

Over the longer term, the Administration remains committed to fundamental reform of the U.S. export control system, including the consolidation of export licensing functions under a single control agency and the creation of a single export control list.⁷

U.S. Department of State Issues Detroit-Windsor Bridge Permit, Continues Deliberations on Keystone XL Pipeline

The functions of the U.S. Department of State include issuing permits for international bridges, pipelines, and other structures crossing U.S. international boundaries with Canada and Mexico. In April 2013, the department issued a permit to the state of Michigan authorizing construction of another major international bridge across the Detroit River and connecting Detroit, Michigan, and Windsor, Ontario.¹ Bridge construction will be funded by Canada under the terms of a June 2012 agreement between Michigan Governor Rick Snyder and Canada's minister of transport.² The department's announcement follows:

Today the Department of State issued a Presidential Permit to the State of Michigan for the construction, connection, operation, and maintenance of a bridge linking Detroit, Michigan, and Windsor, Ontario.

Under Executive Order 11423, as amended, the Secretary of State may issue a Presidential permit for an international border crossing after finding that such a crossing will serve the national interest. After a thorough review of the Presidential Permit application for the New International Trade Crossing (NITC) that the Department of State received on June 21, 2012, and taking into account the public and inter-agency comments received on the matter, the Department of State determined that the issuance of a Presidential Permit for the NITC would serve the national interest. The Presidential Permit will be published in the Federal Register in the near future.

Consistent with the bilateral Beyond the Border Initiative, this permit contributes to ensuring that our border infrastructure supports increased competitiveness, job creation, and broad-based prosperity in the United States and Canada. The NITC will help to meet future capacity requirements in a critical travel corridor, promote cross-border trade and commerce, and advance our vital bilateral relationship with Canada.³

The private owner of the existing Ambassador Bridge between Detroit and Windsor has filed multiple lawsuits seeking to block the new bridge. The bridge ownership company contends that it has an "exclusive franchise right" to operate a bridge between the two cities pursuant to

⁷ U.S. Dep't of State Press Release No. 2013/0418, Export Control Reform: First Final Rules Mark Major Milestone (Apr. 16, 2013), at <http://www.state.gov/r/pa/prs/ps/2013/04/207597.htm>.

¹ *New Windsor-Detroit Bridge Gets Obama's OK*, CBCNEWS, Apr. 12, 2013, at <http://www.cbc.ca/news/canada/windsor/story/2013/04/12/wdr-dric-presidential-permit-windsor-detroit-rick-snyder-michigan.html>; Todd Spangler, *U.S. Grants Michigan Permit to Build 2nd Detroit-Canada Bridge*, DETROIT FREE PRESS, Apr. 12, 2013, at <http://www.freep.com/article/20130412/NEWS06/130412021>; Al Kamen, *A Motown Bridge, but Where's the Chorus?*, WASH. POST, Apr. 16, 2013, at A15.

² Governor Rick Snyder Press Release, *New International Trade Crossing Agreement to Bring Jobs, Economic Security, Easier Travel* (June 15, 2012), at <http://www.michigan.gov/snyder/0,4668,7-277-57577-280608--,00.html>; John Gallagher, *What's Next for New Bridge Between Detroit, Windsor? Land Acquisition*, DETROIT FREE PRESS, Apr. 12, 2013, at <http://www.freep.com/article/20130412/BUSINESS/304120161/Moroun-bridge-NITC>.

³ U.S. Dep't of State Press Release No. 2013/0402, *Issuance of Presidential Permit for New International Trade Crossing* (Apr. 12, 2013), at <http://www.state.gov/r/pa/prs/ps/2013/04/207424.htm>.

1921 U.S. and Canadian legislation authorizing the private bridge and that the State Department's presidential permit process is unconstitutional.⁴

Proposed Keystone Pipeline. Meanwhile, the Department of State continues deliberations on an application for a permit authorizing the proposed Keystone XL Pipeline to cross the international boundary with Canada.⁵ The proposed pipeline is intended to carry heavy crude from tar sands developments in Alberta to refineries on the U.S. Gulf Coast.⁶ In April 2013, the department conducted a public hearing in Grand Island, Nebraska, to receive comments on the project and the draft supplemental environmental impact statement (EIS) intended to assess its impacts.⁷ The hearing drew a crowd of nearly one thousand persons, including many opposed to the project on environmental grounds.⁸ Shortly after the hearing, the U.S. Environmental Protection Agency wrote to the Department of State sharply criticizing the draft EIS for underestimating the climate change effects of tar sands development⁹ and questioning the draft's assessment that tar sands development will continue even if the pipeline is not built.¹⁰

USE OF FORCE AND ARMS CONTROL

President Obama Outlines Shifts in U.S. Counterterrorism Policy

In a major address at the U.S. National Defense University in May 2013,¹ President Barack Obama discussed multiple aspects of U.S. counterterrorism policy. Obama outlined a shift away from the concept of a "global war on terror" to more proportional and nuanced policies in several areas. In general terms, he outlined policies aimed at limiting the use of drone strikes; the number of such strikes has reportedly declined sharply since peaking at about 120 in 2010.² Obama also lifted a ban on the transfer to Yemen of Yemeni Guantánamo detainees previously cleared for release and called for lifting statutory provisions effectively requiring continued

⁴ *New Windsor-Detroit Bridge*, *supra* note 1; Spangler, *supra* note 1; Gallagher, *supra* note 2.

⁵ Juliet Eilperin & Steven Mufson, *Opposing Sides Muster Arguments on Keystone*, WASH. POST, Jan. 18, 2013, at A14; John M. Broder, *Governor of Nebraska Backs Route for Pipeline*, N.Y. TIMES, Jan. 23, 2013, at A11; Steven Mufson & Anne Gearan, *Kerry Suggests Action Is Near on Proposed Keystone XL Pipeline*, WASH. POST, Feb. 9, 2013, at A14; John M. Broder, Clifford Krauss & Ian Austen, *Obama Faces Risks in Pipeline Decision*, N.Y. TIMES, Feb. 18, 2013, at B1.

⁶ See John R. Crook, *Contemporary Practice of the United States*, 105 AJIL 568, 610 (2011), 106 AJIL 360, 374 (2012) & 106 AJIL 643, 683 (2012).

⁷ U.S. Dep't of State Press Release No. 2013/0346, *Public Meeting in Grand Island, Nebraska on the Proposed Keystone XL Pipeline* (Mar. 27, 2013), at <http://www.state.gov/r/pa/prs/ps/2013/03/206724.htm>.

⁸ Dan Frosch, *Keystone Pipeline Foes Vent in Nebraska*, N.Y. TIMES, Apr. 19, 2013, at A12; Lenny Bernstein, *U.S. Hosts Hearing on Keystone*, WASH. POST, Apr. 19, 2013, at A19.

⁹ Juliet Eilperin & Steven Mufson, *State Dept. Says Keystone XL Would Have Little Effect on Climate Change*, WASH. POST, Mar. 2, 2013, at A2.

¹⁰ John M. Broder, *State Department Criticized by E.P.A. on Pipeline Report*, N.Y. TIMES, Apr. 23, 2013, at A15; Lenny Bernstein & Juliet Eilperin, *EPA Wants State to Rework Analysis of Keystone XL Oil Pipeline*, WASH. POST, Apr. 23, 2013, at A18; Editorial, *E.P.A.'s Keystone Report Card*, N.Y. TIMES, Apr. 27, 2013, at A18.

¹ See White House Press Release, *Fact Sheet: The President's May 23 Speech on Counterterrorism* (May 23, 2013), at <http://www.whitehouse.gov/the-press-office/2013/05/23/fact-sheet-president-s-may-23-speech-counterterrorism>.

² Scott Shane, *Debate Aside, Drone Strikes Drop Sharply*, N.Y. TIMES, May 22, 2013, at A1.