

PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO THE TALIBAN IN AFGHANISTAN

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY
WITH RESPECT TO THE TALIBAN IN AFGHANISTAN THAT WAS
DECLARED IN EXECUTIVE ORDER 13129 OF JULY 4, 1999, PURSU-
ANT TO 50 U.S.C. 1703(c)



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THE WHITE HOUSE,
Washington, January 17, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999.

Sincerely,

WILLIAM J. CLINTON.

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH
RESPECT TO THE TALIBAN IN AFGHANISTAN

I hereby report to the Congress on the developments concerning the national emergency with respect to the actions and policies of the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c).

1. On July 4, 1999, I signed Executive Order 13129, "Blocking Property and Prohibiting Transactions With the Taliban" (the "order") (64 Fed. Reg. 36759, July 7, 1999). The order blocks all property subject to U.S. jurisdiction in which property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, (1) to be owned or controlled by or to act for or on behalf of the Taliban, or (2) to provide financial, material, or technological support for, or services in support of, any of the foregoing.

The order further prohibits: (1) any transaction or dealing by a U.S. person or within the United States in property or interests in property blocked by the order, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of the Taliban or persons designated pursuant to the order; (2) the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a U.S. person, wherever located, to the territory of Afghanistan controlled by the Taliban or to the Taliban or persons designated pursuant to the order of any goods, software, technology (including technical data), or services; and (3) the importation into the United States of any goods, software, technology, or services owned or controlled by the Taliban or persons designated pursuant to the order or from the territory of Afghanistan controlled by the Taliban. The order also prohibits any transaction by a U.S. person that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions of the order, and any conspiracy formed to violate the prohibitions of the order.

The order also directs the Secretary of the Treasury, in consultation with the Secretary of State, to authorize commercial sales of agricultural commodities and products, medicine, and Medical equipment for civilian end-use in the territory of Afghanistan controlled by the Taliban under appropriate safeguards to prevent diversion to military, paramilitary, or terrorist or political end-use.

The term "the Taliban" is defined in the order to mean the political/military entity headquartered in Kandahar, Afghanistan, that exercises de facto control over the territory of Afghanistan described in Section 4(d) of the order, its agencies and instrumental-

ities, and the Taliban leaders listed in the Annex to the order or designated by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General. The Annex to the order lists one Taliban leader: Mohammed Omar (Amir al-Mumineen [Commander of the Faithful]). The Taliban is also known as the “Taliban,” “Islamic Movement of Taliban,” “the Taliban Islamic Movement,” “Talibano Islami Tahrik,” and “Tahrike Islami’a Taliban.”

Section 4(d) of the order defines the term “territory of Afghanistan controlled by the Taliban” to include 18 provinces of the country of Afghanistan: Kandhar, Farah, Helmund, Nimrus, Herate, Badghis, Ghowr, Oruzghon, Zabol, Paktiha, Ghazni, Nangarhar, Lowgar, Vardan, Faryab, Jowlan, Balkh, and Paktika. The Secretary of State, in consultation with the Secretary of the Treasury, had since added the City of Kabul to the list of territory of Afghanistan controlled by the Taliban (64 Fed. Reg. 58879, November 1, 1999). The territory of Afghanistan controlled by the Taliban is also known as the “Islamic Emirate of Afghanistan,” in Pashtun as “de Afghanistan Islami Emarat,” and in Dari as “Emarat Islami-e Afghanistan.”

2. The Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), in consultation with the Departments of State and Justice, has added three entities to the list of those persons whose assets are blocked pursuant to the Executive Order 13129. On August 18, 1999, OFAC added Ariana Afghan Airlines (f.k.a. Bakhtar Afghan Airlines). On October 22, 1999, OFAC added Millie Afghan (a.k.a. Afghan National Bank; a.k.a. Bank E. Millie Afghan), and Da Afghanistan Bank (a.k.a. Bank of Afghanistan; a.k.a. Central Bank of Afghanistan; a.k.a. The Afghan Stat Bank). These entities have been found to be controlled by the Taliban, and to be entities in which the Taliban has an interest.

Additional designations may be made by the Secretary of the Treasury, in consultation with Secretary of State and the Attorney General. Designations of persons blocked pursuant to the order are effective upon the date of determination by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

On October 15, 1999, the United Nations Security Council issued Resolution 1267 that, *inter alia*, directs member States to freeze funds and other financial resources of the Taliban, and to prohibit landings and take-offs by Taliban-associated flights, effective November 14, 1999.

3. On January 11, 2001, OFAC issued the Taliban (Afghanistan) Sanctions Regulations, 31 CFR Part 545 (the “Regulations”) (65 FR 2726, January 11, 2001) Paragraph (a) of 545.201 of the Regulations implements section 1(a) of Executive Order 13129 by blocking all property and interests in property of the Taliban that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches. To implement section 1(b) of the order, 545.201 also blocks all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to be acting for or on behalf

of, or to provide financial, material, or technological support for, or services in support of, the Taliban and those associated with the Taliban. Persons coming within any of these categories are referred to as persons whose property or interests in property are blocked pursuant to 545.201 in the Regulations. Section 545.201(b) implements section 2(a) of the order by prohibiting U.S. persons from transferring, paying, exporting, withdrawing, or otherwise dealing in property or interests in property blocked pursuant to the order.

Sections 545.204 implements section 2(b) of the order by prohibiting the exportation, reexportation, sales, or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, software, technology (including technical data), or services to the territory of Afghanistan controlled by the Taliban or to the Taliban or persons whose property or interests in property are blocked pursuant to 545.201.

Section 545.205 of the Regulations implements section 2(c) of the order by prohibiting the importation into the United States of goods, software, technology, or services owned or controlled by the Taliban or persons whose property or interests in property are blocked pursuant to 545.201 or from the territory controlled by the Taliban.

Section 545.206 of the Regulations implements section 2(d) of the order by prohibiting actions that evade, avoid, or attempt to violate the Regulations. This section also forbids conspiracies to violate the Regulations, implementing section 2(e) of the order.

Section 545.209 details those types of transactions that are exempt from the Regulations. Exempted are transactions related to personal communications, information and informational materials, travel, official United States Government business, journalistic activity, and donations of articles to relieve human suffering. These exemptions derive in large part from the exemptions set out in section 203(b) of IEEPA (50 U.S.C. 1702(b)).

The prohibitions in 545.201, 545.204, 545.205, and 545.206 extend to U.S. persons wherever they may be located. Consequently, 545.408 makes clear that even while outside the United States, U.S. persons are prohibited from taking part in any transactions involving property in which the Taliban or persons whose property or interests in property are blocked pursuant to 545.201 have an interest, or dealing in goods, software, technology, or services owned or controlled by the Taliban or persons whose property or interests in property are blocked pursuant to 545.201. Similarly, U.S. persons may not participate in the exportation or importation of goods, software, technology, or services into or out of the territory of Afghanistan controlled by the Taliban.

Transactions otherwise prohibited under part 545 but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart D of part 501 of 31 CFR chapter V. Penalties for violations of the Regulations are described in subpart G of the Regulations.

The general licenses contained in subpart E include in 545.504 an authorization for U.S. financial institutions to debit blocked accounts for normal service charges. Subject to the presentation of proof satisfactory to the U.S. Customs Service, under 545.505 im-

portation will be permitted of certain goods, software, or technology (but not services) from the territory of Afghanistan controlled by the Taliban that left that territory before the effective date of the order. This authority does not extend to those goods, software, or technology owned or controlled by the Taliban or persons whose property or interests in property are blocked pursuant to 545.201.

Section 545.506 permits the importation into the United States of gifts valued at no more than \$100 per recipient. Section 545.507 allows travelers to enter or depart from the United States with their accompanied baggage. Sections 545.508 and 545.509 authorize transactions related to telecommunications and mail services. Section 545.510 permits the importation and exportation of household and personal effects.

Section 545.511 references the provision in the Reporting and Procedures Regulations found in 31 CFR Part 501 permitting the registration of nongovernmental organizations involved in humanitarian or religious activities intended to relieve human suffering. Registration numbers authorize nongovernmental organizations to engage in transactions otherwise prohibited by the Regulations, including the exportation of goods, software, technology, and services to the territory of Afghanistan controlled by the Taliban, and the transfer of funds to and from the territory of Afghanistan controlled by the Taliban, intended for the purpose of relieving human suffering.

Section 545.512 through 545.515 implement section 3 of the order by permitting, subject to certain requirements and restrictions, and commercial sale of agricultural commodities and products, medicine, and medical equipment to private persons or nongovernmental entities in the territory of Afghanistan controlled by the Taliban.

Section 545.516 grants a general license for payments to U.S. persons for obligations that arose prior to the effective date. Section 545.517 authorizes the provision and exportation of certain legal services, provided that receipt of payment for such services is specifically licensed. Section 545.518 provides for specific licensing of payments into an escrow account under United Nations control consistent with UNSCR 1267 for services to aircraft provided by the Taliban in connection with overflights or emergency landings. That section also indicates that specific licenses may be issued for the exportation to the territory of Afghanistan controlled by the Taliban of goods, software, technology, and services to ensure safe operation of aircraft.

Section 545.519 permits U.S. persons to perfect and protect intellectual property rights in the territory of Afghanistan controlled by the Taliban. Section 545.520 permits U.S. financial institutions to process funds transfers to or from the territory of Afghanistan controlled by the Taliban where such transfers are related to transactions exempted or authorized under the Regulations. Section 545.521 authorizes provision of certain emergency medical services, provided that payment for such services is specifically licensed. Section 545.522 allows investment and reinvestment of blocked assets as long as immediate benefits do not accrue to persons whose property or interests in property is blocked pursuant to § 545.201.

Section 545.524 allows specific licenses authorizing payments for goods or service exported prior to the effective date. Section 545.525 permits noncommercial remittances to or from the territory of Afghanistan controlled by the Taliban. Section 545.526 allows U.S. citizens permanently residing in the territory of Afghanistan controlled by the Taliban to engage in transactions related to their necessary maintenance and living expenses. Section 545.527 authorizes U.S. financial institutions to operate accounts for private persons in the territory of Afghanistan controlled by the Taliban, provided that person's property is not blocked pursuant to 545.201.

Sections 545.528 and 545.529 permit the extension or renewal of letters of credit (by general license) or loans (by specific license). Where the State Department has issued visas, 545.530 permits the importation of services and the completion of activities consistent with the visas. Section 545.531 allows the importation of goods, software, technology, or services for diplomatic missions.

4. Since the issuance of Executive Order 13129, OFAC has authorized 21 nongovernmental organizations to continue their humanitarian relief operations in the territory of Afghanistan controlled by the Taliban. In addition, OFAC issued three licenses to authorize completion of certain financial transactions initiated prior to issuance of the order, completion of certain imports predating the national emergency, and certain administrative transactions.

Since the inception of the program, OFAC has continued to emphasize to the international banking community in the United States the importance of identifying the blocking payments made by or on behalf of the Taliban and has worked closely with the banks to assure the effectiveness of interdiction software systems used to identify such payments. As of November 21, 2000, two transactions totaling more than \$493,000 were blocked during this period. This brings the total assets blocked since the inception of the program to more than \$250 million. Under the Regulations, transactions in violation of the sanctions where there is no blockable interest of the Taliban must be returned to remitters (i.e., "rejected"). During the reporting period, 29 transactions were rejected by U.S. banks causing a disruption of more than \$1.2 million in business for the Taliban.

Various enforcement actions and investigations are being aggressively pursued. Reports of new violations are being scrutinized. Since my last report, OFAC has initiated two administrative civil penalty proceedings for violations of IEEPA and the sanctions.

5. The expenses incurred by the federal government in the 6-month period from July 4, 2000, through January 3, 2001, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to the Taliban in Afghanistan are estimated at approximately \$260,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and components of the Department of Justice.

6. The Taliban continues to provide Usama bin Ladin and his organization, Al-Qaida, with safe haven and security allowing him the necessary freedom to operate, despite repeated efforts by the United States to persuade the Taliban to expel bin Ladin to a third country where he can be brought to justice. The Taliban also allows Usama bin Laden to make repeated public threats against the United States, to operate a network of terrorist training camps, and to use Afghanistan as a base from which to sponsor terrorist acts abroad. For these reasons, the Taliban actions pose an unusual threat to international security.

Available information confirms that bin Laden's organization, working with other terrorist groups, continues actively to plan attacks on Americans and others. Reliable evidence also indicates that the bin Laden network seeks to acquire weapons of mass destruction, including chemical weapons.

The international community recognized the need to take action against the Taliban for its harboring of Usama bin Ladin in the unanimous adoption of UN Security Council Resolution 1267, which freezes funds and other financial resources of the Taliban and prohibits Taliban-associated flights.

I shall continue to exercise the powers at my disposal to apply economic sanctions against the Taliban in Afghanistan as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).