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The Embassy of the United States of America presents its compliments to the Ministry of External Affairs and has the honor to share with the Ministry the attached information concerning the Exception in place for reconstruction and development of Afghanistan, including Chabahar Port. These documents may be provided in writing or verbally to other individuals, businesses, or entities engaged in the excepted activities related to reconstruction assistance or economic development for Afghanistan, including Chabahar Port and its port operator, as enumerated therein.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of External Affairs the assurances of its highest consideration.

Embassy of the United States of America,
New Delhi, December 31, 2019.



- Enclosures: 1. Information regarding the IFCA Exception
2. Details of Application of the Exception with respect to Chabahar Port

This written explanation of the Exception in place for reconstruction and development of Afghanistan, including Chabahar Port, is provided as clarification of U.S. sanctions and Exception in place. It also illustrates mandatory and discretionary sanctions in place that the Exception does not apply to in order to prevent persons and entities from engaging in sanctionable behavior in the future.

After extensive consideration, last November the Secretary of State provided a narrow exception under Section 1244 of the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA) to allow a limited number of activities that support the reconstruction and development of Afghanistan, a key U.S. national security interest.

The IFCA Exception applies with respect to the reconstruction of Afghanistan, and primarily with respect to the operation and development of Chabahar port.

It allows for three principal activities by non-U.S. persons – the development and maintenance of Chabahar port and the associated railway link to Afghanistan; Afghanistan's imports of petroleum products from Iran such as gas, diesel, and liquid petroleum gas; and the shipment of non-sanctioned goods through Chabahar port to Afghanistan, including lifesaving humanitarian assistance.

The Exception does not allow for the import/export of Iranian crude oil to any country in the world. The Exception also does not allow for transactions with individuals or entities designated under U.S. counterterrorism or non-proliferation authorities, including Iran's Islamic Revolutionary Guard Corps (IRGC) and its officials, agents, and affiliates.

The President's South Asia strategy underscores our ongoing support of Afghanistan's economic growth and development as well as our close partnership with India. We seek to build on our close relationships with both India and Afghanistan as we execute a policy of maximum pressure to change the Iranian regime's destabilizing policies in the region and beyond.

As Indian entities and partners proceed with construction and development projects for Chabahar Port, it will be critical that any entities with which Indian companies and entities engage do not have direct or indirect ties to the IRGC. At a minimum, we urge all countries to ensure that their screening lists include the UN-designated Khatam Al-Anbiya (KAA) and its 14 affiliated companies that are designated by UNSCR 2231. Current or future engagement with any of these designated entities, or any construction companies with ties to the IRGC, could expose Indian companies and individuals to sanctions risk.

Furthermore, it is critical to ensure that any financial transactions do not involve the Central Bank of Iran. Current or future financial transactions that involve the Central Bank of Iran could expose Indian companies and individuals to sanctions risk.

Finally, it is critical to ensure that Indian construction and development projects in Iran, whether at Chabahar Port or the construction and maintenance of the railway connection between Chabahar and Zahedan, or any project involving the construction, shipping, shipbuilding, or energy sectors in Iran do not involve the sale, supply, or transfer to or from Iran of raw and semi-

finished metals (including aluminum and steel), graphite, coal, or software for integrating industrial processes. Finished products (e.g., those requiring no additional materials or manufacture) intended for the construction projects at Chabahar Port would not be considered "raw or semi-finished metals," although even in such cases we would encourage due diligence to ensure no entities on the SDN list are involved in any related transaction.

Transactions of other materials not explicitly listed in current mandatory or discretionary sanctions provisions and not involving persons referenced in such provisions, including those on the SDN list (some of which are detailed in this leave-behind paper, and all of which are available in the Federal Register), such as the Central Bank of Iran, would generally not subject an individual or entity to sanctions, as noted above.

We will provide you updated information if any additional sanctions are imposed that may impact reconstruction assistance or economic development for Afghanistan, including development of Chabahar Port or the construction and maintenance of a railway from Chabahar Port and Zahedan.

The Government of Afghanistan has made a number of commitments to take certain actions to reinforce broader Iranian sanctions, but has thus far failed to do so. We strongly encourage your government to press Afghanistan to implement these specific commitments, which include, but are not limited to: 1) diversification of Afghanistan's electricity imports away from Iran by Spring 2019; 2) expulsion of the OFAC-designated Iranian Defense Attaché in Kabul; 3) working to effectively block the property and interests of OFAC-designated Arian Bank in Afghanistan; 4) reducing the Afghan government's importation and consumption of Iranian-origin fuel; and 5) improving oversight of U.S. dollar banknote flows within Afghanistan.

Separately, we wanted to note that companies may apply for a license from OFAC for specific transactions. A license is an authorization from OFAC to engage in a transaction that otherwise would be prohibited. It can also serve as written confirmation that a transaction would not be subject to U.S. sanctions, for example due to the Exception for reconstruction and development of Afghanistan, including Chabahar Port. To apply for a license, companies can visit OFAC's licensing page, which also has frequently asked questions and contact information: <https://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx>

If companies or individuals inform you that they have applied for an OFAC license and not heard a response within a reasonable amount of time, you may inform the U.S. Embassy of the details of the license application and we can follow up with OFAC to determine the status of the license application.

Shipping Lines and its vessels are on the SDN list, and the complete list can be found in PDF form at <https://www.treasury.gov/ofac/downloads/sdnlist.pdf> and is available on OFAC's website at <https://www.treasury.gov/resource-center/sanctions/sdn-list/pages/default.aspx>.

- Persons risk exposure to sanctions under E.O. 13871, which makes sanctionable certain knowing engagement in significant transactions related to the iron, steel, aluminum or copper sectors of Iran. E.O. 13871 is a discretionary authority that covers transactions relating to Iran's steel, aluminum, iron, and copper sectors.

The above points may be provided in writing or verbally to other individuals, businesses, or entities engaged in the excepted activities related to reconstruction assistance or economic development for Afghanistan, including Chabahar Port and its port operator, as enumerated above.

The United States provided an exception from the imposition of sanctions under section 1244(f) of the Iran Freedom and Counter-Proliferation Act of 2012 (IFCA) for reconstruction assistance or economic development for Afghanistan ("Exception"). The Exception applies with respect to Chabahar Port, its port operator, and transactions by non-U.S. persons necessary to enable the following activities:

1. the importation of petroleum products and natural gas products (which includes gasoline, diesel, and liquid petroleum gas, but does not include crude oil) from Iran into Afghanistan for consumption in Afghanistan;
2. the development of Chabahar Port and the construction and maintenance of a railway between the Port and Zahedan; and
3. the shipment of non-sanctionable goods (which, under current authorities, generally includes, but is not limited to, food, medicine, medical devices, agricultural products, and most consumer goods) through Chabahar Port to Afghanistan intended for use or consumption in Afghanistan.

The Exception with respect to the activities by non-U.S. persons listed above does not encompass any transactions involving a person designated under Executive Order 13224 (counter-terrorism) or Executive Order 13382 (counter-proliferation), including the Islamic Revolutionary Guard Corps (IRGC), or any official, agent, or affiliate of the IRGC. Persons who have been designated under Executive Order 13224 appear on the List of Specially Designated Nationals and Blocked Persons (SDN List: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>) maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control, with the tag "[SDGT]." Persons who have been designated under Executive Order 13382 appear on the SDN List with the label "[NPWMD]."

The Exception was provided under section 1244 of IFCA, and does not apply to other mandatory sanctions authorities. Other mandatory sanctions authorities that may be applicable to entities engaging in reconstruction assistance or economic development for Afghanistan, including Chabahar Port and its port operator, include the following:

- Foreign financial institutions risk exposure to sanctions, under section 1245(d)(1) of the National Defense Authorization Act for Fiscal Year 2012, for knowingly facilitating a significant financial transaction with the Central Bank of Iran or U.S.-designated Iranian financial institutions, subject to certain exceptions. Furthermore, on September 20, 2019, the United States Department of the Treasury designated the Central Bank of Iran under Executive Order 13224. As a result, the Exception does not encompass any transactions involving the Central Bank of Iran.
- Persons risk exposure to sanctions, under Section 1245(a)(1)(C)(i)(I) of IFCA for knowingly selling, supplying, or transferring, directly or indirectly, to or from Iran, graphite, raw or semi-finished metals such as aluminum and steel, coal, or software for integrating industrial processes, if such materials are (1) to be used in connection with the energy, shipping, and shipbuilding sectors of Iran or a sector of the Iranian economy determined to be controlled directly or indirectly by the IRGC, such as the construction sector; or (2) are sold, supplied, or transferred to or from a person on the SDN list. We note that the Islamic Republic of Iran