



Sanctions Alert

A bi-monthly summary of sanctions news and events

Issue 37

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EU Court Construes "Financial Support to the Government of Iran" as not Requiring Link to Nuclear Proliferation

On 25 March, the General Court of the European Union dismissed the Central Bank of Iran's second application for annulment in [Case T-563/12 Central Bank v Council](#). In its judgment, the Court interpreted the EU Council's expanded criteria for listing individuals and entities in its nuclear-related sanctions against Iran and gave guidance as to the definition of "financial support to the Government of Iran".

The Central Bank of Iran had successfully applied to annul its January 2012 designation. The EU Council subsequently relisted the Bank for providing "financial support to the Government of Iran" in October 2012.

In its judgment, the Court interpreted the phrase "financial support" to mean "any activity of the person or entity concerned which, regardless of any direct or indirect link established with nuclear proliferation, is capable, by its quantitative or qualitative significance, of encouraging that proliferation, by providing the Government of Iran with support in the form of resources or facilities of a material, financial or logistical nature which allow it to pursue nuclear proliferation". The Court considered this reason was justified and upheld the Bank's designation as the Bank provides financial support to the Iranian government in its capacity as the central bank.

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EU Relists 32 Shipping Firms and Iranian Bank on Nuclear Proliferation List

On 7 April, pursuant to [Council Implementing Regulation \(EU\) 2015/549](#), implementing [Council Regulation \(EU\) 267/2012](#), and [Council Decision \(CFSP\) 2015/556](#) amending [Council Decision 2010/413/CFSP](#), the EU relisted 32 IRISL entities and Bank Tejarat on its nuclear proliferation-related sanctions list. Individuals and entities included on the sanctions list are subject to import and export prohibitions on crude oil, petroleum products and dual-use goods, restrictions on access to financial services, as well as an EU-wide asset freeze.

On 22 January, the General Court of the European Union had ruled in favour of annulling the listing of 39 entities, including the 32 IRISL entities, in [Joined Cases T-420/11 and T-56/12 Ocean Capital Administration GmbH & Ors v Council](#). Also on 22 January, the General Court of the European Union had ruled in favour of annulling the listing of Bank Tejarat in [Case T-176/12 Bank Tejarat v Council](#).

The seven entities that have not been relisted are: (1) Kerman Shipping Company Ltd, (2) Lancelin Shipping Company Ltd, (3) Shere Shipping Company Limited, (4) Tongham Shipping Co. Ltd, (5) Uppercourt Shipping Company Limited, (6) Vobster Shipping Company and (7) Woking Shipping Investments Ltd.

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EU Extends Human Rights Sanctions

On 7 April, pursuant to [Council Implementing Regulation \(EU\) 2015/548](#), implementing [Council Regulation \(EU\) 359/2011](#), and [Council Decision \(CFSP\) 2015/555](#), amending [Council Decision 2011/235/CFSP](#), the EU extended its Iranian human rights-related sanctions until 13 April 2016. Individuals and entities included on the sanctions list are subject to an EU-wide asset freeze and travel ban. Introduced in April 2011, these sanctions target individuals and entities complicit in or responsible for directing or implementing human rights violations.

As well as extending these sanctions, the EU also updated the listings of 47 individuals and the Centre to Investigate Organized Crime and removed three individuals from the list: (1) Mousa Khalil Elahi, (2) Nabiollah Heydari and (3) Gholomani Rezvani.

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US Quietly Delists Alleged Middleman in Sale of Pakistani Nuclear Secrets to Iran

On 3 April 2015, the U.S. Department of the Treasury [removed](#) Buhary Syed Abu Tahir from the Specially Designated Nationals List ("SDN List"). The U.S. designated Tahir, a Sri Lankan national, as a proliferator of weapons of mass destruction on 12 January 2009 for allegedly helping A.Q. Khan, the father of Pakistan's nuclear research program, sell nuclear secrets to Iran, Libya and North Korea. Tahir was alleged to have voluntarily confessed, while detained in Malaysia, to helping Khan. The circumstances surrounding his confession were contested at the time and many doubted its veracity. Neither the State Department nor the Treasury Department commented on his removal from the list.

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EU News

EU Updates its Restrictive Measures Best Practices Paper

On 24 March, the EU updated its paper concerning the [EU Best Practices for the effective implementation of restrictive measures](#). The amendments introduce various non-exhaustive and non-binding recommendations by the Foreign Relations Counsellors Working Party for the effective implementation of restrictive measures by EU member states.

The key amendments to the paper include (1) a recommendation for a "transparent and effective de-listing procedure" to mirror delistings from UN sanctions lists, (2) affirmation that any sanctions measures annulled by the EU Court remain in force for the two months and ten days time limit to bring an appeal and pending such an appeal, (3) a statement that all persons or entities complying with sanctions obligations under various EU Regulations shall not be held liable for any damage caused to a designated person, (4) a restatement of the tests for "ownership" and "control" of a legal person as well as the criteria for "making indirectly available funds" to designated persons as originally published in the [Guidelines on Implementation of Restrictive Measures](#) in

2013, and (5) a list of considerations that EU authorities must take into account when granting exemptions to financial restrictive measures.

These updates amend the [previous version](#) of the paper, published on 24 April 2008.

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Al-Qaeda: EU Adds and Removes Individuals to and from Sanctions List

On 10 April, pursuant to [Commission Implementing Regulation \(EU\) 2015/576](#) amending [Council Regulation \(EC\) 881/2002](#), the EU updated its Al-Qaeda Sanctions List to implement recent changes made by the UN Security Council pursuant to Security Council Resolutions 1267 and 1989 concerning Al-Qaeda.

As a result, Maulana Fazlullah was added to the EU's Al-Qaeda Sanctions List. Maulana Fazlullah is a Commander of Tehrik-e Taliban Pakistan ("TTP") and has been since 7 April 2013, who also led the local TTP in Pakistan's north-west valley of Swat between 2007 and 2009.

Further, Abd Al-Rahman Muhammad Jaffar Ali has been removed from the list, having completed a sentence issued by the Bahraini High Criminal Court for financing terrorism and being a member of a terrorist organisation.

Individuals and entities on the Al-Qaeda Sanctions List are subject to an EU-wide asset freeze.

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US News

US Updates FAQ on Cuban Sanctions

On 16 April 2015, the U.S. Department of the Treasury [published](#) an update to the Frequently Asked Questions ("FAQs") related to Cuba. The updated FAQs largely cover the same issues as the previous FAQs that were issued in January and do not meaningfully change OFAC's positions from the earlier FAQs. However, the updated FAQs provide further clarification on several issues, including the types of organisations that may use the people-to-people general license, private and commercial travel to Cuba, transactions in Cuba by financial institutions, treatment of unblocked accounts and funds of Cuban nationals outside Cuba, global insurance policies, microfinancing projects and imports of goods manufactured by independent Cuban entrepreneurs.

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US to Delist Cuba as State Sponsor of Terrorism

On 14 April 2015, the White House [announced](#) that the United States would be removing Cuba's designation as a State Sponsor of Terrorism. By law, the change takes effect in 45 days. Congress may disapprove the change by joint resolution within that 45-day period; however, any such joint resolution would be subject to presidential veto. Removal from the terrorism list will not significantly change the scope of the U.S. embargo against Cuba, but it may assist Cuba's expected embassy in Washington, D.C., in finding a bank willing to handle its business

and it may make third-country banks less reluctant to do business in Cuba. The delisting also will remove the requirement that the U.S. oppose any financing of Cuba at the IMF and World Bank and will enhance Cuba's ability to assert immunity from terrorism-related suits in the United States. In addition, Cuba's removal from the list eliminates an irritant to U.S.-Cuba relations that has hindered negotiations in the past. Once Cuba is removed from the list, Iran, Sudan and Syria will be the only three remaining terrorism-list governments. Our [Client Update](#) of 15 April 2015 has further details.

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US and Saudi Arabia Target Charity Alleged to Fund Terrorism

On 7 April 2015, the U.S. Treasury Department [designated](#) the Al-Furqan Foundation Welfare Trust as a Specially Designated Global Terrorist ("SDGT"). Saudi Arabia, in coordination with the United States, also took action against Al-Furqan. Al-Furqan, a charity, is alleged to be the successor of both the Afghan Support Committee ("ASC") and the Revival of Islamic Heritage Society ("RIHS"). Both of these entities were accused of supporting Pakistani and Afghani extremists. The UN had listed the two entities on the al-Qaida Sanctions List in 2002, and the US designated them as SDGTs shortly thereafter. The U.S. also accuses Al-Furqan of funding al-Qaida, the Taliban and Lashkar-e-Tayyiba, among others, under the guise of humanitarian work. The designation of Al-Furqan was accomplished by [updating](#) the entry for the RIHS to list Al-Furqan as an alias. At the same time, the entries for the ASC were removed as separate entities and also made aliases for the RIHS, as the United States now regards them as the same organisation.

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US Pursues Two New Drugs Cartels

On 8 April 2015, the U.S. Treasury Department [designated](#) the Cartel de Jalisco Nueva Generacion ("CJNG"), Los Cuinis Drug Trafficking Organization ("DTO"), and their leaders Nemesio Oseguera Cervantes and Abigael Gonzalez Valencia, respectively, pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act"). The Treasury Department has cited these relatively young allied organisations as emerging powers in Mexican drug trafficking.

The Department of Treasury alleges that Cervantes, a Mexican National, formed CJNG from the remnants of the Milenio Cartel, which disbanded when its leadership were captured. CJNG is based primarily in the Mexican states of Jalisco, Michoacan and Colima. It has also proven particularly adept at expansion and networking with international criminal organisations, which has led to a rapid expansion and violent confrontations with other drug trafficking organisations, according to the Treasury Department. Individually, Mr. Cervantes has been convicted of conspiracy to distribute heroin and served three years in prison in the United States.

Similar to CJNG, the DTO is also described as consisting primarily of former Milenio Cartel members and is said to focus on cocaine and methamphetamine trafficking. Its leader, Valencia, is Cervantes' brother-in-law. Valencia was detained in late February 2015. Both Valencia and Cervantes were indicted in the U.S. District Court for the District of Columbia for leading a continuing criminal enterprise, among other charges.

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US Approves Syria General License for Publishing

On 13 April 2015, the U.S. Department of the Treasury [issued](#) a new [general license](#) to authorise certain transactions related to the publishing and marketing of written publications. Now, U.S. persons may engage in all transactions ordinarily incident to publishing and marketing of manuscripts, books, journal, and newspapers in paper or electronic format. However, this license, which has been added to the Syrian Sanctions Regulations as section 542.532 does not apply if the parties to the transactions include the Syrian Government or individuals and entities whose assets are blocked under the regulations.

The new Syria general license authorising transactions related to written publications is similar to existing general licenses in the Cuba, Iran, Sudan and Burma (Myanmar) regulations. Those general licenses were adopted in 2007 at a time when the Treasury Department's Office of Foreign Assets Control ("OFAC") was facing criticism and a [lawsuit](#) from publishers' groups and others who contended that OFAC's existing policy illegally restricted freedom of the press. After the general licenses were adopted, the plaintiffs agreed to drop their suit. In December 2014, three of those plaintiffs complained to the U.S. government that the new Syrian Sanctions Regulations raised some of the same issues and contained no similar general license.

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US Implements UN Security Council Sanctions Against Houthi Leaders in Yemen

On 14 April 2015, the U.S. Treasury Department [blocked the assets of](#) two key individuals associated with Yemen's Houthi rebels, also known as Ansar Allah. The designations were made pursuant to [Executive Order 13611](#) of 16 May 2012, which authorises U.S. sanctions against those who directly or indirectly threaten the peace, security or stability of Yemen. Prior to the announcement, Abdul Malik al-Houthi, the leader of the Houthi movement, and key backer Ahmed Ali Saleh had been listed under UN Security Council Resolution 2140. al-Houthi assumed leadership of the Houthi movement in 2004 after the passing of his brother, Hussein Badreddin al-Houthi. Saleh, the son of former President Ali Abdullah Saleh, is a former commander of Yemen's Republican Guard and has used his access to munitions and influence within the Yemeni military to recruit new candidates to the rebel movement.

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US Adds Tunisian Recruiter for Ansar al-Sharia to Specially Designated Nationals List

On 14 April 2015, the State Department and the Treasury Department [designated](#) Ali Ouni Harzi as an SDGT pursuant to [Executive Order 13224](#), following the addition of Mr. Harzi to the UN 1267/1989 al-Qaida Sanctions List. Harzi, a Tunisian national, is accused of recruiting volunteers for Ansar al-Sharia ("AAS-T"), facilitating the travel of AAS-T fighters to Syria and smuggling weapons and explosives into Tunisia. AAS-T itself was [designated](#) by the State Department on January 10, 2014.

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UN News

Al-Qaeda: UN Security Council Committee Adds Two Tunisian Brothers to Sanctions List

On 10 April, the UN Security Council Committee [announced](#) the addition of (1) Ali Ben Taher Ben Faleh Ouni Harzi, and (2) Tarak Ben Taher Ben Faleh Ouni Harzi to the Al-Qaeda Sanctions List pursuant to Security Council Resolutions 1267 and 1989.

The press release stated that Ali Ben Taher Ben Faleh Ouni Harzi was a member of Ansar al-Shari'a in Tunisia, and was involved in planning the attack against the US Consulate in Benghazi, Libya on 11 September 2012.

Tarak Ben Taher Ben Faleh Ouni Harzi, who was a member of Al-Qaeda in Iraq in 2004 and is active in Ansar al-Shari'a, is noted as having been sentenced, in absentia, to 24 years imprisonment for terrorist activities by the Appeals Court of Tunis on 30 October 2007.

Individuals and entities on the Al-Qaeda Sanctions List are subject to the arms embargo, assets freeze and travel ban stipulated in paragraph 1 of [Security Council Resolution 2161](#).

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Liberia: UN Security Council Committee Ends Travel Ban on Serbian National

On 6 April, the UN Security Council Committee issued a [press release](#) concerning the delisting of Serbian national Jovan Aleksic from its Sanctions List. Jovan Aleksic was originally listed on 16 March 2004 as he allegedly constituted a threat to the peace process in Liberia. Jovan Aleksic, who was restricted by a travel ban pursuant to paragraph 4(a) of [Security Council Resolution 1521](#), is no longer subjected to such measures.

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World News

Japan Extends Sanctions Against North Korea

On 31 March 2015, Japan's NHK news agency [announced](#) that the Abe administration had approved an extension to its unilateral sanctions against North Korea following failed talks with the regime in Pyongyang over the fate of missing Japanese citizens.

The sanctions have been extended by two further years. They were initially imposed over missile tests carried out by Pyongyang in 2006, and were due to expire on 13 April 2015. The sanctions include a trade embargo and a ban on North Korean vessels from entering Japanese ports, except for humanitarian purposes.

Following the commencement of discussions between the two nations in May 2014, Japan had eased its sanctions, including travel restrictions between Japan and North Korea, in July 2014 once Pyongyang agreed to re-examine the abduction cases.

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