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DEPARTMENT OF STATE

[Public Notice: 8086]

**Department of State: State Department Sanctions Information and Guidance**

**AGENCY:** Department of State.

**ACTION:** Policy guidance.

**SUMMARY:** The Department of State is publishing information and guidance for the public addressing the State Department's sanctions authorities, including under the Iran Sanctions Act, as amended, certain Executive Orders related to Iran sanctions, section 106 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 (CISADA) and certain related provisions of law, and certain statutes and Executive Orders related to terrorism and weapons of mass destruction.

**DATES:** The Department of State will accept comments on the Guidance on Iran Sanctions and the Guidance on Sensitive Technology until January 12, 2013.

**ADDRESSES:** Interested parties may submit comments within 60 days of the date of the publication by any e-mail at *sanctions@state.gov* with the subject line, "Sanctions Guidance".

**SUPPLEMENTARY INFORMATION:** The Secretary of State has legal authority to make determinations regarding sanctions on individuals and entities that meet certain criteria in three areas that are important to the national security, foreign policy, and economy of the United States: certain activities related to Iran; certain activities related to weapons proliferation; and certain activities related to global terrorism. This notice includes policy guidance outlining the State Department's authorities under the Iran Sanctions Act, as amended, and related Executive Orders (EOs); provides guidelines to further describe the technologies that may be considered "sensitive technology" for purposes of section 106 of

CISADA, as required under section 412 of the Iran Threat Reduction and Syria Human Rights Act of 2012, and other related provisions of law; and provides information on the State Department's authorities under certain other EOs and statutory provisions related to terrorism and weapons of mass destruction.

I. Guidance on Iran Sanctions

*Iran Sanctions Act.* Section 5(a) of the Iran Sanctions Act of 1996 (ISA) (Public Law 104-172) (50 U.S.C. 1701 note), as amended, including by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (Public Law 111-195) (22 U.S.C. 8501 *et seq.*), and most recently by the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA) (Public Law 112-158), requires that the President impose or waive sanctions on persons, and certain affiliated persons, that are determined to have knowingly engaged in specified activities. The President has delegated the responsibility to make these determinations to the Secretary of State. As such, the Secretary of State is required to impose or waive sanctions on persons, including certain affiliated persons, that the Secretary of State determines have: (1) made certain investments in Iran's energy sector; (2) provided to Iran certain goods, services, or technology for Iran's refined petroleum sector; (3) provided certain refined petroleum products to Iran or provided goods, services, technology, information, or support for refined petroleum imports into Iran; (4) entered into certain types of joint ventures involving the development of petroleum resources outside of Iran; (5) contributed to the maintenance or enhancement of Iran's development of petroleum resources and refined petroleum products; (6) contributed to the maintenance or expansion of Iran's production of petrochemical products; (7) been connected in certain ways with a vessel used to transport crude oil from Iran (with certain exceptions made for transactions related to the transportation of crude oil from Iran to countries that

the Secretary of State has determined qualified for an exception to sanctions under section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012, Public Law 112-81, as amended); or (8) been connected in certain ways with a vessel that conceals the Iranian origin of the crude oil or refined petroleum products.

There is an exception, outlined in section 5(a)(9) of ISA, as amended, to sanctions applicable to categories (7) and (8) above for persons that provide underwriting services or insurance or reinsurance if the Secretary of State determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not provide underwriting services or insurance or reinsurance for the transportation of crude oil or refined petroleum products from Iran in a manner for which sanctions may be imposed under either of those sections. In addition to this exception, all persons involved in activities in high-risk sectors should consider implementing enhanced due diligence in order to minimize the risks of inadvertently becoming engaged in a sanctionable transaction. This could include, but is not limited to, confirming that transactions in these sectors do not involve an entity owned or controlled by Iran or that Iran is not otherwise connected to any entities in the commercial transactions, including by reviewing the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons (SDN) List; searching commercial databases and verifying ownership structures of unknown companies; and, in the case of transportation or insurance of crude oil and petroleum products, verifying that Iran is not the origin of the cargo. Persons with questions on sections 5(a)(7) – (9) of ISA, as amended, should contact the State Department's Office of Sanctions Policy and Implementation in the Bureau of Economic and Business Affairs at [eb-iransanctions@state.gov](mailto:eb-iransanctions@state.gov) or at: (202) 647-7489.

Section 5(b) of ISA, as amended, requires the Secretary of State to impose or waive sanctions on persons, and certain affiliated persons, that are determined to have: (1) exported or transferred goods, services, technology, or other items that would contribute materially to Iran's ability to acquire or develop chemical, biological, or nuclear weapons, or destabilizing numbers and types of advanced conventional weapons, or facilitated such activities; or (2) entered into a joint venture involving Iran and activity relating to the mining, production, or transportation of uranium.

In addition to expanding the types of sanctionable activities under ISA, the TRA added new sanctions that can be imposed under ISA. For activities commenced on or after August 10, 2012, section 6 of ISA, as amended, now permits the Secretary to choose from a list of 12 possible sanctions; section 5(a) requires selection of at least five of these sanctions. In addition, new section 5(a)(8)(B) of ISA, as amended, which relates to concealing the Iranian origin of crude oil and refined petroleum products, authorizes an additional sanction: prohibiting a vessel owned, operated, or controlled by a person, including a controlling beneficial owner, with respect to which the Secretary of State has imposed sanctions, from landing at a port in the United States for a period of not more than two years after the date on which the Secretary of State imposes the sanction. If this sanction is chosen by the Secretary of State, the Department of State would provide the relevant information on sanctioned persons and vessels to the United States Coast Guard's Office of Commercial Vessel Compliance and the Captains of the Ports would inform the vessel that it is prohibited from entering the United States for the prescribed period consistent with the Secretary of State's decision under ISA, as amended.

The other new sanctions, which are applicable to all sanctionable activities outlined in ISA, as amended, and occurring on or after August 10, 2012, are:

(1) prohibiting any U.S. person from investing in or purchasing significant amounts of equity or debt instruments of a sanctioned person; (2) denying a visa to and excluding from the United States any alien determined to be a corporate officer or principal of, or a shareholder with a controlling interest in, a sanctioned person; and (3) imposing on the principal executive officer or officers of any sanctioned person, or on persons performing similar functions and with similar authorities as such officer or officers, any of the sanctions outlined in section 6(a) of ISA, as amended.

Potential ISA sanctions that were already in place before the enactment of TRA include: (1) denying Export-Import Bank financing assistance in connection with the export of goods or services to the sanctioned person; (2) denying issuance of export licensing or other authority to export any goods or technology to the sanctioned person; (3) prohibiting U.S. financial institutions from making certain loans or providing certain credits to the sanctioned person; (4) prohibiting a sanctioned financial institution from acting as a primary dealer in U.S. government debt instruments or serving as a repository of U.S. government funds; (5) prohibiting U.S. government agencies from procuring or entering into contracts for the procurement of any goods or services from a sanctioned person; (6) prohibiting any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest; (7) prohibiting transfers of credit or payments between financial institutions or by, through, or to any financial institution if the transactions are within the jurisdiction of the United States and involve any interest of the sanctioned person; (8) blocking all property and interests in the property of the sanctioned person that are within the jurisdiction of the United States, and providing that such property and interests in property may not be transferred, paid, or otherwise dealt in; and (9) restricting or prohibiting imports of goods,

technology, or services into the United States from the sanctioned person. In addition, section 5(b)(3) of ISA, as amended, provides for additional sanctions relating to the transfer of nuclear technology.

The President initially delegated the authorities associated with these sanctions to the Secretary of State, in consultation with various other agencies, in 1996 (*see* 61 FR 64249 (Dec. 4, 1996)). Another delegation was issued in 2010 when CISADA was enacted (*see* 75 FR 67025 (Nov. 1, 2010)), and Executive Order 13574 followed on May 23, 2011 (*see* 76 FR 30505 (May 25, 2011)). The most recent Presidential delegation memorandum was issued on October 9, 2012, to address the changes to ISA made by TRA (*see* 77 FR 62139 (Oct. 12, 2012)), along with Executive Order 13628, issued on October 9, 2012 (*see* 77 FR 62139 (Oct. 12, 2012)). This most recent Presidential delegation memorandum also delegated to the Secretary of State the President's authority under section 212 of TRA, which draws on ISA authorities, to sanction persons that knowingly provide underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either company. There is authority to not impose sanctions under this provision with respect to persons exercising due diligence in establishing and enforcing official policies, procedures, and controls to ensure that such insurance is not provided. There is also authority, under section 312(d) of the TRA, to not impose sanctions with respect to transactions that are solely for the purchase of petroleum or petroleum products and for which sanctions may be imposed solely as a result of the involvement of NIOC or NITC in the transactions, where the country receiving the petroleum or petroleum products has been determined by the Secretary of State to qualify for an exception to sanctions under section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81), as amended.

For purposes of ISA, “person” means a natural person as well as a corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, as well any successors to any such entities.

Section 4 of ISA provides for a waiver of the application of sanctions provisions under certain circumstances. Section 4 also provides for the initiation of investigations and contains a “Special Rule” outlining the circumstances under which an investigation may be terminated or not initiated. In deciding whether to invoke the Special Rule or take another step to mitigate sanctions such as a waiver under this section, the State Department typically requires a letter providing certain assurances and supporting documentation. More information regarding what is specifically required is provided to companies that seek to be considered for application of the Special Rule. Section 7 of ISA provides authority for the Secretary of State to issue advisory opinions, when specifically requested, with respect to whether a proposed activity would subject a person to sanctions under ISA. Section 9 of ISA, as amended, provides for delay of imposition of sanctions or waiver in certain circumstances, and provides that a sanction imposed under section 5 of ISA, as amended, shall remain in effect for not less than two years or, if the Secretary of State determines and certifies to the Congress that the sanctioned person is no longer engaging in sanctionable activities and that the Secretary of State has received reliable assurances that such person will not knowingly engage in such activities in the future, for not less than one year. Questions about implementation of ISA, as amended, can be directed to the State Department’s Office of Sanctions Policy and Implementation in the Bureau of Economic and Business Affairs at [eb-iransanctions@state.gov](mailto:eb-iransanctions@state.gov) or at (202) 647-

7489. A list of entities sanctioned pursuant to section 5 of ISA, as amended, can be found at [www.state.gov/iransanctions](http://www.state.gov/iransanctions).

*Executive Order 13590 (issued on November 20, 2011).* EO 13590 provides for sanctions by the Secretary of State on persons knowingly engaging in activities that could directly and significantly contribute to the maintenance or enhancement of Iran's ability to develop petroleum resources located in Iran, or the maintenance or expansion of Iran's domestic production of petrochemical products, and on certain affiliated persons. Entities involved in transactions in these sectors are expected to conduct adequate due diligence to confirm that transactions do not involve an entity owned or controlled by Iran or that Iran is not otherwise connected to any entities in the commercial transactions.

For purposes of the Executive Orders addressed in this guidance the term “person” means an individual or entity. For purposes of Executive Orders and statutes addressed in this guidance, the following definitions apply:

- “petroleum” (also known as crude oil) means a mixture of hydrocarbons that exists in liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities;
- “petroleum products” includes unfinished oils, liquefied petroleum gases, pentanes plus, aviation gasoline, motor gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, petrochemical feedstocks, special naphthas, lubricants, waxes, petroleum coke, asphalt, road oil, still gas, and miscellaneous products obtained from the processing of: crude oil (including lease condensate), natural gas, and other hydrocarbon compounds. The term does not include natural gas, liquefied natural gas, biofuels, methanol, and other non-petroleum fuels. Since enactment of section 1245 of the National Defense Authorization Act for Fiscal Year 2012



(P.L. 112-81), questions have been raised about some other specific products and whether they would fall under this definition. The following additional products are considered petroleum products for the purposes of this guidance: condensates (occurring naturally or derived from the processing of petroleum or natural gas), and liquefied petroleum gases (LPGs) including propane and butane. This list, however, is not exhaustive and other products not on this list that fall under the definition above remain potentially sanctionable.

- “petrochemical products” includes any aromatic, olefin, and synthesis gas, and any of their derivatives, including ethylene, propylene, butadiene, benzene, toluene, xylene, ammonia, methanol, and urea. Since the issuance of E.O. 13590, questions have been raised about some other specific products and whether they would fall under this definition. The following additional products are considered petrochemical products for the purposes of this guidance: butene, ethylhexanol, acetic acid, acrylonitrile butadiene styrene, alachlor, ammonium nitrate, ammonium sulfate, anhydrous ammonia, argon, butachlor, C2+, C3+, C4 cut, chlorinated paraffin, chlorine, chloracetyl chloride, citric acid, diammonium phosphate, diethanolamine, ethylene glycol, diethylene glycol, dioctyl phthalate, dodecyl benzene, ethane, ethoxylates, ethylbenzene, ethylene dichloride, ethylene glycol, ethylene oxide, heavy alkyl benzene, high density polyethylene, hydrochloric acid, isoprene, linear alkyl benzene, linear low density polyethylene, low density polyethylene, melamine, methyl tertiary butyl ether, methylene diphenyl diisocyanate, mid density polyethylene, monoethanolamine, monoethylene glycol, nitric acid, nitrogen, orthoxylene, paraxylene, pentene, perchlorine, phosphoric acid, phthalic anhydride, polybutadiene, polyethylene terephthalate, polypropylene, polystyrene, polyvinyl chloride, propylene, purified terephthalic acid, pyrolysis gasoline, raffinate, soda ash, sodium bicarbonate, sodium carbonate, sodium

chloride, sodium hydroxide, sodium hypochlorite, styrene, tyrene acrylonite copolymer, sulfur, sulfuric acid, styrene butadiene, toluene diisocyanate, triethanolamine, triethylene glycol, and vinyl chloride monomer. This list, however, is not exhaustive and other products not on this list that fall under the definition above remain potentially sanctionable. “Petrochemical products” do not include finished products derived from these substances, such as pipes, plastic bags, tires, and solvents. For purposes of this and other E.O.’s and legislation outlined in this guidance, an item cannot be both a petroleum product and a petrochemical product.

*Executive Order 13622 (issued on July 30, 2012).* Section 2 of E.O. 13622 provides for sanctions by the Secretary of State on a person determined to knowingly, on or after July 31, engage in a significant transaction for the purchase or acquisition of petroleum or petroleum products from Iran or for the purchase or acquisition of petrochemical products from Iran, and on certain affiliated persons. Entities involved in transactions in these sectors are expected to conduct adequate due diligence to confirm that Iran is not the country of origin of the petroleum, petroleum products, or petrochemicals. Certain exceptions are made for transactions for the purchase of petroleum or petroleum products where the Secretary of State has granted exceptions to sanctions under section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81), as amended.

*Executive Order 13628 (issued on October 9, 2012).* Sections 5, 6, and 7 of E.O. 13628 authorize the Secretary of State to impose certain sanctions in sections 5(a) and 6 of ISA that were enacted by CISADA for activity occurring between July 1, 2010 and August 10, 2012. Section 201 of TRA amended the effective date of the relevant sanctions to August 10, 2012, and did not otherwise

preserve their applicability for activity occurring between the enactment dates of CISADA (July 1, 2010) and TRA (August 10, 2012).

Questions about the State Department's implementation of these Executive Orders can be directed to the State Department's Office of Sanctions Policy and Implementation in the Bureau of Economic and Business Affairs at [eb-iransanctions@state.gov](mailto:eb-iransanctions@state.gov) or at (202) 647-7489.

## II. Guidance on the Provision of "Sensitive Technology" to Iran and Syria

Section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (Public Law 111-195) (22 U.S.C. 8501 *et seq.*) prohibits U.S. government agencies from entering into or renewing procurement contracts with individuals or entities that export "sensitive technology" to Iran. Further, sections 402 and 703 of the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA) (Public Law 112-158) mandate the imposition of sanctions on persons who are determined to have engaged in certain activities, including, on or after August 10, 2012, to knowingly transfer, or facilitate the transfer of "sensitive technology" to Iran or Syria, or provide services with respect to "sensitive technology" after such technology is transferred to Iran or Syria.

Section 106 of CISADA defines "sensitive technology" as "hardware, software, telecommunications equipment, or any other technology, that the President determines is to be used specifically – (A) to restrict the free flow of unbiased information in Iran; or (B) to disrupt, monitor, or otherwise restrict speech of the people of Iran." Section 703 of TRA defines "sensitive technology" in the same way with respect to Syria.

These guidelines, which are required under section 412 of TRA, are intended to assist individuals and entities so that, going forward, they can make appropriate decisions with regard to business in Iran and Syria and take steps to avoid

engaging in potentially sanctionable transactions under sections 106 and 105A of CISADA, as amended by section 402 of TRA, Executive Order 13628, and section 703 of TRA due to the similarity of the definition of “sensitive technology” to section 106 of CISADA.

*Misuse of Technology in Iran and Syria*

Information and communications technology serves to facilitate communication, share information, and connect users to each other. Over the last several years, the world has witnessed the important role this technology can assume in holding repressive regimes accountable, assisting people in exercising their human rights and protecting emerging elements of civil society. However, certain information and communications technology can also provide unprecedented capabilities for governments to conduct surveillance on users’ communications and movements, and to block or disrupt communications.

The people of Iran and Syria use telecommunications technology and networks to communicate with each other and the rest of the world. The United States government supports efforts to facilitate the free flow of information and freedom of expression in Iran and Syria and is cognizant of the vital importance of providing technology that enables the Iranian and Syrian people to freely communicate with each other and the outside world.

At the same time, the Iranian and Syrian governments have taken steps to restrict the free flow of information and freedom of expression over their networks, to track and monitor the communications of their people for the purpose of perpetrating human rights abuses, or to disrupt networks in support of military operations against their own people.

*Determining “Sensitive Technology”*

In determining whether a particular transaction involves a good or technology that may be considered “sensitive technology” under CISADA and TRA, the United States government will closely examine transactions that could provide significant surveillance, censorship, or network disruption capabilities to the Iranian or Syrian governments as a result of the particular end-user, its end-use, or the type of technology.

The United States government recognizes that certain geolocation and other monitoring capabilities are part of the basic functioning of modern telecommunications networks. The United States government further recognizes that online communications services commonly track users’ network addresses and usage patterns and may request additional personal information from users. These capabilities generally would not be considered “sensitive technology” under CISADA and TRA. Moreover, “sensitive technology” does not generally include technology essential for ordinary network operation, personal computing or private communications that does not provide significant surveillance, censorship or network disruption capabilities, including: Wi-Fi access points, network routers, switches and mobile phone base stations; cables (fiber optic, coaxial and twisted pair); basic network performance monitoring tools; wireless antennas and other architectural elements; mobile phones and mass market desktop, laptop and tablet computers without external monitoring or surveillance capabilities such as keyloggers; computer monitors, screens, speakers, mice, headphones, headsets, and other accessories; defensive technologies to protect individual computers against malware and related security threats (including software and definition updates); software development tools including libraries, integrated development environments, hosting services, and collaboration platforms; mass market document creation, viewing and editing tools without special surveillance

capabilities; censorship-circumvention technologies and services; virtual private network (VPN) services; anti-tracking and encryption technologies to protect user privacy, if supplied without monitoring or surveillance capabilities; personal communications technologies (including software updates to such technologies) such as instant messaging, chat, e-mail, social networking, photo and movie sharing, web browsing, and blogging; web browser plug-ins for rendering web content; data and web hosting and storage technology without monitoring or surveillance capabilities; RSS feed production, distribution, and reading tools and comparable information transmission technologies; and other similar equipment that does not provide significant surveillance, censorship or network disruption capabilities.

When making an assessment of whether or not a company, entity, or individual is exporting, transferring, facilitating the transfer of, or providing services that may be considered sensitive technology with regard to Iran or Syria, the State Department will review all available information, including through direct communication with the entity or individual if possible. It will consider, among other factors, whether a company knew, or should have known, that a particular end-user of its technology was likely to misuse such technology, or that a particular technology has a history of being misused in Iran or Syria to further human rights abuses. As such, individuals or entities engaged in transactions with Iran or Syria involving telecommunications goods, services or technology should conduct rigorous due diligence to “know their customer” and assess the potential risk that a particular technology is likely to be used to facilitate human rights abuses, restrict the free flow of information, or disrupt, monitor, or otherwise restrict speech of the people of Iran and Syria.

For example, individuals or entities sanctioned by the U.S. government for activities related to human rights abuses in Iran and Syria may pose a more

apparent risk of misusing technology. Under these circumstances, any hardware, software, or telecommunications equipment provided to persons sanctioned for human rights abuses pose the potential to be considered “sensitive technology” for the purposes of CISADA and TRA, and any type of support provided to these individuals or entities may subject the provider to sanctions.

Regardless of the recipient or known end-use, specific telecommunications technologies such as “lawful interception” and “surreptitious listening” devices, systems and technology for the interception of wire, oral or electronic communications or to jam or intercept the air interface of mobile telecommunications, have the potential to be considered “sensitive technology” for the purposes of CISADA and TRA under some, but not all, circumstances. Similarly, keyword list blocking technology that allows persons to block the transmission of content containing certain words, has the potential to be considered “sensitive technology” for the purposes of CISADA and TRA under some, but not all, circumstances. The following is an illustrative, but not exclusive, list of other technologies and capabilities that pose the risk of being misused by the Iranian and Syrian governments, and that have the potential to be considered “sensitive technology”:

- Key logging technology / spyware
  - Allows persons to record key strokes, mouse clicks, data processes, or activity on a touchscreen without consent of the device user.
- Mobile device forensics data extraction and analysis technology
  - Allows persons to extract and analyze data from a mobile phone device, even if password protected.
- Nonconsensual remote forensic technology
  - Allows persons to perform undetected collection and analysis of data from remote target computers.

- Nonconsensual tracking/monitoring technology
  - Allows persons to cause a mobile or networked device to reveal its geographic location, operating status or application data, without consent of the device owner or content provider.
- Network disruption technology
  - Designed to enable disruption, inhibition or degradation of networks or sub-parts.
- Infection vectors technology
  - Allows persons to install or execute malware or perform other attacks.
- Rootkit technology
  - Allows persons to defeat or bypass security, hide malware, or enable privileged access to computer process or network resources.
- DNS poisoning technology
  - Allows persons to hijack Domain Name System (DNS) requests and reroute Internet traffic to illegitimate websites / servers.
- Censorship-enhancement technology
  - Designed to allow persons to enforce content blocking or to fingerprint and/or defeat anti-censorship technologies.

This guidance was developed for its applicability to current conditions in Iran, as called for by section 412 of TRA and by section 106 of CISADA, and in Syria, due to the similarity of section 703 of TRA to section 106 of CISADA, and should not be considered automatically relevant for other contexts or conditions. The State Department will periodically review these guidelines and, if necessary, amend them to take into account new information and circumstances regarding the use of technology in Iran and Syria. U.S. entities and individuals are generally



prohibited from engaging in any transaction involving Iran and Syria unless such transactions are authorized by the Department of the Treasury's Office of Foreign Assets Control. Foreign entities and individuals may also be subject to license requirements if their transactions involving Iran or Syria also involve the United States, such as a funds transfer that transits a U.S. bank. For transactions involving exports to Iran or Syria, U.S. companies should also consult with the Department of Commerce's Bureau of Industry and Security regarding relevant licensing requirements.

Persons with questions on sensitive technology, section 106 of CISADA, or TRA should contact the State Department's Office of Sanctions Policy and Implementation in the Bureau of Economic and Business Affairs at (202) 647-7489 or e-mailing CISADA106@state.gov.

### Information on Terrorism Designations

Executive Order 13224 (issued on September 23, 2001), as amended by Executive Orders 13268, 13284, and 13372, provides the Secretary of State with the authority, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security, and the Attorney General, to designate foreign persons that the Secretary of State determines have committed, or pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy or economy of the United States. Among other things, this designation blocks, with limited exceptions, all of the designated persons' property and interests in property that are in the United States or come within the United States or that come within the possession or control of U.S. persons. The Secretary of the Treasury also may, in consultation with the Secretary of State, the Secretary of Homeland Security, and the Attorney General, designate individuals and entities that are owned or controlled by the designated

persons; act for or on behalf of the designated persons; assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to, or in support of, the designated persons; or are otherwise associated with the designated persons. Section 211 of TRA also provides for certain sanctions to be imposed under E.O. 13224 in connection with provision of vessels, insurance, or any other shipping service for the transportation of goods to or from Iran that could materially contribute to the activities of the Government of Iran with respect to support for acts of international terrorism. The list of individuals and entities designated by the Secretary of State pursuant to E.O. 13224 is available at <http://www.state.gov/j/ct/rls/other/des/143210.htm>.

The Secretary of State also has authority, pursuant to section 219 of the Immigration and Nationality Act, as amended (INA)(8 U.S.C. § 1189), to designate an organization as a foreign terrorist organization (FTO) if the Secretary of State finds that the organization is a foreign organization; engages in terrorist activity or terrorism, as defined by the relevant statute, or retains the capability and intent to engage in terrorist activity or terrorism; and the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States. Additional information on the designations process and the consequences of designation, along with a list of organizations designated by the Secretary of State pursuant to section 219 of the INA, is available at <http://www.state.gov/j/ct/rls/other/des/123085.htm>.

### Information on Weapons of Mass Destruction Designations

In Executive Order 12938 (November 14, 1994), President Clinton declared a national emergency with respect to the proliferation of nuclear, biological and chemical weapons (weapons of mass destruction or WMD) and the means of delivering them. EO 12938, as amended by EO 13094 and EO 13382, provides

that the Secretary of the Treasury shall prohibit the importation into the United States of goods, technology, or services produced or provided by any foreign person the Secretary of State, in consultation with the Secretary of the Treasury, determines has engaged, or attempted 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 (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by an person or foreign country of proliferation concern. E.O. 12938, as amended, also imposes the following measures against such foreign persons: no departments or agencies of the United States government shall procure or enter into any contract for the procurement of any goods, technology, or services from these persons including the termination of existing contracts; and no departments or agencies of the United States government shall provide any assistance to these persons, and shall not obligate further funds for such purposes.

The complete list of foreign persons on which the Secretary of State has determined to impose an import ban because of their WMD proliferation activities can be found at <http://www.state.gov/t/isn/c15233.htm>.

Executive Order 13382 (issued on June 28, 2005) provides the Secretary of State with the authority, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to designate foreign persons that the Secretary of State determines to have engaged, or attempted 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 (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern. Among other

things, this designation blocks, with limited exceptions, all of the designated persons' property and interests in property that are in the United States or come within the United States or that come within the possession or control of U.S. persons. The Secretary of the Treasury also may, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, designate individuals and entities that: 1) are owned or controlled by a person blocked pursuant to the order, including a person designated by the Secretary of State; 2) act or purport to act for or on behalf of, directly or indirectly, a person blocked pursuant to the order, including a person designated by the Secretary of State; or 3) have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, a person blocked pursuant to the order, including a person designated by the Secretary of State. Section 211 of TRA also provides for certain sanctions to be imposed pursuant to E.O. 13382 in connection with the knowing sale, lease, or provision of vessels, insurance, or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction. The list of individuals and entities designated by the Secretary of State pursuant to E.O. 13382 is available at <http://www.state.gov/t/isn/c22080.htm>.

The Arms Export Control Act and the Export Administration Act require the imposition of sanctions against any foreign person that knowingly transfers items on the Missile Technology Control Regime (MTCR) Annex that contribute to MTCR-class missile programs in non-MTCR adherent countries. Sanctions consist of a ban on export licenses and U.S. government procurement, and they may also include an import ban. The sanctions may be waived if it is essential to the national security interest of the United States, and the sanctions need not be imposed if the transfer was authorized by the laws of an MTCR adherent or if an

MTCR adherent has taken adequate enforcement action. These laws also require imposition of sanctions against any foreign person that knowingly and materially contributes to the efforts of another foreign country, project, or entity to use, develop, produce, stockpile, or otherwise acquire chemical and biological weapons. Sanctions consist of a ban on U.S. government procurement and imports. The sanctions may be waived after 12 months if it is important to the national security interests of the United States, and sanctions need not be applied if the government with primary jurisdiction over the offender has taken effective steps to terminate the sanctions-triggering activities.

Under the Iran-Iraq Arms Non-Proliferation Act, sanctions are required against entities that transfer goods or technology so as to contribute knowingly and materially to the efforts by Iran and Iraq to acquire chemical, biological or nuclear weapons or destabilizing numbers and types of advance conventional weapons, as defined in the statute. Sanctions include a procurement ban, export prohibition on items contained on the United States Munitions List, and the authority to impose sanctions pursuant to the International Emergency Economic Powers Act. A waiver is available if it is essential to the national security of the United States.

The Iran, North Korea, and Syria Nonproliferation Act requires the Secretary of State to report to Congress, and further gives the Secretary the authority to sanction, a foreign entity if there is credible information indicating that that the entity transferred to or acquired from Iran, North Korea, or Syria items listed on certain multilateral export control regimes or if the entity transferred to or acquired from those countries goods, services or technology not listed in the multilateral export regimes but which nevertheless would be if they were U.S. goods, services or technology prohibited for export to those countries because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

Sanctions include those provided for under EO 12938 as well as an arms export prohibition and a dual use export prohibition.

The Nuclear Proliferation Prevention Act of 1994 requires a cutoff of government contracts with any U.S. or foreign person that contributes knowingly and materially, through the export of nuclear-related goods or technology, to the efforts of any individual, group, or nonnuclear weapon state to acquire a nuclear explosive device or unsafeguarded special nuclear material. The sanction may be waived after 12 months if continued imposition would have a serious adverse effect on vital U.S. interests, and sanctions need not be applied if the government with primary jurisdiction over the offender has taken effective steps to terminate the sanctions-triggering activities.

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