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April 27, 2026

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex / Freedman's Bank Building
1500 Pennsylvania Avenue NW
Washington, DC 20220

To whom it may concern,

We write on behalf of Josh Paul, a foreign policy expert who has had a distinguished career in public service, including at the State Department's Bureau of Political Military Affairs. Mr. Paul has been asked to testify as an expert witness in a case before the Federal Court of Canada challenging the Canadian government's role in exporting military components and technology to Israel during the war in Gaza. The request came from counsel representing the petitioning parties, which include an entity on the Specially Designated Nationals and Blocked Persons List (the "SDN List"). Mr. Paul, who has deep knowledge of arms export policy, wishes to serve as an expert witness in this case and in other cases that relate to his areas of expertise and that may involve designated entities. He is concerned, however, that doing so may subject him to liability under U.S. sanctions law.

We write now to request interpretive guidance and a public FAQ posted on OFAC's website making clear that serving as an independent, expert witness at the request of counsel representing a sanctioned entity, and taking actions incident to serving as such a witness, does not violate U.S. sanctions law, and therefore that no authorization is required before Mr. Paul engages in this activity. We would appreciate a response by June 26, 2026, to ensure that Mr. Paul can make the necessary preparations.

I. Background

Mr. Paul is a foreign policy expert with a long career in public service and government relations. He is the co-founder of A New Policy, a non-profit, non-partisan lobbying and political organization focused on aligning U.S. foreign policy relating to Palestine and Israel with

American interests and values. He previously served for more than a decade as Director of Congressional and Public Affairs in the Department of State's Bureau of Political Military Affairs. Throughout a distinguished career, Mr. Paul has gained expertise in a range of fields, including military assistance, security sector reform, arms export policy, global defense diplomacy, human rights, and congressional relations. He has authored numerous academic articles and opinion pieces relevant to his areas of expertise and regularly appears in domestic and international media outlets to discuss these issues. Mr. Paul's testimony on U.S. arms export processes has previously been requested by the U.S. Department of Justice, including during the prosecution of former U.S. Senator Robert Menendez. *See United States v. Menendez*, No. 23 CR 490 (S.D.N.Y. filed Sep. 21, 2023). Mr. Paul is a U.S. citizen and resides in Maryland.

II. Mr. Paul's Anticipated Testimony

Mr. Paul has been asked to testify as an expert witness in a case before the Federal Court of Canada challenging the Canadian government's issuance of permits allowing the export of military components and technology to Israel during the war in Gaza. The lawsuit was brought on behalf of several Palestinian and Canadian individuals and the Palestinian human rights organization Al-Haq, an entity recently added to the SDN List. Counsel for the petitioning parties approached Mr. Paul about the possibility of serving as an expert witness in the case due to his deep knowledge of arms export policy and human rights assessments related to such exports.

If Mr. Paul were to serve as an expert witness in the case, he would receive a letter from counsel for the petitioning parties laying out the questions relevant to the case on which his expertise would be helpful. Mr. Paul would then prepare an expert report responding to the questions posed. That report would also set out his qualifications, include materials he relied on in preparing the report, and append a signed statement that he understands and agrees to be bound by the Code of Conduct for Expert Witnesses. *See Federal Courts Rules*, SOR/98-106, r. 52.2(1) (Can.), https://laws.justice.gc.ca/PDF/SOR-98-106.pdf. Under the Code of Conduct for Expert Witnesses, Mr. Paul's duty would be "to assist the Court impartially on matters relevant to his or her area of expertise" and "to be independent and objective"; in other words, he would not be "an advocate for a party." *Id.* r. 52.2 sched. paras. 1–2 (Can.).

Mr. Paul anticipates that his testimony would focus on evaluating the risk that exported military components and technology could be used to commit violations of international human rights law. Mr. Paul wishes to serve as an expert witness in the case and believes that he has unique insights and expertise on arms export policy and human

rights assessments related to such exports that would aid the court in adjudicating matters related to that topic.

Mr. Paul would typically charge a fee when serving as an expert witness. If he were to accept compensation in this case, it would come from funds that are being held in trust by petitioners' counsel and that were secured by a non-designated entity [redacted]. However, to the extent OFAC interprets its sanctions authority to prohibit acceptance of a fee in these circumstances, Mr. Paul requests confirmation of that interpretation and would waive his fee.

Mr. Paul also would like to serve as an expert witness in other cases relating to his areas of expertise, including those that might involve Al-Haq or other sanctioned entities. For instance, counsel for the petitioning parties in the above-discussed matter has also approached Mr. Paul about the possibility of serving as a witness in a separate anticipated challenge to the indirect flow of military exports from Canada to Israel through the United States. With respect to this challenge, Mr. Paul anticipates that he could inform the court about the complex U.S. regulatory frameworks surrounding the United States–Canada defense trade and the transfer by the United States to third countries of defense articles and services that include Canadian parts and components, the mechanisms that enable Canada to export military components and technology to Israel through the United States, and other technical matters relating to human rights vetting and U.S. "Third Party Transfer" requirements.

III. U.S. Sanctions Laws

On September 4, 2025, Secretary of State Marco Rubio designated Al-Haq and two other Palestinian human rights organizations pursuant to Executive Order 14,203, 90 Fed. Reg. 9369 (Feb. 12, 2025). OFAC then added those organizations to the SDN List. Executive Order 14,203 authorizes sanctions on foreign individuals and groups involved in the ICC's efforts to investigate, arrest, or prosecute certain "protected persons," including U.S. or Israeli citizens. The executive order relies on the International Emergency Economic Powers Act ("IEEPA"), which permits the President to impose economic and trade sanctions to address "unusual and extraordinary threat[s]" posed by national emergencies declared by the President.

OFAC implemented Executive Order 14,203 by promulgating the ICC-related sanctions regulations. *See* 31 C.F.R. § 528. These regulations prohibit "the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to [E.O. 14,203]," as well as "the receipt of any contribution or provision of funds, goods, or services from any such person." E.O. 14,203 §§ 2, 3, 90 Fed. Reg. at 9370;

*see*31 C.F.R. § 528.201(a). Neither OFAC's regulations nor IEEPA define the term "services," and they do not specify what it means to provide a service "by, to, or for the benefit" of a sanctioned entity.

For the reasons outlined below, Mr. Paul does not believe that serving as an expert witness as described would violate OFAC's ICC-related sanctions regulations, or that OFAC has the authority to prohibit Mr. Paul from testifying. Mr. Paul is nonetheless concerned that OFAC might consider his expert testimony to be the provision of a "service" to or for the benefit of a sanctioned entity. Indeed, the regulations purport to bar the provision of "services of any nature whatsoever," 31 C.F.R. § 528.314, and OFAC has not disclaimed the authority to restrict the activities Mr. Paul would like to engage in. Moreover, IEEPA provides for the imposition of serious civil and criminal penalties for violations of U.S. sanctions law, including significant fines and up to 20 years in prison. *See* 50 U.S.C. § 1705; *see also* 31 C.F.R. § 528.701–02 (citing 50 U.S.C. § 1705).

Mr. Paul believes that OFAC lacks the authority to prohibit him from testifying as an expert witness in the ways described above.

First, Mr. Paul's anticipated testimony is not a service "by, to, or for the benefit of" a sanctioned entity. Rather, his testimony would be given to and for the benefit of the court. His "overriding duty" would be "to assist the Court impartially on matters relevant to his or her area of expertise," and "to be independent and objective." *Federal Courts Rules*, SOR/98-106, sched. paras. 1–2 (Can.). He would not be "an advocate for a party." *Id.* para. 2.

Second, Mr. Paul's anticipated testimony falls within clear statutory and regulatory exemptions that were intended to protect the exchange of information and ideas. Mr. Paul's testimony involves the communication of his expert knowledge and opinion, and Congress has expressly forbidden the President from relying on IEEPA to regulate "personal communication" or "information or informational materials." 50 U.S.C. § 1702(b)(1), (3); *see also* 31 C.F.R. § 528.205(a) (incorporating these statutory exemptions into the ICC-related sanctions regulations).

Third, Mr. Paul's expert testimony is protected by the First Amendment, *see Holder v. Humanitarian L. Project*, 561 U.S. 1, 27 (2010) (treating the communication of expert knowledge and analysis as protected speech), and enforcing OFAC's sanctions regulations to prohibit it would not be sufficiently tailored to any legitimate government interest invoked to justify ICC sanctions. In fact, federal courts have recently held that applying the ICC sanctions restrictions to prohibit similar kinds of activity violates or likely violates the First Amendment. *See Rona v. Trump*, 797 F. Supp. 3d 278, 289–93 (S.D.N.Y. 2025) (relating to the provision of certain expert services, including the submission of amicus briefs in support of a sanctioned entity); *Smith v. Trump*, 791 F.

Supp. 3d 90, 94–95, 97–98 (D. Me. 2025) (relating to the provision of certain evidence and information to or for the benefit of a sanctioned entity); *see also Open Soc'y Just. Initiative v. Trump*, 510 F. Supp. 3d 198, 210 (S.D.N.Y. 2021) (finding a prior version of the ICC sanctions restrictions likely unconstitutional as applied to the provision of advice, training, research, and legal advocacy to or in support of a sanctioned entity).

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In light of the uncertainty around OFAC's interpretation of its sanctions authority and given the serious penalties for any violations, Mr. Paul seeks interpretive guidance confirming that he and others in his situation would not violate U.S. sanctions law by providing independent, expert testimony at the request of counsel representing a sanctioned entity, and by taking actions incident to serving as such a witness. We appreciate your prompt attention to this matter.

Sincerely,

/s/ Xiangnong Wang

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