

No. 17-1351

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INTERNATIONAL REFUGEE ASSISTANCE PROJECT, a project of the Urban Justice Center, Inc., on behalf of itself; HIAS, INC., on behalf of itself and its clients; MIDDLE EAST STUDIES ASSOCIATION OF NORTH AMERICA, INC., on behalf of itself and its members; MUHAMMED METEAB; PAUL HARRISON; IBRAHIM AHMED MOHOMED; JOHN DOES #1 & 3; JANE DOE #2,
Plaintiffs – Appellees,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; DEPARTMENT OF HOMELAND SECURITY; DEPARTMENT OF STATE; OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE; JOHN F. KELLY, in his official capacity as Secretary of Homeland Security; REX W. TILLERSON, in his official capacity as Secretary of State; DANIEL R. COATS, in his official capacity as Director of National Intelligence,
Defendants – Appellants.

On Appeal from the United States District Court
for the District of Maryland, No. 17-cv-00361 (Chuang, J.)

**BRIEF OF AMICI CURIAE INTERFAITH COALITION IN SUPPORT OF
APPELLEES, AFFIRMANCE, AND OPPOSING MOTION FOR A STAY
PENDING EXPEDITED APPEAL**

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INTEREST OF AMICI CURIAE INTERFAITH COALITION

Amici are a coalition of individuals and organizations of diverse religions. Although they profess different faiths, they are united in the belief that religious tolerance is critical to the safety and wellbeing of our local and national community. Section 2(c) of President Trump’s Executive Order No. 13,780 (March 6, 2017) (“Executive Order”), which by its plain language, structure, and intent, discriminates on the basis of religion, is anathema to this core tenet that all members of our coalition share.

Amici include:¹

- Congregation B’nai Jeshurun, a nonaffiliated Jewish synagogue in New York City.
- The Muslim Public Affairs Council, a public service agency working for the civil rights of American Muslims, for the integration of Islam into American pluralism, and for a positive, constructive relationship between American Muslims and their representatives.
- The National Council of Churches, a community of Christian churches encompassing 40 million Christians in over 100,000 congregations from 38 diverse member communions that recognizes the importance of interreligious relationships and has worked to strengthen partnerships between different faith groups to reduce suspicion and anti-Muslim and anti-Semitic sentiment in society in a post 9/11 world.

¹ Unless stated otherwise, Amici are acting on their own behalf, and not on behalf of any organizations with which they are associated. No party’s counsel authored this brief in whole or in part, and no person other than the undersigned counsel, including any party or party’s counsel, contributed financially to its preparation or submission.

- The Right Reverend Sally Dyck, Bishop of the Northern Illinois Annual Conference of the United Methodist Church. The Northern Illinois Annual Conference encompasses more than 370 churches and 30 new faith communities spanning the upper one-third of the state of Illinois.
- The Right Reverend Andrew Dietsche, the Episcopal Bishop of New York. The Episcopal Diocese of New York is made up of over 200 congregations encompassing Manhattan, the Bronx, and Staten Island in New York City, and the counties of Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster and Westchester in the state of New York.
- The Right Reverend Allen K. Shin, Bishop Suffragan of the Episcopal Diocese of New York.
- The Right Reverend Mary D. Glasspool, Bishop Assistant of the Episcopal Diocese of New York.
- Imam Abdul Malik Mujahid, a Muslim Imam actively involved in interfaith work. Imam Mujahid has served as Chairman of the Parliament of the World's Religions and on the Council of Foreign Relations' Independent Task Force on Civil Liberties and National Security. He is the founder of Sound Vision, an Islamic charity.
- The Sikh Coalition, which was founded on September 11, 2001 to, *inter alia*, ensure religious liberty for all people.
- The Right Reverend Lawrence C. Provenzano, the Episcopal Bishop of Long Island. The Episcopal Diocese of Long Island has ecclesiastical jurisdiction over Brooklyn, Queens, Nassau, and Suffolk Counties in the state of New York.
- The Right Reverend Marc Handley Andrus, the Episcopal Bishop of California. The Episcopal Diocese of California has ecclesiastical jurisdiction over San Francisco, Alameda, Contra Costa, Marin, and San Mateo Counties, along with the northernmost portion of Santa Clara County, in California.
- Rabbi Joy Levitt, the Executive Director of JCC Manhattan.

- Reverend Curtis W. Hart, Editor-in-Chief of the *Journal of Religion and Health* and Lecturer in the Departments of Medicine and Psychiatry, Division of Medical Ethics, at Weill Cornell Medical College.
- Congregation Beit Simchat Torah, a non-affiliated Jewish synagogue in New York City that serves Jews of all sexual orientations and gender identities.
- Rabbi Sharon Kleinbaum, the Senior Rabbi of the Congregation Beit Simchat Torah in New York City.
- Reverend Timothy B. Tutt, Senior Minister at the Westmoreland Congregational United Church of Christ in Bethesda, Maryland.
- Rabbi Joel Mosbacher, the Senior Rabbi of Temple Shaaray Tefila in New York City.
- Rabbi Frederick Reeves, the Rabbi of the KAM Isaiah Israel Congregation in Chicago.
- Rabbi Peretz Wolf-Prusan, the Chief Program Officer and a Senior Educator at Lehrhaus Judaica, a non-denominational center for adult Jewish studies in San Francisco.
- Rabbi Noa Kushner, the leader of The Kitchen, a Jewish community building a spiritually alive generation and a new resonant approach to religious life in San Francisco.
- Union Theological Seminary, the oldest independent seminary in the United States. The seminary's education is rooted in Christian traditions but instructed by other faiths.
- Rabbi John Rosove, the Senior Rabbi of the Temple Israel of Hollywood in Los Angeles.
- United Methodist Women, the largest denominational faith organization for women with approximately 800,000 members whose mission is fostering spiritual growth, developing leaders, and advocating for justice.

- Rabbi James Ponet, the emeritus Howard M. Holtzmann Jewish Chaplain at Yale University.
- The Hyde Park & Kenwood Interfaith Council, which, since its founding in 1911, has strived for the increased efficiency of the spiritual forces of our community along cooperative lines. The Council's members agree to respect the integrity of their different faiths and the right to practice their beliefs.
- Rabbi Michael Strassfeld, Rabbi Emeritus of the Society for the Advancement of Judaism, a Manhattan synagogue.
- IKAR, a leading edge Jewish community in Los Angeles that seeks to inspire people across the religious spectrum.
- Rabbi Sharon Brous, the founder and Senior Rabbi of IKAR.
- Reverend Jeannette DeFriest, Rector of St. Luke's Episcopal Church, Evanston, Illinois.
- Rabbi Amichai Lau Lavie, founding spiritual leader of Lab/Shul NYC, an organization that seeks to redefine the role of sacred gatherings that nourish our thirst for meaning, connection, spirituality, and community.
- Imam Suhaib Webb, former Imam of the Islamic Society of Boston Cultural Center, the largest mosque in New England.
- Rabbi Ayelet Cohen, the Senior Director of New Israel Fund's New York/Tri-State Region. Rabbi Cohen is the former Director of The Center for Jewish Living and The David H. Sonabend Center for Israel at JCC Manhattan.
- Hyattsville Mennonite Church, a Christian congregation in the Washington, D.C. area that seeks to break down the divisions of economic and social status, sexuality, gender, race, ethnicity, culture, education, age, mental and physical health, and religion, in order to build a more diverse and complete faith community.

- Women's Alliance for Theology, Ethics, and Ritual, a center for dialogue on feminism, faith, and justice that connects activists, religious leaders, students, scholars, and allies who are using feminist religious values to create social change.
- Reverend Julie Windsor Mitchell, the Campus Minister of the University Christian Ministry at Northwestern University.

INTRODUCTION

Two documents establish the Establishment Clause violation in this case. The first is the March 6, 2017 Executive Order itself.² The second is a Report of the State Department—the Country Reports on Terrorism 2015 (“the Report”).³ The Executive Order expressly states that the Report largely informs the selection of the Muslim-majority nations for inclusion under the travel ban imposed by Section 2(c) of the Order.

Taken together, these two documents compel one conclusion: that six Muslim-majority nations were selectively targeted for the travel ban. This is demonstrated by the fact that at least two Christian-majority nations, Venezuela and the Philippines, were not included in the ban. This omission is striking. Per the Report, these two counties allegedly satisfy the criteria that the Executive Order purports to apply when determining whether a country should be subject to the ban. Indeed, a close reading of the Report reveals that Venezuela and the

² *Protecting the Nation From Foreign Terrorist Entry Into the United States*, Exec. Order No. 13,780, 82 Fed. Reg. 13209 (Mar. 6, 2017).

³ U.S. Dep’t of State, Bureau of Counterterrorism and Countering Violent Extremism, Country Reports on Terrorism 2015 (June 2016). Relevant portions of the Report are attached in the Addendum. Due to the length of the Report—407 pages—the entire Report was not included in this filing. If the court desires, counsel can file the entire Report, and it is also available at <https://www.state.gov/documents/organization/258249.pdf>.

Philippines allegedly satisfy these criteria by a greater margin than at least one of the selected Muslim-majority nations: Sudan.

To be clear, Amici do not vouch for the statements in the Report. Amici do not contend that the Philippines and/or Venezuela should be included in the travel ban. Nor do they purport to second guess the Administration's assessment of the security risk posed by Sudan. Amici merely contend that if the criteria set forth in the Executive Order are applied fairly, and the factual basis of the Executive Order's determination are primarily (if not entirely) those set forth in the Report, then there is no principled basis for the Executive Order's "Muslim only" list.

This analysis, by itself, establishes a violation of the Establishment Clause. At the very least, this selective burdening of one nation over another opens the door to consideration of the intent of the drafter of the travel ban. In such circumstances, the Court must carefully scrutinize the statements of President Trump to determine whether the purpose of the travel ban violates the Establishment Clause.

ARGUMENT

I. The Establishment Clause Forbids National Security Laws That Selectively Burden One Religion

A. The Establishment Clause Bars Even Facially Neutral Laws From Burdening One Religion and Not Another

Under the Establishment Clause, the government cannot selectively impose a burden on one religion and not others. *See Larson v. Valente*, 456 U.S. 228, 244 (1982) (“The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.”); *Everson v. Bd. of Educ.*, 330 U.S. 1, 15 (1947) (“Neither [a state nor the Federal Government] can pass laws which . . . prefer one religion over another.”); *cf. Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 535–36 (1993) (“In our Establishment Clause cases we have often stated the principle that the First Amendment forbids an official purpose to disapprove of a particular religion . . .”).

The government also cannot hide behind facial neutrality and claim that a law which burdens one religion over another is constitutional simply because it does not mention religion. The court’s analysis “does not end with the text of the statute at issue.” *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 699 (1994). Rather, a facially-neutral law that imposes arbitrary distinctions not explained by that law’s alleged purpose, but is instead designed to burden or

benefit one religion over another, runs afoul of the First Amendment. *See Larson*, 456 U.S. at 255.

To root out the true nature of a facially neutral law, courts look to both the structure and history of the law. In *Larson*, for example, the Court noted that the structure of the challenged regulation appeared to create an arbitrary distinction between religions. *Id.* at 252. In particular, the law exempted certain religions that received fifty percent of their contributions from members or affiliated organizations from a requirement to register with and provide the state with annual financial reports. *Id.* at 231–32. In light of this fact, the Court looked to the legislative history, and found that the drafters had sought to specifically avoid imposing a burden on the Catholic Church. *Id.* at 254. After considering the structure and history of the “fifty percent rule,” the Court concluded that the rule served no legitimate purpose and violated the Establishment Clause. *Id.* at 255.

B. The Establishment Clause Applies with Full Force in the Immigration and National Security Context

The fact that the Executive Order regulates immigration and purports to rest on national security grounds does not alter the Establishment Clause analysis. Although the political branches have considerable authority over immigration, that power “is subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001); *see also INS v. Chadha*, 462 U.S. 919, 941 (1983) (affirming courts’ authority to review whether the federal government “has chosen a

constitutionally permissible means of implementing” its power to regulate immigration). The Supreme Court has often reviewed the constitutionality of, and struck down, legal measures taken to promote national security. *See, e.g., Boumediene v. Bush*, 553 U.S. 723 (2008) (striking down law that stripped federal courts of jurisdiction to review habeas petitions of enemy combatants detained at Guantanamo Bay); *Hamdi v. Rumsfeld*, 542 U.S. 507, 509 (2004) (holding that enemy combatants held at Guantanamo Bay had the right to challenge the factual basis of their detention); *United States v. Robel*, 389 U.S. 258 (1967) (striking down law making it unlawful for members of Communist organizations to be employed at defense facilities).

The courts have applied this principle in the context of the circumstances of this case. After the Trump Administration issued the first version of this Executive Order,⁴ which similarly burdened individuals from seven Muslim-majority countries (Iran, Iraq, Syria, Libya, Yemen, Sudan, and Somalia), lawsuits were filed across the country challenging its constitutionality. In addressing these suits, courts reaffirmed that it is “beyond question that the federal judiciary retains the authority to adjudicate constitutional challenges to executive action,” *Washington v. Trump*, 847 F.3d 1151, 1164 (9th Cir. 2017), and that the Executive Order “must

⁴ *Protecting the Nation from Foreign Terrorist Entry Into the United States*, Exec. Order No. 13,769, 82 Fed. Reg. 8977 (Jan. 27, 2017).

still comply with . . . the constraints of the Constitution, including the Bill of Rights,” *Aziz v. Trump*, No. 1:17-cv-116, 2017 WL 580855, at *6 (E.D. Va. Feb. 13, 2017).

The same analysis applies to the revised Executive Order, which continues to burden individuals from six of the seven Muslim-majority countries singled out in the original Order. Regardless of the immigration and national security justifications proffered by the Administration, the Court must still adjudicate the constitutionality of the Order. In doing so, the Court is not bound by the justifications offered by the government, and should conduct a regular Establishment Clause analysis. As set forth below, this analysis reveals that the Executive Order unconstitutionally burdens Muslims.

II. Section 2(c) of the Executive Order Selectively Burdens Muslim-Majority Countries While Exempting Comparable Christian-Majority Countries

A. Executive Order’s Selection Criteria and its Reliance on the Report

1. Requirements of Section 1(d)

Section 1(d) of the Executive Order states that the six Muslim-majority countries were chosen for the travel ban “because the conditions in these countries present heightened threats.” Exec. Order No. 13,780, 82 Fed. Reg. at 13210. This constitutes an evolution in the Administration’s articulation of its approach to the travel ban.

Section 1(b)(i) of the Executive Order notes that the six countries were among the seven identified in the January 27, 2017 Executive Order 13769, which relied upon the countries designated under section 217(a)(12) of the INA, 8 U.S.C. § 1187(a)(12). Exec. Order No. 13,780, 82 Fed. Reg. at 13209. That statutory provision concerned restrictions on eligibility for the Visa Waiver Program. Pursuant to section 217(a)(12), persons who are citizens of one of these six countries (or Iraq), or who have visited these countries in the last five years, are ineligible to participate in the Visa Waiver Program. Instead, if they wish to enter the United States as nonimmigrant visitors, they must apply for a visa. *See* 8 U.S.C. § 1182(a)(7)(B)(i)(II); *id.* § 1187(a). This enactment did not entail a blanket travel ban.

Section 1(d) of the revised Executive Order seeks to cure this defect in the original Executive Order by offering a further justification of the travel ban. The new Executive Order seeks to justify the travel ban by asserting that that the six Muslim-majority selected countries “warrant additional scrutiny” when viewed in light of the following four factors:

- [1] Each of these countries is a state sponsor of terrorism, has been significantly compromised by terrorist organizations, or contains active conflict zones.
- [2] Any of these circumstances diminishes the foreign government’s willingness or ability to share or validate important information about individuals seeking to travel to the United States.

[3] Moreover, the significant presence in each of these countries of terrorist organizations, their members, and others exposed to those organizations increases the chance that conditions will be exploited to enable terrorist operatives or sympathizers to travel to the United States.

[4] Finally, once foreign nationals from these countries are admitted to the United States, it is often difficult to remove them, because many of these countries typically delay issuing, or refuse to issue, travel documents.

Exec. Order No. 13,780, 82 Fed. Reg. at 13210. As set forth in the next section, the first three of these factors are discussed in the State Department—the Country Reports on Terrorism 2015 (the “Report”), referenced in Section 1(e).

Factor One. Critical criteria for determining why a country was selected for the travel ban is that a nation be either (1) “a state sponsor of terrorism”; (2) “significantly compromised by terrorist organizations”; or have (3) “active conflict zones.” Exec. Order No. 13,780, 82 Fed. Reg. at 13210. It is worth noting that the second category encompasses “terrorist safe havens,”⁵ which are defined in the Report as including “ungoverned, under-governed, or ill-governed physical areas where terrorists are able to organize, plan, raise funds, communicate, recruit,

⁵ The Executive Order’s description of why Somalia should be included in the scope of the Executive Order is illustrative. There is no allegation that it is a state sponsor of terrorism or is an active conflict zone. Instead, it begins by saying that “[p]ortions of Somalia have been terrorist safe havens.” Exec. Order No. 13,780, 82 Fed. Reg. at 13211.

train, transit, and operate in relative security because of inadequate governance capacity, political will, or both.” Report at 307.

Factors Two and Three. The second and third factors on which the Executive Order purports to base its decision to select the six Muslim majority nations are: (a) an inability or unwillingness to share information about individuals seeking to travel to the United States, and (b) the significant presence of terrorist organizations and the risk that terrorist activity will be exported to the United States.

2. Section 1(e) and the Report

Section 1(e) explains the reasons why the six selected Muslim-majority nations qualified for a travel ban by applying the criteria of Section 1(d). Section 1(e) states that the information recited in the Executive Order was taken “in part” from the Report. Exec. Order No. 13,780, 82 Fed. Reg. at 13210. No other document is cited. Indeed, much of Section 1(e)’s descriptions of the selected Muslim-majority nations are identical to those in the Report.

On these facts, the Report is an appropriate and indeed critical reference with which to construe the meaning and operation of the Order itself. *See City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002) (both the majority and dissent closely scrutinized whether a study, mentioned in a city ordinance as

justification for the ordinance, actually supported the purported reason for the regulation).

B. Per the Report, Venezuela and the Philippines Satisfy the Criteria of Section 1(d)

Careful analysis of the Report demonstrates that the Administration has not consistently applied the criteria set forth in Section 1(d). Specifically, a review of the representations set forth in the Report demonstrates that at least two Christian-majority nations—Venezuela and the Philippines—allegedly satisfy the three operative factors set forth in Section 1(d), but were not burdened with the travel ban.

As noted above, Amici take no position on whether or not these two nations should be subject to a travel ban or whether the criteria stated in the Executive Order regarding the selected countries are the right criteria (or not). Nor do Amici vouch for the representations made in the Report. Rather, the analysis of Venezuela and the Philippines set forth below simply demonstrates that the Administration has taken an internally-inconsistent approach to selecting nations for the travel ban. It is an approach that selectively favors Christian-majority countries over Muslim-majority countries. It renders Section 2(c) of the Executive Order fatally defective under the Establishment Clause.

1. The Application of the Section 1(d) Factors to the Report's Allegations Regarding Venezuela

Factor One: Terrorist Safe Haven. The Report bases its determination that Venezuela is a safe haven for terrorism on purportedly “credible reports that Venezuela maintained a permissive environment that allowed for support of activities that benefited known terrorist groups.” Report at 314–15; *see also id.* at 297. Such groups are said to include the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army, and Basque Fatherland and Liberty, “as well as Hizballah supporters and sympathizers.” Report at 297.

According to the Report, the United States is said to have repeatedly sought the assistance of Venezuela in combating terrorism. For the tenth year in a row, however, Venezuela has been deemed “not cooperati[ve],” Report at 297, and has been ineligible to purchase or license any “defense articles or defense service” from anywhere within the United States under the Arms Export Control Act, 22 U.S.C. § 2781(a).

Factor Two: Unable and Unwilling to Share or Validate Important Information About Individuals Seeking to Travel to the United States. The Report states that in Venezuela, “[b]order security at ports of entry is vulnerable and susceptible of corruption,” and specifically calls attention to the “lack of government transparency.” Report at 297. According to the Report, the “government routinely did not perform biographical or biometric screenings at

ports of entry or exit,” and there was “no automated system to collect advanced Passenger Name Records on commercial flights or to cross-check flight manifests with passenger disembarkation data.” Report at 297. Moreover, as noted above, the Report states that Venezuela has (for the last ten years) been “not cooperat[ive]” with U.S. anti-terrorism efforts. Report at 297.

Factor Three: Significant Presence of Terrorist Organizations and Risk of Terrorists Travelling to the United States. The Report states that Venezuela provides a fertile environment for terrorist organizations such as FARC, the National Liberation Army, and Basque Fatherland and Liberty, “as well as Hizballah supporters and sympathizers.” Report at 297, 314–15. Reporting such conditions about a country so close to the United States suggests that the State Department believes that there is a serious concern that “conditions will be exploited to enable terrorist operatives or sympathizers to travel [from Venezuela] to the United States.” Cf. Exec. Order No. 13,780, 82 Fed. Reg. at 13210.

2. The Application of the Section 1(d) Factors to the Report’s Allegations Regarding the Philippines

Factor One: Terrorist Safe Haven. According to the Report, the Filipino government receives substantial assistance from several American agencies, and it closely cooperates with both the United States government and international organizations to combat terrorism. Report at 80–84. Nonetheless, the country’s composition of over 7,100 islands “makes it difficult for the central government to

maintain a presence in all areas.” Report at 309. Thus, according to the Report, several militant groups, including Abu Sayyaf Group (ASG), Jemaah Islamiya, Bangsamoro Islamic Freedom Fighters (BIFF), the Ansarul Khilafah Philippines (AKP), and the New People’s Army, are able to operate out of “base locations” in the Southern Philippines. Report at 78–79, 309.

The Report also focuses on the Sulu/Sulawesi Seas Littoral, an island/maritime region that straddles Indonesia, Malaysia, and the Philippines, and is said to be the home to many of the identified terrorist groups. Report at 308. Per the Report, “the expanse remain[s] difficult to control,” and any surveillance is “partial at best,” as historic smuggling and piracy “provide[] an effective cover for terrorist activities, including the movement of personnel, equipment, and funds.” Report at 308. The Report refers to this region as “an area of concern for WMD proliferation and transit” due in part to “[w]eak strategic trade controls, legal and regulatory frameworks, [and] inadequate maritime law enforcement and security capabilities.” Report at 308.

Factor Two: Unable to Share or Validate Important Information About Individuals Seeking to Travel to the United State. The Report states that the government of the Philippines has made progress in improving its border security, and collaborates closely with the United States and regional groups in doing so. Report at 80–84. Nonetheless, despite this willingness to collaborate with the

United States, per the Report, the government is unable to monitor “the movement of personnel, equipment, and funds.” Report at 308.

According to the Report, this inability to verify this information is due in part to difficulties in international cooperation and poor surveillance capabilities in the Sulu/Sulawesi Seas Littoral. Report at 308. It is also due to the country’s geographic composition, which “makes it difficult for the central government to maintain a presence in all areas.” Report at 309. At the time the Report was published, “violent opposition” and a “continued heavy military and police presence” allegedly remained in the southern islands. Report at 78. Moreover, the Report also notes that law enforcement and counterterrorism agencies lack necessary equipment, have a “mixed record of accountability,” are “under-resourced and understaffed,” and suffer from “widespread official corruption.” Report at 80, 82.

Factor Three: Significant Presence of Terrorist Organizations and Risk of Terrorists Travelling to the United States. The Report states that “ISIL was attempting to recruit Filipinos,” and that some of the Filipino-based groups including ASG, AKP, and BIFF, “have publicly pledged allegiance to ISIL.” Report at 79. According to the Report, in 2015, these groups “displayed ISIL-affiliated images and conducted some of ISIL’s most reprehensible practices—including the beheading of hostages.” Report at 79. The Report also states that in

2015, terrorist groups in the Southern Philippines engaged in kidnappings of both locals and foreigners, roadside bombings, and the seizing private vessels and Coast Guard ships. Report at 79–80.

The Report goes further to state that these groups export terrorist activity. According to the Report, these Filipino-based groups were responsible for high-profile terrorist attacks, including several outside of the Philippines. These include:

- The 2002 Bali bombings which killed more than 200, including 7 U.S. citizens;
- The October 2002 bombing near a military base that killed an American soldier;
- The August 2003 bombing of the J.W. Marriott Hotel in Jakarta;
- The September 2004 bombing outside the Australian Embassy in Jakarta;
- The October 2005 suicide bombing in Bali that killed 26; and,
- The July 2014 firing upon civilians celebrating the end of Ramadan with assault rifles that left 21 individuals dead.

Report at 352, 380.

C. Per the Report, Venezuela and the Philippines Present a Greater Section 1(d) Risk than Does Sudan

Thus, if the allegations of the Report are to be credited, both Venezuela and the Philippine satisfy the three operative factors of Section 1(d) of the Executive Order. They were nonetheless exempted from the travel ban. This exclusion occurred even though the Report—the only source cited as support for the

inclusion of the six Muslim-majority countries—sets forth allegations that suggest that Venezuela and the Philippines are greater threats to the national security of the United States than is Sudan.

By including Sudan and excluding Venezuela and the Philippines (two Christian-majority nations), the Administration’s policy is internally and fatally inconsistent.⁶ This inconsistency demonstrates that a country’s predominant religion is the real basis for its inclusion in the travel ban.

1. Basis for Sudan’s Inclusion

Section 1(e)(iv) of the Executive Order, relying on information from the Report, is the paragraph used to justify Sudan’s inclusion in the travel ban:

Sudan has been designated as a state sponsor of terrorism since 1993 because of its support for international terrorist groups, including Hizballah and Hamas. Historically, Sudan provided safe havens for al-Qa’ida and other terrorist groups to meet and train. Although Sudan’s support to al-Qa’ida has ceased and it provides some cooperation with the United States’ counterterrorism efforts, elements of core al-Qa’ida and ISIS-linked terrorist groups remain active in the country.

Exec. Order No. 13,780, 82 Fed. Reg. at 13211. The Report provides only slightly more detail than this paragraph, and significantly less detail than the information provided for Venezuela and the Philippines. *See* Report at 301.

⁶ As noted above, Amici take no position on the Administration’s assessment of the national security risk posed by Sudan.

2. A Comparison of the Report’s Account of the Three Nations Confirms that the Executive Order Violates the Establishment Clause

a) Factor 1: State Sponsors of Terrorism/Safe Havens

Per the Report, all three countries satisfy the first criteria, if one accepts the statements of the Executive Order and the Report. A close reading of those materials, however, reveals a significant distinction. Sudan is designated as a state sponsor of terrorism, but such designation is based on historical facts. It was designated as a state sponsor of terrorism in 1993, when it “served as a meeting place, safe haven, and training hub for international terrorist groups.” Report at 301. Per the Executive Order and the Report, Sudan has changed its posture significantly since that time. Report at 301 (“Sudan’s support to al-Qa’ida has ceased” and “[t]he United States and Sudan worked cooperatively in countering the threat posed by al-Qa’ida and ISIL in 2015.”); *id.* (noting that “the use of Sudan by Palestinian designated terrorist groups appears to have declined”); Exec. Order No. 13,780, 82 Fed. Reg. at 13211 (“Sudan’s support to al-Qa’ida has ceased.”).

By contrast, both Venezuela’s and the Southern Philippines’ status as terrorist safe havens are, per the Report, based on *current* facts. The Report notes that Venezuela “maintained a permissive environment that allowed for support of activities that benefited known terrorist groups” in 2015. Report at 297. Similarly, the Report details how the Philippines has been unsuccessfully attempting to

eradicate terrorist safe havens in the southern Islands in 2015. Report at 80–84, 308–09.

Put simply, if Sudan satisfies the first Section 1(d) factor, then—in the view of the Report—Venezuela and the Philippines do as well.

b) Factor 2: Ability and Will to Share and Validate Information

While Venezuela has been unwilling to cooperate with the United States in combatting terrorism, and the Filipino government has been unable to validate important information, “[t]he United States and Sudan worked cooperatively in countering the threat posed by al-Qa’ida and ISIL in 2015, which included their use of transit and facilitation routes within the country.” Report at 301.

Sudan is also reported to be a member of the Partnership for Regional East Africa Counterterrorism (PRACT), a United States-funded program “designed to build counterterrorism capacity and cooperation of military, law enforcement, and civilian actors across East Africa to combat terrorism.” Report at 13. This stands in stark contrast to Venezuela’s reported lack of cooperation for ten consecutive years, Report at 297, and the Filipino government’s apparent inability to establish domain over the southern islands, Report at 308–09.

Again, if Sudan satisfies the second Section 1(d) factor, then (in the view of the Report) the Philippines and Venezuela clearly do so as well.

c) Factor 3: Risk That Terrorists Will Travel to the United States

While terrorist organizations continue to operate in Sudan, their presence is alleged by the Report to be greater in the Philippines. The Report provides a one-sentence description of terrorism in Sudan: “elements of al-Qa’ida and ISIL-linked terrorist groups remained active in Sudan in 2015.”⁷ Report at 301. The only other recent reference to terrorist activity is an attempted Hamas arms shipment in 2014. Report at 301.

Once again, when compared to the Report’s description of kidnappings, roadside bombings, and the seizing of private and Coast Guard Ships in the Philippines, *see* Report at 79–80, or its description of Venezuela’s “permissive environment” for “known terrorist groups,” Report at 297, the point is quite simple: if Sudan satisfies Factor Three according to the information in the Report, the two Christian-majority nations clearly do so as well.

III. In Light of This Selective Burden Imposed Only on Muslim-Majority Nations, the Court Should Look to the Statements of the Drafters to Determine Its Purpose

When read in light of the Report on which it relies, it is apparent that Section 2(c) of the Executive Order selectively disfavors Muslim-majority countries as compared to similarly-situated non-Muslim countries. The Executive

⁷ As with Sudan, the Report does not list any instances of specific terrorist activity that took place in Venezuela. *See* Report at 297–98, 314–15.

Order’s “express design” is “to burden or favor selected religious denominations.” *Larson*, 456 U.S. at 255. Accordingly, the Executive Order is in clear violation of the Establishment Clause.

The Administration denies that this is the purpose of the Executive Order. While “the government’s characterization is . . . entitled to some deference . . . it is nonetheless the duty of the court to distinguish a sham secular purpose from a sincere one.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000); *see also McCreary Cty. v. ACLU*, 545 U.S. 844, 864 (2005). Courts determine the purpose of a law by considering its history, including statements made by its drafters. *Larson*, 456 U.S. at 254; *Grumet*, 512 U.S. at 699–70. Once the discriminatory impact of the Order has been established, the Court may look behind the Executive Order to determine whether it has a discriminatory purpose that runs afoul of the Establishment clause.

Here, the intention of at least one of the Defendants to burden a particular religion was articulated publicly. Defendant President Trump’s comments related to this Executive Order have made it clear that his intention is to discriminate against Muslims. *See, e.g., Aziz*, 2017 WL 580855, at *9 (looking to statements made during and after the election by President Trump, and the “dearth of evidence indicating a national security purpose,” and concluding that the original Executive Order was likely intended to be a “Muslim ban”); *see also Washington*, 847 F.3d at

1167–68 (finding that the States’ Establishment Clause claim raised “serious allegations” and “significant constitutional questions” because of “evidence of numerous statements by the President about his intent to implement a ‘Muslim ban’ as well as evidence [suggesting] that the Executive Order was intended to be that ban”).

CONCLUSION

For the foregoing reasons, the Executive Order should be invalidated as violating the Establishment Clause. In the alternative, the Court should consider the extrinsic statements of the President regarding the purpose of the Order to evaluate its constitutionality.

DATED: March 29, 2017

Respectfully submitted,

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ADDENDUM

Country Reports on Terrorism 2015

June 2016

United States Department of State Publication
Bureau of Counterterrorism and Countering Violent Extremism
Released June 2, 2016

Country Reports on Terrorism 2015 is submitted in compliance with Title 22 of the United States Code, Section 2656f (the “Act”), which requires the Department of State to provide to Congress a full and complete annual report on terrorism for those countries and groups meeting the criteria of the Act.

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Niger. In March, Boko Haram pledged allegiance to the Islamic State of Iraq and the Levant (ISIL) in an audiotaped message.

To coordinate counter-Boko Haram efforts in the Lake Chad Basin, Benin, Cameroon, Chad, Niger, and Nigeria formed a Multi-National Joint Task Force.

France's Operation Barkhane, a counterterrorism operation focused on countering terrorists operating in the Sahel, continued and was supported by important contributions of the UN peacekeeping mission in Mali to bolster and restore that country's stability.

TRANS-SAHARA COUNTERTERRORISM PARTNERSHIP

Established in 2005, the Trans-Sahara Counterterrorism Partnership (TSCTP) is a U.S.-funded and -implemented, multi-faceted, multi-year effort designed to build the capacity and cooperation of military, law enforcement, and civilian actors across North and West Africa to counter terrorism. Areas of support include:

1. Enabling and enhancing the capacity of North and West African militaries and law enforcement to conduct counterterrorism operations;
2. Integrating the ability of North and West African militaries and law enforcement, and other supporting partners, to operate regionally and collaboratively on counterterrorism efforts;
3. Enhancing border security capacity to monitor, restrain, and interdict terrorist movements;
4. Strengthening the rule of law, including access to justice, and law enforcement's ability to detect, disrupt, respond to, investigate, and prosecute terrorist activity;
5. Monitoring and countering the financing of terrorism (such as that related to kidnapping for ransom); and
6. Reducing the limited sympathy and support among communities for violent extremism.

TSCTP partners include Algeria, Burkina Faso, Cameroon, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, and Tunisia.

TSCTP has built capacity and cooperation despite setbacks caused by a restive political climate, violent extremism, ethnic rebellions, and extra-constitutional actions that interrupted work and progress with select partner countries.

Regional cooperation, a strategic objective of U.S. assistance programming globally, has increased substantially in West and Central Africa among most of the partners of TSCTP. Nigeria and its neighbors agreed to form a Multinational Joint Task Force to combat Boko Haram, and remained actively engaged in countering the group throughout the region. The TSCTP partners were joined in this effort by the AU and by the country of Benin, which is not a member of TSCTP.

PARTNERSHIP FOR REGIONAL EAST AFRICA COUNTERTERRORISM

First established in 2009, the Partnership for Regional East Africa Counterterrorism (PRACT) is a U.S.-funded and -implemented multi-year, multi-faceted program designed to build counterterrorism capacity and cooperation of military, law enforcement, and civilian actors across East Africa to counter terrorism. Areas of support include:

1. Reducing the operational capacity of terrorist networks;
2. Developing a rule of law framework for countering terrorism in partner nations;
3. Enhancing border security;
4. Countering the financing of terrorism; and
5. Reducing the appeal of radicalization and recruitment to violent extremism.

Active PRACT partners include Djibouti, Ethiopia, Kenya, Somalia, Tanzania, and Uganda. Burundi, Comoros, Rwanda, Seychelles, South Sudan, and Sudan are also members of PRACT.

In 2015, the U.S. government, through PRACT, continued to build the capacity and resilience of East African governments to contain the spread of, and ultimately counter the threat posed by, al-Qa'ida, al-Shabaab, and other terrorist organizations. PRACT complements the U.S. government's dedicated efforts, including support for AMISOM, to promote stability and governance in Somalia and the greater East Africa region. PRACT additionally serves as a broader, U.S. government interagency mechanism to coordinate counterterrorism and countering violent extremism programming. Joint training exercises for Kenyan, Tanzanian, and Ugandan first responders and law enforcement professionals support efforts to enhance regional coordination and cooperation, protect shared borders, and respond to terrorist incidents.

BURKINA FASO

Overview: After a year of political transition following the 2014 popular uprising that pushed Burkina Faso's longtime president Blaise Compaore from power, Burkina Faso held presidential and legislative elections on November 29, 2015. The new president, Roch Marc Christian Kabore, sworn in on December 29, stated that security and counterterrorism were top priorities for his government.

Burkina Faso faced four terrorist attacks in 2015, including kidnapping for ransom. This was a marked departure from previous years when Burkina Faso experienced no terrorist incidents. These cases remained under investigation at the end of the year.

Burkina Faso's willingness to engage in regional counterterrorism and stability operations was facilitated by assistance provided to its security forces through the Department of State's Africa Peacekeeping Program (AFRICAP) II, Africa Contingency Operations Training and Assistance (ACOTA) contracts, the Trans-Sahara Counterterrorism Partnership (TSCTP), and National Defense Authorization Act (NDAA) Section 2282 funding initiatives. Bilateral and regional counterterrorism cooperation increased. The United States supported USAFRICOM's FY 2015 proposals to augment and build upon Burkina Faso's Gendarmerie Border Security and Counterterrorism Company capabilities. U.S. support worked to directly develop Burkina Faso's counterterrorism capabilities to contain, disrupt, degrade, and defeat terrorist organizations.

The long-term sustainability and effectiveness of all counterterrorism units was severely hampered by logistical and professional shortfalls in the Burkinabe military. In 2015, U.S.

SEARCCT hosted 18 training events in 2015, including seminars on crisis management, terrorist finance, and transportation security. Malaysian officials participated in several Global Counterterrorism Forum events, including a workshop on border security and a plenary session on the detention and reintegration of terrorist prisoners.

PHILIPPINES

Overview: The Philippines, in cooperation with the United States and other international partners, continued to make progress against international terrorism in 2015. Terrorist groups, including U.S.-designated Foreign Terrorist Organizations such as the Abu Sayyaf Group (ASG), Jemaah Islamiya (JI), and the Communist People's Party/New People's Army (CPP/NPA), as well as other militant groups such as the Bangsamoro Islamic Freedom Fighters (BIFF), were unable to conduct major attacks on civilian targets in metropolitan areas due to sustained pressure from Philippine counterterrorism and law enforcement efforts, although sporadic fighting did displace locals.

Members of these groups were suspected, however, to have carried out attacks against government, public, and private facilities, primarily in the central and western areas of Mindanao in the southern Philippines, while others were linked to extortion operations in other parts of the country. In addition, terrorist and rebel groups in the southern Philippines retained the capability and intent to conduct bomb-making training, small-scale shootings, and ambushes.

The Philippine government's Comprehensive Agreement on the Bangsamoro (CAB) with the Moro Islamic Liberation Front, which creates a new Bangsamoro autonomous government in Mindanao, is aimed at providing a peaceful resolution to the 40-year-old conflict in Mindanao. The peace plan, negotiated between the Philippine government and Moro political leaders dominated by the Moro Islamic Liberation Front, is intended to reduce tensions in the South and diminish the attraction of violent extremist groups by providing greater political and economic autonomy for Muslim-majority areas of Mindanao.

Since the March 2014 signing of the CAB, clashes with the BIFF and other Moro splinter groups have continued in central Mindanao, indicating that violent opposition to the peace process remains. At the same time, continued heavy military and police presence, including active ongoing operations against the ASG, JI, the NPA, and other violent extremist groups with ties to terrorists such as the BIFF, resulted in the displacement of local populations and disruption of civilian livelihoods.

The Government of the Philippines continued to make modest progress in implementing its 2011–2016 Internal Peace and Security Plan, which calls for the transition of internal security functions from the Armed Forces of the Philippines (AFP) to the Philippine National Police (PNP). The increasing role and capability of the police in maintaining internal security in conflict-affected areas will permit the AFP to shift its focus to enhance the country's maritime security and territorial defense capabilities. This transition continued to be slow, in part due to uncertainty over the implementation of the CAB, lack of capacity in the police force, and shifting priorities ahead of a national election in May 2016. Continued violent extremist activity, as well as counterterrorism capability gaps between the AFP and PNP, meant that the AFP continued to lead counterterrorism efforts in the Philippines.

The Philippine government submitted to Congress draft legislation known as the “Bangsamoro Basic Law” (BBL) in 2014 to establish the new autonomous government entity in the Southern Philippines, as stipulated by the CAB. The BBL was expected to pass Congress in 2015, but progress was largely derailed by the fallout over a counterterrorism operation in Mindanao that resulted in the death of 44 PNP Special Action Force troops in January. In the backlash against the peace process resulting from that clash, two additional separate versions of the BBL have been authored, one by each house of Congress, that vary significantly from the originally negotiated law. To date, none of those bills have progressed in the Congress and the law has missed several key implementation deadlines. Both the government and the Moro Islamic Liberation Front leadership confirmed their intent to press forward with a peaceful settlement at numerous points throughout the year.

The Government of the Philippines recognizes the potential threat posed by radicalized Philippine citizens supporting the Islamic State of Iraq and the Levant (ISIL) and the risk of ISIL elements traveling to the Philippines to promote violent extremism in the country or seek safe haven. Members of numerous groups – including ASG, the Ansarul Khilafah Philippines (AKP), and BIFF – have publicly pledged allegiance to ISIL. In 2015, these groups displayed ISIL-affiliated images and conducted some of ISIL’s most reprehensible practices – including the beheading of hostages. Reports continued to emerge that ISIL was attempting to recruit Filipinos, but there was no strong evidence of any significant number of Filipinos traveling to the Middle East to join their ranks.

The government increased efforts to monitor the possibility of ISIL-affiliated terrorists seeking safe haven in the Southern Philippines. The President’s Anti-Terrorism Council (ATC) heads an interagency technical working group on persons of interest in conflict areas. That group meets regularly and has taken steps to tighten passport issuance, increase Bureau of Immigration screening at major departure points, and enhance monitoring of online extremist-related activity through the intelligence services and the PNP. At year’s end, the ATC was reportedly preparing an Executive Order or other administrative policy document to formalize this process.

2015 Terrorist Incidents: There were dozens of small arms and IED attacks, kidnappings for ransom, and extortion efforts by suspected members of terrorist groups in the Philippines in 2015. Representative examples of specific incidents included:

- On February 19 in Cotabato City, members of the BIFF, who entered and occupied at least seven villages in Pikit town, North Cotabato Province, burned 20 houses in a rampage linked to competition with the Moro Islamic Liberation Front.
- On May 5 in Zamboanga City, six armed men wearing military uniforms seized two Philippine Coast Guard (PCG) personnel and a local barangay captain on an island resort off Dapitan City in Zamboanga del Norte. The barangay captain was later beheaded by his captors.
- On October 2 in South Cotabato, four people were killed and 11 others were injured in a roadside bombing attack on the convoy of a local official in Isabel City, Basilan.
- On November 17 in Sulu, a Malaysian hostage held by the ASG was beheaded after ransom demands were not met. The hostage had been captured in Malaysia and transported to the Southern Philippines.

- On November 23 in Samal, ASG-affiliated gunmen kidnapped two Canadian tourists, a Norwegian employee, and a Filipina from a luxury resort on Samal Island in Davao del Norte.

Legislation, Law Enforcement, and Border Security: The 2007 Human Security Act (HSA) remained the principal counterterrorism legislation of the Philippines. The law defines terrorism and provides methods for law enforcement to conduct investigations of terrorist suspects. Many aspects of the law have not been used due to a number of strict procedural requirements in the law. These limitations include notification to subjects of surveillance before activities can begin and damages of approximately US \$12,000 for every day of detention if an individual accused of terrorism is ultimately acquitted. In 2015, the Philippines Department of Justice obtained its first ever conviction under the HSA. Most convictions are made under other criminal legislation. In September, the Isabela City Regional Trial Court in Basilan designated ASG as a terrorist organization under the HSA. This is the first designation of a terrorist group in the Philippines under the HSA.

Philippine units with a specialized counterterrorism focus, including the National Bureau of Investigation (NBI) and the PNP Special Action Force (SAF), have improved their investigative, crisis response, and border security capacity. However, multiple agencies have jurisdiction over counterterrorism efforts, creating duplication and inefficiency in leading investigations and in response to terrorism incidents. Roles and responsibilities between law enforcement and military units that have a counterterrorism mission were often not well-delineated, and command and control arrangements were often dependent on interpersonal relationships between incident commanders. Specialized law enforcement units possessed some necessary equipment, but numerous unfulfilled needs remained, and sustainment and maintenance of complex equipment often exceeded fiscal and human resources. Law enforcement units had a mixed record of accountability and respect for human rights. The ATC provided guidance to agencies responsible for enforcing terrorism laws, but its capacity to enforce cooperation and coordination between agencies was limited.

The approximately 150,000-strong PNP maintained legal responsibility for ensuring peace and security throughout the country, which included arresting terrorists and conducting terrorism investigations. In conflict-affected areas, the PNP often relied upon the AFP to conduct counterterrorism operations, and coordination between the two services improved, but more work remained to be done. The PNP SAF is the national operational support unit for law enforcement counterterrorism efforts.

The Department of State's Antiterrorism Assistance (ATA) program in the Philippines assisted the PNP's SAF, Anti-Kidnapping Group, Anti-Cybercrime Group, Explosive Ordnance Disposal/K9 units and other law enforcement units in Mindanao by providing counterterrorism-related training and specialized equipment and explosive detector K-9 dogs. This assistance strengthened the PNP's capacity to respond to terrorism-related incidents. In 2015, the ATA Program conducted 35 courses with 897 participants from the Philippines.

The Philippines issues "e-passports", which make up more than 65 percent of all valid passports in circulation. At the main international airport in Manila, the Philippines participated in the INTERPOL Border Management Program.

The first phase of the Automated Fingerprint Identification System (AFIS) was completed in 2014, which included the build-out of the physical AFIS facility at NBI headquarters and the digitization of 850,000 fingerprint records. No funding was available from either the Philippine government budget or U.S. assistance funding to complete the second phase of the AFIS program in 2015.

In 2015, the U.S. Transportation Security Administration (TSA) partnered with State's ATA program to deliver an Airport Security Managers course to several Philippine government agencies that focused on implementation and oversight of international aviation security standards.

The Philippine government has also successfully procured advanced screening technologies such as body imagers to mitigate the evolving threat of non- or low-metallic IEDs.

With assistance from the United States, security in the Sulu Archipelago Tri-Border area of the Philippines, Malaysia, and Indonesia was being improved through efforts to enhance the capacity of the PNP Maritime Group, Maritime Special Operations Units (MSOU). MSOU and Philippine Coast Guard (PCG) operational and training capacity has been upgraded through provision of varied courses of instruction by the DOJ International Criminal Investigative Training Assistance Program (ICITAP), using the Global Security Contingency Fund; this training enhanced the capacity of the MSOUs and the PCG to integrate operations in the border region.

In addition to its cooperation with the United States, the Philippines received counterterrorism assistance from Australia, the UK, Canada, and Japan. This work focuses generally on capacity building for investigation, detection and removal of explosive ordnance and demolition, forensics, case management, intelligence, and special operations training with the PNP and the AFP.

The U.S. Coast Guard's (USCG's) International Port Security (IPS) Program has been actively engaged in the Philippines since 2004 to assist with and assess the country's implementation of counterterrorism measures at international port facilities. In 2015, the USCG continued its capacity building and assessment efforts to stimulate and enhance the country's implementation of the International Ship and Port Facility Security Code by conducting four training seminars and numerous port facility assessments. The Philippine government is making incremental but steady improvement in terms of implementing counterterrorism measures.

In 2015, the United States continued to work with the Government of the Philippines to monitor and investigate groups engaged in or supporting terrorist activities in the Philippines. The Joint Special Operations Task Force–Philippines, under Operation Enduring Freedom, was successfully concluded in June 2015 after more than a decade. The government launched numerous operations, particularly in the Southern Philippines, to make arrests and disrupt organizations like the ASG, JI, BIFF, and NPA, with the ultimate goal of prosecuting terrorist suspects and organizations. Specific examples of counterterrorism operations included:

- On January 25 in Maguindanao, “OPLAN Exodus,” a plan to serve an arrest warrant on internationally-wanted Malaysian JI bomb-maker Zulkifli bin Amir, or “Marwan” (number one on the Philippines most wanted list and also wanted by the United States)

was launched against a safehouse inside Moro Islamic Liberation Front-controlled areas in Mamasapano, Mindanao, and conducted by the PNP's Special Action Force. Marwan was killed in the course of the raid when he resisted arrest; there was a seven-hour running firefight with several hundred BIFF, Moro Islamic Liberation Front, and private armed force fighters, killing 44 SAF troops, 15 Moro Islamic Liberation Front fighters, and eight civilians. On March 15 in General Santos City, senior BIFF military leader Mohamad Ali Tombako was arrested in a joint operation between PNP and AFP forces, just weeks after leading BIFF forces in a clash with troops in Maguindanao that left four AFP soldiers dead.

- On May 1 in Maguindanao, BIFF and Moro Islamic Liberation Front bomb-maker Abdul Basit Usman was killed during an AFP operation to detain him in Mindanao.
- On May 10 in Basilan, AFP troops overran a major bomb-making camp and seized a large amount of bomb-making materials during offensive operations against the ASG.
- On November 20 in Sultan Kudarat, Philippine Marines overran a camp operated by the Ansarul Khilafah Philippines (AKP), killing eight members of the group, which had associated itself with ISIL and claimed to represent the group in the Philippines. Among those killed was one of the suspects in the 2002 Bali bombings. A combined military and police team intended to serve a warrant of arrest for the group's leader, Mohamad Jaafar Sabiwang Maguid (popularly known as "Kumander Tokboy") when it was fired upon by the group. Tokboy is believed to have escaped in the fighting.
- On November 27 in Jolo, a joint task force of Philippine military and PNP troops captured ASG figure Saddam Jailani, who was suspected in the beheading of a Malaysian hostage and the death of a South Korean hostage.

In 2015, the Philippines continued coordinating with U.S. law enforcement authorities, especially regarding wanted U.S. fugitives and suspected terrorists. On November 18, three men were convicted in Regional Trial Court 15 of kidnapping and sentenced to life imprisonment in connection with the 2011 abduction of American Gerfa Yeatts Lunsman, her son Kevin, and cousin Romnick Jakaria (other suspects remained at-large). Additionally, hearings continued in Cebu in the prosecution of four defendants accused of murdering two U.S. soldiers and one Philippine Marine in an IED attack in Kagay, Jolo, in September 2009.

On November 16, 2015, ASG financier Khair Mundos and three others were convicted and sentenced to life imprisonment by Zamboanga City Regional Trial Court Branch 87 for abducting nurse Preciosa Feliciano in Zamboanga City in 2008. The suspects held Feliciano captive for four months after allegedly receiving a ransom payment.

Although these successes were important, an under-resourced and understaffed law enforcement and judicial system, coupled with widespread official corruption, continued to limit domestic investigations and resulted in a small number of prosecutions and lengthy trials of terrorism cases. Philippine investigators and prosecutors lacked necessary tools to build strong cases, including clear processes for requesting judicially-authorized interception of terrorist communications, entering into plea bargains with key witnesses, and seizing assets of those suspected of benefiting from terrorism. The Philippines, with the assistance of the UN Office on Drugs and Crimes (UNODC), has developed a Training Manual for collaboration among the intelligence, investigation, and prosecution sectors.

Countering the Financing of Terrorism: The Philippines is a member of the Asia/Pacific Group (APG) on Money Laundering, a Financial Action Task Force-style regional body, and its Anti-Money Laundering Council is a member of the Egmont Group. In recent years, the Philippines significantly improved its financial regulatory regime and remained focused on effective implementation of international standards.

The U.S. government works directly with the Joint Terrorist Financing Investigation Group (JTFIG), a joint interagency taskforce with members from the ATC; the Anti-Money Laundering Council (AMLC); and the PNP's Directorate of Intelligence (DI), Anti-Kidnapping Group (AKG), and SAF to pursue terrorism finance cases in 2015. The JTFIG acts as an "intelligence fusion center" to complement the other intelligence groups tasked with investigating terrorism and terrorism financing. In 2015, Philippine agencies participating in the JTFIG pursued several investigations into suspected terrorism financing. In March, a bank account of an arrested ASG member was frozen by the AMLC after six months of investigation. This is the first financial account frozen under the Financial Terrorism Law.

In implementation of UNSCR 2199 and the UN 1267/1989/2253 ISIL (Da'esh) and al-Qa'ida sanctions regime, the AMLC has frozen the assets of six members of ISIL and al-Nusrah Front. Under Section 8 of the Terrorist Financing Prevention and Suppression Act, all transactions with the named individuals designated by AMLC are prohibited. The AMLC freezes assets of those listed at the UN 1267/1989/2253 ISIL (Da'esh) and al-Qa'ida, and 1988 (Taliban) sanctions regimes through AMLC Resolution TF-01.

For further information on money laundering and financial crimes, see the *2016 International Narcotics Control Strategy Report (INCSR), Volume II, Money Laundering and Financial Crimes*: <http://www.state.gov/j/inl/rls/nrcrpt/index.htm>.

Countering Violent Extremism: In 2015, the Philippine government continued its counter-radicalization efforts through the Resilient Communities in Conflict Affected Communities program. During the year, the Philippines worked with the Global Counterterrorism Forum to apply the Rome Memorandum on Good Practices for Rehabilitation and Reintegration of Violent Extremist Offenders. Government offices, including the President's Law Enforcement and Security Integration Office and the Philippine Center for Transnational Crime, led interagency collaboration on countering violent extremism (CVE) through counter-radicalization and de-radicalization initiatives.

The PNP's Directorate for Police Community Relations (DPCR), through the Salaam Police Center (SPC) and Salaam Police personnel in regional, provincial, and city police offices, regularly conducted peacebuilding and counter-radicalization efforts in respective areas of responsibilities targeting students, youth, women, Muslim elders, and religious and community leaders to foster dialogue and clear up misconceptions that could lead to violent extremism. The DPCR, through its Information Operation and Research Center (IORC), is strengthening its information operation strategies to weaken the narratives of violent extremism.

Philippine officials participated in several CVE initiatives throughout the year. In February, members of the ATC and civil society representatives attended the White House Summit on Countering Violent Extremism in Washington, D.C. In April, Philippine government and civil society members attended a Regional CVE seminar hosted by Singapore. In May, the Philippine

government, in cooperation with the U.S. Pacific Command's Military Information Support Team (MIST), inaugurated the Combined Special Outreach Group, a joint AFP-PNP community engagement group to share best practices and combine strategies for public messaging on peace and order and CVE outreach. The group meets roughly every two weeks and has coordinated several efforts to increase community and educational CVE engagement in support of the peace process. On July 29, Philippine officials from the ATC attended the Rome CVE Summit Process Senior Officials Meeting.

In February, Philippine officials facilitated the 3rd Multi-Lateral CVE Conference "Youth and Terrorism: Countering the Narrative" in Puerto Princesa City, Palawan, and a Seminar Workshop on CVE Narratives in Zamboanga City in October.

Training on rehabilitation and reintegration of violent extremist offenders, implemented by the International Centre for Counter-Terrorism-The Hague, continued and included Philippine experts from different agencies and the private sector. The Philippine government also continued to support a counter-radicalization program in the Bureau of Jail Management and Penology (BJMP) facilities housing ASG or other terrorist suspects pending trial. The PNP DPCR SPC coordinated with the BJMP to conduct visitation of inmates relating to violent extremism. In 2015, the government also launched a policy to expand the Special Intensive Care Areas of the BJMP in the Manila region and to introduce a modernized Inmate Counseling and Classification Unit (ICCU) to improve identification of inmates vulnerable to further radicalization while on trial – a large number of alleged ASG, BIFF, and MNLF fighters are incarcerated as their trials proceed in Manila courts.

International and Regional Cooperation: The Philippines views counterterrorism as a regional challenge and participated in numerous regional CT coordination activities. In 2015, Philippine government representatives were involved in trainings, workshops, dialogues, and working group meetings through the ASEAN-Japan Counterterrorism Dialogue, Australian-ASEANAPOL, INTERPOL, UNODC, UNICRI, and the Global Counterterrorism Forum.

Philippine counterterrorism, intelligence, and CVE officials participated in several international conferences throughout the year focused on stemming the flow of foreign terrorist fighters. These included the Foreign Terrorist Fighter Conference in Indonesia (March), the UNODC-sponsored Regional Conference on Effective Responses to the Phenomenon of Foreign Terrorist Fighters in Thailand (June), and the Regional Technical Workshop on Responding to the Threat of Returning Foreign Fighters in Manila (August), which was co-sponsored by UNICRI and the Philippines.

A representative from the ATC serves as the 2015-2016 Chair of the APEC Counter-Terrorism Working Group (CTWG) and has been supportive of U.S. efforts to sponsor self-funded counterterrorism capacity-building workshops under the auspices of APEC, particular initiatives designed to help implement the APEC Consolidated Counter-Terrorism and Secure Trade Strategy. In January 2015 in Subic Bay, the Philippines hosted an APEC CTWG Secure Finance Workshop on Countering the Financing of Terrorism with New Payment Systems (NPS), which provided working-level financial crimes policy and operational representatives from APEC member economies' regulatory, investigative, and enforcement units the opportunity to develop and reinforce capacities to counter the illicit use of new payment systems, or NPS, especially in financing terrorism. In August 2015 in Cebu, they hosted an APEC CTWG Secure Travel

Workshop on Countering Foreign Terrorist Fighter Travel, which highlighted the threat that foreign terrorist fighter travel poses to the Asia-Pacific region and explained why advance passenger information systems are effective at helping mitigate that threat. The Philippines also participated in a series of INTERPOL Integrated Border Management Task Force projects sponsored by Canada.

On May 26-27, the Philippines hosted a conference on kidnapping for ransom that was attended by representatives from INTERPOL, Colombia, Australia, and the U.S. FBI. The event was funded by the Australian Embassy.

SINGAPORE

Overview: Singapore and the United States increased cooperation on counterterrorism efforts and expanded information sharing in 2015. The rise in the number of terrorist incidents across the globe highlighted the importance of timely information sharing and the need for both countries to continue to explore ways to further expand engagement. Singapore's domestic counterterrorism apparatus and ability to detect, deter, and disrupt threats remained effective, as evidenced by the successful detention of several Singaporean residents attempting to travel to Syria or Iraq to join terrorist groups. Singapore is a member of the Global Coalition to Counter the Islamic State of Iraq and the Levant (ISIL), to which it contributes military assets, and hosted a regional summit in April 2015 to raise awareness about the threat of foreign terrorist fighters as well as to exchange regional experiences with de-radicalization and developments related to countering violent extremism.

Legislation, Law Enforcement, and Border Security: Singapore uses its Internal Security Act (ISA) to arrest and detain suspected terrorists. The ISA authorizes the Minister for Home Affairs (MHA), with the consent of the President, to order detention without judicial trial or review if it is determined that a person poses a threat to national security. The initial detention may be for up to two years, and the MHA may renew the detention for an unlimited number of additional periods up to two years at a time with the President's consent.

In 2015, five individuals were arrested under the ISA for terrorism-related activities, four of whom were subsequently detained under ISA. The fifth suspect was placed on a Restriction Order, which limits the ability to travel abroad without government approval, requires religious counselling, and prohibits the acquisition of violent or extremist material online. Singapore's existing legal framework, in conjunction with the ISA, provides the government the necessary tools to support the investigation and prosecution of terrorism offenses. Law enforcement agencies displayed coordination, command, and control in responding to threat information affecting Singapore's security.

In 2015, Singapore improved its border security regime through creation of a new Integrated Checkpoints Command (ICC). The ICC complements the Joint Operations Command established in 1998 and the Immigration and Checkpoints Authority, which in 2003 merged the Singapore Immigration and Registration with checkpoint functions of the Customs and Excise Department. The ICC will strengthen interagency coordination, improve air, land, and sea domain awareness, and improve border security command and control to collectively counter traditional and unconventional threats.

International and Regional Cooperation:In November 2015, the Prime Minister attended the Commonwealth Heads of Government Meeting where he and other leaders addressed terrorism and security issues and the growing concern over ISIL.

VENEZUELA

Overview: In May, for the tenth consecutive year, the U.S. Department of State determined, pursuant to section 40A of the Arms Export Control Act, that Venezuela was not cooperating fully with U.S. antiterrorism efforts.

The International Development Bank, a subsidiary of the Development and Export Bank of Iran, continued to operate in Venezuela despite its designation in 2008 by the U.S. Treasury Department under E.O. 13382 (“Blocking Property of Weapons of Mass Destruction Proliferators and their Supporters”).

There were credible reports that Venezuela maintained a permissive environment that allowed for support of activities that benefited known terrorist groups. Individuals linked to the FARC, National Liberation Army, and Basque Fatherland and Liberty (ETA) were present in Venezuela, as well as Hizballah supporters and sympathizers.

Legislation, Law Enforcement, and Border Security:The Venezuelan criminal code and additional Venezuelan laws explicitly criminalize terrorism and dictate procedures for prosecuting individuals engaged in terrorist activity. The government routinely levies accusations of “terrorism” against its political opponents. Following a wave of anti-government protests early in 2014, the Venezuelan government introduced a series of counterterrorism laws likely intended to suppress future public demonstrations.

Venezuelan military and civilian agencies perform counterterrorism functions. Within the Venezuelan armed forces, the General Directorate of Military Counterintelligence and the Command Actions Group of the National Guard have primary counterterrorism duty. The Bolivarian National Intelligence Service and the Division of Counterterrorism Investigations in the Bureau of Scientific, Penal, and Criminal Investigative Corps within the Ministry of Interior, Justice, and Peace have primary civilian counterterrorism responsibilities. The degree of interagency cooperation and information sharing among agencies is unknown due to a lack of government transparency.

Border security at ports of entry is vulnerable and susceptible to corruption. The Venezuelan government routinely did not perform biographic or biometric screening at ports of entry or exit. There was no automated system to collect advance Passenger Name Records on commercial flights or to cross-check flight manifests with passenger disembarkation data.

In August, Venezuelan authorities closed multiple border crossings between Colombia and the western states of Tachira and Zulia as part of the “states of exception” declaration seeking to curb smuggling and paramilitary activity in the border region.

Venezuela did not respond to a request from the Spanish government to extradite former ETA member José Ignacio de Juana Chaos, wanted in Spain since 2010 for the alleged killing of 25 people in acts of terrorism.

Countering the Financing of Terrorism: Venezuela is a member of the Caribbean Financial Action Task Force (CFATF), a Financial Action Task Force (FATF)-style regional body, and the Inter-American Drug Abuse Control Commission Anti-Money Laundering Group. Its financial intelligence unit, Unidad Nacional de Inteligencia Financiera, is a member of the Egmont Group. In 2014, the CFATF determined that Venezuela had made sufficient progress on the recommendations in Venezuela's FATF action plan to warrant moving the country from the standard follow-up process once every six months to periodic review once every two years. CFATF noted Venezuela still needed to improve its compliance with several recommendations as well as its implementation of various anti-money laundering/counterterrorism financing (AML/CFT) laws and regulations. Venezuela's existing AML/CFT legal and regulatory framework criminalizes the financing of terrorism. There was no publicly available information regarding the confiscation of terrorist assets. For further information on money laundering and financial crimes, see the *2016 International Narcotics Control Strategy Report (INCSR), Volume II, Money Laundering and Financial Crimes*: <http://www.state.gov/j/inl/rls/nrcrpt/index.htm>.

International and Regional Cooperation: Venezuela participated as an official observer in ongoing peace negotiations between the Colombian government and the FARC. Venezuelan and Colombian foreign ministers met several times throughout the year to address the reduction of smuggling of illegal goods, narcotics trafficking, and the activity of illegally armed groups.

in support of Hizballah in Lebanon and has trained thousands of its fighters at camps in Iran. These trained fighters have used these skills in direct support of the Asad regime in Syria and, to a lesser extent, in support of operations against ISIL in Iraq. They have also carried out isolated attacks along the Lebanese border with Israel.

Iran remained unwilling to bring to justice senior al-Qa'ida (AQ) members it continued to detain and refused to publicly identify the members in its custody. Iran previously allowed AQ facilitators to operate a core facilitation pipeline through Iran since at least 2009, enabling AQ to move funds and fighters to South Asia and Syria.

SUDAN

Sudan was designated as a State Sponsor of Terrorism in 1993 due to concerns about support to international terrorist groups to include the Abu Nidal Organization, Palestine Islamic Jihad, Hamas, and Hizballah.

In the mid-1990s, Sudan served as a meeting place, safe haven, and training hub for international terrorist groups, such as al-Qa'ida. Usama bin Laden was provided safe haven in Sudan for five years until he was expelled by the Sudanese government in 1996. Sudan's support to al-Qa'ida has ceased but elements of al-Qa'ida and ISIL-linked terrorist groups remained active in Sudan in 2015. The United States and Sudan worked cooperatively in countering the threat posed by al-Qa'ida and ISIL in 2015, which included their use of transit and facilitation routes within the country.

In 2014, members of Hamas were allowed to raise funds, travel, and live in Sudan. However, in 2015 the use of Sudan by Palestinian designated terrorist groups appeared to have declined. The last known shipment was the Israeli-interdicted KLOS-C in 2014.

In June 2010, four Sudanese men sentenced to death for the killing of two U.S. Embassy staff members on January 1, 2008, escaped from Khartoum's maximum security Kober prison. That same month of the escape, Sudanese authorities confirmed that they recaptured one of the four convicts, and a second escapee was reported killed in Somalia in May 2011. The recaptured murderer is being held in Kober Prison, and, as of December 2015, appeals of his pending death sentence were still ongoing. The whereabouts of the other two convicts were unknown at year's end, although one is rumored to have been killed in Somalia in November 2015.

SYRIA

Designated in 1979 as a State Sponsor of Terrorism, the Asad regime continued its political support to a variety of terrorist groups affecting the stability of the region, even amid significant internal unrest. The regime continued to provide political and weapons support to Hizballah and continued to allow Iran to rearm the terrorist organization. The Asad regime's relationship with Hizballah and Iran grew stronger in 2015 as the conflict in Syria continued. President Bashar al-Asad remained a staunch defender of Iran's policies, while Iran has exhibited equally energetic support for Syrian regime efforts to defeat the Syrian opposition. Statements supporting terrorist groups, particularly Hizballah, were often in Syrian government speeches and press statements.

Chapter 5

Terrorist Safe Havens (Update to 7120 Report)

Terrorist safe havens described in this report include ungoverned, under-governed, or ill-governed physical areas where terrorists are able to organize, plan, raise funds, communicate, recruit, train, transit, and operate in relative security because of inadequate governance capacity, political will, or both.

As defined by section 2656f(d) of Title 22 of the U.S. Code, the term “terrorist sanctuary” or “sanctuary” excludes the territory of a country the government of which is subject to a determination under section 2405(j)(1)(A) of the Appendix to Title 50; section 2371(a) of Title 22; or section 2780(d) of Title 22– the state sponsors of terrorism. Accordingly, information regarding Iran, Sudan, and Syria can be found in Chapter 3, State Sponsors of Terrorism.

TERRORIST SAFE HAVENS

AFRICA

Somalia. In 2015, terrorists used many primarily rural sections of south-central Somalia as safe havens. Terrorists continued to organize, plan, raise funds, communicate, recruit, train, and operate with relative ease in these areas due to inadequate security, justice, and governance capacity at all levels.

Al-Shabaab’s capacity to rebound from counterterrorism operations is due in large part to its ability to maintain control of large swaths of rural areas and routes in parts of Somalia. In 2015, al-Shabaab lost a number of safe havens in south-central Somalia, many of which provided access to funds and other resources the group extorted from local communities. Despite the success of coordinated African Union Mission in Somalia (AMISOM) operations that drove al-Shabaab from former strongholds in Baardheere and Dinsoor, the terrorist organization managed to establish new safe havens from where it planned and launched attacks against government officials, AMISOM bases, and soft targets in Kenya and other parts of the region. The Federal Government of Somalia and its regional administrations lacked the capacity and resources to fill security voids left in the wake of AMISOM’s operations with civilian law enforcement. These gaps allowed al-Shabaab to retain the freedom of movement necessary to establish new safe havens and re-infiltrate areas that AMISOM cleared but could not hold.

As seen in previous years, al-Shabaab used smaller towns in the Jubba River Valley such as Jilib and Saakow as bases for its operations. These areas allowed the group’s operatives to continue exploiting the porous border regions between Kenya and Somalia and launch deadly cross-border attacks. Kenya suffered one of the deadliest terrorist attacks in its history when in April, al-Shabaab operatives assaulted the Garissa University College using light arms and suicide vests and killed more than 145 Kenyans, most of whom were students. Al-Shabaab also used villages along major coastal routes in southern Somalia, namely Kunyo Barow and Tortoroow, to facilitate access to areas just outside of major population centers in Mogadishu and Kismaayo. These and other routes throughout southern Somalia serve as lifelines for al-Shabaab as low-level fighters established illegal checkpoints to collect taxes and tolls from locals. Although the group continued to generate funds from the illicit trade of charcoal and other commodities, al-

Shabaab leveraged tax collection to compensate for declining revenues after losing access to the port in Baraawe in 2014.

The Federal Government of Somalia remained committed to regional counterterrorism efforts that aim to eliminate al-Shabaab's access to safe haven in Somalia. Though progress on this front was uneven in 2015, these efforts provided the Somali government with enough space and time to focus on the federalism process and advance its political objectives.

According to independent sources and NGOs engaged in demining activities on the ground, there was little cause for concern for the presence of WMD in Somalia.

The Trans-Sahara. There are ungoverned, under-governed, and ill-governed areas of Mali that terrorist groups have used to organize, plan, raise funds, communicate, recruit, train, and operate in relative security, despite Malian authorities' willingness and responsiveness as counterterrorism partners, a UN peacekeeping mission, and French forces in the region. The Malian government has reestablished its political presence in the cities of Timbuktu and Gao, with some local government officials returning to their posts in 2015. The military, in conjunction with the French and UN forces, worked to eliminate terrorist safe havens in Mali.

The Malian government does not support or facilitate the flow of foreign terrorist fighters through its territory, but the lack of government control across large portions of its territory and porous borders makes preventing the flow very difficult.

The Malian government does not support or facilitate the proliferation or trafficking of WMD in and through its territory.

SOUTHEAST ASIA

The Sulu/Sulawesi Seas Littoral. The number of islands in the Sulawesi Sea and the Sulu Archipelago make it a difficult region to secure. Cooperation by all states bordering this region remained strong with U.S. counterterrorism efforts. Although Indonesia, Malaysia, and the Philippines have improved efforts to control their shared maritime boundaries – including through U.S.-funded efforts to enhance domain awareness in the waters south and southwest of Mindanao – the expanse remained difficult to control. Surveillance improved but remained partial at best, and traditional smuggling and piracy groups have provided an effective cover for terrorist activities, including the movement of personnel, equipment, and funds. Kidnappings for ransom remained an ongoing threat.

Southeast Asia is vulnerable to exploitation by illicit traffickers and proliferators given the high volume of global trade transiting the region as well as the existence of smuggling and proliferation networks. Weak strategic trade controls, legal and regulatory frameworks, inadequate maritime law enforcement and security capabilities, and emerging and re-emerging infectious disease and burgeoning bioscience capacity, make Southeast Asia an area of concern for WMD proliferation and transit. Other than Singapore, Malaysia, and the Philippines, strategic trade control laws that include controls over dual-use and end-use or “catch-all” controls are lacking in Southeast Asia. Assisting these countries to develop strong laws that meet international standards and effective targeting and risk management systems are major goals of the Export Control and Related Border Security program over the next few years.

The Southern Philippines. The geographical composition of the Philippines, spread out over 7,100 islands, makes it difficult for the central government to maintain a presence in all areas. Counterterrorism operations, however, have been successful at isolating the geographic influence and constraining the activities of transnational terrorist groups. Abu Sayyaf Group (ASG), Jemaah Islamiya (JI), Bangsamoro Islamic Freedom Fighters (BIFF), and other militant groups were present in areas on Mindanao, and especially across the islands of Basilan, Sulu, and Tawi-Tawi. The New People's Army (NPA) maintained a presence across the Philippines, particularly in rural and mountainous areas. Continued pressure from Philippine security forces made it difficult, however, for terrorists to organize, plan, raise funds, communicate, recruit, train, and operate outside their base locations.

The Philippines and the United States have strong counterterrorism cooperation. In 2015, the United States continued to work with the Government of the Philippines to monitor and investigate groups engaged in or supporting terrorist activities in the Philippines. The Joint Special Operations Task Force-Philippines, under Operation Enduring Freedom, was concluded in June 2015 after more than a decade. The government launched numerous operations, particularly in the Southern Philippines, against organizations like the ASG, JI, BIFF, and NPA, and prosecuted terrorist suspects and organizations. In 2015, the Philippines also continued coordinating with U.S. law enforcement authorities, especially regarding wanted U.S. fugitives and suspected terrorists.

In November, the Philippines passed the Strategic Trade Management Act (STMA), which allows it to control the import and export of dual-use items. At year's end, the Philippines was working to implement the provisions of the STMA, including setting up a licensing office within the Department of Trade and Industry that will issue licenses required to import and export controlled dual-use commodities and technology. Early implementation progress has been slow, however, due to a number of factors, including a lack of funding, and risks missing the deadlines set by the STMA.

THE MIDDLE EAST

Egypt. Portions of Egypt's Sinai region were a safe haven for terrorist organizations in 2015. The Government of Egypt views terrorism as one of the country's greatest threats and has dedicated significant military resources to combat indigenous and transnational terrorist groups. The Egyptian government continued its extensive security campaign focused on Northern Sinai against ISIL Sinai Province (ISIL-SP), launching Operation Right of the Martyr in September. The Northern Sinai was closed off to tourists, journalists, U.S. government officials, and NGOs in 2015.

ISIL-SP has claimed responsibility for increasingly frequent and sophisticated terrorist attacks against Egyptian forces, such as the simultaneous attack on multiple police and security installations in Sinai's Sheikh Zuweid on July 1; and high profile targets, for example downing a Metrojet airliner, killing all 200 passengers and seven crew members on October 31.

Through its Export Control and Related Border Security Program, the United States is working with the Government of Egypt to enhance Egypt's border security capabilities through the provision of land, air, and maritime border enforcement and targeting and risk management

further enhanced outreach campaign for industry to fully understand and implement Pakistan's export control requirements, as well as to begin a dialogue on controls on conventional weapons and related dual-use technologies. In addition to industry outreach, Pakistan also participated, developed, and delivered a series of technical trainings to responsible government licensing and enforcement officials for the proper identification of dual-use commodities that could be used to create WMDs and/or their delivery systems. Overall, Pakistan was a committed partner that undertook great efforts to build its export control capabilities.

Pakistan is a constructive and active participant in the Nuclear Security Summit process and the Global Initiative to Combat Nuclear Terrorism, and has worked to strengthen its strategic trade controls, including updating its national export control list. The Export Control and Related Border Security (EXBS) Program increased the Government of Pakistan's enforcement capacity by sponsoring training for Pakistani Customs and Strategic Export Control Division officials on how to properly identify strategic commodities of concern. These commodity identification and advanced interdiction trainings were implemented by the U.S. Department of Energy. EXBS also sponsored regional collaboration through nonproliferation fellowships and cross-border coordination with Afghanistan through the UN Office and Drugs and Crime – World Customs Organization's Container Control Program (CCP). Under the CCP, training was provided to enhance the targeting of skills of port control unit officials at the Torkham and Jalalabad border-crossings.

WESTERN HEMISPHERE

Colombia. Rough terrain and dense forest cover, coupled with low population densities and historically weak government presence have defined Colombia's borders with Venezuela, Ecuador, Peru, and Brazil, and historically have allowed for safe havens for terrorist groups, particularly the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). The Government of Colombia has not only maintained pressure on these groups to deny safe haven, disrupt terrorism financing efforts, and degrade terrorist groups' logistics infrastructure, but it also has continued to conduct operations to combat their ability to conduct terrorist attacks. Coupled with ongoing peace negotiations with the FARC and two FARC unilateral cease fire declarations, Colombia experienced an overall decline in the total number of terrorist incidents in 2015. Despite these successes, illegal armed groups, primarily known as "Bandas Criminales," continued to use the porous border, remote mountain areas, and jungles to maneuver, train, cultivate and transport narcotics, operate illegal mines, "tax" the local populace, and engage in other illegal activities.

Improved relations with neighboring Ecuador have led to some increased cooperation on law enforcement issues. Colombia also continued to cooperate and share information with the Panamanian National Border Service. Additionally, Brazil began implementing its Integrated Border Monitoring System in an effort to monitor its entire border, and along with continued cooperation with the Government of Colombia, addressed potential safe haven areas along their shared borders.

Venezuela. Venezuela's porous border with Colombia has made the country attractive to the Revolutionary Armed Forces of Colombia and the National Liberation Army, who use it to transit in and out of its territory. There were credible reports that Venezuela maintained a

permissive environment that allowed for support of activities that benefited known terrorist groups.

COUNTERING TERRORISM ON THE ECONOMIC FRONT

In 2015, the Department of State designated one new Foreign Terrorist Organization (FTO) and amended two existing designations. In addition, the Department designated 37 organizations and individuals as Specially Designated Global Terrorists under Executive Order (E.O.) 13224, and amended two existing designations. The Department also revoked the designations of two organizations and two individuals.

The Department of the Treasury also designated organizations and individuals under E.O. 13224. For a full list of all U.S. designations, see the Department of the Treasury's Office of Foreign Assets Control website at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

2015 Foreign Terrorism Organization/Executive Order 13224 group designations:

- On September 3, the Department of State revoked the Foreign Terrorist Organization (FTO) designation of the Revolutionary Organization 17 November.
- On September 29, the Department of State amended the E.O. 13224 designation of the Islamic State of Iraq and the Levant to include the alias Islamic State, and amended the FTO designation on September 30. (See Chapter 6, Foreign Terrorist Organizations, for further information on ISIL).
- On September 29, the Department of State designated Jaysh Rijal al-Tariq al Naqshabandi (JRTN) under E.O. 13224 and as an FTO. (See Chapter 6, Foreign Terrorist Organizations, for further information on JRTN.)
- On September 29, the Department of State amended the FTO and E.O. 13224 designation of Ansar Bayt al-Maqdis to include the alias ISIL Sinai Province as its primary name. (See Chapter 6, Foreign Terrorist Organizations, for further information on ISIL-Sinai Province.)
- On December 9, the Department of State revoked the FTO designation of the Libyan Islamic Fighting Group (LIFG).

2015 Executive Order (E.O.) 13224 designations:

- On January 14, the Department of State designated 'Abdallah al-Ashqar. Al-Ashqar is a leadership figure and member of the military committee of the Mujahidin Shura Council in the Environs of Jerusalem (MSC). Al-Ashqar is known to have purchased missiles and other materials to attack Israel.
- On February 9, the Department of State designated German national Denis Cuspert. Cuspert was a recruiter and propagandist for ISIL. He was allegedly killed in an airstrike near al-Raqqah, Syria, in October 2015.
- On March 25, the Department of State designated Aliaskhab Kebekov, who was the leader of Russia-based terrorist group Caucasus Emirate, until his death during a battle with Russian Special Forces in April 2015.

Activities: The ANO has carried out terrorist attacks in 20 countries—killing or injuring almost 900 people. It has not staged a major attack against Western targets since the late 1980s and was expelled from its safe haven in Libya in 1999. Major attacks include those on the Rome and Vienna airports in 1985, the 1986 attack on the Neve Shalom Synagogue in Istanbul, the hijacking of Pan Am Flight 73 in Karachi in 1986, and the 1988 attack on the City of Poros day-excursion ship in Greece. The ANO was suspected of assassinating PLO Deputy Chief Abu Iyad and PLO Security Chief Abu Hul in Tunis in 1991, and a senior Jordanian diplomat in Beirut in 1994. In 2008, a Jordanian official apprehended an ANO member planning to carry out attacks in Jordan. There were no known ANO attacks in 2014 or 2015.

Strength: Unknown

Location/Area of Operation: ANO associates may still exist in Lebanon, though they are likely inactive.

Funding and External Aid: Unknown

ABU SAYYAF GROUP

akaal Harakat al Islamiyya (the Islamic Movement)

Description: The Abu Sayyaf Group (ASG) was designated as a Foreign Terrorist Organization on October 8, 1997. ASG is the most violent terrorist group operating in the Philippines and claims to promote an independent Islamic state in western Mindanao and the Sulu Archipelago. The group split from the Moro Islamic Liberation Front in the early 1990s.

Activities: ASG has committed kidnappings for ransom, bombings, ambushes of security personnel, public beheadings, assassinations, and extortion. In April 2000, an ASG faction kidnapped 21 people, including 10 Western tourists, from a resort in Malaysia. In May 2001, the group kidnapped three U.S. citizens and 17 Philippine citizens from a tourist resort in Palawan, Philippines; several hostages were murdered, including U.S. citizen Guillermo Sobero. A hostage rescue operation in June 2002 freed U.S. hostage Gracia Burnham; her husband, U.S. national Martin Burnham was killed. In October 2002, Philippine and U.S. authorities blamed ASG for a bombing near a military base in Zamboanga that killed an American soldier, and in February 2004, ASG bombed SuperFerry 14 in Manila Bay, killing 116 people. On July 28, 2014, ASG militants with assault rifles opened fire on civilians celebrating the end of Ramadan, killing at least 21 people – including six children and at least four members of a Talipao security force – and wounding 11 others. In a July 2014 video, senior ASG leader Isnilon Hapilon, also an FBI most-wanted terrorist, swore allegiance to ISIL and ISIL’s leader Abu Bakr al-Baghdadi.

ASG continued to remain active throughout 2015. On January 30, one soldier was killed and four were injured in a clash with ASG in Sulu. A day later, ASG ambushed a convoy of Philippine soldiers, wounding five. In February, a 73-year-old Korean businessman was freed by the ASG in Lanao del Sur after 10 days in captivity. On May 15, ASG abducted two civilians at a resort in Sandakan. One hostage was released after six months; a Malaysian hostage, however, was beheaded after ransom demands were not met. Also in May, ASG abducted two Philippine Coast Guard personnel and a city official in Aliguay Island, a tourist destination near Dapitan City; the city official was beheaded. On September 21, ASG was blamed for the armed

abduction of two Canadians, a Norwegian, and a Philippine woman from the Holiday Oceanview Samal Resort on Samal Island. ASG set the ransom at \$60 million. In December, a Philippine military clash against 100 ASG fighters in Patikul left one soldier dead and four wounded, and killed eight ASG members.

Strength: ASG is estimated to have 400 members.

Location/Area of Operation: Primarily in the Philippine provinces of the Sulu Archipelago – namely Basilan, Sulu, and Tawi-Tawi – and on the Zamboanga Peninsula. The group also conducted cross-border operations into eastern Malaysia.

Funding and External Aid: ASG is funded through kidnapping for ransom operations and extortion, and may receive funding from external sources including remittances from supportive overseas Philippine workers and Middle East-based sympathizers. In the past, ASG has also received assistance from regional terrorist groups such as Jemaah Islamiya (JI), whose operatives have provided training to ASG members and have helped facilitate several ASG terrorist attacks.

AL-AQSA MARTYRS BRIGADE

al-Aqsa Martyrs Battalion

Description: Designated as a Foreign Terrorist Organization on March 27, 2002, the al-Aqsa Martyrs Brigade (AAMB) is composed of small cells of Fatah-affiliated activists that emerged at the outset of the al-Aqsa Intifada in September 2000. AAMB strives to drive the Israeli military and West Bank settlers from the West Bank in order to establish a Palestinian state loyal to the Fatah.

Activities: AAMB employed primarily small-arms attacks against Israeli military personnel and settlers as the intifada spread in 2000, but by 2002 turned increasingly to attacks against Israeli civilians inside Israel. In January 2002, the group claimed responsibility for the first female suicide bombing in Israel. In 2010 and 2011, AAMB launched numerous rocket attacks on communities in Israel, including the city of Sederot and areas of the Negev desert. In November 2012, two men recruited by AAMB were arrested in connection with the stabbing of a student in Beersheba, Israel. That same year, AAMB claimed it had fired more than 500 rockets and missiles into Israel during Operation Pillar of Defense, the week-long Israeli Defense Force operation in Gaza.

In February 2015, AAMB declared an open war against Israel. In a TV broadcast in June 2015, AAMB asked Iran for funds to help the group in its fight against Israel. In the same broadcast, an AAMB fighter displayed a new two-mile tunnel crossing the border beneath Gaza and Israel, which the leader claimed would be used in the next rounds of battle. In October 2015, the group announced it had developed a new rocket, the K60, with a 40-mile firing range.

In addition to threatening and preparing for future attacks, AAMB continued attacking Israeli soldiers and civilians. In November 2015, the group claimed responsibility for a series of shootings against Israeli soldiers and civilians, including the October fatal shooting of husband and wife, Rabbi Eitam and Na'ama Henkin, in front of their four children.

Bakar Ba'asyir. The group seeks to establish an Islamic caliphate spanning Indonesia, Malaysia, southern Thailand, Singapore, Brunei, and the southern Philippines. More than 400 JI operatives have been captured since 2002, including operations chief and al-Qa'ida associate Hambali. In 2006, several members connected to JI's 2005 suicide attack in Bali were arrested. In 2007, Muhammad Naim (aka Zarkasih) and JI military commander Abu Dujana were arrested, and in 2008, two senior JI operatives were arrested in Malaysia and a JI-linked cell was broken up in Sumatra. In February 2010, the Indonesian National Police discovered and disbanded a violent extremist training base in Aceh in which former members of JI and other Indonesian violent extremist groups participated. The police raid resulted in the capture of more than 60 militants, including former JI operatives, and led authorities to former JI senior operative Dulmatin, one of the planners of the 2002 Bali bombings. In March 2010, Dulmatin was killed outside of Jakarta. In January 2011, JI member Umar Patek was captured in Abbottabad, Pakistan and put on trial in Indonesia, where he was convicted and sentenced to 20 years in prison in June 2012 for his role in the Bali bombing. In January 2015, JI bomb-maker Zulfiki bin Hir (aka Marwan) was killed in the Philippines in a raid.

Activities: Significant JI attacks include the 2002 Bali bombings, which killed more than 200 people, including seven U.S. citizens; the August 2003 bombing of the J.W. Marriott Hotel in Jakarta; the September 2004 bombing outside the Australian Embassy in Jakarta; and the October 2005 suicide bombing in Bali, which left 26 dead, including three suicide bombers.

On July 17, 2009, a JI faction led by Noordin Mohamed Top claimed responsibility for suicide attacks at the J.W. Marriott and Ritz-Carlton hotels in Jakarta that killed seven people and injured more than 50, including seven Americans.

In November 2014, Indonesian authorities released former JI bomb-maker Taufik Abdul Halim from prison after he served a 12-year sentence for attempting to bomb a Jakarta shopping mall in 2001.

In January 2015 in the southern Philippines, 44 Philippines policemen and three civilians were killed when a police anti-terrorism squad was ambushed while conducting a raid in Mamasapano in the southern island of Mindanao. That same month, it was reported that JI-linked extremists had attempted to carry out attacks during a papal visit to Manila and Tacloban. In October, two senior JI leaders – Zarkashi and JI military leader Abu Dujana – were released from prison after serving seven years in Indonesian jails. In December, police in East Java arrested four individuals associated with JI involved in manufacturing firearms for terrorist activities.

Strength: Estimates vary from 500 to several thousand.

Location/Area of Operation: Indonesia, Malaysia, and the Philippines

Funding and External Aid: JI fundraises through membership donations and criminal and business activities. It has received financial, ideological, and logistical support from Middle Eastern contacts and illegitimate charities and organizations.

JUNDALLAH

aka People's Resistance Movement of Iran (PMRI); Jonbesh-i Moqavemat-i-Mardom-i Iran; Popular Resistance Movement of Iran; Soldiers of God; Fedayeen-e-Islam; Former Jundallah of Iran; Jundullah; Jondullah; Jundollah; Jondollah; Jondallah; Army of God (God's Army); Baloch Peoples Resistance Movement (BPRM)

Description: Jundallah was designated as a Foreign Terrorist Organization on November 4, 2010. Since its inception in 2003, Jundallah, which operates primarily in the province of Sistan va Balochistan of Iran, and the Baloch areas of Pakistan and Afghanistan, has engaged in numerous attacks, killing and maiming scores of Iranian civilians and government officials. Jundallah's stated goals are to secure recognition of Balochi cultural, economic, and political rights from the Government of Iran, and to spread awareness of the plight of the Baloch situation.

Activities: In March 2006, Jundallah attacked a motorcade in eastern Iran, which included the deputy head of the Iranian Red Crescent Security Department, who was taken hostage. The Governor of Zahedan, his deputy, and five other officials were wounded, seven others were kidnapped, and more than 20 were killed in the attack. Jundallah claimed responsibility for an October 2009 suicide bomb attack in a marketplace in the city of Pishin in the Sistan va Balochistan province that killed more than 40 people and was reportedly the deadliest terrorist attack in Iran since the 1980s. In a statement on its website, Jundallah also claimed the December 15, 2010 suicide bomb attack inside the Iman Hussein Mosque in Chabahar, which killed an estimated 35 to 40 civilians and wounded 60 to 100. In July 2010, Jundallah attacked the Grand Mosque in Zahedan, killing approximately 30 and injuring an estimated 300. There were no known attacks attributed to Jundallah in 2014 or 2015.

Strength: Unknown

Location/Area of Operation: Jundallah has traditionally operated throughout the Sistan va Balochistan province in southeastern Iran and the greater Balochistan area of Afghanistan and Pakistan.

Funding and External Aid: Unknown

KAHANE CHAI

aka American Friends of the United Yeshiva; American Friends of Yeshivat Rav Meir; Committee for the Safety of the Roads; Dikuy Bogdim; DOV; Forefront of the Idea; Friends of the Jewish Idea Yeshiva; Jewish Legion; Judea Police; Judean Congress; Kach; Kahane; Kahane Lives; Kahane Tzadak; Kahane.org; Kahanetzadak.com; Kfar Tapuah Fund; Koach; Meir's Youth; New Kach Movement; Newkach.org; No'ar Meir; Repression of Traitors; State of Judea; Sword of David; The Committee Against Racism and Discrimination (CARD); The Hatikva Jewish Identity Center; The International Kahane Movement; The Jewish Idea Yeshiva; The Judean Legion; The Judean Voice; The Qomemiyut Movement; The Rabbi Meir David Kahane Memorial Fund; The Voice of Judea; The Way of the Torah; The Yeshiva of the Jewish Idea; Yeshivat Harav Meir

Description: Kach – the precursor to Kahane Chai – was founded by radical Israeli-American Rabbi Meir Kahane, with the aim of restoring Greater Israel, the term generally used to refer to

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
Effective 12/01/2016

No. 17-1351 **Caption:** Int'l Refugee Assistance Project, et al. v. Trump, et al.

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(s) Kevin B. Collins

Party Name Amici Curiae Interfaith Coalition

Dated: 3/29/17

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2017, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

COVINGTON & BURLING LLP

By: */s/ Kevin B. Collins*
KEVIN B. COLLINS