017, the Secretary of State determined that the Abu Nidal Organization no longer meets the criteria for designation under E.O. 13224 and revoked that designation. 82 Fed. Reg. 25,654 (June 2, 2017). On May 15, 2017, the Secretary concluded that there is a sufficient factual basis to find that al-Qa'ida in the Arabian Peninsula (and other aliases) uses the additional aliases Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council and amended the designation to include those aliases. 82 Fed. Reg. 28,731 (June 23, 2017). On May 16, 2017, the Secretary amended the designation of Hizballah to include the following new aliases: Lebanese Hizballah, also known as Lebanese Hezbollah, also known as LH. 82 Fed. Reg. 28,731 (June 23, 2017). A June 21, 2017 State Department media note available at <https://www.state.gov/r/pa/prs/ps/2017/06/272090.htm>, explains the amendments to the Hizballah and AQAP designations:

...Lebanese Hizballah ...is frequently used to refer to [Hizballah], as well as the Foreign Relations Department (FRD) and the External Security Organization (ESO), key components of the terror organization. The Department of State has

also amended the designation of al-Qa'ida in the Arabian Peninsula (AQAP) ...to add the aliases Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council.

...

Hizballah, which was originally designated as an FTO in 1997, operates through, among other parts of the group, its branches the FRD and the ESO, also known as the Islamic Jihad Organization. The FRD maintains Hizballah's public presence around the world. The branch is led by senior Hizballah member Ali Damush, designated by the Department of State as an SDGT in January 2017. The FRD is involved in covert operations around the globe, which include recruiting, fundraising and gathering intelligence on behalf of Hizballah.

Hizballah's ESO was established by now-deceased Hizballah leader Imad Mughniyah and was led by Talal Hamiyah as of September 2012. The branch is responsible for planning and carrying out Hizballah attacks outside of Lebanon. The attacks have primarily targeted Israelis and Americans.

Sons of Abyan, Sons of Hadramawt, Sons of Hadramawt Committee, Civil Council of Hadramawt, and National Hadramawt Council all serve as proxies or cover organizations for AQAP, which was designated as an FTO in 2010. AQAP uses these proxies to help govern the territories it controls, and to manage issues such as administration, economics, security, and building relationships with citizens.

On July 21, 2017, the State Department announced, in a media note available at <https://www.state.gov/r/pa/prs/ps/2017/07/272775.htm>, the amendments to the E.O. 13224 designation of Yarmouk Martyrs Brigade "to change the group's primary name to Khalid bin Al-Walid Army and to add new aliases." The media note provides background on the designation:

The Yarmouk Martyrs Brigade, formed in 2012, has staged attacks throughout Southern Syria, including several attacks targeting UN personnel. The group, which has pledged allegiance to ISIS, was designated by the Department of State as a SDGT entity on June 10, 2016. Near the time of the U.S. designation, the Yarmouk Martyrs Brigade changed its name to Khalid bin Al-Walid Army after merging with groups operating in Southern Syria. ISIS announced the group's name change and merger through its Amaq News Agency.

Khalid bin Al-Walid Army has also been listed on the UN Security Council 1267/1989/2253 ISIL (Da'esh) and al-Qaida sanctions list. The group's UN designation coincides with the UN Security Council's adoption of a resolution updating the UN Security Council 1267/1989/2253 ISIL (Da'esh) and al-Qaida sanctions regime and underscoring its continued importance in the global effort to defeat ISIS and al-Qa'ida.

The amendment to the designation of Yarmouk Martyrs Brigade was published in the Federal Register on July 26, 2016. 82 Fed. Reg. 34,732 (July 26, 2017).

A November 1, 2017 State Department media note, available at <https://www.state.gov/r/pa/prs/ps/2017/11/275241.htm>, announced the amendment of the designation of Abdallah Azzam Brigades (“AAB”) under E.O. 13224 to include additional aliases. 82 Fed. Reg. 50,928 (Nov. 2, 2017).

(2) OFAC

(a) OFAC designations

OFAC designated numerous individuals (including their known aliases) and entities pursuant to Executive Order 13224 during 2017. 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 82 Fed. Reg. 4967 (Jan. 17, 2017) (four individuals—Khaled SHARROUF, Neil Christopher PRAKASH, Oman ROCHMAN, and Bachrumsyah Mennor USMAN); 82 Fed. Reg. 9961 (Feb. 8, 2017) (four individuals—Yahya AL-HAJJ, Hasan Dehghan EBRAHIMI, Muhammad ‘Abd-al-Amir FARHAT, and Ali SHARIFI—and four entities—MAHER TRADING AND CONSTRUCTION COMPANY, MIRAGE FOR ENGINEERING AND TRADING, MIRAGE FOR WASTE MANAGEMENT AND ENVIRONMENTAL SERVICES SARL, and REEM PHARMACEUTICAL); 82 Fed. Reg. 12,276 (Mar. 1, 2017) (two individuals—Bassam Ahmad AL-HASRI and Iyad Nazmi Salih KHALIL); 82 Fed. Reg. 14,276 (Mar. 17, 2017) (one individual—Muhammad Hadi ‘Abd-al- Rahman Fayhan Sharban AL-’ANZI); 82 Fed. Reg. 16,474 (Apr. 4, 2017) (two individuals—Muhammad Bahrn Naim Anggih TAMTOMO and Muhammad Wanndy Bin Mohamed JEDI); 82 Fed. Reg. 18,343 (Apr. 18, 2017) (three individuals—Ali Ahmidah AL-SAFRANI, Hamma HAMANI, and Abd al Hadi ZARQUN); 82 Fed. Reg. 22,606 (May 16, 2017) (three individuals—Inayat ur RAHMAN, Ali Muhammad Abu TURAB, and Hayat Ullah Ghulam MUHAMMAD—and one entity—WELFARE AND DEVELOPMENT ORGANIZATION OF JAMAAT-UD-DAWAH FOR QUR’AN AND SUNNAH); 82 Fed. Reg. 23,981 (May 24, 2017) (two individuals—Khalid Ali Mabkhut AL-ARADAH and Hashim Muhsin Aydarus AL-HAMID); 82 Fed. Reg. 27,762 (June 16, 2017) (one individual—Attallah Salman ‘Abd Kafi AL-JABURI); 82 Fed. Reg. 28,226 (June 20, 2017) (one individual—’Umar AL-KUBAYSI—and one entity—AL-KAWTHAR MONEY EXCHANGE); 82 Fed. Reg. 28,546 (June 22, 2017) (one individual—Fared SAAL); 82 Fed. Reg. 28,938 (June 26, 2017) (one individual—Muhammad SALAH); 82 Fed. Reg. 34,745 (July 26, 2017) (one individual—Malik Ruslanovich BARKHANOEV); 82 Fed. Reg. 41,680 (Sep. 1, 2017) (one individual—Daniel Martin SCHNEIDER); 82 Fed. Reg. 44,026 (two entities—DART AIRLINES and KHORS AIRCOMPANY); 82 Fed. Reg. 48,591 (Oct. 18, 2017) (one entity—ISLAMIC REVOLUTIONARY GUARD CORPS); 82 Fed. Reg. 50,222 (Oct. 30, 2017) (eight individuals—Adil Abduh Fari Uthman AL-DHUBHANI, Abu Sulayman AL-ADANI, Sayf Abdulrab Salem AL-HAYASHI, Khalid AL-MARFADI, Nashwan al-Wali AL-YAFI’I, Khalid Sa’id Ghabish AL-UBAYDI, Bilal Ali Muhammad AL-WAFI, and Radwan Muhammad

Husayn Ali QANAN —and one entity—AL KHAYR SUPERMARKET); 82 Fed. Reg. 56,853 (Nov. 30, 2017) (two individuals—Reza HEIDARI and Mahmoud SEIF—and four entities—FORENT TECHNIK GMBH; PARDAZESH TASVIR RAYAN CO.; PRINTING TRADE CENTER GMBH; and TEJARAT ALMAS MOBIN HOLDING); 82 Fed. Reg. 58,275 (Dec. 11, 2017) (one individual, Abdullah Ibrahim AL-FAISAL).

*(b) OFAC de-listings*

On June 1, 2017, OFAC removed one individual—Abu NIDAL—and one entity—ABU NIDAL ORGANIZATION—from the SDN List. 82 Fed. Reg. 26,238 (June 6, 2017). Effective November 21, 2017, OFAC removed Talat Fouad QASEM from the SDN List. 82 Fed. Reg. 56,324 (Nov. 28, 2017).

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

See Chapter 3 for discussion of the Secretary of State’s 2017 determination regarding countries not cooperating fully with U.S. antiterrorism efforts.

**7. Russia**

**a. CAATSA**

See section A.1.c(2), *supra*, for a discussion of the Iran-related provisions in the Countering America’s Adversaries through Sanctions Act of 2017 (“CAATSA”). See Chapter 1.B.2.d. for discussion of the President’s signing statement. Several provisions in CAATSA relate to Russia. On October 27, 2017, senior State Department officials held a special briefing on sanctions with respect to Russia’s defense and intelligence sectors under Section 231 of CAATSA. The briefing is excerpted below and the full transcript is available at <https://www.state.gov/r/pa/prs/ps/2017/10/275164.htm>.

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**SENIOR STATE DEPARTMENT OFFICIAL ONE:** Thank you. The Department of State today released guidance in accordance with the Countering America’s Adversaries Through Sanctions Act, which was adopted by the Congress on July 28th of this year and signed by the President on August 2nd. The guidance relates to Section 231 of the act, which mandates the administration specify those persons or entities that are part of or operating for or on behalf of the defense or intelligence sectors of the Government of the Russian Federation.

The intent of Congress and the administration is to use Section 231 of the act to respond to Russia’s malign behavior with respect to the crisis in eastern Ukraine, cyber intrusions and attacks, and human rights abuses.



This section of the act targets significant transactions with persons in the defense and intelligence sectors of the Russian Government, which could include the sale of advanced Russian weaponry around the world. The full guidance, [<https://www.state.gov/t/isn/caatsa/index.htm>] along with the listing of entities defining those sectors of the government, and frequently asked questions can be viewed online at the state.gov website.

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On October 26, 2017, the Secretary of State issued guidance identifying persons that are part of, or operate for or on behalf of, the defense and intelligence sectors of the Government of the Russian Federation for purposes of Section 231 of CAATSA. 82 Fed. Reg. 57,325 (Dec. 4, 2017). The 231(d) List includes:

- Admiralty Shipyard JSC
- Almaz-Antey Air and Space Defense Corporation JSC
- Dolgoprudny Research Production JSC
- Federal Research and Production Center Titan Barrikady JSC (Titan Design Bureau)
- Izhevsk Mechanical Plant (Baikal)
- Izhmash Concern JSC
- Kalashnikov Concern JSC
- Kalinin Machine Building Plant JSC (KMZ)
- KBP Instrument Design Bureau
- MIC NPO Mashinostroyenia
- Molot Oruzhie
- Mytishchinski Mashinostroitelny Zavod
- Novator Experimental Design Bureau
- NPO High Precision Systems JSC
- NPO Splav JSC
- Oboronprom OJSC
- Radio-Electronic Technologies (KRET)
- Radiotechnical and Information Systems (RTI) Concern
- Research and Production Corporation Uralvagonzavod JSC
- Rosoboronexport OJSC (ROE)
- Rostec (Russian Technologies State Corporation)
- Russian Aircraft Corporation MiG
- Russian Helicopters JSC
- Sozvezdie Concern JSC
- State Research and Production Enterprise Bazalt JSC
- Sukhoi Aviation JSC
- Tactical Missiles Corporation JSC



- Tikhomirov Scientific Research Institute JSC
- Tupolev JSC
- United Aircraft Corporation
- United Engine Corporation
- United Instrument Manufacturing Corporation
- United Shipbuilding Corporation
- Autonomous Noncommercial Professional Organization/ Professional Association of Designers of Data Processing (ANO PO KSI)
- Federal Security Service (FSB)
- Foreign Intelligence Service (SVR)
- Main Intelligence Directorate of the General Staff of the Russian Armed Forces (GRU)
- Special Technology Center Zorsecurity

On October 27, 2017, the State Department published guidance on sanctions with respect to Russia's defense and intelligence sectors under Section 231 of CAATSA. The guidance on Section 231 is excerpted below and available at <https://www.state.gov/t/isn/caatsa/275118.htm>.

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### Summary

- The following guidance pertains to the Countering America's Adversaries Through Sanctions Act of 2017 ("CAATSA" or "the Act") (Pub. L. 115-44), which was adopted by the U.S. Congress July 28, 2017 and signed by President Trump August 2, 2017. The Administration will fully implement the Act consistent with the overall national security and foreign policy interests of the United States, as well as our specific policies regarding Russia and its external activities.
- On September 29, 2017, President Trump delegated the authority to implement Section 231 to the Secretary of State, in consultation with the Secretary of the Treasury. Section 231 requires the imposition of certain sanctions on persons determined to have knowingly engaged in a significant transaction, on or after the date the Act was enacted, with a person that is part of or operating for or on behalf of the defense or intelligence sectors of the Government of the Russian Federation.
- Pursuant to Section 231(d), the Department of State is today issuing guidance to specify persons that are part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation ("Section 231 Guidance" or "the Guidance").
- The Guidance names certain persons, but it is not a determination regarding imposition of sanctions. No asset freezes are being imposed on these named persons as a result of their inclusion in this Guidance, and inclusion in this Guidance does not, of itself, mean such persons are added to the Department of the Treasury's List of Specially Designated Nationals List and Blocked Persons or Sectoral Sanctions Identification List.

- The Act requires the imposition of five or more sanctions of the twelve listed in Section 235 of the Act beginning on or after January 29, 2018, with respect to persons determined to have engaged in conduct covered by this Section since enactment of the Act August 2, 2017. Such determinations will be made in a separate notice.

## **Questions and Answers**

### **Q: How did you arrive at the Section 231 Guidance?**

A: The Guidance is to specify, for the purposes of implementing Section 231, the persons—which can be individuals or entities—that are part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation. This Guidance was developed, and may in the future be amended or updated as circumstances warrant, based on a robust interagency process.

### **Q: Is the United States imposing sanctions on these persons by specifying them in this Guidance?**

A: No. Specification in this Guidance only indicates that an individual or entity has been identified as part of, or operating for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation, for purposes of implementing Section 231(d). Some of the individuals or entities named, however, may also be currently subject to U.S. sanctions imposed under other authorities.

### **Q: Are all transactions with specified persons sanctionable?**

A: No. The Act states that sanctions shall be imposed beginning on or after 180 days after enactment on persons that are determined to knowingly engage in a significant transaction with a person specified in the Guidance on or after the date of enactment of the Act.

### **Q: What is a “significant transaction?”**

A: In determining whether a transaction is “significant” for purposes of Section 231 of the Act, the Department of State will consider the totality of the facts and circumstances surrounding the transaction and weigh various factors on a case-by-case basis. The factors considered in the determination may include, but are not limited to, the significance of the transaction to U.S. national security and foreign policy interests, in particular whether it has a significant adverse impact on such interests; the nature and magnitude of the transaction; and the relation and significance of the transaction to the defense or intelligence sector of the Russian government.

In this initial implementation stage, our focus is expected to be on significant transactions of a defense or intelligence nature with persons named in the Guidance. If a transaction for goods or services has purely civilian end-uses and/or civilian end-users, and does not involve entities in the intelligence sector, these factors will generally weigh heavily against a determination that such a transaction is significant for purposes of Section 231.

If a transaction is necessary to comply with rules and regulations administered by the Federal Security Service, or law enforcement or administrative actions or investigations involving the Federal Security Service, including rules and regulations administered by the Federal Security Service for the importation, distribution, or use of information technology products in the Russian Federation and the payment of any fees to the Federal Security Service for such licenses, permits, certification, or notifications, then these factors will weigh heavily against a determination that that such transaction is significant for purposes of this section.

**Q: Are companies prohibited from conducting transactions with persons named in this Guidance?**

A: The Act provides for certain sanctions, including on U.S. persons, in the event of a significant transaction. The Act does not provide for sanctions in cases in which transactions are not “significant.” Where possible, the United States intends to work with persons considering transactions with persons named in this Guidance to help them identify and avoid engaging in potentially sanctionable activity.

**Q: Are you required to sanction allied or partner states that purchase Russian-origin military equipment, spare parts, and related supplies?**

A: In implementing Section 231, the Department of State is mindful of the importance of unity and coordination with our allies and partners on these issues. The Act itself acknowledges the importance of these relationships, and these purposes, when providing in Section 212 that we “should continue to uphold and seek unity with European and other key partners on sanctions implemented against the Russian Federation, which have been effective and instrumental in countering Russian aggression in Ukraine.” Where possible, the United States intends to work with our allies and partners to help them identify and avoid engaging in potentially sanctionable activity while strengthening military capabilities used for cooperative defense efforts.

**Q: What types of sanctions does the Act authorize?**

Section 231 of the Act states that five or more of the sanctions described in Section 235 shall be imposed on persons determined to engage in a significant transaction with a person that is part of, or operates for or on behalf of, the defense or intelligence sectors of the Government of the Russian Federation. The sanctions described in Section 235 include, among others, prohibitions concerning property transactions, export license restrictions, Export-Import Bank assistance restrictions, debt and equity restrictions, visa ramifications for corporate officers, and United States government procurement prohibitions. The Act allows for sanctions on persons that engage in covered transactions as well as on the principal executive officer or officers of the sanctioned person (or a person performing similar functions and with similar authorities as such officer or officers).

\* \* \* \*

On October 31, 2017, senior administration officials provided a special briefing providing public guidance related to Sections 223, 225, 226, 228, 232, and 233 of CAATSA. A transcript of the briefing is available at <https://www.state.gov/r/pa/prs/ps/2017/10/275229.htm> and excerpted below.

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**SENIOR ADMINISTRATION OFFICIAL ONE:** ... Since the August 2nd enactment of the Countering America’s Adversaries Through Sanctions Act, or CAATSA, we’ve been working with our interagency colleagues and in consultation with other partners and allies to prepare public guidance related to the act.

On October 26th, ... the Department of State released public guidance on the implementation of Section 231 of CAATSA, which relates to the defense and intelligence sectors

of the Russian Federation. Today, the department is taking the next step by releasing public guidance related to Sections 225 and 232 of the act. These sections relate to special Russian oil projects and Russian energy export pipelines.

The release of guidance today is not a sanctions action but a publication of information intended to provide clarity regarding plans for implementing the sanctions. That is a key point that I'd like to emphasize: We are not announcing sanctions designations today; we're providing the clarity that is so important to our allies and partners and to the private sector.

The department is informing Congress, key U.S. industry stakeholders, and our allies and partners of this guidance, and we have posted the full public guidance on state.gov. We consulted extensively with allies and partners about this guidance, as the law states that we should, and we will continue to work with our allies and partners in order to impose costs on Russia while seeking to avoid unforeseen negative impacts to others. Let me reiterate that the goal of these sanctions provisions is to remind the Russian Government of the costs associated with not fulfilling its commitments to Minsk and other malign activities. It is to pressure the Russian Government to change its calculus.

The Department of the Treasury's Office of Foreign Assets Control, or OFAC, also published guidance today for the sections that they take lead on, and I'll refer any questions about those sections to our Treasury colleague on the call, [Senior Administration Official Two], who also has an opening statement to read.

**SENIOR ADMINISTRATION OFFICIAL TWO:** ... [E]arlier this afternoon the Department of the Treasury's Office of Foreign Assets Control, or OFAC, published materials related to CAATSA, the statute that our State Department colleague referenced.

First among these materials is a Modified Directive 4 under OFAC's Russia sanctions program. OFAC originally published Directive 4 in September of 2014 pursuant to Ukraine/Russia-related Executive Order 13662. Section 223(d) of CAATSA requires the Secretary of the Treasury to modify Directive 4 within 90 days of the statute's enactment, which is today.

In keeping with that requirement, today Treasury modified Directive 4 to expand the scope of its prohibitions as set out in CAATSA. Previously, Directive 4 prohibited U.S. persons, including persons within the United States, from providing, exporting, or re-exporting, directly or indirectly, goods, non-financial services, or technology in support of exploration or production for deep water, arctic, offshore, or shale projects that have the potential to produce oil in the Russian Federation or in maritime area claimed by the Russian Federation and extending from its territory, and that would involve any person determined to be subject to the directive or any earlier version.

Modified Directive 4, which was issued today, contains an additional CAATSA prohibition that will come into effect on January 29th, 2018. Currently, Directive 4 will also prohibit U.S. persons, including persons within the United States, from providing, exporting, or re-exporting, directly or indirectly, goods, non-financial services, or technology in support of the exploration or production for deep water, arctic, offshore, or shale projects either initiated on or after January 29th, 2018 that have the potential to produce oil in any location. I emphasize that. That's one of the new areas that changed from "the Russian Federation area" to "in any location."

The other criteria is it's also in which any person determined to be subject to Directive 4 has either a 33 percent or greater ownership interest or ownership of a majority of voting interest. That's another new area that we're implementing from the statute.

Concurrent with Modified Directive 4, OFAC published FAQs related to the new prohibitions in the modified directive. The FAQs provide guidance on issues of probable interest to the regulated community.

In addition to the Modified Directive 4 and the FAQs related to it, OFAC also published FAQs related to CAATSA sections 223(a), 226, 228, and 233. These statutory provisions pertain to potential targets of sectoral sanctions, the imposition of sanctions with respect to Russian and other foreign financial institutions, sanctions with respect to certain transactions with foreign sanctions evaders, and sanctions with respect to investment and/or facilitation of privatization of state-owned assets by the Russian Federation.

OFAC focused on these statutory provisions because comments from foreign partners and allies, industry, and others indicated high interest in them relative to other parts of the statute. The FAQs provide guidance on a range of issues of probable interest to the regulated community and reflect broad consultation across the interagency, including with our colleagues at the State Department and with Congress.

\* \* \* \*

Also on October 31, 2017, the State Department issued a media note regarding the release of public guidance for CAATSA, which is excerpted below and available in full at <https://www.state.gov/r/pa/prs/ps/2017/10/275222.htm>. The text of Sections 231 and 235 of CAATSA is available at <https://www.state.gov/t/isn/caatsa/275115.htm>.

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The U.S. Department of State today released public guidance concerning energy sanctions relating to the Russian Federation, specifically Sections 225 and 232 of the Countering America's Adversaries Through Sanctions Act (CAATSA). Department of State guidance can be found at [www.state.gov/e/enr/c77802.htm](http://www.state.gov/e/enr/c77802.htm). This guidance is not a sanctions action; it is a publication of information intended to provide clarity regarding the implementation of sanctions.

The Department of the Treasury's Office of Foreign Assets Control (OFAC) today also published guidance for sections 223(a), 223(d), 226, 228, and 233 of CAATSA, which can be found at [www.treasury.gov/resource-center/sanctions/Programs/Pages/caatsa.aspx](http://www.treasury.gov/resource-center/sanctions/Programs/Pages/caatsa.aspx).

The CAATSA sanctions were imposed pursuant to legislation reflecting an overwhelming bipartisan consensus of the U.S. Congress to deter aggressive behavior by the Russian government. We continue to call on Russia to honor its commitments under the Minsk agreements, to withdraw from the Crimean Peninsula, and to cease its malicious cyber intrusions.

We received and considered input from a wide range of interlocutors—foreign governments, industry associations, and individual companies—as we formulated guidance for these sections. We will work with our allies and partners in the implementation of these sanctions in order to impose costs on the Russian government, while seeking to avoid unforeseen negative impacts on others.

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The State Department public guidance on CAATSA Section 225, issued on October 31, 2017, is excerpted below and available at <https://www.state.gov/e/enr/275194.htm>.

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The Department of State is committed to fully implementing sanctions authorities in the Countering America's Adversaries Through Sanctions Act (CAATSA). We continue to call on Russia to honor its commitments that were made under the Minsk agreements and to cease its malicious cyber intrusions.

Sanctions under Section 4(b) of the Ukraine Freedom Support Act (PL 113-272) (UFSA), as amended by CAATSA, shall be imposed absent a determination that the sanctions are not in the national interest of the United States.

Sanctions under this provision will apply if the Secretary of State, in consultation with the Secretary of Treasury, determines that a foreign person knowingly makes a significant investment in a special Russian crude oil project on or after September 1, 2017.

The UFSA provides the definition for a "special Russian crude oil project." Under that Act, a "special Russian crude oil project" is a project intended to extract crude oil from:

- A. The exclusive economic zone of the Russian Federation in waters more than 500 feet deep;
- B. Russian Arctic offshore locations; or
- C. Shale formations located in the Russian Federation.

\* \* \* \*

#### **Frequently Asked Question**

**If goods or services are provided in exchange for equity in an enterprise or rights to profits or revenue thereof, then could that be considered an "investment"?**

Yes. "Investment" could include arrangements where goods or services are provided in exchange for equity in an enterprise or rights to a share of the revenue or profits of an enterprise.

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The State Department's public guidance on CAATSA Section 232, issued on October 31, 2017, is excerpted below and available at <https://www.state.gov/e/enr/275195.htm>.

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Section 232 sanctions are discretionary. In accordance with Sections 212 and 232 of the Act, the Secretary of State, in consultation with the Secretary of the Treasury, will coordinate with allies of the United States in imposing these sanctions. The intent of such sanctions would be to

impose costs on Russia for its malign behavior, such as in response to aggressive actions against the United States and our allies and partners.

Any implementation of Section 232 sanctions would seek to avoid harming the energy security of our partners or endangering public health and safety. Consistent with the Act (Section 257), it remains the policy of the United States to “work with European Union Member States and European institutions to promote energy security through developing diversified and liberalized energy markets that provide diversified sources, suppliers, and routes.”

For the purposes of Section 232, the focus of implementation would be on energy export pipelines that (1) originate in the Russian Federation, and (2) transport hydrocarbons across an international land or maritime border for delivery to another country. Pipelines that originate outside the Russian Federation and transit through the territory of the Russian Federation would not be the focus of implementation.

The focus of implementation of Section 232 sanctions would be on persons that the Secretary of State, in consultation with the Secretary of the Treasury, determines knowingly, on or after August 2, 2017 (1) made an investment that meets the fair market value thresholds in Section 232(a) and directly and significantly enhances the ability of the Russian Federation to construct energy export pipeline projects initiated on or after August 2, 2017, or (2) sells, leases, or provides to the Russian Federation goods or services that meet the fair market value thresholds in Section 232(a) and that directly and significantly facilitate the expansion, construction, or modernization of such energy export pipelines by the Russian Federation.

For the purposes of Section 232, a project is considered to have been initiated when a contract for the project is signed.

Investments and loan agreements made prior to August 2, 2017 would not be subject to Section 232 sanctions.

Implementation of Section 232 sanctions would not target investments or other activities related to the standard repair and maintenance of pipelines in existence on, and capable of transporting commercial quantities of hydrocarbons, as of August 2, 2017.

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

On June 20, 2017, OFAC blocked the property and interests in property of 21 persons pursuant to E.O. 13660, “Blocking Property of Certain Persons Contributing to the Situation in Ukraine.” 82 Fed. Reg. 29,995 (June 30, 2017). At the same time, OFAC identified 20 entities in which AK Transneft OAO owns, directly or indirectly, a 50 percent or greater interest, subjecting those identified to the prohibitions of Directive 2 (as amended) of September 12, 2014, issued pursuant to E.O. 13662, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine.” *Id.* In addition, OFAC designated ten persons pursuant to E.O. 13685, “Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to the Crimea Region of Ukraine.”

For background on E.O. 13660, “Blocking Property of Certain Persons Contributing to the Situation in Ukraine,” see *Digest 2014* at 646. For background on E.O. 13662 and Directives 1, 2, and 4, see *Digest 2014* at 647-49. For background on E.O. 13685, “Blocking Property of Certain Persons and Prohibiting Certain Transactions With

Respect to the Crimea Region of Ukraine,” see *Digest 2014* at 651-52. For background on E.O. 13661, “Blocking Property of Additional Persons Contributing to the Situation in Ukraine,” see *Digest 2014* at 646-47.

OFAC amended Directives 1, 2, on September 29, 2017 and Directive 4 on October 31, 2017, consistent with section 223 of CAATSA. The amended Directives are available at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#legal>.

**c. *Russia Magnitsky***

For background on the Sergei Magnitsky Rule of Law Accountability Act of 2012 (“Magnitsky Act”), see *Digest 2013* at 505-06. On January 9, 2017, OFAC blocked the property and interests in property of five individuals pursuant to the Magnitsky Act: Gennady Nikolaevich PLAKSIN; Stanislav Evgenievich GORDIEVSKY, Andrei Konstantinovich LUGOVOI, Dmitri KOVTUN; and Alexander Ivanovich BASTRYKIN. 82 Fed. Reg. 4460 (Jan. 13, 2017). The Federal Register notice includes the following additional information about the January 9, 2017 Magnitsky Act designations:

Gennady Plaksin and Stanislav Gordievsky are being designated pursuant to Section 404(a) of the Magnitsky Act because they were involved in the criminal conspiracy uncovered by Sergei Magnitsky. Andrei Lugovoi and Dmitri Kovtun are being designated pursuant to Section 404(a) of the Magnitsky Act because they are responsible for the extrajudicial killing of Alexander Litvinenko for his activities seeking to expose illegal activity carried out by officials of the Government of the Russian Federation. Alexander Bastrykin is being designated pursuant to Section 404(a) of the Magnitsky Act for participating in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky.

Also on January 9, 2017, a State Department press statement, available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266736.htm>, announced the submission to Congress of the annual report on implementation of the Magnitsky Act. The report includes the list of persons the State and Treasury Departments have determined meet the criteria set forth in the Act. As of the January 9, 2017 report, 44 persons had been listed. The list is available at <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20170109.aspx>.

On December 20, 2017, a State Department press statement, available at <https://www.state.gov/r/pa/prs/ps/2017/12/276712.htm>, announced the submission to Congress of the fifth annual report on implementation of the Magnitsky Act. The number of person on the list as of the submission of the fifth report was 49. The names may be found at [https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20171220\\_33.aspx](https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20171220_33.aspx). Simultaneously, OFAC published the names added to the SDN List based on designation pursuant to the Magnitsky Act. 82 Fed. Reg. 61,366 (Dec. 27, 2017). The names added on December 20 are: Ramzan Akhmatovich



KADYROV, Ayub Vakhaevich KATAEV, Yulia MAYOROVA, Andrei PAVLOV, and Alexei Nikolaevich SHESHENYA.

Also on December 20, 2017, the State Department provided a special briefing by senior Department officials on the fifth annual Magnitsky report. The briefing is available at <https://www.state.gov/r/pa/prs/ps/2017/12/276721.htm> and excerpted below.

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**SENIOR STATE DEPARTMENT OFFICIAL ONE:** ...[T]he Secretary today delivered to Congress the fifth annual Russia Magnitsky report. As most of you know, this is required under the 2012 Magnitsky Act and is distinct from the Global Magnitsky report. The 2017 list for Russia Magnitsky includes five new names. These are Ramzan Kadyrov, Ayub Kataev, Andrei Pavlov, Yulia Mayorova, and Alexei Sheshenya.

Altogether, this brings to 49 names the list of individuals who have been designated across six rounds since 2012. Of the five that were listed today, two were listed under the gross violation of human rights provision and three were listed under the provision for involvement in the Magnitsky conspiracy itself. All the names are now public. Each is subject to both visa and financial sanctions. All of these designations require multiple credible sources of information to meet the criteria from the legislation. The individuals on the list have to meet statutory criteria that has to be given in annual reporting—a reporting requirement to Congress.

I would just underscore how important this step is. I think it underscores the United States continuing commitment to take seriously rule of law and human rights abuses inside the Russian Federation. Thank you.

\* \* \* \*

**QUESTION:** ... when the Magnitsky Act first took effect, it caused some tensions with the Russian Government, and there was that adoptions law that Putin signed into place. So would the addition of these additional names, including at least one person who is part of Putin's government by way of running one of the Russian republics—are you anticipating a negative reaction from the Kremlin? And are you taking any steps to try to mitigate this leading to a further deterioration of relations with Russia?

**SENIOR STATE DEPARTMENT OFFICIAL ONE:** ... I think at this point we've been at it long enough on Magnitsky that the Russians understand the nature of our concerns. I think they understand the rationale for the legislation, why it was put forward. This is a transparent process; it came through a transparent legislative process, and a process by which we make the designations comply with what's in the law.

How they respond to this—what we hope they will do is use this as an impetus to take seriously not only the circumstances involving Mr. Magnitsky's death, but that they will look in a more comprehensive way at some of the human rights abuses inside their own country. Beyond that, whatever they do that is punitive in nature—obviously, this administration is committed to seeing a stable and productive relationship with the Russian Federation. We believe that we have strategic interests in common in a lot of parts of the world; we want to pursue those interests.

And we continue to believe that a Russia that takes seriously the well-being and human rights of its own citizens will be an even more effective global partner.

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## 8. Global Magnitsky Act

On December 23, 2016, the Global Magnitsky Human Rights Accountability Act (Pub. L. 114–328, Subtitle F) (the “Global Magnitsky Act” or “Act”) was enacted, authorizing the President to impose financial sanctions and visa restrictions on foreign persons in response to certain human rights violations and acts of corruption. The administration is required by the Act to submit a report on implementation of the Act and efforts to encourage other governments to enact similar sanctions. The first report under the Global Magnitsky Act was published in the Federal Register on June 20, 2017. 82 Fed. Reg. 28,215 (June 20, 2017). Excerpts follow from the report.

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### Sanctions

Although no financial sanctions were imposed under the Act during the 120 days since its enactment, the United States is actively seeking to identify persons to whom this Act may apply and collecting the necessary evidence to impose sanctions.

In addition, the Department of the Treasury has issued a number of sanctions designations related to human rights abuses and corruption under existing sanctions programs. Sanctions programs that feature one or both of these designation criteria include programs related to Belarus, Burundi, the Central African Republic, the Democratic Republic of Congo, Iran, Libya, North Korea, Russia, Somalia, South Sudan, Syria, Ukraine, Venezuela, and Zimbabwe, as well as the Sergei Magnitsky Rule of Law Accountability Act of 2012 (the “Magnitsky Act”).

Examples of Treasury Department designations issued in recent years consistent with the human rights- and corruption-related designation criteria of these programs are provided below. This is not an exhaustive list; rather, it illustrates designations that align with the Act’s focus on human rights and corruption.

*Andrey Konstantinovich Lugovoy:* On January 9, 2017, Russian national and member of the Russian State Duma Andrey Konstantinovich Lugovoy was designated under the Magnitsky Act, which includes a provision targeting persons responsible for extrajudicial killings, torture, or other gross human rights violations committed against individuals seeking to expose illegal activity by Russian government officials. Lugovoy was responsible for the 2006 extrajudicial killing of whistleblower Alexander Litvinenko in London, with Dmitriy Kovtun (also sanctioned) acting as his agent or on his behalf. Lugovoy and Kovtun were two of five individuals designated under the Magnitsky Act on January 9, 2017.

*Evariste Boshab:* On December 12, 2016, Evariste Boshab was designated under E.O. 13413 (“Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo”), as amended by E.O. 13671 (“Taking Additional Steps to Address the

National Emergency With Respect to the Conflict in the Democratic Republic of the Congo”), for engaging in actions or policies that undermine democratic processes or institutions in the Democratic Republic of the Congo (DRC). Boshab offered to pay DRC National Assembly members for their votes in favor of a bill to amend electoral law to delay elections and prolong President Joseph Kabila’s term beyond its constitutional limit.

*Kalev Mutondo:* Also on December 12, 2016, Kalev Mutondo was designated under E.O. 13413, as amended by E.O. 13671, for engaging in actions or policies that undermine democratic processes or institutions in the DRC. Kalev supported the extrajudicial arrest and detainment of opposition members, many of whom were reportedly tortured. Kalev also directed support for President Kabila’s “MP” political coalition using violent intimidation and government resources.

*North Korean Ministry and Minister of People’s Security:* On July 6, 2016, the North Korean Ministry of People’s Security was designated pursuant to E.O. 13722 (“Blocking Property of the Government of North Korea and the Workers’ Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea”) for having engaged in, facilitated, or been responsible for an abuse or violation of human rights by the Government of North Korea or the Workers’ Party of Korea. The Ministry of People’s Security operates a network of police stations and interrogation detention centers, including labor camps, throughout North Korea. During interrogations, suspects are systematically degraded, intimidated, and tortured. The Ministry of People’s Security’s Correctional Bureau supervises labor camps (*kyohwaso*) and other detention facilities, where human rights abuses occur, such as torture, execution, rape, starvation, forced labor, and lack of medical care. A Department of State report issued simultaneously with these designations cites defectors who have regularly reported that the ministry uses torture and other forms of abuse to extract confessions, including techniques involving sexual violence, hanging individuals from the ceiling for extended periods of time, prolonged periods of exposure, and severe beatings. Choe Pu Il, the Minister of People’s Security, was also designated for having acted for or on behalf of the Ministry of People’s Security.

*Joseph Mathias Niyonzima:* On December 18, 2015, Joseph Mathias Niyonzima was designated under E.O. 13712 (“Blocking Property of Certain Persons Contributing to the Situation in Burundi”) for being responsible for or complicit in or for engaging in actions or policies that threaten the peace, security, or stability of Burundi. Niyonzima supervised and provided support to elements of the Imbonerakure pro-government militia in Burundi, a group that has been linked to the arrest and torture of individuals suspected of opposing the Nkurunziza regime. He was also involved in plans to assassinate prominent opposition leaders.

*Fahd Jassem al-Frej:* On May 16, 2013, Syrian Minister of Defense Fahd Jassem al-Frej was designated pursuant to, among other authorities, E.O. 13572 (“Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria”) for his role in the commission of human rights abuses in Syria. During his time as Syrian Minister of Defense, the Syrian military forces wantonly and capriciously killed Syrian civilians, including through the use of summary executions and indiscriminate airstrikes against civilians. Some of these airstrikes killed civilians waiting outside of bakeries.

The examples above demonstrate the Treasury Department’s history of designating persons under the human rights- and corruption-related criteria of various sanctions authorities. Such designations under existing authorities strongly complement the intent of the Act. The individuals and entities referenced above were designated for “human rights abuses” and other broad criteria that provide significant flexibility in issuing human rights-related designations. While the human rights-related designation criterion found in the Act (*i.e.*, gross

violations of internationally recognized human rights) is narrower in focus, will actively seek to designate individuals and entities where sufficient information exists to meet the applicable evidentiary standard.

### **Visa Sanctions**

Although no visa sanctions were imposed under the Act during the 120 days since its enactment, the Department of State is continuously reviewing available information in order to take appropriate actions with respect to visa ineligibilities. In addition, the Department of State continues to take action, as appropriate, to implement the authorities pursuant to which it can impose visa restrictions on those responsible for human rights violations and corruption, including Presidential Proclamation 7750, Presidential Proclamation 8697, and Section 7031(c) of the FY2016 State, Foreign Operations, and Related Programs Appropriations Act. In addition to those authorities, Presidential Proclamation 8693 establishes a mechanism for imposing visa restrictions on Specially Designated Nationals and Blocked Persons (SDNs) designated under certain E.O.s., as well as individuals designated otherwise for travel bans in UN Security Council Resolutions. The Department of State also continues to make visa ineligibility determinations pursuant to the Immigration and Nationality Act (INA), including Section 212(a)(3)(E)(iii), which makes individuals who have participated in acts of genocide or committed acts of torture, extrajudicial killings, and other human rights violations ineligible for visas.

### **Termination of Sanctions**

No sanctions imposed under the Act were terminated in the 120 days since its enactment.

### **Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act**

The United States is committed to encouraging other countries to impose sanctions that are similar to those provided for by the Act. The Department of State actively participates in global outreach, including the G–20 Denial of Entry Experts Network, a sub-group of the G–20 Anti-Corruption Working Group, in which countries share best practices among visa and immigration experts. Through this network, the United States has encouraged other G–20 members to establish and strengthen corruption- related visa sanctions regimes. We note that the United Kingdom recently enacted legislation similar to the Act, and we will be consulting closely with the UK government as we implement our respective laws. The Department of State also has ongoing bilateral human rights discussions with other key allies, including the European Union and its member states, Japan, the Republic of Korea, and Australia, and will be raising the possibility of their imposing sanctions similar to those authorized by this Act.

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On December 20, 2017, the President issued E.O. 13818, “Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption.” 82 Fed. Reg. 60,839 (Dec. 26, 2017). E.O. 13818 implements the Global Magnitsky Human Rights Accountability Act (“Global Magnitsky Act”). The order lists in an annex the initial designated persons whose property is blocked. Section 1 authorizes the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to designate those responsible for serious human rights abuse or who are government officials or entities engaged in corruption, as well as those who materially support or are otherwise linked to designated persons. The portion of Section 1 identifying who is subject to blocking is excerpted below.

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\* \* \* \*

- (i) the persons listed in the Annex to this order;
- (ii) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:
  - (A) to be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse;
  - (B) to be a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in:
    - (1) corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery; or
    - (2) the transfer or the facilitation of the transfer of the proceeds of corruption;
  - (C) to be or have been a leader or official of:
    - (1) an entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section relating to the leader's or official's tenure; or
    - (2) an entity whose property and interests in property are blocked pursuant to this order as a result of activities related to the leader's or official's tenure; or
  - (D) to have attempted to engage in any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section; and
- (iii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General:
  - (A) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of:
    - (1) any activity described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section that is conducted by a foreign person;
    - (2) any person whose property and interests in property are blocked pursuant to this order; or
    - (3) any entity, including any government entity, that has engaged in, or whose members have engaged in, any of the activities described in subsections (ii)(A), (ii)(B)(1), or (ii)(B)(2) of this section, where the activity is conducted by a foreign person;
  - (B) 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
  - (C) to have attempted to engage in any of the activities described in subsections (iii)(A) or (B) of this section.

\* \* \* \*

Section 2 also imposes visa sanctions on the persons designated. The annex lists: Mukhtar Hamid Shah; Angel Rondon Rijo; Dan Gertler; Maung Maung Soe; Yahya Jammeh; Sergey Kusiuk; Benjamin Bol Mel; Julio Antonio Juarez Ramirez; Goulнора Islamovna Karimova; Slobodan Tescic; Artem Yuryevich Chayka; Gao Yan; and Roberto Jose Rivas Reyes.

On December 21, 2017, pursuant to E.O. 13818, OFAC made additional designations of persons (two additional individuals and 37 entities) pursuant to E.O. 13818 for meeting criteria under E.O. 13818, including for involvement in serious human rights abuse, corruption, or for links to other designated persons. 82 Fed. Reg. 61,665 (Dec. 28, 2017). Background on the designations is available at <https://home.treasury.gov/news/press-releases/sm0243>. On the same day, Secretary Tillerson issued a press statement on implementation of the Global Magnitsky Act. That statement, available at <https://www.state.gov/secretary/20172018tillerson/remarks/2017/12/276723.htm>, follows:

Today, alongside the President and the Department of the Treasury, the Department of State took action against persons who have committed serious human rights abuse and engaged in corruption around the world. The Department is committed to protecting and promoting human rights and combatting corruption with all of the tools at our disposal. Today's actions advance our values and promote the security of the United States, our allies, and our partners. We must lead by example, and today's announcement of sanctions demonstrates the United States will continue to pursue tangible and significant consequences for those who commit serious human rights abuse and engage in corruption.

Also on December 21, 2017, senior administration officials held a special briefing on rollout of the Global Magnitsky sanctions. The transcript of the briefing, available at <https://www.state.gov/r/pa/prs/ps/2017/12/276734.htm>, is excerpted below.

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\* \* \* \*

Today there have been three actions that have been taken: the first, there was an executive order signed by the President of the United States; second are sanctions actions taken by the Department of Treasury; and third is the submission of the annual report which details the implementation efforts of this report, have been delivered to Congress.

Very generally, I think we as an interagency over the last year have taken an expansive view of the implementation of the Global Magnitsky Act, engaging every diplomatic post and bureau here at the State Department. We've worked very closely with the United States intelligence and law enforcement community, various members of the interagency, especially the Department of the Treasury, who will be speaking a little bit later, NGOs, and of course with Congress.

Our objective was to leverage this new global tool to pursue tangible and significant consequences for the entire spectrum of those who commit human rights abuse and engage in corruption. We have sought to target those who will send a strong message to the international community and that the United States takes seriously our role in promoting international norms. We continue to use this tool without hesitation to target the most egregious actors in every corner of the globe and look to today's actions to set the standard for the future.

\* \* \* \*

**SENIOR ADMINISTRATION OFFICIAL TWO:** ... I'm with the Office of Foreign Assets Control. In the executive order announced today, the President sanctioned 13 human rights abusers, kleptocrats, and corrupt actors, and the Treasury Department has designated an additional 39 affiliated companies and individuals. I know that you have the press release by now with all the details, and I'll touch on just a few names.

The people targeted today ... include those responsible for a range of human rights abuses. For example, Yahya Jammeh, the former president of The Gambia, has been accused of creating a unit within the armed forces to terrorize, interrogate, and kill Gambian citizens whom he believed threatened his reign. In addition, Mukhtar Hamid Shah, the Pakistani surgeon, was a leader in an illicit organ-trafficking network involved in the kidnapping, detention, and removal of kidneys from Pakistani laborers.

We are also targeting the corrupt today. Today we sanctioned Dan Gertler, an international businessman and billionaire, who used his connections with the president of the Democratic Republic of the Congo, as well as other officials, to amass his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals.

In targeting these individuals today, Treasury has frozen their assets and restricted their ability to access the international financial system. Th[ese] sanctions send a strong message to those who profit from suffering and corruption that there is a steep price to pay for abusing human rights while also preventing them from abusing our financial system.

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First, is this the first time we've imposed sanctions under the Global Magnitsky Act? Yes, indeed it is. ... this statute was enacted a year ago and ... we have timed this with the delivery of our first Global Magnitsky Report to Congress. ...

Second, access to the international financial system. Yes, by virtue of the fact that OFAC sanctions not only block all assets under U.S. jurisdiction, meaning held by U.S. persons wherever located, but also prevent U.S. persons from dealing with persons designated today, to include individuals or companies. ... given the dominance of the U.S. financial system, it effectively shuts out many folks from the international system.

Third, the language about being generally prohibited. Yes, that language is rather legal, and it is designed to acknowledge any licenses, whether specific or general, or exemptions that may apply in individual cases.

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

### a. *Democratic Republic of Congo*

On June 21, 2017, Ambassador Sison delivered the explanation of vote for the United States at the adoption of UN Security Council Resolution 2360 on the Democratic Republic of Congo sanctions regime and the mandate of the Group of Experts. The U.S. statement is excerpted below and available at <https://usun.state.gov/remarks/7873>.

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\* \* \* \*

The resolution we adopted today reaffirms this Council's commitment to continue the work started by Michael Sharp and Zaida Catalan, two members of the Group of Experts for the Democratic Republic of the Congo, who tragically lost their lives in March of this year while on mission in the DRC.

By renewing the Group of Experts mandate, this resolution sends a clear message that this Council will continue to advance Michael and Zaida's work to advance peace and address human rights violations and abuses in the DRC.

This resolution also underscores the Council's commitment to take action against those who seek to harm UN personnel, including the Group of Experts. To the families of Michael and Zaida, the members of the groups of experts, MONUSCO personnel, and Special Representative Sidikou, let me say that our expressions of support and praise are just not enough. We know that you deserve our commitment to finding out the truth and holding those who target UN personnel accountable. Today, we took a small, but important, step to do that.

Just as importantly, this resolution is for the Congolese, who have witnessed far too much violence, corruption, and far too many human rights abuses. The gruesome reports coming out of the DRC, specifically from the Kasais, should propel us into action not only in the Security Council but also in the Human Rights Council. Just yesterday, we read reports that over 3,000 people have been killed in the Kasai region in the last eight months.

The DRC military has not just engaged in violence against civilians, it has actually filmed summary executions. We have heard numerous reports of villages being burned and looted, rape used as a weapon of war, and children being targeted and executed in their homes. Some 20,000 people have fled the Kasais since early April, and yet the DRC has rejected offers for international support to investigate the violence.

Zaida and Michael lost their lives seeking the truth in the Kasais. We cannot let that search end, particularly as the reports coming out of the region grow increasingly disturbing and the refugee flows continue unabated.

Mr. President, there will be no peace or security in the DRC without elections and the democratic transition of power. All parties, both the opposition and the government, must remain committed to the December 31 Agreement and take action to expedite the implementation of the agreement, including much needed confidence building measures.

This Council and the U.S. government stand ready to hold accountable those that foment violence, undermine peace, and increase instability in the DRC.



\* \* \* \*

**b. Burma**

See *Digest 2016* at 658-60 regarding termination of the national emergency with respect to Burma that provided the foundation for the Burma sanctions program. As a result of that termination, OFAC removed from the Code of Federal Regulations the Burmese Sanctions Regulations. 82 Fed. Reg. 27,613 (June 16, 2017).

While continuing to support the democratic transition in Burma in 2017, the United States also expressed concern with human rights abuses endured by Rohingya in Rakhine State. See October 23, 2017 State Department press statement, available at <https://www.state.gov/r/pa/prs/ps/2017/10/275021.htm>.<sup>\*\*\*\*</sup> The press statement outlines measures, in addition to existing restrictions on engagement with and military sales to Burma's armed forces, the United States is taking "in pursuit of accountability and an end to violence:"

- Since August 25, we have ceased consideration of JADE Act travel waivers for current and former senior leadership of the Burmese military;
- We are assessing authorities under the JADE Act to consider economic options available to target [persons] associated with atrocities;
- Pursuant to the Leahy Law, [we found that there is credible information that all units operating in Rakhine State, as well as their full chain of command, up to and including the commander-in-chief, were implicated in gross violations of human rights, and therefore, consider those units and individuals to be ineligible to receive U.S. assistance];
- We have rescinded invitations for senior Burmese security forces to attend U.S.-sponsored events;
- We are working with international partners to urge that Burma enables unhindered access to relevant areas for the United Nations Fact-Finding Mission, international humanitarian organizations, and media;
- We are consulting with allies and partners on accountability options at the UN, the UN Human Rights Council, and other appropriate venues; and
- We are exploring [options to promote accountability] available under U.S. law, including Global Magnitsky targeted sanctions.

**c. Zimbabwe**

On January 12, 2017, OFAC removed from the SDN List ZIMRE HOLDINGS LIMITED, an entity designated pursuant to Executive Order 13469, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe." On March 27, 2017, OFAC removed from the SDN List Theophilus Pharaoh GAMBE, whose property

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<sup>\*\*\*\*</sup> Editor's note: Office of the Legal Adviser comments have been inserted in brackets.

and interests in property were blocked pursuant to Executive Order 13391, “Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe.” 82 Fed. Reg. 15,791 (Mar. 30, 2017). On April 12, 2017, OFAC removed from the SDN List Munacho Thomas Alvar MUTEZO, an individual designated pursuant to E.O. 13391. 82 Fed. Reg. 18,211 (Apr. 17, 2017).

**d. Sudan**

On January 13, 2017, President Obama issued E.O. 13761 “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions.” 82 Fed. Reg. 5331 (Jan. 18, 2017). Excerpts follow from E.O. 13761.

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I, BARACK OBAMA, President of the United States of America, find that the situation that gave rise to the actions taken in Executive Order 13067 of November 3, 1997, and Executive Order 13412 of October 13, 2006, related to the policies and actions of the Government of Sudan has been altered by Sudan’s positive actions over the past 6 months. These actions include a marked reduction in offensive military activity, culminating in a pledge to maintain a cessation of hostilities in conflict areas in Sudan, and steps toward the improvement of humanitarian access throughout Sudan, as well as cooperation with the United States on addressing regional conflicts and the threat of terrorism. Given these developments, and in order to see these efforts sustained and enhanced by the Government of Sudan, I hereby order:

**Section 1.** Effective July 12, 2017 and provided the criteria in section 12(b) of this order are met, sections 1 and 2 of Executive Order 13067 of November 3, 1997, are revoked, and Executive Order 13412 of October 13, 2006, is revoked in its entirety. The revocation of those provisions of Executive Order 13067 and of Executive Order 13412 shall not affect any violation of any rules, regulations, orders, licenses, or other forms of administrative action under those orders during the period that those provisions were in effect.

**Sec. 2.** Pursuant to section 908(a)(3) of TSRA, I hereby determine that it is in the national security interest of the United States to waive, and hereby waive, the application of section 908(a)(1) of TSRA with respect to Sudan.

**Sec. 3.** Pursuant to section 6(d) of CPSA, I hereby determine and certify that it is in the national interest of the United States to waive, and hereby waive, the application of sections 6(a) and (b) of CPSA.

\* \* \* \*

**Sec. 10.** On or before July 12, 2017, the Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, and based on a consideration of relevant and credible information from available sources, including nongovernmental organizations, shall provide to the President a report on whether the Government of Sudan has sustained the positive actions that gave rise to this order, including carrying out its pledge to maintain a cessation of

hostilities in conflict areas in Sudan; continued improvement of humanitarian access throughout Sudan; and maintaining its cooperation with the United States on addressing regional conflicts and the threat of terrorism. As much of the report as possible, consistent with sources and methods, shall be unclassified and made public.

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The same day the E.O. was issued, the State Department issued a press statement on progress in Sudan. The statement is available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266945.htm>, and excerpted below.

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Six months ago, the United States began a comprehensive engagement plan with the Government of Sudan aimed at ending the government's offensive military operations, improving humanitarian access, ending Sudan's destabilizing role in South Sudan, countering terrorist groups, and ending the threat of the Lord's Resistance Army (LRA). Since then, Sudan has met our benchmarks and made significant progress toward these goals, as well as new commitments. As a result, the United States has decided to issue a General License lifting sanctions on U.S. trade and investment in Sudan. This is being done through a combination of actions, including immediate action by the Department of the Treasury to authorize expanded trade with and investment in Sudan, and the issuance by the President of an Executive Order that provides Sudan with a clear path to the permanent revocation of sanctions in six months if progress in these five areas continues. In addition, a number of waivers of statutory sanctions are needed to allow for this lifting of sanctions. Thus, the Secretary of State is waiving sanctions under the Darfur Peace and Accountability Act of 2006 today, while the Executive Order issued today by the President includes waivers under the Comprehensive Peace in Sudan Act of 2004 and the Trade Sanctions Reform and Export Enhancement Act of 2000.

Our engagement with Sudan under the plan has had multiple benefits for U.S. interests, the region, and the people of Sudan. It has had a positive effect on reducing conflict and addressing Sudan's humanitarian crisis. For example, in December, Sudan revised national regulations that govern humanitarian action, bringing them into line with international standards for the first time. Moreover, for the first time in five years, Sudan opened access for humanitarian aircraft to reach Golo, Central Darfur, and allowed a needs assessment to occur that will inform assistance efforts in Golo and other previously inaccessible areas. Regionally, Sudan has stopped providing arms to South Sudanese opposition groups, is cooperating with the United States to address the threat of the Lord's Resistance Army, and has begun working with the United States to combat wildlife trafficking. Finally, Sudan has become an important partner in countering the Islamic State in the Levant (ISIL) and other regional terrorist threats.

Despite these advances, there is still much more to be done to end Sudan's internal conflicts, ensure accountability for crimes of international concern, improve its human rights record, allow unfettered humanitarian access to vulnerable populations, and create space for greater political participation, civil society activity, and media freedom. The United States sees the progress made over the last six months as the beginning of a longer-term process of

addressing these critically important issues. While the United States stands ready to reimpose sanctions should there be backsliding, we are encouraged by the progress that has been made over the past six months, and will seek to build on this as we pursue important issues.

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Also on January 13, 2017, the State Department issued a fact sheet explaining the actions the United States was taking with regard to lifting sanctions on Sudan in response to the progress described above. The fact sheet follows and is available at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266946.htm>.

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**Why is the United States lifting sanctions on Sudan now?** Today's actions to lift sanctions on Sudan were the culmination of months of intensive bilateral engagement with Sudan. The United States and Sudan committed to focus on achieving progress in five key areas: ceasing hostilities in Darfur and the Two Areas, improving humanitarian access, ending negative interference in South Sudan, enhancing cooperation on counterterrorism, and addressing the threat of the Lord's Resistance Army (LRA). This process began in June 2016.

**What have we achieved?** Over a six-month period, Sudan made significant progress in each of these areas. Our frequent and robust engagement over this period gave us a forum to routinely address these issues, build new areas of cooperation, and use the incentive of sanctions relief as leverage to encourage Sudan to take positive steps like ceasing hostilities and committing to providing access for humanitarian relief to reach people in need of assistance. But we recognize a lot more work needs to be done.

**How are sanctions being lifted?** The Department of the Treasury's Office of Foreign Assets Control (OFAC) has announced an amendment to the Sudanese Sanctions Regulations (SSR) that will authorize all transactions prohibited by the SSR, as well as Executive Orders 13067 and 13412. In addition, the President is issuing a new Executive Order that provides a path for the permanent revocation of the sanctions in Executive Orders 13067 and 13412 in 180 days, provided that the Secretary of State publishes in the Federal Register on or before that date a notice stating that the Government of Sudan has sustained the positive actions that gave rise to the Executive Order and provides to the President a report on the Government of Sudan's progress.

**What does that mean?** During the next six months, U.S. persons will be authorized by OFAC to engage in transactions involving persons in Sudan; to import goods and services from Sudan; to export goods, technology, and services to Sudan; and to engage in transactions involving property in which the Government of Sudan has an interest. If the conditions in the Executive Order are met and the sanctions are permanently revoked in 180 days, U.S. persons will be able to engage in these transactions without needing OFAC authorization.

**What next?** This plan was carefully crafted to foster continued progress. As set forth above, the President's new Executive Order will provide for permanent revocation of the sanctions in Executive Orders 13067 and 13412 after a period of 180 days, provided the requisite conditions are met as described above. Moving forward, the United States will have additional

tools to continue constructive engagement and apply pressure as necessary, in support of further progress in the five key areas, as well as progress on improving human rights, opening political space, and addressing the root causes of conflict in Darfur and the Two Areas.

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And on January 13, 2017, the State Department also provided a background briefing on Sudan by senior administration officials. The transcript of that briefing is excerpted below and available in full at <https://2009-2017.state.gov/r/pa/prs/ps/2017/01/266956.htm>.

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**SENIOR ADMINISTRATION OFFICIAL ONE:** Okay. So today's lifting of certain sanctions comes as a result of a sustained effort of intensive bilateral engagement with Sudan, and particularly sustained intensive engagement over the last six months that has focused on seeing progress from Sudan in five key areas. And ... where we have seen this type of progress is in the area of conflicts in Darfur in the two areas of Southern Kordofan and Blue Nile.

The Government of Sudan at the beginning of this process in June announced a unilateral cessation of hostilities, and the period of normal fighting, which begins in the beginning of December—the dry season—this year for the first time since 2011, we have not seen a government offensive in Darfur or the two areas. Secondly, the government has taken significant steps to reduce obstructions to humanitarian access and to improve the environment for humanitarian organizations operating throughout Sudan. Thirdly, Sudan has changed its previous policy and approach and has not, over the past six months, provided arms to armed groups in South Sudan. And fourthly, ... Sudan has partnered with the United States in working to eliminate the threat of the Lord's Resistance Army and encountering terrorism, in particular the threat posed by ISIL.

So the actions taken today...by the Treasury Department will remove the trade embargo with Sudan and unblock the assets of the Government of Sudan. The President has also issued an executive order that after six months, provided Sudan sustains progress in these areas that we have been engaging on and the Secretary of State issues a report to that effect, then the Executive Orders 13067 and 13412 that had imposed the sanctions will go away.

We recognize that while the recent progress made by Sudan is encouraging, there is still much that needs to be done to address the needs of the Sudanese people and to address our concerns. However, in six months we've moved closer to achieving our goals than we have in really the past 20 years. So in taking these steps today, we are well positioned to continue to engage productively with Sudan and to apply pressure as necessary in support of further progress in areas including areas of Sudan's human rights record, its ...restricted political space, and promoting democracy, and in addressing the root causes of the conflicts that have raged for years in Darfur and the two areas. So that in a nutshell is the actions taken and the rationale for that.

**SENIOR ADMINISTRATION OFFICIAL TWO:** If I could add a couple of things. This is [Senior Administration Official Two]. I just want to re-emphasize that this is the outcome of a comprehensive process of engagement. We've had twice-monthly committee meetings with the Sudanese Government for the last six months, and they've had clear benchmarks throughout the entire process. And on top of that, we also have been explaining that this is as much the beginning of a process as it is the end of a process. So the six months that we have been working with the Sudanese on this have been positive, and the steps we believe they have taken have been significant. But we also recognize that we have a long way to go and that this is the beginning of a longer process of smartening our sanctions in a way that will encourage continued achievements and steps in line with what has been made so far.

So one last note if I could, because we are at the end of an Administration. We also believe that this gives the new administration a lot more leverage. We've maximized leverage for them because we've handed them a large carrot and a large stick, and the carrot is that the new administration has the ability to make these sanctions relief permanent in six months, but they also have the ability to take them away. The general licenses we have put together can be removed if there's backsliding or if the progress doesn't continue. So with that, we think we're leaving the new administration in a very strong place to advance U.S. interests.

**MODERATOR:** Great, thank you. Any more remarks, or should we head over to questions?

**SENIOR ADMINISTRATION OFFICIAL THREE:** This is [Senior Administration Official Three]. I'm happy to ... just emphasize a ... couple technical information pieces. ...

Just to emphasize what [Senior Administration Official One] and [Senior Administration Two] said, ... all of the Darfur-related authorities, restrictions, and designations will remain through this, as well as the state sponsor of terror list restrictions. So these are the OFAC transactions non-Darfur would be authorized, but any other restrictions, export-related restrictions related to the state sponsor of terror list that other agencies administer, such as Commerce, would still be in effect. And as [Senior Administration Official Two] just said, I think it's important to distinguish between the general license that will take effect on Tuesday versus the executive order that would come into effect in six months potentially with regard to more permanently revoking the sanctions authority in this state. Under the general license, everybody will stay on the designated list, but there will be an authorization generally out there.

And so we would retain authority to revoke the general license at any time if there are complications. And then at that six-month window, as the new administration is assessing whether the progress has remained, that way we've given sort of an initial relief to the Government of Sudan that they can feel, but it's still a tentative one while we're assessing, and that allows us at the six-month period to either make that more permanent by removing the sanctions authority or not, and either revoking the general license or just recalibrating it based on the situation. So we try to provide continued incentive, but also maximum flexibility to adjust based on what's happening on the ground there at the time.

\* \* \* \*

**SENIOR ADMINISTRATION OFFICIAL ONE:** Well, let me say that Sudan has long expressed a desire to get out from under sanctions as well as other restrictions that the United States has imposed on Sudan going back 20 years. So, we have in the past few years looked for a way to engage with Sudan in a way that we could overcome some of the lack of trust of the past and to come up with an approach that would get the Sudanese to address concerns we've had,

mainly in how they treat their own people. That involves primarily ending the conflicts internally and allowing humanitarian assistance to reach their people. And their interest in achieving sanctions relief, bringing the two together, gave each party something that they could agree to work toward. So that's how we think we've gotten the Sudanese Government's agreement in this. They have something to gain. And because we've taken this in an incremental approach, they had enough confidence that this could be a successful approach.

So this is not the result just of an effort over the last six months, which, as my colleague has said, has been an extremely intensive engagement period, but goes back before that, even—or even to early 2015 when we began exploring with the Sudanese and them with us how we could achieve some breakthrough in the mutual interests that we had.

\* \* \* \*

**SENIOR ADMINISTRATION OFFICIAL ONE:** ... The executive order issued today requires that the Secretary of State, in consultation with the Secretary of the Treasury, with the administrator of USAID, with the Director of National Intelligence, and drawing on information from all sources, including specifically the NGO community, would have to issue a report as to whether Sudan had sustained the progress under the engagement we've had over the past six months during this upcoming six months.

If that report is positive, then the underlying executive orders, as [Senior Administration Official Three] has just explained, would go away and only the Darfur sanctions would remain—the designations under Executive Orders 13400.

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**SENIOR ADMINISTRATION OFFICIAL THREE:** ... I'll just note that the state sponsor of terrorism list and any trade restrictions based on that is a very different authority, so they're not really tied to the OFAC sanctions. They have their own trade restrictions, and much of that is administered by the Commerce Department. So while it's not common in the sense that, as you know, there's only three other countries on the list, so there's not a lot to have commonalities with, it's—they're really not tied. It's more ...that has its own restrictions and those restrictions are going to remain. And, I think as [Senior Administration Official One] noted, there's sort of different tracks going on here.

**SENIOR ADMINISTRATION OFFICIAL ONE:** Yeah. The other thing I will say is the sanctions that we have decided to give relief to are sanctions that have had an impact more on the people of Sudan, whereas the sanctions that are tied with the SST have more to do with the government and its security organs. We felt that the best place to start and engage on this was to do what would benefit most of the people of Sudan.

\* \* \* \*

**SENIOR ADMINISTRATION OFFICIAL THREE:** ...[I]n terms of the assets that are blocked by OFAC that are related to the Government of Sudan, those would be unfrozen. But I think it's important to note that's not the same as the state sponsor of terror list trade pieces on dual use. So that's a very different thing. That's not what's blocking assets.

But also, to the extent that that's not necessarily all of the assets going back to the Government of Sudan, there's a couple factors for that. One, those assets would be blocked

under the OFAC sanctions if there was even a small percentage of interest by the Government of Sudan. So some assets may be unfrozen that aren't even predominantly the Government of Sudan and they wouldn't go back to them, it's just that they had an interest in it. And the other piece is that any assets that are blocked and already attached under any pending civil litigation or civil litigation that's already happened and assets have been taken as a result of that would not be going back as well.

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**SENIOR ADMINISTRATION OFFICIAL ONE:** ... [T]hey've fought to a stalemate, there has been since 2011 a dry season offensive every year in the two areas between the government and the SPLM-North, that fighting has raged year after year. This dry season, there has been no government offensive.

And in Darfur, yes, there was a major government offensive in the last dry season—last year, at the beginning of last year—and yes, the government took a lot of territory back. But there are still many armed elements that are in Jebel Marra and the government could have launched yet another offensive to try to take more territory, could have engaged in aerial bombardment of villages. They have not undertaken that.

So yes, the wars are not concluded. There is no signed cessation of hostilities agreement yet. But the point is that ... what we've tried to do is decrease the level of fighting. And by the government not launching its traditional dry season offensives, that, we think, has been a major accomplishment. We also continue to push all the parties to go back to the negotiating table to conclude a cessation of hostilities agreement and get on with negotiating the underlying political issues that have led to these conflicts.

\* \* \* \*

On July 11, 2017, President Trump issued Executive Order 13804, "Allowing Additional Time for Recognizing Positive Actions by the Government of Sudan and Amending Executive Order 13761." 82 Fed. Reg. 32,611 (July 14, 2017). The order extends the review period in E.O. 13761 for three months, from July 12, 2017 to October 12, 2017. On July 12, 2017, the State Department provided a background briefing by senior administration officials on Sudan sanctions. A transcript of the briefing is available at <https://www.state.gov/r/pa/prs/ps/2017/07/272558.htm> and is excerpted below.

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**SENIOR ADMINISTRATION OFFICIAL ONE:** ... Executive Order 13761, issued in January 13, provided for sanctions relief for Sudan with respect to certain sanctions if the Government of Sudan sustained positive actions that gave rise to this order. And basically, these actions, just to be clear so we're all on the same page, included maintaining a cessation of hostilities in the conflict areas in Sudan, continuing improvement of humanitarian access throughout Sudan, and maintaining cooperation with the U.S. on both regional conflicts and the



threat of counterterrorism in the context of regional conflicts. A key issue is countering the Lord's Resistance Army.

So the administration recognizes Sudan has made significant progress in these areas over the last six months, but given that a new administration came in in January and looking at where we've gone and where we will go, the administration decided that it needed more time to review Sudan's actions and to establish that the government has demonstrated sustained, positive actions across all the areas that are set out in the executive order. As a result, the President yesterday issued a new executive order that extended the review period for three months. The Government of Sudan, if it is assessed at the end of that review period to have sustained positive actions as we've been discussing, the United States will revoke the sanctions. But there was a feeling that the additional time was needed to ensure that, given the scope and gravity of this decision, we reached the proper outcome.

The administration is committed to sustaining this discussion as well as engaging with the Government of Sudan on other vital issues outside of the five-track arrangement, including intensifying our ongoing and fairly intense already dialogue on improving Sudan's human rights and religious freedom record, and also to ensure that, like we are on track with that throughout the globe, committed to the full implementation of UN Security Council resolutions on North Korea. And I'm sure that [Senior Administration Official Two] will have more to say on that if there's questions.

A couple of other things I'd like to note: In that throughout the course of the extended review period, the OFAC license that was issued in January remains in effect, and what that does essentially is it authorizes U.S. persons to engage in transactions involving Sudan, authorizes imports and exports, and engage in transactions that involve property related to the Government of Sudan. So this general license allows these actions that had been prohibited under previous executive orders as it has for the last six months, and as we go forward—additional three months of the review period, this will stay in place.

One other thing I'd like to note before we go into questions is that the administration looked at all relevant and credible information in terms of where we've assessed where we're going to date, and that this decision was reached through a senior-level process, interagency process, that took the views of the Department of State, the Treasury, the intelligence agencies, as well as USAID and others who have an interest and focus on these issues. But it was the President who made the final decision based on ...the recommendations of the senior levels of the interagency....

\* \* \* \*

We welcomed what Sudan has done to bring itself more in line with international standards and integrate its economy in the marketplace. We want to have a positive relationship going forward; we've made that clear throughout the process, and we hope that Sudan will continue. And again, the key focus, I think, for the Sudanese has been working to achieve the full revocation of sanctions. And if, at the end of the three months, which is a relatively short extension, and I think one where we can actually make some additional progress, the stated intent, as our statement indicates, is to lift the sanctions.

\* \* \* \*

**SENIOR ADMINISTRATION OFFICIAL ONE:** ... We decided ... as an administration, that more time was needed to assess this issue.

As we note, there has been some significant progress made across the five tracks. On the question of humanitarian access, there's been progress in our ability to get to different places on ensuring that the access of some additional materials has happened. ... Humanitarian access has always been a real problem, and I think we've succeeded in reversing a number of longstanding impediments. The extended review period is going to let us do even more, and we want to make sure that our principle—which is unfettered humanitarian access in all contexts—is something that we could go forward with with the Government of Sudan, and that restrictions on travel and other issues are—that are inconsistent with the freedom of movement are addressed and overcome.

\* \* \* \*

Effective October 12, 2017, the interagency group directed by E.O. 13761 to monitor Sudan's progress made the determination that the Government of Sudan had sustained its positive actions and that the criteria in E.O. 13761 had been met, resulting in the lifting of certain economic sanctions relating to Sudan. 82 Fed. Reg. 47,287 (Oct. 11, 2017). Excerpts follow from the Federal Register notice of the determination regarding Sudan sanctions.

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Section 12(b) of Executive Order 13761, as amended by section 1(c) of Executive Order 13804, states that sections 1, 4, 5, 6, and 7 of that Executive Order are effective on October 12, 2017, provided that the Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, has published a notice in the Federal Register on or before that date, stating that the Government of Sudan has sustained the positive actions that gave rise to the Executive Order, and that the Secretary of State has provided to the President the report described in section 10 of that Executive Order.

The Secretary of State, in consultation with the Secretary of the Treasury, the Director of National Intelligence, and the Administrator of the U.S. Agency for International Development, hereby states that the Government of Sudan has sustained the positive actions that gave rise to Executive Order 13761 of January 13, 2017. The Secretary of State has also provided to the President the report described in section 10 of Executive Order 13761, as amended.

As a result, the criteria set forth in section 12(b) of Executive Order 13761, as amended, have been satisfied, and sections 1, 4, 5, 6, and 7 of Executive Order 13761, as amended, are effective on October 12, 2017.

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Effective October 12, 2017, sections 1 and 2 of Executive Order (E.O.) 13067 of November 3, 1997, “Blocking Sudanese Government Property and Prohibiting Transactions With Sudan” and all of E.O. 13412 of October 13, 2006, “Blocking Property of and Prohibiting Transactions With the Government of Sudan” were revoked, pursuant to E.O. 13761 as amended by E.O. 13804. 82 Fed. Reg. 49,698 (Oct. 26, 2017). The Federal Register notice of the lifting of sanctions imposed under Sections 1 and 2 of E.O. 13067 and E.O. 13412 lists the individuals and entities removed from the SDN List. *Id.*

**e. South Sudan**

On September 6, 2017, OFAC designated multiple individuals and entities pursuant to E.O. 13664 of April 3, 2014, “Blocking Property of Certain Persons With Respect to South Sudan.” 82 Fed. Reg. 42,879 (Sep. 12, 2017). The individuals are: Malek Reuben RIAK RENGU; Michael Makuei LUETH; and Paul Malong AWAN. The entities are: ALL ENERGY INVESTMENTS LTD; A+ ENGINEERING, ELECTRONICS & MEDIA PRINTING CO. LTD.; and MAK INTERNATIONAL SERVICES CO LTD. The State Department issued a press statement on the sanctions on South Sudanese officials and companies on September 6, 2017. That statement is excerpted below and available at <https://www.state.gov/r/pa/prs/ps/2017/09/273836.htm>.

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Today, the Department of the Treasury announced targeted sanctions on two South Sudanese government officials and one former official for their roles in threatening the peace, security, or stability of South Sudan, and three companies that are owned or controlled by one of those individuals. Treasury also released a Financial Crimes Enforcement Network Advisory alerting U.S. financial institutions to the possibility that certain South Sudanese senior political figures may try to use the U.S. financial system to move or hide proceeds of public corruption.

The measures taken today against Malek Reuben Riak Rengu, Michael Makuei Lueth, and Paul Malong Awan make clear that the U.S. Government will impose consequences on those who expand the conflict and derail peace efforts. The United States stands ready to impose other measures against those responsible for undermining the peace, security, or stability of South Sudan. As the Advisory demonstrates, the United States is committed to increasing scrutiny on those who enrich themselves through corruption while the South Sudanese people suffer through economic hardship and a dire humanitarian crisis.

Six million people in South Sudan—half of the population—face life-threatening hunger while more than four million people have been displaced from their homes, including two million refugees. This is a man-made crisis, and one the Government of South Sudan can stop. We continue to make clear to South Sudan’s leaders that they must honor their declared ceasefire, revive the 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan by engaging meaningfully with opposition parties, bring an end to atrocities, stop the harassment of aid workers, stem human rights abuses, cooperate fully with the United Nations

Mission in South Sudan, and take action against corruption. We urge all parties to engage constructively and seriously in the upcoming Intergovernmental Authority on Development High-Level Revitalization Forum for the South Sudan peace process.

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**f. 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 April 12, 2017, OFAC blocked the property and interests in property of the following individuals pursuant to E.O. 13667: Abdoulaye HISSENE and Maxime MOKOM. 82 Fed. Reg. 18,211 (Apr. 17, 2017). On December 13, 2017, OFAC designated Okot LUKWANG and Musa HATARI under E.O. 13667 (for links to the Lord’s Resistance Army). 82 Fed. Reg. 60,275 (Dec. 19, 2017).

**g. Côte d’Ivoire**

As discussed in *Digest 2016* at 665-66, the President terminated the national emergency declared with respect to Côte d’Ivoire in E.O. 13396, “Blocking Property of Certain Persons Contributing to the Conflict in Côte d’Ivoire.” Effective November 13, 2017, OFAC removed from the Code of Federal Regulations the Côte d’Ivoire Sanctions Regulations as a result of the termination of the national emergency on which the regulations were based. 82 Fed. Reg. 52,209 (Nov. 13, 2017).

**h. Libya**

On April 19, 2016, the President issued a new executive order relating to Libya, E.O. 13726, “Blocking Property and Suspending Entry into the United States of Persons Contributing to the Situation in Libya.” On April 13, 2017, OFAC blocked the property and interests in property of Hama Hamani pursuant to E.O. 13726 and based on his ties to ISIL.

The UN Security Council adopted resolution 2362 on oil smuggling in Libya, expanding interdiction authority to additional oil products. On November 16, 2017, Ambassador Sison delivered remarks at a UN Security Council briefing on Libya sanctions. Her remarks are excerpted below and available at <https://usun.state.gov/remarks/8115>.

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\* \* \* \*

Finally, turning to sanctions, we want to focus on the challenge of illegal smuggling of crude oil and petroleum products from Libya. This Council, at the Government of National Accord's request, has repeatedly condemned these illicit transactions. Earlier this year, the Council designated two vessels, the *Capricorn* and the *Lynn S*, for their involvement in illegal fuel smuggling. These vessels remain sanctioned. Therefore, we remind all Member States, particularly those in the Mediterranean and the Middle East, that these vessels must not be permitted to enter their ports. We also reiterate that Flag States of these vessels must fulfill their obligation to direct the ships not to load, transport, or discharge their cargo.

Now looking ahead, the United States believes that now is a crucial opportunity for Libyans to make real progress toward political reconciliation. SRSG Salamé and the international community are aligned behind this objective. Now is the moment for Libya's leaders to engage in good faith with SRSG Salamé.

The United States will work to mobilize the international community against anyone that disrupts the UN process. But we hope that Libyans will be able to put their differences aside for the sake of their country's future. It is long past time for Libya to re-build its institutions and its economy. The United States urges all Libyans—in the East, West, and South—to come together in a shared effort to ensure Libya's security and prosperity.

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#### *i. Balkans*

On January 17, 2017, OFAC blocked the property and interests in property of Milorad DODIK pursuant to E.O. 13304, "Termination of Emergencies With Respect to Yugoslavia and Modification of Executive Order 13219 of June 26, 2001." 82 Fed. Reg. 8262 (Jan. 24, 2017).

### **10. Transnational Crime**

Executive Order 13581, "Blocking Property of Transnational Criminal Organizations," was signed in 2011. On February 16, 2017, OFAC removed from the SDN List two individuals previously designated under E.O. 13581—Estelle SNYMAN and Brian WEEKES. 82 Fed. Reg. 43,658 (Sep. 18, 2017). On April 6, 2017, OFAC removed from the SDN List two individuals—Siobhan Ann HANRAHAN and Donna Maria MACBAIN—previously designated pursuant to E.O. 13581. 82 Fed. Reg. 43,454 (Sep. 15, 2017). On May 16, 2017, OFAC removed Raffaella FERRARI from the SDN List, a person designated under E.O. 13581. 82 Fed. Reg. 47,604 (Oct. 12, 2017). On June 6, 2017, OFAC removed Monica Elizabete BOTTCHEER from the SDN List, another person previously designated under E.O. 13581. 82 Fed. Reg. 47,603 (Oct. 12, 2017). On June 21, 2017, OFAC removed Mary Ann DRISCOLL from the SDN List, also designated under E.O. 13581. 82 Fed. Reg. 47,603 (Oct. 12, 2017). Mohammed Saeed AJILY and Mohammed Reza REZAKHAH were designated under E.O. 13581 along with several Iran-related designations pursuant to E.O. 13382. 82 Fed. Reg. 33,943 (July 21, 2017).

On August 22, 2017, OFAC removed Marie BOIVIN and Ruth FERLOW from the SDN List, two individuals previously designated under E.O. 13581. On October 4, 2017,

OFAC removed from the SDN List three individuals—Robert Paul DAVIS, Rosanne Phyllis DAY, and, Gerard Alphonsus HUMPHREYS—and one entity—MANX RARE BREEDS LTD.—who were previously designated under E.O. 13581. 82 Fed. Reg. 47,789 (Oct. 13, 2017). On October 26, 2017, OFAC removed from the SDN List 24 entities (related to the PACNET GROUP) and one aircraft, listed in the Federal Register notice, which had been designated under E.O. 13581. 82 Fed. Reg. 50,485 (Oct. 31, 2017).

On December 22, 2017, OFAC removed from the SDN List five individuals—Almanbet Mamadaminovich ANAPIYAEV, Artur BADALYAN, Vadim Mikhaylovich LYALIN, Temuri Suleimanovich MIRZOYEV, and Vladimir Viktorovich VAGIN—and three entities—THE BROTHERS’ CIRCLE, FASTEN TOURISM LLC, and MERIDIAN JET MANAGEMENT GMB—whose property and interests in property were blocked pursuant to Executive Order 13581. 82 Fed. Reg. 61,662 (Dec. 28, 2017). Also on December 22, 2017, OFAC designated four individuals pursuant to E.O. 13581, all for ties to the entity “Thieves-in-Law,” which was simultaneously designated: Yuri Viktorovich PICHUGIN; Ruben Albertovich TATULIAN; Alimzhan Tursunovich TOKHTAKHUNOV; Vladimir Anatolyevich TYURIN. 82 Fed. Reg. 61,662 (Dec. 28, 2017). In addition to THIEVES-IN-LAW, OFAC designated NOVYI VEK—MEDIA and VESNA HOTEL AND SPA. *Id.* OFAC also updated the SDN List for several persons, whose property and interests in property continue to be blocked under E.O. 13581. *Id.*

## **11. Malicious Activities in Cyberspace**

See *Digest 2016* at 666-67 for background on E.O. 13757, “Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,” and *Digest 2015* at 677-78 for background on E.O. 13694. On September 14, 2017, OFAC designated the following individuals pursuant to E.O. 13694: Sadegh AHMADZADEGAN (for causing a significant disruption to the availability of a computer or network of computers); Ahmad FATHI (for links to ITSec Team, a person designated under E.O. 13694); Hamid FIROOZI (also for links to ITSec Team); Omid GHAFFARINIA (for causing a significant disruption to the availability of a computer or network of computers); Sina KEISSAR (for causing a significant disruption to the availability of a computer or network of computers); Nader SAEDI, (for causing a significant disruption to the availability of a computer or network of computers); Amin SHOKOHI, (also for links to ITSec Team). 82 Fed. Reg. 44,026 (Sep. 20, 2017). OFAC simultaneously designated ITSEC TEAM pursuant to E.O. 13694. *Id.*

## **B. EXPORT CONTROLS**

### **Export Control Litigation**

As discussed in *Digest 2016* at 667-68, the United States prevailed in the district court in *Goldstein v. Department of State*, No. 15-0311, which dismissed a challenge to amendments to the International Traffic in Arms Regulations (“ITAR”) regarding what constitutes “brokering activities” under the Arms Export Control Act (“AECA”). On

appeal, the U.S. Court of Appeals for the D.C. Circuit affirmed the dismissal. Excerpts follow from the opinion.

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The question before us is whether the law firm has standing to seek to enjoin the State Department from enforcing its regulations governing arms brokering. The firm has failed, however, to demonstrate its standing to seek pre-enforcement relief: it has not “suffered an ‘injury in fact[]’ that is (a) concrete and particularized and (b) actual or imminent . . . .” *Sabre, Inc. v. U.S. Dep’t of Transp.*, 429 F.3d 1113, 1117 (D.C. Cir. 2005) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 180-81 (2000)). It is true that a plaintiff is not required “to expose himself to liability before bringing suit to challenge the basis” for an enforcement action by the government. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128-29 (2007). After all, a plaintiff can seek pre-enforcement review when the threat of enforcement is “sufficiently imminent.” *Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2342 (2014). But there is something fundamental to a pre-enforcement challenge that is missing here. There must be some desired conduct by the plaintiff that might trigger an enforcement action in the first place. . . . But here, we have no facts from which to conclude that the law firm risks incurring any liability by failing to register with the State Department. Indeed, Goldstein offers only vague and general descriptions of legal activities that the firm intends to undertake, none of which the State Department views as brokering, as the Department has made abundantly clear on its website and, more particularly, at oral argument before this court. Unsurprisingly, then, the State Department has shown no intention of enforcing the brokering regulations against Goldstein’s law firm.

The 2013 regulation is straightforward: “[A]ctivities by an attorney that do not extend beyond the provision of legal advice to clients” are not brokering activities. 22 C.F.R. § 129.2(b)(2)(iv). The State Department understands all of the activities Goldstein has described to fit under that umbrella. As government counsel explained at oral argument, Goldstein has “given no indication that” his firm does anything “extend[ing] beyond” legal advice. Oral Arg. Tr. 30:3-10. In the State Department’s view, then, there is no reason to believe that Goldstein’s firm engages in brokering activities within the meaning of Part 129. As long as the firm merely provides the legal services Goldstein describes, it faces no material risk of enforcement from the State Department. His firm therefore need not fear that it will have to disclose confidential client information or otherwise take steps to register.

True, an attorney like Goldstein *could* provide legal advice in a manner that constituted brokering, but the State Department has explained that the only such situation it has identified is when an attorney acts as a “finder” by, for example, helping clients to identify or locate foreign counterparties for proposed transactions. *See* Oral Arg. Tr. 38:10-14 (government counsel explaining that “the only example . . . that the Agency has been able to identify” of an attorney providing legal advice in a manner that implicates the brokering regulation involves the use of that “legal advice to steer a client towards a particular buyer or a particular seller”). The law firm simply has alleged no facts suggesting that it intends to act as a finder in any capacity. Moreover, Goldstein has expressly denied that his firm has any plan or desire to do so. *See* Appellant’s Br. 24; *see also* Oral Arg. Tr. 38:14-16.

The law firm's fear that it may be the target of Department enforcement seems to be based on a misunderstanding of the letter that Goldstein received from the State Department after his firm filed suit, in which the Department advised that Goldstein's proposed activities would be exempt "as long as" the foreign parties had already been identified. J.A. 40. Focusing on the "as long as" language, the firm argues that it must be subject to the requirements of Part 129 because it "often" provides these services *before* its clients have identified the foreign parties to proposed transactions. Appellant's Reply Br. 5 ("Defendants argue 'Plaintiff has not adequately alleged that he has engaged in or will engage in any conduct regulated as brokering activity[] under part 129.' ... But Plaintiff has repeatedly stated that it regularly provides legal advice to clients on transactions where the clients have not identified all parties to the transactions.>").

The letter, however, did not state that *all* legal advice on international arms transactions in which foreign parties are unidentified *necessarily* constitutes brokering. On the contrary, the "as long as" language in the State Department's letter simply creates a limited safe harbor: when an attorney provides ordinary legal services to a client in a situation where the foreign party has been identified, it is especially clear that the attorney is not helping to "find" the foreign party to the transaction—and thus not engaging in brokering activities. If the foreign party has not been identified, that merely leaves open the possibility that the attorney *may* be acting as a finder. But the State Department does not take the position that attorneys engage in brokering every time they provide legal advice relating to transactions with foreign parties not yet identified. *See* Appellees' Br. 27 ("[P]laintiff mistakenly assumes that *all* advice on transactions in which the foreign parties are not identified constitutes brokering.>"). Rather, its view is that attorneys must go outside the bounds of providing proper legal counsel, and instead must actually undertake brokering measures. Contrary to Goldstein's argument, then, the plaintiff's stated intention to provide legal advice to clients on transactions where foreign parties are unidentified does not imply that it would face an enforcement action for failing to register under Part 129.

Goldstein may not have provided the State Department with enough information to make an official and binding determination that any *particular* transaction of his would fall outside the definition of brokering. *See* 22 C.F.R. § 129.9. But taken as a whole, the State Department's 2013 regulation explicitly removing the provision of legal advice from the definition of brokering activities, the Department's letters to Goldstein, and its representations at oral argument demonstrate that, in the Department's view, the firm is *not* subject to regulation as a broker based on the firm's proposed activities. Therefore, because the firm alleges that it intends only to provide legal advice and denies that it will act as a finder (or collect a contingency fee) in the process, it has not shown that it faces a meaningful risk that the State Department will seek to enforce Part 129 against it, either by forcing it to register or by penalizing it for failure to register. Without any credible threat of enforcement, the firm has no injury to speak of that would afford it standing to seek to enjoin enforcement of that regulation in court.

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**Cross References**

*U.S. Passports Invalid for Travel to North Korea*, **Ch. 1.A.3.**

*Terrorism*, **Ch. 3.B.1.**

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

*Cuba*, **Ch. 9.A.2.**

*Zimbabwe*, **Ch. 9.B.7.**

*Schermerhorn (state sponsor of terrorism requirement under the FSIA)*, **Ch. 10.A.4.**

*Burma atrocities*, **Ch. 17.C.1.**

*DPRK*, **Ch. 19.B.7.a.**

*Iran*, **Ch. 19.B.7.b.**