EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN FRIENDS SERVICE COMMITTEE, CENTER FOR CONSTITUTIONAL RIGHTS, HUMAN RIGHTS WATCH, and OPEN SOCIETY INSTITUTE, Plaintiffs, v. DONALD J. TRUMP, in his official capacity as President of the United States; UNITED STATES DEPARTMENT OF STATE; MARCO A. RUBIO, in his official capacity as Secretary of State; UNITED STATES DEPARTMENT OF THE TREASURY; SCOTT K. H. BESSENT, in his official capacity as Secretary of the Treasury; UNITED STATES DEPARTMENT OF JUSTICE; TODD BLANCHE, in his official capacity as Attorney General; OFFICE OF FOREIGN ASSETS CONTROL; and BRADLEY T. SMITH, in his official capacity as Director of the Office of Foreign Assets Control, Defendants.	Civil Action No. 26-cv-6830-JMF

BRIEF OF FORMER SENIOR GOVERNMENT OFFICIALS WITH EXPERTISE IN SANCTIONS POLICY AND ADMINISTRATION AS AMICI CURIAE IN SUPPORT OF PLAINTIFFS

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INTEREST OF *AMICI CURIAE*

Amici curiae are former senior officials of the United States Departments of State and Treasury who collectively bring decades of experience in the establishment, implementation, and enforcement of U.S. economic sanctions programs under the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701–1706, and other legal authorities.[1]

Jim O'Brien was confirmed by the Senate as the Head of the Office of Sanctions Coordination at the State Department in 2022. He also served as Assistant Secretary of State for European and Eurasian Affairs, presidential envoy for hostage affairs, and presidential envoy for the Balkans. As a career employee of the State Department under Presidents Bush and Clinton, he worked as senior adviser to the Secretary of State, principal deputy for policy planning, adviser to the U.S. Permanent Representative to the United Nations, and attorney-adviser, where he played a role in the establishment of the ad hoc international tribunals for the former Yugoslavia and Rwanda.

Justyna Gudzowska is an expert on sanctions, corruption, terrorism financing, and money laundering. She is currently the Executive Director of The Sentry, an investigative and policy organization that seeks to expose and disrupt actors profiting from conflict, corruption, and natural resource exploitation. Justyna formerly worked as an attorney at Morgan Stanley, overseeing the firm's implementation of sanctions. From 2013 to 2018, she worked for the United Nations, advising the Security Council on countering global terrorist groups and devising innovative means to combat terrorist financing. Before that, she was a legal advisor to the Office

[1] *Amici's* current affiliations are provided for informational purposes only. The opinions *amici* present are offered in their personal capacities.

of Foreign Assets Control (OFAC) at the Department of the Treasury, where she worked on a variety of sanctions programs, including sanctions against Iran.

Laura Ferris served for a decade as an assistant united states attorney prosecuting and supervising a range of criminal cases. She joined the Department of the Treasury in 2015, serving as legal advisor to OFAC and later as Assistant Chief Counsel for the Financial Crimes Enforcement Network (FinCEN). At FinCEN, she also served as Chief of Staff and Special Advisor to the Director. Ms. Ferris currently works for The Sentry as Director of Programs, leading investigative and policy work related to illicit finance in the context of conflict, corruption and natural resources exploitation.

Peter Chessick has spent the last 20 years working on legal and policy issues related to the imposition and implementation of economic sanctions. For nearly twelve years, he advised and represented OFAC as a member of the Office of the Chief Counsel (Foreign Assets Control). There, he worked with Treasury, interagency colleagues, and the legislative branch to craft new sanctions programs targeting threats to the United States, including international corruption and human rights abuses, attacks on democracy and democratic countries, and North Korea. In addition, he advised OFAC in relation to enforcement, licensing, targeting, and policy matters, in particular with respect to Global Magnitsky, North Korea, Ukraine-/Russia-related, and Syria sanctions programs, among others.

Brad Brooks-Rubin has more than two decades' experience in crafting sanctions programs and advising on sanctions matters in and out of government. He served as a Senior Advisor in the Office of Sanctions Coordination at the State Department, an attorney-advisor for the Office of the Chief Counsel (Foreign Assets Control) at the Treasury, and in several roles in the private and nonprofit sectors focused on sanctions and responsible business.

Throughout their government service under administrations of both parties, *amici* were responsible for crafting, administering, and defending sanctions regimes addressing clear threats to U.S. national security and foreign policy. They write to offer the Court the benefit of their professional experience regarding the purpose, history, and longstanding practice of IEEPA-based sanctions, and to explain why Executive Order 14203, Imposing Sanctions on the International Criminal Court, 90 Fed. Reg. 9369 (Feb. 6, 2025) ("the Order") represents an unprecedented and dangerous departure from that practice in excess of the authority Congress conferred.

INTRODUCTION AND SUMMARY OF ARGUMENT

Across administrations of both parties, U.S. economic sanctions programs have treated IEEPA sanctions as an instrument necessary to address *bona fide* threats to the national security, foreign policy, or economy of the United States. Consistent with stated Congressional intent in enacting the statute, and the statute's own language, presidents have invoked IEEPA to establish U.S. sanctions programs to combat clear and present threats, such as hostage-taking, terrorism, nuclear proliferation, narcotics trafficking, corruption, kleptocracy, war crimes, human-rights abuses, and acts of geopolitical aggression or destabilization. This historical record could not contrast more sharply with the use of IEEPA authority to impose sanctions targeting the ordinary work of the International Criminal Court ("ICC"), which was established to hold to account perpetrators of the gravest crimes – crimes that are of concern to the United States itself as well as the rest of the international community. Indeed, the targets of the sanctions program created by the Order seek to promote accountability for persons who commit atrocities that the United States itself targets through other sanctions programs and criminally prosecutes here at home.

The Order has been used to date to target ICC judges, prosecutors, and officials; a United Nations Special Rapporteur; and human rights organizations on the stated basis of their participation in, or support for, specified ICC-related investigations and prosecutions. The designations thus reach actors performing or supporting international treaty-based accountability functions, rather than conduct that is, on its face, violent, corrupt, repressive, or destabilizing.

In the collective judgment of *amici*, the Order exceeds the scope and purpose of IEEPA, which was enacted as a post-Watergate constraint on the exercise of presidential emergency power, not an open-ended delegation. IEEPA's substantive limits on presidential authority—including the requirements of a genuine "unusual and extraordinary threat" and a nexus between the exercise of authority and the declared emergency—must be treated as enforceable, not merely precatory. Executive branch practice and policy statements over the years, taken together, reflect this understanding through the recurring invocation of IEEPA authority to address manifest malign conduct and to disrupt sanctions targets in a manner that causes a reduction in the capabilities of targets to engage in malign behavior. The ICC sanctions depart fundamentally from that orientation by targeting the lawful operations of a treaty-based international judicial institution broadly supported by U.S. partners and allies, the international community as a whole, and—in many specific instances—by the United States government itself, rather than conduct that is verifiably corrupt, violent, repressive, destabilizing, or otherwise threatening. This aberration in use of sanctions threatens the long-term integrity and effectiveness of the entire U.S. sanctions architecture, a critical U.S. foreign policy tool that *amici* spent their careers building.

ARGUMENT

I. IEEPA WAS ENACTED AS A CONSTRAINT ON PRESIDENTIAL EMERGENCY AUTHORITY, NOT AN EXPANSION OF IT

IEEPA's origins are critical to understanding its limits. The statute was born from Congress's determination that the Trading With the Enemy Act of 1917 ("TWEA") had evolved into a "one-way ratchet" that "enhance[d] greatly the President's discretionary authority over foreign policy." *Regan v. Wald*, 468 U.S. 222, 245 (1984) (Blackmun, J., dissenting). TWEA originally granted sweeping wartime economic powers; over time, however, presidents extended those powers to peacetime situations and allowed emergency declarations to linger long after the triggering circumstances had dissipated. *See* *United States v. Amirnazmi*, 645 F.3d 564, 572 (3d Cir. 2011).

In 1977, as part of a package of post-Watergate reforms, Congress restricted TWEA's use to times of war and enacted IEEPA to govern peacetime emergencies. *Id.* As the Third Circuit explained, Congress designed the statute to confer powers that were both substantively and procedurally constrained relative to those provided under TWEA. *See* *id.* President Carter, upon signing the bill, described IEEPA as a "largely procedural" statute that, if anything, "place[d] additional constraints on use of the President's emergency economic powers in future national emergencies[.]" Statement of President Carter on Signing H.R. 7738 Into Law (Dec. 28, 1977).

IEEPA's constraints are substantive, not cosmetic. The president may invoke IEEPA's authorities only after declaring a national emergency under the National Emergencies Act to address "any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States[.]" 50 U.S.C. § 1701(a) (emphasis added). Historically, "unusual and extraordinary threats" have included "grave acts of terrorism and threats of terrorism," the "proliferation of chemical and biological weapons," and foreign crises that include human rights abuses, violence, and corruption. *See, e.g.*, Exec. Order No. 13,884, Blocking Property of the Government of Venezuela, 84 Fed. Reg. 38,843 (Aug. 5, 2019); Exec. Order No. 13,883, Administration of Proliferation Sanctions and Amendment of Executive Order 12851, 84 Fed. Reg. 38,113 (Aug. 1, 2019); Exec. Order No. 13,692, Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela, 80 Fed. Reg. 12,747 (Mar. 8, 2015); Exec. Order No. 13,224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (Sept. 23, 2001); Exec. Order No. 12,735, Chemical and Biological Weapons Proliferation, 55 Fed. Reg. 48,587 (Nov. 16, 1990). Moreover, IEEPA's authorities, once invoked, "may only be exercised to deal with" the declared threat. 50 U.S.C. § 1701(b). The statute further requires congressional consultation "in every possible instance" before the executive exercises its authorities and periodic congressional reporting and review. *Id.* § 1703(a)–(c). And Congress expressly carved out international travel, personal communications, and trade in informational materials from the scope of permissible presidential action. *Id.* § 1702(b).

Courts have recognized that these limits are judicially enforceable. In *Vassiliades v. Rubio*, 792 F. Supp. 3d 1 (D.D.C. 2025), the court squarely held that a claim alleging the executive exceeded its statutory authority under IEEPA is reviewable, reasoning that "IEEPA meaningfully constrains the President's discretion" and that statutory claims are not rendered nonjusticiable by the political-question doctrine merely because they arise in the foreign affairs context. *Id.* at 11–19. Similarly, the Second Circuit has found that "the authorities delegated [by IEEPA] are defined and limited." *United States v. Dhafir*, 461 F.3d 211, 217 (2d Cir. 2006). And the Supreme Court itself has cautioned that even where IEEPA confers "broad authority," that authority operates within the bounds Congress established. *See* *Learning Resources, Inc. v. Trump*, 607 U.S. 229, 248 (2026); *Dames & Moore v. Regan*, 453 U.S. 654, 677–78 (1981).

The "to deal with" a threat language of Section 1701(b) is the statute's core purpose limitation. As the *Vassiliades* court explained, IEEPA "focuses on the purpose of the exercised authority, not its effectiveness." 792 F. Supp. 3d at 15. That limitation means the president's sanctions powers may be employed only for the purpose of addressing the identified threat, not for any collateral purpose the executive might contemplate.

Here, the government contends that an "unusual and extraordinary" threat arises from lawyers and judges performing their functions at the ICC under a treaty – and from the human rights advocates supporting that work. The sanctions at issue "deal with" that threat by pressuring the court's judges and prosecutors to act contrary to their legal and ethical responsibilities, and to chill the efforts of non-governmental organizations and a United Nations Special Rapporteur to advocate for international accountability efforts. We posit that this is a misuse of sanctions.

II. FOR NEARLY FIVE DECADES, SANCTIONS PRACTICE HAS TARGETED VERIFIABLE THREATS AND THREATENING CONDUCT

Beyond the limitations in IEEPA's text, the executive branch's own practice and stated policy frameworks over nearly five decades illuminate the statute's intended scope. Since President Carter first invoked IEEPA in 1979 to respond to the Iranian hostage crisis, administrations of both parties have used its authorities for a range of foreign policy and national security purposes. The relevant continuity is not that every program was identical or uniformly effective; it is that sanctions policy has repeatedly been oriented toward defined threats such as terrorism, and a path toward improved behavior or a reduction in the capabilities to engage in malign conduct. This is what IEEPA, by its terms, may be used to target and has been used to target.

Across administrations, national emergency declarations underlying IEEPA sanctions programs have included: the seizure of American hostages by a foreign state (Iran, 1979); acts of international terrorism (multiple programs beginning in the 1980s and expanded after September 11, 2001); acts of armed aggression (Iraq's invasion of Kuwait, 1990; Russia's invasion of Ukraine, 2014 and 2022); nuclear and ballistic-missile proliferation (Iran, North Korea);

international narcotics trafficking (Colombia, Mexico, and transnational organizations); corruption and kleptocracy (multiple regimes); mass atrocities and serious human rights abuses (Burma, Syria, the Balkans); and the destabilization of previously democratic governments (Venezuela, Belarus). *See generally* U.S. Dep't of the Treasury, *The Treasury 2021 Sanctions Review* at 1–4 (Oct. 2021) ("Treasury Sanctions Review"); *see also*, *e.g.*, Exec. Order No. 12,543, Prohibiting Trade and Certain Transactions Involving Libya, 51 Fed. Reg. 875 (Jan. 7, 1986); Exec. Order No. 12,947, Prohibiting Transactions With Terrorists Who Threaten To Disrupt the Middle East Peace Process, 60 Fed. Reg. 5,079 (Jan. 23, 1995); Exec. Order No. 13,224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support, 66 Fed. Reg. 49,079 (Sept. 23, 2001).

These examples illustrate a consistent commitment to an underlying principle: sanctions are deployed to respond to threats to the national security, foreign policy, and economy of the United States: that is, conduct that the United States—and in most instances, the international community—regards as manifestly threatening, dangerous, deadly, or unlawful, and sanctions are tied to genuinely positive objectives: *e.g.*, ending support for violence, stopping weapons of mass destruction proliferation, curtailing corruption, reducing instability, or changing the conduct that presents an identified threat. In other words, they are tailored to respond to and address unusual and extraordinary threats. The Treasury Sanctions Review made the point expressly: "[e]conomic and financial sanctions should be tied to clear, discrete objectives" such as "countering forces that fuel regional conflict, ending support to a specific violent organization or other malign and/or illicit activities, stopping the persecution of a minority group, curtailing nuclear proliferation activities, enhancing multilateral pressure, or ceasing specific instances of atrocities." *Id.* at 4.

III. THE ICC SANCTIONS DEPART RADICALLY FROM THE HISTORICAL PURPOSE AND USE OF IEEPA

In sharp contrast, the ICC sanctions are intended to *disrupt* lawful, treaty-based adjudicative functions broadly supported by the international community and intended to promote accountability for atrocity crimes. The stated bases for the designation of ICC judges, lawyers, a United Nations Special Rapporteur, and human rights organizations under the Order is their participation in or support for specific investigations, arrest-warrant decisions, or prosecutions that the current administration does not support. These designations are not based upon a finding that the targets engaged in corruption, repression, or violence. Rather, the sanctioned judges and lawyers have been designated for performing core functions in cases that the Rome Statute, to which 125 States are party, places within the ICC's jurisdiction. Even more remarkably, the human rights organizations were designated simply (and vaguely) for their support of certain of the court's proceedings. And a United Nations Special Rapporteur was designated for her engagement with and advocacy before the court.

The disparity between the genuinely unusual and extraordinary threats underlying historical sanctions programs and the purported threat at issue here is glaring and perverse: on the one hand are sanctions directed at malign actors engaged in conduct that poses a direct threat to U.S. foreign policy and national security; on the other hand are sanctions directed at individuals supporting a treaty-based tribunal responsible for accountability for genocide, war crimes, crimes against humanity, and aggression. In short, sanctions have aimed historically at mitigating verifiably threatening activities, while the ICC sanctions were implemented to impede treaty-based judicial functions – ones focused on accountability for alleged atrocity crimes – and to stifle civil society support for proceedings to which the United States objects, even though the crimes the ICC pursues are, indeed, the very types of crimes that the United States, time and again, has considered antithetical to U.S. foreign policy and national security.

As such, the Order breaks from established practice in ways that cannot be reconciled with IEEPA's text, history, or purpose. The executive is free to object to ICC jurisdiction in specific cases and to use novel foreign policy tools to achieve its goals; however, the sanctions here are directed at individuals carrying out their duties at a treaty-based international tribunal seeking to promote accountability and deterrence for atrocity crimes, and at civil society organizations supporting the court's work. Application of sanctions in this way perverts the traditional purpose and use of sanctions to achieve the foreign policy aims of the United States.

The declared emergency in the Order differs sharply from the paradigmatic emergencies described above. The Order declares a national emergency with respect to "any effort by the ICC to investigate, arrest, detain, or prosecute" certain U.S. and allied nationals. Exec. Order No. 14203, 90 Fed. Reg. 9369. The administration's stated objective is to protect U.S. and allied personnel from proceedings to which their governments have not consented; Secretary of State Marco Rubio has described the campaign as opposing what he called the ICC's "assault on state sovereignty." *See* Press Statement, Marco Rubio, Sec'y of State, U.S. Dep't of State, Advancing the United States 'Campaign to Address the Threat Posed by the International Criminal Court (Aug. 18, 2026). At the same time, the Order itself says that "[t]he United States remains committed to accountability and to the peaceful cultivation of international order." Exec. Order No. 14203, 90 Fed. Reg. 9369.

Amici do not ask the Court to assess the wisdom of the administration's objection to ICC jurisdiction or how it intersects with the court's principle of complementarity codified in Article 17 of the Rome Statute. *See* Rome Statute of the International Criminal Court art. 17, July 17, 1998, 2187 U.N.T.S. 90 (setting forth inadmissibility standards for cases in which a State with jurisdiction is willing and able to genuinely investigate or prosecute). Instead, *amici* focus on the lack of an unusual and extraordinary threat. The ICC is a treaty-based international court with judicial safeguards and 125 States Parties, many of them critical U.S. allies and likeminded partners. The United States has also supported some ICC accountability efforts in other situations. *See Id.*, arts. 5-21; Compl. ¶¶ 79–100. The Order nevertheless identifies the lawful exercise of jurisdiction by the ICC, based upon its underlying treaty's terms, as an extraordinary threat and directs sanctions at ICC judges and prosecutors and at human rights organizations for providing information and other support to the ICC's proceedings. Unlike the paradigmatic sanctions programs described above, the Order does not target corruption, repression, terrorism, destabilization, or other facially threatening conduct by the designated officials.

Moreover, the sanctions do not "deal with" a cognizable threat within IEEPA's meaning. Traditional sanctions policy is not measured solely by whether a measure inflicts financial pain. A narcotics trafficker can stop trafficking; a proliferator can cease providing weapons technology; a corrupt official can disgorge stolen assets; a corporate actor can cease doing business in a proscribed jurisdiction. Those examples illustrate the traditional application of sanctions to address conduct that is threatening to U.S. national security or foreign policy goals. By contrast, the ICC judges and lawyers have been designated under the Order for carrying out ordinary judicial functions. Whatever objective the Order seeks to advance, its use of sanctions authorities is uniquely perverse because it targets individuals for performing ordinary judicial tasks, rather than for engaging in conduct that sanctions programs have historically sought to deter, constrain, or disrupt. Instead of leveraging financial pressure to compel lawful and peaceful conduct, the ICC sanctions inflict immense financial harm on individuals involved in legitimate court functions to compel them to make decisions that are contrary to their professional duties under a treaty and are instead informed by their economic interests. This is, of course, contrary to what OFAC and the State Department represent in their standard press releases: "The ultimate goal of sanctions is not to punish, but to bring about a positive change in behavior." *See, e.g.*, Press Release, U.S. Dep't of the Treasury, Iran's Access to UAE Banks Targeted Under Operation Economic Outcast (Aug. 28, 2026). The desired change in behavior here is simply, and perversely, for court officials to cease to perform their functions when it comes to specific proceedings, or for the advocacy community to cease to support such proceedings. Also, the ICC's governing framework already provides mechanisms through which states and affected parties may challenge the court's jurisdiction. *See* Rome Statute of the International Criminal Court art. 19, July 17, 1998, 2187 U.N.T.S. 90. The existence of those procedures further underscores that the sanctions are directed not at encouraging participation in established legal processes, but at stifling specific proceedings that the United States does not support.

With respect to human rights groups' advocacy efforts, the Order specifically chills lawful expressive activity. In *Rona v. Trump*, this Court permanently enjoined enforcement of the Order against law professors whose academic and advisory activities involved the ICC, holding that the Order imposed a content-based restriction that could not survive strict scrutiny because it "unnecessarily circumscribe[d]" protected expression. 797 F. Supp. 3d 278, 292 (S.D.N.Y. 2025). In reaching that conclusion, *Rona* drew on the 2021 opinion in *Open Society Justice Initiative v. Trump*, which had preliminarily enjoined enforcement of IEEPA's penalty provisions against similar activities under a 2020 ICC sanctions order, Executive Order 13928. *See id.* at 282–84; *Open Soc'y Just. Initiative v. Trump*, 510 F. Supp. 3d 198, 211–17 (S.D.N.Y. 2021). With respect to the 2020 order, the Court noted that the restrictions "prohibit[ed] or chill[ed] significantly more speech than even Defendants seem[ed] to believe [wa]s necessary" to induce designated ICC officials to desist from investigating U.S. and allied personnel. *Id.* at 212. The Complaint here alleges comparable effects under the Order: lawyers, human-rights researchers, and humanitarian organizations have abandoned or reconsidered work involving designated officials and groups. *See* Compl. ¶¶ 212–266. Those burdens are particularly significant because IEEPA expressly exempts personal communications, international travel, and trade in informational materials from the president's emergency powers. 50 U.S.C. § 1702(b)(1)–(3). The chilling effects identified with respect to the First Amendment in *Rona* and *Open Society* implicate also the statutory limitations Congress incorporated into IEEPA.

The IEEPA tariff cases recently decided by the Supreme Court underscore that statutory breadth is not statutory boundlessness. In *Learning Resources, Inc. v. Trump*, the Supreme Court rejected a historically unprecedented effort to transform IEEPA into a source of tariff authority, emphasizing that neither the statute's broad terms nor the executive's foreign affairs powers permit the president to exercise powers Congress did not confer. 607 U.S. 229, 248 (2026); *see also* Peter E. Harrell, *The Limits of IEEPA*, 48 Fordham Int'l L.J. 1043, 1053–55 (2025). And as *Vassiliades* recognized, even a delegation of "broad discretion" remains subject to judicially enforceable statutory limits. 792 F. Supp. 3d at 15. That principle applies with equal force here. The Order does not merely apply a settled sanctions authority to a new target; it repurposes IEEPA to attack individuals who pose no threat whatsoever to the U.S. national security, foreign policy, or economy, and who in fact work to support stated goals of U.S. foreign policy. Nothing in IEEPA's text, history, or nearly five decades of implementation supports the declaration of an "unusual and extraordinary" threat or the use of the greatest powers that the U.S. president has short of going to war to punish judicial officers for performing ordinary adjudicative functions. The executive may oppose the ICC through the diplomatic and statutory means available to it, but to declare certain of the ICC's functions an "unusual and extraordinary threat" that must be dealt with by sanctioning judges, prosecutors, and others clearly acting within the scope of a treaty is wholly inconsistent with the history and purpose of IEEPA. Like the tariffs invalidated in *Learning Resources*, the ICC sanctions are not simply novel, they exceed the boundaries of Congressionally delegated IEEPA authority.

IV. THE ICC SANCTIONS UNDERMINE THE CREDIBILITY AND EFFECTIVENESS OF U.S. SANCTIONS

Amici write not only because the ICC sanctions depart from decades of policy and practice, but because that departure poses a serious threat to the integrity and effectiveness of the U.S. sanctions architecture, a critical foreign policy tool, and to U.S. international credibility more broadly. This threat includes the diversion of limited government and private-sector resources from addressing actual threats to the United States, undermining the financial infrastructure on which sanctions leverage depends, and erosion of the allied cooperation that gives U.S. sanctions their force.

Sanctions effectiveness and credibility depend on disciplined use to address legitimate, serious threats. Secretary of the Treasury Scott Bessent's recent sanctions modernization initiative recognizes this principle: sanctions should be "targeted" and focus on "the most high-risk and complex threats," and success should be measured by "effect, impact, and national security benefit—not just . . . the number of names Treasury places on a list." Press Release, U.S. Dep't of the Treasury, Treasury Begins Sanctions Modernization Effort by Removing Outdated Entries (May 28, 2026). Secretary Bessent's statements echo the Treasury Sanctions Review, which emphasized the importance of a structured policy framework and rigorous impact assessment for the use of sanctions. *See* Treasury Sanctions Review.

This principle has practical corollaries. The U.S. government has finite sanctions investigative and implementation resources, and capacity devoted to designations of international judges, prosecutors, and human rights organizations is capacity diverted from addressing threats from key adversaries and malign actors. Likewise, private sector firms must prioritize resources to comply with U.S. sanctions; ICC sanctions only increase that burden in conflict with Bessent's concern that "businesses [are] often forced to expend significant resources to screen for low-risk matches . . . at the expense of focusing on high-risk, sophisticated sanctions evasion schemes." Press Release, U.S. Dep't of the Treasury, Treasury Begins Sanctions Modernization Effort by Removing Outdated Entries (May 28, 2026).

The misuse of sanctions also carries long-term systemic economic risks and costs that sanctions policymakers have long acknowledged and sought to minimize. The Treasury Sanctions Review described the "formidable strength of, and trust in, the U.S. financial system and currency," and preserved a caution from former Treasury Secretary Steven Mnuchin about the potential impact of sanctions use on the role of the U.S. dollar as the global reserve currency. *See* Treasury Sanctions Review at 1–2. That caution is directly relevant here: Using sanctions outside the stated purpose and limitations of IEEPA authority undermines global confidence that U.S. financial sanctions will be restricted only for identifiable, high-risk conduct and accelerates incentives for foreign actors to use alternative currencies and financial channels. Accordingly, the ICC sanctions could contribute to a reduction in both U.S. economic influence and visibility into cross-border financial transactions. For example, the Order drives allied institutions toward non-U.S. technology and service providers not prohibited from serving sanctioned parties, diminishing the commercial reach of U.S. firms. *See* Coalition for the Int'l Criminal Court, Criminalising Accountability at 32-33 (2026). Further, if sanctions are perceived as instruments of political retaliation rather than targeted responses to legitimate national and global security threats, financial institutions and other firms may de-risk more broadly, cutting off legitimate economic activity and relationships that extend well beyond the intended targets of the sanctions.

These costs are compounded by the damage of ICC sanctions to allied cooperation. As described in the Treasury Sanctions Review, "[s]anctions are most effective when coordinated…with allies and partners who can magnify economic and political impact." Treasury Sanctions Review at 5. The ICC program presents a diametrically opposite approach: U.S. sanctions against a multilateral judicial body that close allies support generate divisions with the very countries whose alignment is most critical to the highest-priority U.S. and multilateral sanctions programs. The ICC has 125 States Parties, many of them U.S. allies and security partners, including in the North Atlantic Treaty Organization (NATO), the Australia-United Kingdom-United States (AUKUS) partnership, and Five Eyes. Indeed, many nationals of those States work for or with the ICC, and nationals of several of the United States' closest allies, including the United Kingdom, Canada, Japan, and France, have been designated under the Order. *See* Compl. ¶¶ 53, 154, 165, 176. Moreover, allied government officials who comply with their own treaty obligations to cooperate with ICC investigations and execute arrest warrants risk sanctions exposure under the Order—placing U.S. sanctions law in direct conflict with the legal obligations of U.S. allies and further alienating them. Unsurprisingly, the ICC sanctions program has drawn objections from close allies, and the European Union has considered invoking its blocking statute to prohibit EU persons from complying with the ICC sanctions. *See* Stéphanie Maupas, *EU contemplates using 'blocking statute' in response to Trump sanctions against ICC*, LE MONDE (Apr. 23, 2026).

This glaring conflict places allied institutions and firms in a bind between U.S. sanctions law and their own legal obligations, making complementary implementation harder rather than easier. Banks in allied countries are also compelled to de-bank designated individuals—including respected jurists and civil society leaders—or risk losing access to the U.S. financial system, effectively forcing those institutions to cut off their own law-abiding citizens from basic financial services. These consequences can reasonably be expected to reduce the cooperation of allies and partners that the United States needs to address actual threats effectively. And, conversely, the government's use of sanctions against an internationally supported institution carrying out its treaty-based functions establishes a harmful precent for U.S. adversaries to do the same against U.S. and multilateral institutions that the United States supports.

The Order also places pressure on the safeguards that make sanctions workable and legitimate. Congress included in IEEPA specific limitations on the president's power to prohibit personal communications, international travel, and trade in informational materials. 50 U.S.C. §1702(b)(1)–(3). Those provisions reflect Congress's judgment that sanctions must coexist with protected forms of speech and expression. A sanctions program that burdens judicial and expressive activity risks eroding the statutory safeguards and public legitimacy on which effective sanctions depend.

Amici do not suggest that the United States must accept the ICC's exercise of jurisdiction over U.S. nationals. The executive retains a range of diplomatic, legal, and procedural avenues to contest ICC proceedings, including mechanisms set forth in the Rome Statute itself. But there is a vast difference between diplomatic opposition to the ICC's jurisdiction, consistent with shared and U.S. accepted principals of international law and deploying the nation's most powerful economic-coercion tool against judges and prosecutors working in, and civil society advocates for, a legitimate international court. The latter is a marked departure from established U.S. stated policy and practice to use sanctions only to address clear objectives and genuinely malign or high-risk conduct and, in the professional judgment of *amici*, exceeds what Congress authorized.

CONCLUSION

For the foregoing reasons, *amici* respectfully urge the Court to conclude that the ICC sanctions imposed under the Order exceed the scope and purpose of IEEPA's delegation of emergency authority and to grant Plaintiffs' motion for a preliminary injunction.

Dated: September 23, 2026

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CERTIFICATE OF WORD COUNT

I hereby certify that the word count of this amicus brief complies with the word limits of Local Civil Rule 7.1 and the Individual Rules and Practices of Judge Jesse M. Furman. According to the word-processing system used to prepare this brief, the total word count for all printed text exclusive of the material omitted under Rule 7.1 is 5187 words.

Dated: September 23, 2026

/s/ Joshua Colangelo-Bryan
Joshua Colangelo-Bryan