

February 3, 2005: Recommendations for U.S. Government Actions in Reponse to the Designation of Saudi Arabia, Vietnam, and Eritrea as Countries of Particular Concern (CPCs).

February 3, 2005 Contact:

Anne Johnson, Director of Communications, (202) 523-3240, ext. 27 SAUDI ARABIA Recommendation 1. The U.S. government should determine those Saudi agencies, instrumentalities, and, in particular, specific officials thereof who are responsible for particularly severe violations of religious freedom. The Secretary of State and the Secretary of Homeland Security should vigorously enforce section 604 of IRFA with respect to Saudi Arabia, rendering inadmissible for entry into the United States any Saudi government official who was responsible for or directly carried out such violations. Section 604 of the International Religious Freedom Act of 1998 (IRFA) bars the entry into the United States of any alien who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom as defined in IRFA. IRFA section 402(b)(2) is a mechanism for identifying such individuals. In order appropriately to target Presidential actions in response to the designation of "countries of particular concern" (CPCs), section 402(b)(2) requires the President to seek to determine "the agency, or instrumentality...and the specific officials thereof" responsible for particularly severe violations of religious freedom engaged in or tolerated by governments of CPC countries. To date, the State Department has not included in its report to Congress on the CPC designations any list of officials or agencies responsible for particularly severe violations of religious freedom in Saudi Arabia as provided by section 402(b)(2). The Commission believes that identifying those responsible for egregious violations of religious freedom and then barring or canceling visas for travel to the United States is an appropriate commensurate action under IRFA. Such an action by the U.S. government holds political and other leaders publicly accountable for actions amounting to egregious violations of freedom of religion or belief. In addition, this response would be targeted, since it focuses attention and punitive action on government officials who carry out particularly severe religious freedom violations or who preside over areas of the government where the most severe abuses take place. Recommendation 2. The President should issue a proclamation, under his authority pursuant to section 212(f) of the Immigration and Nationality Act (8 USC 1182(f)), to bar those Saudi government officials from entering the United States who have been responsible for propagating globally an ideology that explicitly promotes hate and intolerance. Recommendation 3. The U.S. government should issue a demarche urging the government of Saudi Arabia to cease funding or other support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations, including the distribution of such materials in the United States and elsewhere outside of Saudi Arabia. Since the September 11, 2001 attacks, there has been a growing number of reports that funding coming from Saudi Arabia has been used to finance religious schools and other activities that are alleged to support Islamic militants and extremists throughout the world, including in the United States. The issue is not the propagation of Islam, but allegations that the Saudi government propagates globally a particular ideology that promotes abuses of human rights, including violent acts, against non-Muslims and disfavored Muslims. The U.S. government should be concerned when there are credible allegations that Saudi Arabia, which is itself a severe violator of religious freedom and other human rights, is engaging in activities that have a detrimental effect on the protection of human rights, including freedom of religion or belief, in foreign countries, including the United States. In light of these concerns, in May 2003 the Commission recommended that the U.S. government task experts to undertake a public study to determine whether, how, and the extent to which the Saudi government, individual members of the royal family, or Saudi-funded individuals or institutions are propagating globally, including in the United States, a religious ideology that explicitly promotes hate, intolerance, human rights violations, and, in some cases violence, toward members of other religious groups, both Muslim and non-Muslim. The full extent of the involvement of the government of Saudi Arabia in these funding activities is unclear, but some reports allege a direct involvement by organizations funded by the Saudi government or members of the Saudi royal family. Some private groups in the United States have found materials, funded by the government of Saudi Arabia, in U.S. mosques and private schools that contain inflammatory and inciteful content, including material that promotes hatred and intolerance of certain religious groups. The U.S. government has stated publicly that, since the May and November 2003 terrorist bombings in Riyadh, the Saudi government has been increasingly cooperative in the war on terror, particularly on terrorist financing issues. The U.S. should demand a similar kind of cooperation in the arena of Saudi funding for the propagation of this kind of ideology, which goes beyond the direct financing of terrorism. Therefore, the U.S. government must send an unequivocal message to the government of Saudi Arabia regarding the danger of these kinds of activities and request that the Saudis cease any direct or indirect support for written materials or other activities that explicitly promote hate, intolerance, and human rights violations. At the same time, and for the reasons discussed above, the U.S. government should act to prevent any Saudi government official who has been found to be responsible for these activities from entering the United States. The authority to take this action is contained in section 212(f) of the Immigration and Nationality Act, which empowers the President to declare certain individuals (or classes of individuals) inadmissible when their admission would be "detrimental to the interests of the United States." Recommendation 4. Pursuant to section 405(a)(13) of IRFA, the President should order the heads of appropriate U.S. agencies not to issue any specific licenses and not to grant any other specific authority for the export of any item on the United States Commerce Control List of dual-use items [Export Administration Regulations under part 774 of title 15] to any agency or instrumentality of the government of Saudi Arabia that is responsible for committing particularly severe violations of religious freedom. In FY 2004, the Commerce Department approved approximately \$67 million worth of articles for Saudi Arabia, including, for example, such items as thumbcuffs, leg irons, shackles, and other items that could be used to

perpetrate human rights violations. Once a country has been named a CPC, IRFA authorizes the President to direct the heads of the appropriate U.S. agencies not to issue any specific licenses to export certain goods or technology to any specific foreign government, agency, instrumentality, or official found to be responsible for particularly severe violations of religious freedom. The U.S. Department of Commerce maintains a Commerce Control List (CCL) pursuant to the Export Administration Act of 1979 that regulates the export and re-export of certain commercial items (i.e., commodities, software, and technology) known as "dual-use" items, so-called because they have both commercial and military or proliferation applications. Several categories of items on the CCL require a license for sale to foreign countries, in part because those items can be used to facilitate violations of human rights. Examples include: 1) items specially designed to be used for torture; 2) specific kinds of weapons, such as long-barreled shotguns; and 3) crime control and detection instruments and equipment and related technology software.[1] According to the Commerce Department, 157 export license applications were approved in FY 2004 for sales to Saudi Arabia, including some Saudi government entities, totaling approximately \$67 million worth of sales of items on the CCL. Included among the total licenses were those for the sale of thumbcuffs, leg irons, and shackles (totaling approximately \$450,000), and other articles that could be used to perpetrate human rights violations. The President should order the Commerce Department not to grant any license for sale of items on the CCL to any agency or instrumentality of the Saudi government found to be responsible for particularly severe violations of religious freedom. As discussed above, the State Department is responsible for identifying those agencies. Restricting licenses in this manner advances U.S. policy on human rights by demonstrating that the U.S. government will not facilitate or support the activities of those Saudi government agencies that are responsible for perpetrating egregious abuses of freedom of religion or belief. Export regulations for crime control and other items state that "The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses [and] distance the United States from such abuses"[2] Like the restrictions on travel to the United States discussed above, this action targets those in the Saudi government responsible for egregious violations, as they are identified by the State Department pursuant to IRFA, and represents a public acknowledgement that the extent and nature of violations of freedom of religion or belief in Saudi Arabia will have a measurable impact on the Saudi-U.S. bilateral relationship. Such an action is appropriate also in light of concerns that official Saudi support for the global propagation of an ideology that promotes hatred and violence undermines U.S. interests and that repression of the internationally recognized right to freedom of religion or belief of each individual in Saudi Arabia impedes reform and democratic development in that country. Targeting the restrictions in this way will not directly impede U.S.-Saudi cooperation in the war against terrorism.

VIETNAM Recommendation 1. The U.S. government should determine those Vietnamese agencies, instrumentalities, and, in particular, specific officials thereof who are responsible for particularly severe violations of religious freedom. The Secretary of State and the Secretary of Homeland Security should vigorously enforce section 604 of IRFA with respect to Vietnam, rendering inadmissible for entry into the United States any Vietnamese government official who was responsible for or directly carried out such violations. The Commission recommends that the Secretary of State pay particularly close attention to officials in those localities where most of the recent abuses of freedom of religion or belief, including arrests, detentions, harassment, and forced denunciations of faith, have occurred. These include the Party Chairman and other relevant officials from the provinces of Dak Lak, Gai Lai, Bien Phuoc, Dak Nong, Thua Thien, Binh Dinh, Lau Chau, Lao Cai, Ha Giang, and the cities of Hue and Ho Chi Minh City. As noted above, section 604 of IRFA bars the entry into the United States of any alien who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom as defined in IRFA. IRFA section 402(b)(2) is a mechanism for identifying such individuals. In order appropriately to target Presidential actions in response to designation of CPCs, section 402(b)(2) requires the President to seek to determine "the agency, or instrumentality...and the specific officials thereof" responsible for particularly severe violations of religious freedom engaged in or tolerated by governments of CPC countries. To date, the State Department has not included in its report to Congress on the CPC designations any list of officials or agencies responsible for particularly severe violations of religious freedom in Vietnam as provided by section 402(b)(2). Identifying those responsible for severe violations of religious freedom and then barring or canceling visas for travel to the United States is an appropriate commensurate action under IRFA. Such an action by the U.S. government holds political and other leaders publicly accountable for actions to restrict the international right to freedom of religion or belief. As described above, this response would also be targeted, since it focuses attention and punitive action on government agencies, ministers and their deputies, public security forces, party chairmen, or regional governors who carry out abuses of religious freedom or who preside over areas where the most severe abuses take place. Exceptions to any ban or denial of travel visas should be made for those individuals seeking entry on humanitarian grounds and for those traveling to the United States for the express and sole purpose of discussing human rights, including religious freedom, with U.S. government officials.

Recommendation 2. If any discretionary funds are allocated to Vietnam above its annual earmark, the U.S. government should dedicate no less than \$1 million for FY 2005 and FY 2006 to programs that will directly promote freedom of religion and belief and related human rights in Vietnam. In light of the Vietnamese government's poor human rights record, the Commission has in the past recommended a cap on non-humanitarian aid to Vietnam. Indeed, U.S. development assistance to Vietnam has seen a downward trend since 2001. Vietnam will receive a total of \$11.2 million in development assistance in 2005, a decrease from \$12.6 million in 2004. In FY 2004, \$6 million was tied to the President's Emergency Plan for HIV/AIDS relief, \$3 million to the STAR [Support for Trade and Agreement] program, including compliance with the U.S.-Vietnam Bilateral Trade Agreement, transparency, and commercial rule-of-law programs, and \$1 million to environmental support. In addition, \$1.2 million was earmarked for assistance to "vulnerable groups" in Vietnam. While not recommending an increase in non-humanitarian development aid to Vietnam above FY 2004 levels, the Commission believes that current aid priorities do not address the recognized human rights abuses perpetrated by that country's government. Thus, the Commission recommends that if non-humanitarian aid is increased

or any discretionary funds are allocated in FY 2005 or FY 2006, that a portion of such funds should be devoted to programs addressing violations of freedom of religion or belief and related human rights. Specifically, the Commission recommends prioritizing additional assistance, including job training, business and agricultural development, and educational opportunities, to vulnerable and minority groups in regions where the most egregious violations of religious freedom have taken place. This action would target assistance to groups harassed by the Vietnamese government, groups whose difficult economic situation is related to, in part, discrimination on the basis of religion and other violations of human rights. It should promote an international presence in otherwise isolated areas. It would also reflect the Vietnamese government's own stated goal of promoting economic development among its minority groups and remote regions. The Commission also recommends allocating funds for rule of law and other programs that directly advance freedom of religion or belief and related human rights in Vietnam. The STAR program already funds commercial rule of law programs, but the Commission is advocating new and innovative technical assistance programs to promote directly freedom of religion or belief and related human rights.

ERITREA Recommendation 1. The United States should engage in vigorous advocacy of religious freedom and other universal human rights at all levels of involvement with the government of Eritrea and should draw international attention to religious freedom abuses in Eritrea, including in multilateral fora such as the United Nations Commission on Human Rights. The Commission notes its disappointment that the government of Eritrea has not yet registered any of the religious groups whose places of worship were closed and public religious activities prohibited in 2002 pending compliance with registration requirements. The Commission has also continued to receive reports of the arrest and detention without charge of clergy and others engaged in the practice of their faith. The U.S. government must therefore intensify its diplomatic efforts to persuade the government of Eritrea to improve conditions for religious freedom in that country, including by conducting the registration process in a timely, nondiscriminatory, and transparent manner, permitting public worship pending registration, releasing all persons detained for their religious activities, and ending interference with private worship. Greater U.S. efforts are needed to focus international attention on the religious freedom situation in Eritrea. International awareness has been hampered by the lack of foreign media coverage of Eritrea and by the absence, due to government repression, of indigenous human rights organizations, a free press, or an open political opposition. Accordingly, the United States should thus make every effort to promote consideration of freedom of religion conditions in Eritrea at the international level, including in public fora such as the United Nations Commission on Human Rights. Similarly, the United States should strongly urge the government of Eritrea to invite a visit to Eritrea by the UN Special Rapporteur on Freedom of Religion or Belief. In addition, the United States should coordinate its efforts with those of like-minded countries. For example, the European Union has already included freedom of religion in its political dialogue with Eritrea.

Recommendation 2. The U.S. government should conduct a review of its development assistance to Eritrea with the aim of redirecting such assistance to programs that contribute directly to democracy, human rights, and the rule of law. Increases in other forms of development assistance should depend on measurable improvements in religious freedom. U.S. development assistance to Eritrea is being scaled down to approximately \$5 million a year, focused primarily on important health issues, including HIV/AIDS. Major programming of the U.S. Agency for International Development to promote democracy, the rule of law, and good governance came to an end with the outbreak of war between Eritrea and Ethiopia in 1998 and was not renewed, due to the subsequent crackdown on political dissent in Eritrea. An increase in development assistance for the promotion of democracy, human rights, and the rule of law would be an appropriate U.S. response to progress on religious freedom concerns, e.g., registration of some of the currently unregistered groups, release of religious prisoners, and a ceasing of interference with private worship. In addition, a return to higher levels of development assistance in other sectors should be contingent upon demonstrated improvement with respect to religious freedom and other basic human rights. These steps should not in any way constrain U.S. humanitarian assistance to Eritrea, including aid to combat HIV/AIDS.[1] See Parts 742.7 and 742.11 in the Export Administration Regulations, <http://www.access.gpo.gov/bis/ear/pdf/742.pdf>, accessed January 31, 2005. Part 742.7, Section (5)(b), states that "Applications for items controlled under this section will generally be considered favorably on a case-by-case basis unless there is civil disorder in the country or region or unless there is evidence that the government of the importing country may have violated internationally recognized human rights." [2] Export Administration Regulations, Part 742.7, Section (5)(b), page 11.

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