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“This is a Game”: A History of the Foreign Terrorist Organization and State Sponsors of Terrorism Lists and their Applications

By Melissa Sanford

Abstract: Following the post-September 11 United States reconfiguration of foreign policy, the use of the State Department’s Foreign Terrorist Organization (FTO) and State Sponsors of Terrorism (SST) lists and related news media coverage dramatically increased. Considering the gravity of such designations, both because of the potentially devastating economic ramifications in the form of sanctions and as negative P.R., it is imperative to examine the historical use and application of these lists. This paper seeks to help better determine the legitimacy of being designated on either of these lists through the analysis of two entities that have experienced listing: the Mujahedeen-e Khalq (MEK) and the country of Iraq. Examination of these two cases reveals the role of strategic relationships with the U.S. government in terrorism designations and exposes the reality that, in these particular instances, the FTO and SST have been wielded as mechanisms of U.S. foreign policy rather than applied as legitimate safeguards. In the context of current U.S.-Iran relations, and U.S. foreign policy as a whole, it is essential to better understand the validity of the U.S. State Department terrorism designation based on the history of the circumstances surrounding previous applications.

At the 2019 Munich Security Conference, a yearly forum held to discuss the world’s most urgent security issues, growing tensions
between Iran and the United States, which resulted from the U.S.’s unilateral pullout from the Joint Comprehensive Plan of Action (JCPOA), dominated much of the conversation. Iranian Foreign Minister Mohammad Javad Zarif made a statement to the conference wherein he pointed out the illegality of the United States’ withdrawal from the JCPOA, the U.S. role in increasing regional tensions and conflict, as well as the 40-year history of U.S. “demonization” of Iran. In the Q&A session following his speech, Zarif provided the example of the listing of Iran and the listing and delisting of Iraq and the MEK on the United States terrorism lists as central examples of the seemingly erratically applied terrorist designation:

In 1984, the United States removed Saddam Hussein from its terrorism list and put Iran on it’s the (sic) terrorism list. Again, in the 1990s, Saddam was again on the terrorism list in 1998 the United States put (the) MEK on the terrorism list, in 2012 they took them off the terrorism list. This is a game. This game needs to stop.¹

Considering the gravity of the terrorist designation as it undergirds the U.S. withdrawal from the JCPOA and the maximum pressure policy of the Trump administration, Zarif’s question regarding the logic of its application seems not only appropriate but arguably required. The listing and delisting of Iraq during and following the Iran-Iraq war (1980-1988), in which the United States provided military and intelligence support for Iraq, suggests that the designation may have indeed been used as an instrument of convenience. Additionally, the listing of Iran on the state sponsors of terrorism list in 1984 allowed for a simultaneous legitimization of sanctions applied to the country. Then, in 2013, the delisting of the MEK enabled the recognition and support of the opposition

¹ Iran’s Zarif grabs #MSC2019 spotlight (YouTube, February 17, 2019), https://www.youtube.com/watch?v=GLDXrAXRZdc.
group which openly advocates for the end of the legitimate government of Iran. Both lists give the impression through their names and through depictions in U.S. news media that they are reserved for the identification and punishment of terrorist actions, but Zarif’s example provides potential evidence to the contrary. Indeed, the designation of terrorist, terrorist organization, or state sponsor of terrorism, is used regularly in foreign policy. It is used to imply legitimacy or provide rationale to the application of sanctions and cooperation, or in the case of the Trump administration and the JCPOA, non-cooperation with international law. Therefore, a historical examination of Foreign Minister Zarif’s response is not only warranted but necessary. Moreover, are the U.S. State Department’s Foreign Terrorist Organization (FTO) and state sponsors of terrorism lists created to reflect actual terrorist threats or are they merely a foreign policy tool in a larger geo-political game played by the United States as posited by Zarif? In this paper, I will examine the history of these lists and their applications using the examples of Iran, Iraq, and the MEK as provided by Zarif’s response.

To achieve these goals, this paper will analyze Iranian Foreign Minister Javad Zarif’s statements made at the Munich Security Conference in order to determine if the United States has used the label of “terrorism” as it pertains to the FTO and SST lists to further hegemonic ambitions, a charge levied by critics. To provide the necessary context for this analysis, the paper first addresses the creation and intended use of the U.S. State Department state sponsors of terrorism and Foreign Terrorist Organizations (FTO) lists by identifying the legislation that created them, the history of their use, and the requirements for and the consequences of being listed and delisted by drawing from official State Department releases. The examples provided by Foreign Minister Zarif in Munich will then be individually pursued: the listing of Iraq as a state sponsor of terrorism in 1979, its 1982

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removal, and participation in the Iran-Iraq War with United States support, the listing of Iran in 1983, and subsequent relisting of Iraq in 1990 with the invasion of Kuwait. As per Zarif’s statement, an examination of the history of the Mujahedin-e Khalq (MEK) and its status on and off the FTO list will follow. Although, first, it is essential to introduce the current climate of U.S.-Iran relations.

Background

In January 2020, it appeared that open warfare between the United States and Iran was a very likely possibility. The January 4 assassination of General Qasem Soleimani, the leader of Iran’s Quds’s Force branch of Iranian Revolutionary Guards Corps (IRGC), by the U.S. and the subsequent promises of Iranian retribution, acted as the most recent catalyst. Relations have cycled between cautiously optimistic and bitterly hostile since the 1979 Iranian Revolution, the two nations are now experiencing an unprecedented era of antagonism and uncertainty. On May 18, 2018, President Trump announced that the United States would be unilaterally withdrawing from the Iran nuclear agreement, known as the Joint Comprehensive Plan of Action (JCPOA). This agreement was signed in 2015 by Iran and the five permanent members of the United Nations Security Council (the United States, France, the United Kingdom, China, and Russia) as well as Germany, known collectively as the P5 + 1. Widely considered to be a monumental achievement in international nonproliferation security architecture, the signing of the JCPOA had been described as an opportunity to “open the way to a new chapter in international relations” and “a sign of hope for the entire world.”

Having taken over two years of intense direct talks on top of twelve years of tension directly related to Iran’s development of civilian nuclear energy (which the United States contends had a

nuclear weapons adjunct), the motivation for the negotiation of the JCPOA was to allow Iran to escape the numerous sanctions applied to their economy, which had cost Iran $160 billion in oil revenue alone between 2012 and 2016, while ensuring the country did not develop nuclear weapon capabilities. This goal was to be accomplished through enrichment limits, international inspections, and monitoring. When the JCPOA was signed in 2015, the mood between Iran and the United States was cautiously hopeful as the United Nations Security Council Resolution 2231, which established the JCPOA as international law, called on all signatories to facilitate trade and commerce with Iran, which includes the United States. Such an arrangement was a major departure from the decades of sanctions and mutual vitriol since the Iranian Revolution in 1979. While Iran immediately and fully complied with all aspects of the agreement according to the International Atomic Energy Agency (IAEA), Iran was not able to enjoy the benefits associated with the agreement as President Obama refused to fully remove sanctions against the country as stipulated by the JCPOA. The Obama administration cited Iran’s alleged “support for terrorism and violations of human rights” as justification for keeping certain sanctions in place. While this decision dampened the newfound tone of U.S.-Iran cooperation


ushered in by the agreement, the potential for a new era of diplomacy did not fully come to an end until the unilateral withdrawal of the United States under the following presidential administration.

While on the campaign trail, then-presidential candidate Donald Trump regularly derided the still-landmark agreement and referred to it as “the worst deal ever.” Following Trump’s election in 2016, the incoming administration’s first National Security Advisor, Michael Flynn, made the vague threat of “officially putting Iran on notice” for their “support for terrorism,” among other alleged grievances. Verbal threats and accusations turned to policy implementation after continual changes in the new administration’s key foreign policy positions ultimately saw the appointment of neoconservative hawks and Iran hardliners, Secretary of State Mike Pompeo and National Security Advisor John Bolton. With these two long-time Iran critics and open advocates of “regime change” now at the helm of U.S. Middle East foreign policy, the relationship between the two nations managed to deteriorate further. In declaring the unilateral withdrawal of the United States from the JCPOA in May 2018, President Trump called the agreement “decaying and rotten structure … defective at its core” and cited Iran’s alleged support for terrorism, calling the country “the leading sponsor of terror.”

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8 “Regime change” is a term used to describe a goal of foreign policy that is aimed at removing an existing governing body and replacing it with an ostensibly more (open/cooperative) one. The United States has employed this policy at various points throughout the twentieth and twenty-first centuries, i.e.
9 “Donald Trump Says U.S. Will Leave ‘Decaying, Rotten’ Iran Nuclear Deal,” South China Morning Post, May 9, 2018, https://www.scmp.com/news/world/united-states-canada/article/2145246/trump-tells-frances-macron-us-will-withdraw-iran) It is important to note that President Trump made this decision despite the strong opposition of military advisors and several members of his own administration as well as European leaders of other signatory countries. Mark Landler, “Trump Abandons Iran Nuclear Deal He
withdrawal from the agreement, so too came the reinstatement of extraterritorial sanctions, meaning the application of sanctions on other countries doing business with Iran. This began the Trump administration’s “maximum pressure” campaign. As part of this campaign, Mike Pompeo laid out a twelve-point list of demands from Iran as conditions that need to be met to enter into a new nuclear deal with the United States. The twelve-points included extremely restrictive foreign policy, military, and nuclear power demands of the country while citing Iran’s alleged terror support: “providing the IAEA with unqualified access to all sites in the entire country, end its proliferation of ballistic missiles,” “end support to Middle East “terrorist” groups,” and “end the Islamic Revolutionary Guard corps-linked Quds Force’s support for “terrorist” and “militant” partners around the world.” Other elements of the Trump administration’s maximum pressure campaign have included a military build-up in the Persian Gulf and listing the Iranian Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization, which is the first time a nation’s military has been added to the U.S. State Department list.

The withdrawal of the United States from the JCPOA was largely met with global condemnation and considerable diplomatic efforts from the remaining signatories (China, Russia, and the “E3/EU-3” France, Britain, and Germany) to save the deal by continuing to uphold their commitments. The official Iranian policy following the U.S. withdrawal was one of “strategic patience” which called on Iran to maintain its original commitments for one year to allow the United States to rejoin the agreement and other signatories to uphold their commitments. As of May 2019, one year post-U.S. withdrawal from the deal, with no


sanctions relief from the United States in sight and no action taken by the E3 signatories to ameliorate Iran’s economic condition, Iran began to scale back its commitments as allowed by articles 26 and 36 of the JCPOA, which function as a failsafe for the signatories should the other parties not uphold their responsibilities as required by international law.\textsuperscript{11} Part of the effort to mitigate the fallout of the U.S. withdrawal from the JCPOA has been a massive diplomatic campaign. Chief in this undertaking has been Iranian Foreign Minister Mohammad Javad Zarif, an original architect of the JCPOA and Iran’s top diplomat, who has met with world leaders to call on signatories to uphold their commitments and urge the United States to rejoin the agreement.

**Foreign Terrorist Organization List (FTO) and State Sponsors of Terrorism (SST)**

The state sponsors of terrorism (SST)\textsuperscript{12} list, as described by the U.S. State Department is a list of countries that “have repeatedly provided support of international terrorism” and has been in perpetual use since its creation in 1979 under the Export Administration Act of 1979.\textsuperscript{13} The original list included Libya,


\textsuperscript{12} For the purposes of this paper, the acronym SST will be used when discussing the U.S. State Department list of state sponsors of terrorism. This acronym is not utilized in official documents.

\textsuperscript{13} “State Sponsors of Terrorism - United States Department of State,” U.S. Department of State (U.S. Department of State), accessed November 17, 2019, https://www.state.gov/state-sponsors-of-terrorism/) Note that the EAA’79 has been in a state of flux since its inception (including being repealed nearly in its entirety and essentially replaced with the Export Controls Act of 2018). Since 2001 sections of the EAA’79 have been renewed by executive order under the International Emergency Powers Act.

Iraq, South Yemen, and Syria. The U.S. Secretary of State is given jurisdiction to determine if a country in question has “repeatedly provided support for acts of international terrorism are designated pursuant to three laws: section 1254(c) of the Export Controls Act of 2018 (ECA), section 40 of the Arms Export Control Act (AECA), and section 620A of the Foreign Assistance Act (FAA).” There are currently four countries listed as state sponsors by the U.S. State Department: Syria, Iran, Sudan, and Democratic People’s Republic of Korea (North Korea). Only Iraq and North Korea have experienced periods off the list only to be relisted at a later time, the circumstances of which will be examined in more detail below.

The ECA, FAA, and the AECA not only form the legal basis for state sponsor of terrorism designation but also provide the conditions for delisting and allowances for presidential waivers. There are two possible pathways afforded by the three statues that allow for a country to be removed from the U.S. State Department’s SST list. The first stipulates that the President reports and certifies to congress that “(i) there has been a fundamental change in the leadership and policies of the government of the country concerned; (ii) that government is not supporting acts of international terrorism; and (iii) that government has provided assurances that it will not support acts of international terrorism in the future.” The second potential pathway is a certification to Congress 45 days prior to the proposed rescission that the government in question has not “provided any support for acts of international terrorism during the preceding 6-month period” and has assured that it will not in the future. The first

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14 “State Sponsors of Terrorism - United States Department of State.”
15 Syria (listed: 12/29/1979), Iran (1/19/1984), Sudan (8/12/1993) and Democratic People’s Republic of Korea (North Korea) (1988, relisted 11/20/2017).
option necessitates that the president inform a larger body of officials, including the House and Senate Committee on Foreign Affairs as stipulated by the ECA, whereas the FAA and AECA require reporting to only the Speaker of the House and the Foreign Relations Committee Chairperson.\textsuperscript{18} Congress is afforded the power through the AECA to block the delisting of a country through enacting a joint resolution during the 45-day period prior to rescission.\textsuperscript{19} In addition, each of the three statutes provides the President the authority to utilize waivers. These waivers allow the President to waive restrictions outlined in the three statutes that undergird the designation of state sponsor of terrorism. For instance, the President may use this waiver authority if they determine the transaction would be “essential to the national security interest of the United States.”\textsuperscript{20} Similarly, Congress can circumvent restrictions through the implementation of the language “notwithstanding any other provision of law” to annual appropriations.\textsuperscript{21} Therefore, both the Executive and Legislative branches have the ability to exercise their own prerogative to overlook the provisions laid out by the ECA, FAA, and AECA. In other words, countries may be removed from the “terrorist lists” for reasons having nothing to do with terrorism.

While the SST list applies to the state level, the U.S. State Department can target substate actors through the designation of Foreign Terrorist Organization. The Foreign Terrorist Organization (FTO) list was created from the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA), which was an amendment of the Immigration and Nationality Act, section 219.\textsuperscript{22} This amendment authorizes the Secretary of State to designate a group as a “foreign terrorist organization.” For such a determination to be made, these

\textsuperscript{18} Ibid.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid.
\textsuperscript{22} Congressional Research Service, \textit{The “FTO List” and Congress: Sanctioning Designated Foreign Terrorist Organizations}, by Audrey Kurth Cronin, Cong., 1-2.
three conditions, as defined by title 8 section 1189 of the United States Code, must be met:

1. It must be a foreign organization.
2. The organization must engage in terrorist activity, as defined in section 212 (a)(3)(B) of the INA (8 U.S.C. § 1182(a)(3)(B)), or terrorism, as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. § 2656f(d)(2)), or retain the capability and intent to engage in terrorist activity or terrorism.
3. The organization’s terrorist activity or terrorism must threaten the security of U.S. nationals or the national security (national defense, foreign relations, or the economic interests) of the United States.  

This determination is ultimately that of the Secretary of State and he or she may add an organization to the list at any time.  

Designations last for two years and are then subject to review and must be renewed for an organization to remain listed. Following the September 11, 2001 World Trade Center attacks, the act was amended through the U.S. Patriot Act, thereby increasing the scope of the designation to include “organizations engaged in terrorism and organizations retaining the capability and intent to engage in terrorist activity or terrorism” and allows for perpetual redesignations of an organization.  

Once on the list, an organization

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designation, as per section 219 of the Immigration and Nationality Act (INA), may be revoked “at any time...if the Secretary finds that – (i) the circumstances that were the basis for the designation have changed in such a manner as to warrant revocation; or (ii) the national security of the United States warrants a revocation.”

This allows for the Secretary of State to delist any organization at any time for reasons that may or may not have to do with terrorism, as Section 1189 defines “national security” as “the national defense, foreign relations or economic interests of the United States.”

Organizations and states that are listed on either the SST or FTO are subject to a number of legal ramifications. Designation as a state sponsor of terrorism results in the issuing of economic sanctions, which include “restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls of dual use items; and miscellaneous financial restrictions.” As noted above, there are allowances for Presidential waivers to be made, as well as language that Congress can implement to sidestep these restrictions. Importantly, sanctions are not limited to the designated country but can be extended to other countries that engage with designated state sponsors. For the FTO, as per Section 1189, these restrictions extend to “a person in the United States or subject to the jurisdiction of the United States to knowingly provide ‘material support or resources’” and is barred admission to the United


27 Ibid.

28 “State Sponsors of Terrorism - United States Department of State,” U.S. Department of State (U.S. Department of State), accessed November 17, 2019, https://www.state.gov/state-sponsors-of-terrorism/. Dual use goods are technology and software that have both civilian and military applications.

29 Examples of material support or resources include property, currency, services, training, weapons, personnel, transportation, and expert advice or assistance among other tangible and intangible resources “Foreign Terrorist..."
States. Additionally, any assets of the organization may be frozen and all financial transactions blocked. Regarding goals and intended effects of these ramifications, the U.S. State Department website explains, “FTO designations play a critical role in our fight against terrorism and are an effective means of curtailing support for terrorist activities and pressuring groups to get out of the terrorism business.”

In addition to the FTO and State Sponsor lists, Executive Order 13224, which was signed two weeks following the September 11 attacks, gives the Secretary of State and the Treasury authority to designate foreign individuals or entities as Specially Designated Global Terrorists (SDGTs). These individuals or entities are determined to “have committed, or pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.” On July 31, 2019, this designation had been extended to Mohammad Javad Zarif, blocking any property or finances he may have in the United States and severely limiting


his ability to travel to the U.S.\textsuperscript{35} Bearing this in mind, let us return to parse Zarif’s statement from the Munich Security Conference.

In 1984, the United States removed Saddam Hussein from its terrorism list and put Iran on its the (sic) terrorism list. Again, in the 1990s, Saddam was again on the terrorism list…

Iraq was among the original countries listed as a state sponsor of terrorism (SST) when the list was created in 1979. Its support for the Mujahedeen-e Khalq (MEK), Kurdistan Workers Party, Abu Nidal (ANO), the Palestinian Liberation Organization (PLO), and other Palestinian groups, are cited as the primary motivation for including Iraq on the original list.\textsuperscript{36} This listing was but one more step in the increasingly strained diplomatic relations between the U.S. and Iraq. Following the 1967 Arab-Israeli War, Iraq ended diplomatic relations with the United States because of U.S. support for Israel during the war. In the years that followed, Iraq and the Soviet Union forged closer ties, which included Soviet access to Iraqi naval and air bases and Soviet furnishing of arms to Iraq. With the Iranian Revolution in 1979 and the establishment of the Islamic Republic of Iran, the United States was faced with a new reality which necessitated a new strategic approach in the Middle East. The pursuit to build a new alliance resulted in renewed diplomatic ties with Iraq as evidenced by the 1983 delisting as an SST, military and intelligence support during the Iran-Iraq War, and facilitating the use of chemical weapons, a


\textsuperscript{36} Mark Phythian, \textit{Arming Iraq: How the U.S. and Britain Secretly Built Saddams War Machine} (Boston: Northeastern University Press, 1997), 11.
violation of international humanitarian law as reflected in the Geneva Conventions.37

Though exact numbers remain uncertain, it is estimated that there were more than one and a half million casualties that resulted from the Iran-Iraq War (1980-1988).38 The origins of this brutal eight-year conflict lay in disagreements concerning the 1975 Algiers Agreement, which was an endeavor to alleviate issues that fostered tensions in the years prior and in the fundamental differences in worldview between Saddam Hussein’s secular nationalist Ba’ath Party and Ayatollah Khomeini’s revolutionary universalist Shia Islam. The Iran-Iraq War was intended to be a short military operation as Saddam counted on post-revolutionary Iran to be in disarray, thereby allowing for an easy victory. Instead, Saddam’s forces were met with considerable strength. Ultimately, the war came to its close with the signing of a UN-sponsored cease-fire on August 20, 1988.39 The eight years of war changed nothing in terms of territorial borders and only served to strengthen the morale of the Islamic Republic, both of which were in opposition to Saddam’s intended goals, as well as those of the United States.

One element illuminated by this conflict was the willingness for the United States to supply Iraq, in the form of arms and intelligence, in the hopes of gaining a regional ally, preventing Soviet influence, and weakening the Islamic Republic, all of which were facilitated by and motivations for the delisting of Iraq as a SST. The desire for a new ally was born out of the strategic loss of Iran in 1978. Prior to the revolution, Iran was the most valuable and most cultivated ally in the region and, along with Saudi Arabia, was considered one of the “Twin Pillars” of

37 For an extensive archive of declassified documents detailing this U.S. role in supporting the Saddam Hussein regime during the 1980s see “Shaking Hands with Saddam” (GW National Security Archive).
U.S. Middle Eastern policy. The establishment of this relationship is detailed by Mark Gasiorowski, who examines the nature of the U.S.-Iran client-patron relationship. A client-patron, or client, relationship is one in which a patron country trades economic aid and security assistance to a smaller client country. In return for this aid, the client country acts as a regional policeman and provides joint military and intelligence operations, as well as allowing the placement of military bases. From the 1953 U.S.-backed coup, in which the CIA and MI6 successfully unseated Iranian Prime Minister Mossadegh, to the end of the Pahlavi Dynasty in 1978, the United States supplied Iran with economic and security aid in return for “regional stability.” Importantly, this client-patron relationship was instrumental in bringing about the Islamic Revolution. As a result of the Islamic Revolution, the United States lost the central pillar that made up the basis of the Twin Pillars strategy. The United States then looked to Iraq to take Iran’s place.

At the beginning of the Iran-Iraq War, the United States hoped for the two countries to weaken each other with essentially no victor (as evidenced in “allowing” Israel to supply Iran with arms (Iran-Contra). But by 1982, it was evident that Iran was more likely to prove successful in the conflict and thus U.S. support for Iraq became more overt. By delisting Iraq from the State Sponsors of Terrorism, the United States was able to legitimize U.S. support of Iraq through supplies, both economic and military, and to better facilitate a friendly relationship between the countries. Indeed, the desire to create such a relationship can be

41 Gasiorowski explains that U.S. support for the Shah of Iran created a highly autonomous state (meaning the state does not derive its power from the people of the country therefore it does not act accordingly in their interests) thereby facilitating the conditions which gave rise to the 1979 Islamic Revolution.
42 Iran Contra scandal in which the United States provided arms in return for hostage negotiations (Hostage Crisis), facilitated by Israel and used profits to fund the Nicaraguan Contras. See Peter Kornbluh and Malcolm Byrne, *The Iran Contra Scandal*. 

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seen immediately following the Iranian Revolution, as evidenced by comments made by the Carter administration’s National Security Adviser, Zbigniew Brzezinski, when he encouraged the United States to “compensate for the loss of its Iranian pillar by tilting toward Iraq” and argued that “we see no fundamental incompatibility of interests between the United States and Iraq. We do not feel that American Iraqi relations need to be frozen in antagonism.” While the United States did desire a new ally, the beginning of support for Iraq was more to do with preventing a clear victory. Had Iraq lost its war against Iran, Middle Eastern dynamics concerning the United States, its allies, and the region’s oil production would have completely changed. It was therefore argued that overt support for Iraq to prevent such a situation was necessary.

The solidification of U.S. support for Iraq came with the removal of the country from the SST list, though support was provided even prior to its removal. In a 1992 New York Times article, investigative journalist Seymour Hersh reported on evidence that the United States had been covertly supplying Iraq since at least 1982. Hersh describes how this support was in direct opposition to the publicized Reagan administration stance of neutrality on the Iran-Iraq War. The support provided to Iraq prior to its delisting closely resembles the forms of support provided later, taking on the form of intelligence sharing and the sale of American-made arms. Hersh provides a quote from a U.S. State official which succinctly describes the position of the United States’ support for Iraq, “it was agreed that the public policy of the Administration, to remain even-handed, was not in the national interest [but it was] decided that it was not in the national interest

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to publicly announce a change in the policy.”

By 1984, the United States was prepared to begin backing Iraq more directly, although it appears that the shift from a public appearance of neutrality to an overt backing still remained quiet. For example, the *New York Times* reported that “apparently without consulting Congress, the Administration has quietly dropped Iraq…from a list of countries barred from receiving American weapons because they 'have repeatedly supported act of international terrorism.'” The move to delist Iraq opened the door for the United States to provide even more economic and military aid.

The delisting of Iraq from the State Department list of nations sponsoring terrorism in 1983, under the Reagan administration, helped legitimize U.S. support for Iraq, in the form of supplying intelligence and arms and dual use technology sales, despite the fact that the United States was already providing prior support. By removing Iraq from the list, export controls were loosened, and an intelligence-sharing initiative was further fostered. With Iraq off the list, the U.S. was now eligible to provide financed export credits and direct sales of military and dual-use technology. As the war progressed, it became more apparent that the conflict would not result in an easy defeat of Iran, U.S. support for Iraq became increasingly more direct and came at a great price.

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48 Another example of the great cost at which U.S. support for Iraq came are the deaths of 37 U.S. servicemen aboard the intelligence gathering ship the USS Stark. They died as a result of being fired upon by an Iraqi helicopter who
Perhaps the best example of U.S. support of Iraq, and the profound cost at which it came, was the attempt to conceal the furnishing of helicopters used to deploy illegal chemical weapons. Immediately following the removal of Iraq from the state sponsors of terrorism list, the Reagan administration sold Iraq Hughes MD-500 Defender helicopters and Bell UH-1 helicopters.\textsuperscript{49} Though it was argued that these helicopters were specifically used for civilian purposes, these crafts can be easily weaponized for military purposes in a very short period of time. Former National Security Council official Howard Teicher admitted that the UH-1 helicopter “could be easily modified by the Iraqis to carry machine guns and transport troops.”\textsuperscript{50} The stated reason for the need for such helicopters was that they were required to spray crops, but it has since been argued that they were used to deploy chemical weapon attacks.\textsuperscript{51} The Reagan administration was aware of Saddam’s use of chemical weapons as Iran had been reporting the use of chemical warfare to the United Nations well before asking for a formal investigation in 1983. In a declassified 1983 State Department briefing on “Iraqi Illegal Use of Chemical Weapons (CW),” it was concluded that “Iraq had used domestically-produced lethal CW in its war with Iran. [redacted]. Such use violated the 1925 Geneva Protocol.”\textsuperscript{52} The briefing goes on to state that “Iraqi CW capability was developed in part through the unwitting and, in some cases, we believe with the assistance of a

\textsuperscript{49} Mark Phythian, \textit{Arming Iraq: How the U.S. and Britain Secretly Built Saddam’s War Machine} (Boston: Northeastern University Press, 1997), 37.
\textsuperscript{50} Ibid., 38.
number of Western firms.” On March 2, 1988, Iraq underwent its most extensive use of chemical weapons on the civilian Iraqi Kurdish population of Halabja, in which 5,000 people were killed. The lethal nerve agents sarin, mustard gas, and VX were dropped on the city’s population. Prior to the tragedy at Halabja, Iran had brought before the UN Security Council the issue of Iraq utilizing chemical weapons, including in 1984 when Iran brought before the UNSC the claim that CW had been used on 49 occasions, killing 12,000 and wounding 5,000 between 1981 and 1984. Each time, the United States either utilized its veto power to prevent the cases from being heard or paid very little attention to the claims.

The United States continued to support Iraq after the cease-fire that brought the Iran-Iraq War to an end on August 20, 1988. It would not be until the Iraqi invasion of neighboring U.S. ally Kuwait on August 2, 1990 that the U.S. again designated the country as a state sponsor of terrorism. Iraq was placed back on the SST list the following September, just weeks after the invasion, as the United States, under the George H.W. Bush administration, decided to intervene by leading Operation Desert Shield and

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54 “Genocide in Iraq: The Anfal Campaign Against the Kurds,” Human Rights Documents Online, July 1993, https://doi.org/10.1163/2210-7975_hrd-4502-0035. Thousands more have died since the attack as result of exposure to the nerve agents.
Storm.\textsuperscript{58} It is important to note that the support of the United States during and after the Iran-Iraq War led directly to the invasion of Kuwait, as Saddam felt that the U.S. would continue to back the country.\textsuperscript{59} The following years saw the enforcement of crippling sanctions on Iraq under the Clinton administration.\textsuperscript{60} Ultimately, Iraq was delisted again in 2004 following the 2003 U.S. invasion and the end of the Saddam regime. It is important to note that neither the delisting of Iraq in 1983 nor the relisting in 1990 had to do with the country supporting terrorism.

Shortly following Iraq’s delisting in late 1983, Iran was designated as an SST on January 19, 1984 where it remains to this day. In addition to the listing of Iran, so too came the implementation of Operation Staunch, which first launched in the Spring of 1983, which aimed to restrict arms to Iran.\textsuperscript{61} Iran’s position on the list has helped provide U.S. presidential administrations with justification for maintaining sanctions on the country in the subsequent decades. Indeed, President Obama cited this for maintaining certain sanctions post signing of the JCPOA in 2015.

Having explored the example of the circumstances surrounding the SST designation of Iran and Iraq, let us return to Zarif’s quote: “...1998 the United States put [the] MEK on the terrorism list, in 2012 they took them off the terrorism list.”

One of the opposition groups born out of the violent repression of dissident voices in the early 1960s under Shah

\textsuperscript{58} Operation Staunch was a worldwide campaign led by the United States to prevent the sale of arms to Iran during the Iran-Iraq War. This Operation was also concurrent with the events of the Iran-Contra Scandal.


\textsuperscript{61} Mark Phythian, \textit{Arming Iraq: How the U.S. and Britain Secretly Built Saddam’s War Machine} (Boston: Northeastern University Press, 1997), 53.
Mohammed Reza Pahlavi and the CIA/MOSSAD-trained state secret police force, SAVAK, was the Mujahedeen-e Khaql (MEK). The MEK partook in guerilla activities along with other groups that formed during this time of repression. These activities included a number of bombings, assassinations, and the attempted kidnapping of members of the royal family and U.S. personnel stationed in Iran. Despite the Shah’s violent repression, the MEK and related groups remained active underground, later reemerging in the lead up to and during the revolution. Following the 1979 Islamic Revolution, the MEK were denounced and exiled by Ayatollah Khomeini after the group sought to overthrow the new regime following disputes over the constitutional referendum. The organization then began a terror campaign in which 70 high ranking Iranian officials were killed through the bombing of the Prime Minister’s and Islamic Republic Party offices in 1981. These attacks then, in turn, resulted in targeting of the MEK by the new Iranian government and its supporters. As a result, MEK leadership, including the group’s leader Masoud Rajavi, fled to France. Following their expulsion from that country in 1981, they then established themselves in Iraq, where their military wing joined Saddam Hussein’s forces in the 1980-1988 Iran-Iraq War and supported the suppression of Shiites and Kurds during the first Gulf War. Additionally, the MEK have undertaken terror

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62 Also known as the People’s Mujahideen of Iran (PMOI), National Liberation Army of Iran (NLA), National Council of Resistance of Iran (NCRI) the organizations political wing, and the Cult of Rajavi.
64 Ervand Abrahamian, A History of Modern Iran (Cambridge: Cambridge University Press, 2018), 152.
66 “Camp Ashraf: Iraqi Obligations and State Department Accountability: Joint Hearing before the Subcommittee on Oversight and Investigations and the Subcommittee on the Middle East and South Asia of the Committee on Foreign
activities during the 1990s and early 2000s, targeting Iranian civilians and leadership. These included attacks on Iranian embassies and consular missions in thirteen countries, a bombing and mortar attack in Iran that killed fifteen people, attacks on the offices of the Supreme Leader and President, and the assassination of the deputy chief of the Iranian Armed Forces Brigadier General, Ali Sayyaad Shirazi.\(^67\)

Since the MEK’s falling out with the Supreme Leader Ayatollah Khomeini, the group has maintained a steadfast goal of overthrowing Iran’s government. A U.S. Federal Bureau of Investigation report on criminal investigations of the organization in 2004 describes this goal as “a romantic view of a utopian society in Iran run by the MEK. They have even set up a government made up of NLA and NCR members that will assume power when they, in their minds, ultimately, take control of Iran.”\(^68\) Indeed, the organization has “voted” Maryam Rajavi as president-in-exile with the intention of her assuming this role once the proposed overthrow takes place. It should be made clear that the MEK does not have any support within Iran where they are widely reviled, in part because of their support of Saddam in the Iran-Iraq War.

As per the 2011 State Department report on the MEK, “the group's worldwide campaign against the Iranian government uses propaganda and terrorism to achieve its objectives.”\(^69\) This


\(^68\) Federal Bureau of Investigation, U.S. Department of Justice, Mujahedin-e Khalq (MEK) Criminal Investigation (November 2004), 3.

includes a history of violence against U.S. citizens. Among these incidents are the 1972 bombing in the Tehran U.S. Information Service office, the 1973 assassination of the U.S. Military Mission chief, the 1976 assassination of two U.S. Military Assistance Advisory Group members and two U.S. citizens in Tehran. While the MEK denies its involvement, the U.S. State Department determined that, “MEK members participated in and supported the 1979 takeover of the U.S. Embassy in Tehran and that the MEK later argued against the early release of the American hostages. The MEK also provided personnel to guard and defend the site of the U.S. Embassy in Tehran following the takeover of the Embassy.”71 These are among the cited reasons for the original FTO designation of the MEK in 1997.72

Prior to the delisting in 2012, the MEK and the United States have had a convoluted relationship. In 2003, Saddam’s sheltering and support of the MEK, the sponsoring of a designated terrorist group, was cited among the motivations for the invasion of Iraq. Interestingly, in 2004, one year after the occupation of Iraq, then U.S. Secretary of Defense Donald Rumsfeld extended protected persons status under the Fourth Geneva Convention, thereby allowing for the U.S. to aid the group while it remained a designated FTO.73 In 2002, the NCRI, the political front of the MEK, held a press conference in which it revealed the alleged existence of two secret nuclear sites, as well as a laptop containing information on a secret Iranian nuclear arms facility that was given to the organization by a former nuclear scientist. These claims have since been found to be incorrect and vastly overstated.74

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70 Ibid.
71 Ibid.
72 It should be noted that in addition to these instances of terrorist acts that have directly harmed U.S. citizens it has been made clear that U.S. efforts to normalize relations with Iran under President Clinton in 1997 was also a motivation for the listing.
Then, in 2012, it was revealed by Seymour Hersh that the United States had been providing training to the MEK at a site in Nevada from 2004 to approximately 2007. This revelation demonstrates the U.S. violating its own sanctions placed on entities listed on the FTO which stipulates that it is illegal to aid or support a designated organization. This training also potentially implicates the United States in the assassinations of five Iranian nuclear scientists which took place between 2007 and 2012, which have been strongly linked to the MEK in cooperation with the Israeli secret service, Mossad. Finally, in 2009, Iraq required that the MEK leave the country and take up residence elsewhere or repatriate to Iran. The United States then aided the group in resettling in Albania where they are based currently. Throughout this period, United States policy makers and politicians received money from the MEK in exchange for speaking engagements including John Bolton, who would later be instrumental in the U.S. leaving the JCPOA.

A U.S. Treasury Department investigation in 2012 found that prominent U.S. officials had been receiving monetary compensation for speaking engagements made on behalf of the MEK. Among those who have accepted payment are former Pennsylvania Governor Ed Rendell, ex-FBI Director Louis Freeh, former Vermont Governor Howard Dean, former New York City Mayor and personal lawyer to President Trump, Rudy Giuliani, and former United Nations Ambassador and National Security advisor John Bolton. Similar paid speaking engagements have continued into 2018 with Giuliani and Bolton still among the speakers. During one of these rallies, in February 2018, John

75 Seymour M. Hersh, “Our Men in Iran?” *The New Yorker* (June 18, 2017), https://www.newyorker.com/news/news-desk/our-men-in-iran) Hersh explains that the training took place at the Department of Energy’s Nevada National Security Site, a former testing area for nuclear weapons. It is here that the group received training in “communications, cryptography, small-unit tactics, and weaponry.”

76 Ibid.

Bolton declared to the gathering, “the declared policy of the United States should be the overthrow of the mullahs’ regime in Tehran…And that’s why, before 2019, we here will celebrate in Tehran!” The compensation for speaking at these MEK engagements, wherein promises of making regime change in Iran come true are central, ranges between $15,000-$30,000. Although, now that the MEK are no longer a designated FTO, such an action is no longer in violation of the statutes that undergird it but considering the fact that the group still maintains an Iranian regime change goal and the official foreign policy towards the country is one of maximum pressure, the motivations surrounding the delisting should be examined.

The decision to remove the MEK from the Foreign Terrorist Organizations list came in 2012, following an extensive lobbying effort from the group with U.S. supporters citing concern for the group’s safety as motivation for removal. Daniel Benjamin, former State Department counterterrorism director who worked closely on the delisting effort states “I supported the delisting for the simple reason that it was a humanitarian necessity. It was humanitarian to prevent them from getting slaughtered, and not because they had become a peaceful group, or the United States believed they were completely without a nefarious design. Would the MEK have been delisted absent the situation in Iraq? I don’t [think] there’s any question they would not have been.” The decision came under Hillary Clinton, then-acting Secretary of State under President Barack Obama. Among those who lobbied and supported the delisting were “R. James Woolsey and Porter J.

Goss, former C.I.A. directors; Louis J. Freeh, the former F.B.I. director; President George W. Bush’s homeland security secretary, Tom Ridge, and attorney general, Michael B. Mukasey; and President Obama’s first national security adviser, Gen. James L. Jones.”

What is noteworthy about this list of individuals is that they are not representatives of humanitarian groups, nor have they been known to champion humanitarian causes. Therefore, suspicion regarding their lobbying in support of delisting the MEK for humanitarian reasons is arguably justified.

“…this is a game. This game needs to stop.”

Having used Mohammad Javad Zarif’s quote as a starting point for examining the U.S. State Department Foreign Terrorist Organizations and state sponsors of terrorism list, what insight into the use of these lists have we learned? The U.S. State Department maintains the Foreign Terrorist Organizations and the state sponsors of terrorism lists for the stated purpose of identifying, maligning, and deterring terrorist activity. The legislation that undergirds these lists employ language that defines these activities while leaving room for interpretation based on national interests, allowing for the sitting administration to apply designations based on foreign policy interests. This results in the application of these lists to ostensibly vary from administration-to-administration and their corresponding foreign policy agendas. Additionally, there are instances in the history of these lists wherein a country or organization’s designation on or off the list is made irrespective of terrorism. Foreign policy motivations that are not concerned with managing terrorism include removal from the SST to enable support for a strategic ally as seen in the case of delisting. Also, these motivations can be seen in the listing and subsequent sanctioning of a revolutionary state not aligned with the United States.

States in the case of listing Iran. As well, the delisting to facilitate support for a cult-like group that has a history of killing U.S. citizens in the case of the MEK.

Since the stated goal of these lists is to deter and prevent terrorist activity it is understandable for an observer to conclude that the motivation for the listing or delisting of a country or organization to one of these lists is grounded firmly in terrorism. What we have seen from the above examples is that there are more factors at work than the matter of terrorist actions and or support.\(^82\) If it were the case that these lists were used strictly for monitoring and sanctioning as punishment for engaging in or supporting terrorism, then it could be concluded that designated countries and organizations pose a danger to the United States and the resulting sanctions placed on them are legitimate. Similarly, other countries who have demonstrated blatant support for terrorist groups would be included among the state sponsors list. Saudi Arabia presents a plain example of a country that should, by all accounts, be designated as a state sponsor. It was concluded in the 9/11 Commission Report that fifteen of the nineteen hijackers responsible for the September 11 attacks on the World Trade Center and Pentagon were from Saudi Arabia. Additionally, Osama bin Laden, the once head of the al-Qaeda terrorist organization, was born in Saudi Arabia and maintained ties within the country. Indeed, the Saudi royal family has been found to have supported al-Qaeda and other linked groups.\(^83\) Yet, this

\(^82\) The country of North Korea also provides another potential example of this. The country’s status on the SST was used essentially as a bargaining chip during the Six-Party Talks in 2008. After being delisted for nine years, North Korea was again designated in 2017 by what President Donald Trump described as a tactic for “complete denuclearization” of the country. Although, it should be noted that potentially terrorist activity did take place in 2017 with an alleged assassination. More examination into the motivations for the listing of North Korea should be examined.

development yielded no designation or application of sanctions and Saudi Arabia remains one of the largest buyers of U.S. weapons.

The conclusion that is obvious from this study of the use and history of the U.S. State Department’s FTO and SST lists is that Zarif is correct in his description, this is indeed a game. As illustrated in the examples provided in this paper, this game is played not with safety and diplomacy in mind, but rather it is played to serve the interests of the United States, whatever they may be, under a given administration. And while this may be the case, it is unlikely for this game to stop, as these lists have proven to be useful foreign policy tools used to legitimate sanctions, the maligning of non-U.S. aligned nations, and support for groups and countries that uphold U.S. interests. As such, it is imperative for world citizens and observers of United States foreign policy to bear in mind these historical examples when countries, organizations, and individuals are placed on or removed from these lists as these determinations appear to be made more in line with foreign policy machinations rather than as a legitimate and consistent safeguard.
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“This is a Game”

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