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# MINIMIZING POTENTIAL THREATS FROM IRAN: ASSESSING THE EFFECTIVENESS OF CURRENT U.S. SANCTIONS ON IRAN

## HEARING

BEFORE THE

## COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

OVERSIGHT OF IRAN POLICY INCLUDING EFFORTS TO ISOLATE AND CONTAIN IRAN ECONOMICALLY; TO ASSESS PROGRESS, AND TO STRENGTHEN THESE EFFORTS WHILE CONSIDERING ADDITIONAL DIPLOMATIC, ECONOMIC, POLITICAL AND OTHER STEPS TO ENGAGE THE INTERNATIONAL COMMUNITY MORE EFFECTIVELY IN EFFORTS TO PROMPT IRAN'S LEADERS TO RECONSIDER THEIR REPORTED NUCLEAR AMBITIONS, THEIR SUPPORT FOR TERRORISM, AND THEIR CONTINUING OPPOSITION TO THE MIDDLE EAST PEACE PROCESS

WEDNESDAY, MARCH 21, 2007

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# MINIMIZING POTENTIAL THREATS FROM IRAN: ASSESSING THE EFFECTIVENESS OF CURRENT U.S. SANCTIONS ON IRAN

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**WEDNESDAY, MARCH 21, 2007**

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
*Washington, DC.*

The Committee met at 9:05 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Christopher J. Dodd (Chairman of the Committee) presiding.

## OPENING STATEMENT OF CHAIRMAN CHRISTOPHER J. DODD

Chairman DODD. The Committee will come to order.

Before I begin the hearing this morning, I want to make a point, if I can. I have talked to my Chairman, my fellow chairman, the former chairman, Senator Shelby, about this issue as well very briefly here this morning.

For many years this Committee and most committees here have had the policy of having witnesses submit their testimony at least 24 hours before a hearing. The reason for this, in fact you can make a case that actually it should be 48, but at least 24, so that when we sit down to have these conversations that we call hearings between the executive and legislative branches, there is an opportunity for the members here to be familiar with what the testimony will be so that we can have a good deep discussion about the issues in front of us.

I know that the witnesses here this morning understand this. They are professionals and have been through this on many, many occasions. And yet I regret that, despite knowing this, the Department of Treasury submitted its testimony yesterday, late yesterday, as I understand it. And Secretary Burns of the State Department's testimony arrived about an hour ago or 2 hours ago here. That is just unacceptable. We have got to have this stuff earlier.

I do not know whether members will be here or not but part of what I suspect is that their staffs have not had a chance to look at this, brief their members about it. When we come in here, it just does not lend itself to a very productive session where you have the opportunity to get a clear understanding of where—because I know that time is spent, and I think this haring was noticed about 2 weeks ago. Sometimes hearings are noticed earlier than that, I realize that, with 10 days. But nonetheless, this is a very, very important hearing involving a very critical issue. And it is an issue

that comes up all the time among our constituents and others, the subject of Iran and what our policies are going to be.

So I would urge the departments here not to let this happen again under my stewardship here. I just do not accept it. And I am being relatively mild about it today but it just does not help me at all do a good job from this side of the dais if I do not have that information ahead of time. So please do not let that happen again, if I can.

Let me welcome all of you here this morning. Secretary Burns, Under Secretary Levey, and Secretary Foulon. Am I pronouncing that correctly?

Mr. FOULON. Yes, sir

Chairman DODD. I want to thank you for joining us here today.

Let me lay out some of the ground rules here how we will proceed here this morning, if we can. Secretary Burns has a meeting later this morning I have been told—we were noticed about this early enough, that you have a meeting with the President later this morning. And I do not want to be disruptive of your schedule or the President's schedule.

So I am going to propose that Senator Shelby and I make openings statements here this morning. We do not have other members here yet but I am going to ask them to defer, should they show up, to make any opening comments until their round occurs during the questioning period. And then we are going to begin, if we can, with Secretary Burns. We will finish that round with you, sir, in order you to allow then to make your schedule later this morning, then we will move very directly to our other witnesses, as well.

I recognize that responses to certain foreign policy related questions have to be tightly coordinated by the agencies represented here, and I presume that has been the case. So this arrangement means that once Secretary Burns leaves, some of the questions related directly to the States' role in all of this will have to probably be submitted in writing. And we will certainly leave the record open for several days so that you have a chance to do that so we can have full record and response from the Department of State regarding that.

What that in mind let me begin. I will make some brief opening comments and then I will turn to Senator Shelby.

The purpose of today's hearing is to assist the Congress and the American people to try and understand and make a judgment about the Administration's policies toward Iran. The Administration has publicly stated, appropriately in my view, that Iran's leaders must—and I think I have these correct—scale back its nuclear ambitions, reverse its support for destabilizing and terrorism-related activity in Iraq and throughout the region, mitigate its opposition to the Middle East peace process, and stop efforts to undermine the legitimate government in Lebanon. I share those publicly stated aspirations.

The issue, obviously, before us is how do we get from here to there? What steps do we take to try and effectuate the goals that I have just enumerated?

This morning the Committee will receive testimony from key Administration officials charged with implementing U.S. policy with respect to Iran to determine whether current policies are likely to

achieve satisfactory policy results or whether additional measures should be taken by the Administration and/or by the Congress to achieve those policy goals.

It is well-known that there are currently many laws on the books providing authority to the Treasury Department, the Commerce Department, the State Department, and other Federal agencies and financial regulators to undertake steps to increase economic pressures on Iran including by threatening or imposing sanctions on foreign firms supporting Iranian activities, tightening export and re-export controls, accelerating Treasury's current campaign to press U.S. and foreign private sector entities, including business and banks, not to deal with the government of Iran and taking other similar steps.

I support the Administration's efforts to engage systematically the private sector, including businesses and banks, in efforts to economically isolate and pressure Iran.

Having said that, I fear that a larger coherent Administration strategy and vision is lacking in this regard. As Members of Congress, we cannot ignore the ongoing public debate as to whether critical dialog, calibrated economic pressure, and constructive engagement with Iran could bear fruit or whether the wisest policy is one of containment, sanctions, and ultimately regime change.

There has been a similar debate with respect to our policies toward North Korea, I might add.

I would hope that our witnesses this morning would play a constructive role in that ongoing debate with respect to our U.S. policy toward Iran. U.S. economic sanctions are a critical component of our policy toward Iran, as they have been for some time in this and previous administrations.

But sanctions alone, in my view, are not sufficient. They must be used as effective leverage undertaken as part of a coherent, coordinated, comprehensive diplomatic and political strategy which tips the scale such that it is more beneficial for Iran to forswear its nuclear weapons ambitions and other behavior that is undermining regional peace and stability.

I do not know if a strict policy of coercion and sanctions will be enough eventually to bring about a more responsible Iranian government. But I do know that strong international reaction against the Iranian president's disgusting declarations about the Holocaust and Israel's right to exist, the public rebuke of a president by the supreme leader for his reckless posturing on Iran's nuclear ambitions, the president's parties weak showing in recent local elections, and other similar recent developments offer reasons for hope. Hope that if we work more intensively with our allies we might be able to identify and engage with Iran's more moderate leadership inside and outside of current government that could eventually be persuaded to step back from its nuclear ambitions.

But all of our strategic partners, including the Europeans, the Russians, the Chinese, the Indians, and moderate Arab states throughout the Middle East must agree on an approach that will take sustained diplomatic work to achieve.

Recent U.S. diplomatic political efforts to develop such a unified front against Iran are coming very late in the game. It was very unfortunate, in my view, that European efforts to secure agree-

ments with the more moderate Khatami government were not encouraged or supported by the Administration at a time when the United States international leverage was decidedly greater than it is today.

Moreover, comments by Administration officials hinting at the possibility of military actions against Iran, and these were faceless names obviously, and leaks about plans being drawn up by the Pentagon to target Iranian sites, all play into the hands of extremist forces, in my view, in the region and raise questions about U.S. intentions even among our allies who might otherwise be with us.

The Administration is in a catch up mode, in my view, in the diplomacy department with respect to Iran. After years of sitting on the sidelines diplomatically, as with most international efforts, only coordinated, effective, multilateral efforts have any likelihood, in my view, of success. The Administration's recent efforts at the U.N. seem to be bearing some fruit in a second and tougher U.N. sanctions resolution. But it remains to be seen how tough the Security Counsel will be with respect to Iran.

U.S. representation at the United Nations, until recent changes in personnel, has made American efforts to galvanize international support with respect to Iran and other issues of importance to the United States more difficult, in my view. It is my hope that with the appointment of Ambassador Khalilzad, that will change.

Over the years this Committee has provided various statutory tools for U.S. administrations to use as leverage in their efforts to induce change in Iran's behavior. With modifications to the Bank Secrecy Act, Congress has empowered the Department's Under Secretary of Treasury for Terrorism and Financial Intelligence, working with the Office of Foreign Asset Controls to freeze funds and recommend the prosecution of entities and individuals who seek to exploit the domestic or global financial system to support international terrorism and weapons proliferation.

Congress has also endeavored, through the enactment and reenactment of the Iran Sanctions Act, to provide the executive branch with clear authority to, among other things, sanction foreign companies to invest in Iran's principal economic sector, the energy industry. Yet today, despite more than $125 billion in reported investments in Iran's energy sector by foreign investors, not one foreign energy concern has been sanctioned. I and other members of the Committee are anxious to hear from our witnesses this morning why this has been the practice.

To sum up, it is my hope that today's hearing will help us to better understanding the Administration's policy goals as they relate to Iran, what part economic sanctions play in advancing those goals, what if any additional bilateral or multilateral sanctions would accelerate the achievement of those goals, and what the U.S. Congress ought to do to advance that process.

I know that we have set an ambitious agenda for our witnesses today, but this is a terribly important subject that demands difficult questions and warrants honest answers. I am sure that we will have both this morning from my colleagues and the witnesses.

Senator Shelby.

**STATEMENT OF SENATOR RICHARD C. SHELBY**

Senator SHELBY. Thank you, Mr. Chairman.

Since the Banking Committee last met to hear testimony on Iran's support for terrorism and its determination to develop a nuclear capability, I believe the situation has only worsened. Not only does Iran continue to defy overwhelming international opposition to its nuclear related activities but in recent weeks we have seen evidence of Iranian complicity in attacks on Americans in Iraq.

Iran's intransigence on all three fronts clearly demonstrate the severity of the situation confronting the U.S. and our allies. Iran's continued support for the Hezbollah and Palestinian terrorist organizations dramatically illustrate a strong desire to remain on the wrong side of the war on terror.

Because there is virtually no region throughout the world that has not been a target of a terrorist attack we must all remain vigilant and employ every available means to detect and to stop future attacks both here and abroad.

As we learned with illicit North Korean financial activities, the U.S. has a powerful weapon in its arsenal, financial sanctions. Properly employed, sanctions can restrict a rogue regime's ability to operate with impunity. Treasury's use of Section 311 of the PATRIOT Act in the case of North Korea and its new authorities under Executive Order in the case of Iran, I believe have proven effective.

We have enjoyed some success at both restraining the ability of these regimes to finance illicit activities and communicating to the world of international finance that business as usual may carry risk.

Unfortunately, terrorism remains disturbingly cost-effective. In other words, relatively small amounts of money can support very large attacks. Terrorists deadly efficiency is one of the major challenges that we face.

I am interested in hearing, Mr. Chairman, from today's witnesses how current authorities are working and whether any additional authority is needed to meet this challenge. In other words, what can this Committee do to help in this regard?

Thank you for calling this hearing.

Chairman DODD. Thank you very much, Senator Shelby.

I would say to my colleagues, Senator Tester and Reed and Hagel have arrived, we are going to move right to the witnesses if that is all right with you. And then any opening comments you want to make I will make sure we get to you as quickly as we can.

Secretary Burns has got a schedule. We are going to focus on him until he has to leave and then we will submit questions. But he is going to be here for a good round of questioning from the members. It is not, I do not want to suggest, that abbreviated. So you will have a good chance to focus on their issues.

Secretary Burns, we welcome you here this morning and we appreciate your willingness to participate, and thank you for your work, by the way. I am someone who admires the job that you do and I want you to know that. So thank you for coming.

**STATEMENT OF NICHOLAS BURNS, UNDER SECRETARY FOR POLITICAL AFFAIRS, DEPARTMENT OF STATE**

Mr. BURNS. Mr. Chairman, thank you. Senator Shelby, Senators, thank you very much for inviting me and inviting my colleagues from Treasury and Commerce to be here.

First of all, Mr. Chairman, thank you very much for agreeing to allow me to depart a little bit early. I can stay until about 10:30. I just have to be with the President and the New Zealand Prime Minister at the White House. So I apologize for that.

I also want to say that I very much apologize for the fact that my testimony was late. That is no sign of disrespect for you and your Committee. It is rather a sign of my particular inefficiency yesterday in getting that out to you. So that will not happen again and I think you were right to make the point.

Mr. Chairman, I have submitted a written testimony. I will not read it to you because I think that might take up too much of the time. But with your permission I would just like to give you an idea of how we do believe that we have an overarching, concerted policy to block and contain Iranian ambitions in a number of areas. I would like to go through that a little bit and I would be very happy to respond to your questions and that of the other members.

I would first say that there is no question that the United States is facing, in the Middle East today, a set of four great challenges. And Iran is tied up in all of them. The effort that we need to make to be successful in Iraq, where Iran has had a perfidious and negative influence, in our judgment. The effort to support the democratically elected government of Lebanon, and Iran and Syria and Hezbollah have been trying to bring that government down by extraconstitutional means. The effort to produce a final peace after nearly 60 years of effort between the Israelis and Palestinians, which the President and Secretary Rice are currently engaged, following on the good work of many past administrations, included that President Clinton. Iran has been the primary international force operating against such a peace. It does not believe in such a peace and it has rejected all of the body of work that we know of as the Middle East peace process over four to five decades.

And finally the effort by Iran itself to create a nuclear weapons ability of its own. Iran is the leading state sponsor of terrorism in the Middle East. It is the central banker of the terrorist organization.

So in those four areas, arguably now the most critical set of foreign policy challenges that the United States faces, Iran is a problem in each of those areas.

Now we have devised over the past several years a multifaceted effort to try to block the Iranian government in each of these areas relying on the establishment of diplomatic coalitions. And here, Mr. Chairman, as far back as February of 2005, more than 2 years ago, our Administration put our weight behind the EU–3 and we supported the negotiations of the EU–3 with the Khatami government. We have been very much at the heart of building an international coalition of countries against Iran and the nuclear issue since then.

And that coalition is quite broad. It is the EU–3, it is Russia and China, our Perm-5 members. It is India and Brazil and Egypt, all

of which have voted with us in the IAEA to repudiate the Iranians and to sanction them.

So I do believe that we have been able to put together an international diplomatic coalition that is shrinking the diplomatic space for the Iranians, that has the Iranians isolated, and that has some prospect of being successful in the future. Although we need to see that diplomacy play out in the future.

But we have taken a number of steps to try to limit Iran's options. On the nuclear sphere, as you know, we are in the Security Council this week on the nuclear issue. We are just about to pass, we hope by the end of this week, a second Chapter 7 resolution with the support of countries from all across the world. That resolution will go into some new areas.

Second, my colleague, Stuart Levey, has been leading the effort, as Senator Shelby recognized, to put forward financial actions against Iranian state banks which we think have been particularly effective.

Third, the Treasury and the State Department have been combining efforts to try to convince international financial institutions, lending institutions, that they ought to shut down a business as usual approach with the Iranians. And that has been successful, in part, as well. I am sure Stuart will speak to that.

Fourth, we are now stationing two carrier battle groups in the Persian Gulf in order to send a message to the Iranians. It is not your lake. It is an international waterway. And free commerce and free shipping and the security of our friends in the Gulf is important to the United States.

Fifth, as you have seen, and the President talked about this in his address back on January 10th, we have begun to push back on those networks of Iranian intelligence and paramilitary forces who have been providing sophisticated IED technology that Sunni insurgent groups have used to kill our soldiers and to wound our soldiers.

And so in these five areas, the United States is pushing back against the Iranians.

I think it is important to note that because I think the conventional wisdom was, about mid-autumn, just after our congressional elections, but there was a sense around the world that Iran was on the march, that Iran was proceeding unfettered in each of these errors, nuclear and terrorism and in the region. And I think we have had a fair measure of success and now containing them and in limiting their options.

Iran is a country very much on the defensive right now. It has very few friends in the world. Very few countries are sticking up for it. And so the ability to fashion this diplomatic coalition is important.

Second, Mr. Chairman, I would like to say this. We ought to invest in diplomacy concerning Iran. Iran is a dangerous threat to our country and we should not take that lightly nor should we underestimate it. But there is no question that diplomacy has a chance of succeeding.

We need to be patient in applying diplomacy. It has taken us 2 years to buildup his coalition of countries on the nuclear issue. And if we are consistent and steadfast in diplomacy, we do not have a

certainty of success. And of course, the President and many other Administration officials have said that all options remain on the table, as they should in dealing with a country that could pose a mortal threat to our own in the future. But we are accenting and stressing diplomacy. And that is where the great preponderance of our efforts are today.

We believe that we should be patient, that we should apply this, that we should have as big a tent as possible of countries around the world to block the Iranians in each of these areas. And I, for one, believe that conflict with Iran is not inevitable. It is not inevitable if we play our cards right and are smart about the application of diplomacy.

On the nuclear issue, as I said, we hope to have a Security Council resolution by the end of the week. It would be different from the first Chapter 7 resolution of December in three different respects. It would, for the first time, open up Iran to prohibitions on arms transfers by Iran to any other state or organization. That would be quite significant if we can get this by the end of the week.

Second, it would sanction the IRGC, the Iranian Revolutionary Guard Corps command, which is the institution that not only runs the Quds Force, which has been the force opposing us in Iraq, it is also the institution that has been bankrolling and directing the development of Iran's ballistic missile and weapons of mass destruction industry which we are directly concerned about.

And third, it would open up financial sanctions against Bank Sepah, a bank that the Treasury Department has paid particular attention to, and Stuart will talk about that, as well as open up and encourage countries to begin to diminish their export credits to Iran.

One of the problems we have had in trying to build an effective sanctions regime is that not everybody is in it. United States, of course, had has sanctions on Iran for the better part of three decades. Many of our European allies have put billions of dollars out to their firms to sponsor trade and commerce between Germany and Italy and Spain and France, to name four countries, and Iran itself. We are encouraging those European allies to diminish their export credits.

I think as recently as 2005 there were $22 billion in export credits made available by OECD countries. And we have begun to see that come down in Japan, Germany, Italy, and France. We would like to see it come down more. Because our view is that American firms have paid the price, have made the sacrifice. Every American administration since President Reagan have made the sacrifice in trying to send this stiff message to the Iranians. We need some help from our allies in Europe and Japan and around the world in repressing on that front.

So I want to assert today, I will not belabor this point, that we do have a diplomatic strategy, that I believe it is beginning to work because Iran is increasingly isolated. We are working inside the Security Council but we are also working outside in what Treasury and Commerce have been doing on the financial measures and financial sanctions. And we are encouraging the EU and Japan to think of what they can do outside of the Security Council, as well.

Finally Mr. Chairman, I would just say this, we are trying to block Iran in other ways. It is the leading state sponsor and central banker of terrorism, of Hamas, Hezbollah, Palestinian Islamic Jihad and the Popular Front for the Liberation of Palestine-General Command.

So we are trying to press against the Iranian ability to destabilize the Israeli government, the moderate Palestinian leadership, and the Lebanese government by choking off their ability to be successful in funneling arms and funds to those terrorist groups. That is an American national interest.

Finally, I would just say that we have an obligation to try to reach out to the Iranian people. We do not have diplomatic relations with the Iranian government. We have not since the hostage crisis of 27 years ago. But we have made a big effort, with support from the Congress, and Congress has been very generous in giving the Administration $76 million last year, to fund 24-hour Persian language radio, United States radio into Iran to fund now 12 hours of Persian language TV into Iran, to bring Iranian citizens on exchange to the United States many for the first time, to send the U.S. national wrestling team—wrestling is their national sport—to Iran. And they were received very enthusiastically in January. And now we have a program of inviting groups of professionals, health experts, disaster relief experts, from Iran to visit our cities, our medical institutions, our government offices so that there is a degree of normalcy in the people-to-people relationship. Because we appreciate that the people of Iran, by and large, think well of the United States. One of the great ironies in our Middle East situation right now is the United States is popular, it seems to be popular in one country, Iran. The Iranian people tend to like Americans.

And so we want to accentuate that people-to-people contact while we stiff arm, block, contain, oppose the policies of the Iranian government. And we think that this comprehensive policy can work for the United States. It does rely on bipartisan support. I have been very pleased in my conversations with members of the Senate and House. I think we do have that bipartisan support for our policies.

So I want to thank you for holding this briefing and I am open to any question that you would like to ask me about any aspect of this very difficult problem for us.

Chairman DODD. Thank you very much, Mr. Secretary, and I appreciate that. Your prepared remarks will be included in the record, as will all of the prepared remarks and any supporting data and information you want the Committee to be aware of, we will include.

Secretary Levey.

**STATEMENT OF STUART LEVEY, UNDER SECRETARY FOR TERRORISM AND FINANCIAL INTELLIGENCE, DEPARTMENT OF THE TREASURY**

Mr. LEVEY. Thank you, Mr. Chairman, members of the Committee, Senator Shelby. Thank you for the opportunity to speak with you today. I echo what Nick said about apologizing for the lateness of our testimony. I, too, will promise you that will not happen again.

You have just heard about our overall strategy with respect to Iran from Under Secretary Burns. And as he mentioned, the diplomatic efforts have yielded significant successes and a unanimously adopted Security Council resolution and a follow-on resolution that appears set to pass.

That our partners are now pressuring Iran to comply with its international obligations is a real credit to our diplomatic efforts and to Under Secretary Burns' patient and persistent diplomacy, in particular, which I have been privileged to witness firsthand.

I would like to give you an overview of Treasury's role in this overall strategy. Working with State and Commerce and other agencies, we have crafted what I think is an innovative strategy to combat the dangerous and illicit conduct of the Iranian regime. Our strategy involves the use of targeted financial measures, as well as consultations with foreign governments and with the international private sector about the risks of doing business with Iran. Our initiatives and the State Department's diplomatic efforts, I believe, are mutually reinforcing.

Iran uses its integration into the world's financial system to support and facilitate its proliferation, terrorism, and other illicit activities. The regime disguises its hand in terrorism and proliferation through an array of deceptive techniques specifically designed to avoid detection and suspicion by the law-abiding international community. It uses front companies to engage in what are ostensibly innocent commercial transactions but that are actually related to its WMD programs.

We have also seen Iranian banks and other Iranian entities request that financial institutions take their names off and take other references to Iran off of transactions when they are processing them in the international financial system. This practice is specifically designed to evade controls put in place by responsible financial institutions and it has the effect of threatening to involve those financial institutions in transactions that they would never willingly choose to be engaged in.

So it is our approach to target those individuals and entities that are engaged in this dangerous and deceptive conduct. These kinds of targeted measures have several advantages. Because they single out those responsible for terrorism, proliferation, and other criminal activities, and they make public their dangerous behavior, they are more apt to be widely accepted around the world than sanctions that are applied to an entire country.

Targeted financial measures also act as a deterrent by warning people and businesses not to deal with the specific designated target and sending a clear message that if they do deal with them they could be next to be targeted.

We are using various types of targeted measures, as Senator Shelby pointed out, to combat Iran's pursuit of nuclear weapons and the development of ballistic missiles, as well as its support for terrorism. In September of 2006, we cutoff one of Iran's largest state-owned banks, Bank Saderat, from any direct or indirect access to the U.S. financial system. When we did so, we publicly explained why, because the government of Iran was using Bank Saderat to transfer significant sums of money to Hezbollah and was also being used to get money to terrorist organizations that are

recognized as terrorist organizations by the EU like Hamas, the Palestinian Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command.

In addition to that, we have acted against 19 separate entities and individuals supporting Iran's WMD and missile programs including Bank Sepah, as mentioned by Under Secretary Burns, under Executive Order 13382. This Executive Order allows us to target proliferators in exactly the same way that we have been targeting terrorist supporters under executive orders. Bank Sepah provides extensive financial services to Iranian entities responsible for developing missiles that are capable of carrying weapons of mass destruction. We hope to see Bank Sepah added to the list at the United Nations this week.

Five of the Iranian entities that we have designated under 13382 have already been designated by the United Nations. When our designations are not matched by U.N. designations, I can tell you that they still receive a great deal of international attention. I have traveled all over the world sharing our list of Iranian designated entities with not only foreign governments, but also with the private sector around the world and stressing the importance of ensuring that these proliferators are not allowed to access the international financial system.

What I have found is that our list of proliferators is indeed incorporated into the compliance system of the major financial institutions around the world even when there is no legal obligation to do so because they simply do not want to be involved in the business of proliferation.

That leads to the private sector outreach and why it is so effective, because aside from the formal actions that we have taken, we have engaged in what I think is an unprecedented, high level outreach to the private sector on this. Along with the State Department, we have met with over 40 leading banks worldwide to discuss the threat that Iran poses to the international financial system and to their institutions. Secretary Paulson personally kicked off this effort in Singapore in discussions at the annual IMF/World Bank meetings when he met with executives from major banks from Europe, the Middle East, and Asia.

By doing this, what we have done is share information about Iran's deceptive financial behavior and raised awareness about the high financial and reputational risk of doing business with Iran. Our use of targeted measures has allowed us to highlight specific threats. This has yielded results. As the evidence of Iran's deceptive practices as mounted, financial institutions and other companies worldwide have begun to reevaluate their business relationships. As I think the Committee knows, many leading financial institutions have either scaled back dramatically, or terminated entirely, their Iran-related business. They have done so of their own accord, concluding that they simply did not wish to be a banker for a regime that deliberately conceals the nature of its illicit business. A number of them have cutoff Iranian business in dollars but have not done so in other currencies.

Regardless of the currency, though, the core risk with Iranian business, which is that you simply cannot be sure that the party that you are dealing with is not engaged in illicit cavity, is the

same. So scaling back dollar business reduces but does not eliminate their risk.

Mr. Chairman, I think our overall approach is producing results. Countries are implementing U.N. Security Council Resolution 1737, support is coalescing behind a follow-on resolution, and all of this is reinforced by the private sector momentum I described. The indications are, as you mentioned in your opening statement, Mr. Chairman, that this is having some impact in Iran both financially and by stirring debate about the direction in which that country is being led, internal debate in Iran.

Thank you for the opportunity to testify and I look forward to answering your questions.

Chairman DODD. Thank you very much, Mr. Secretary.

Secretary Foulon.

**STATEMENT OF MARK FOULON, ACTING UNDER SECRETARY FOR THE BUREAU OF INDUSTRY AND SECURITY, DEPARTMENT OF COMMERCE**

Mr. FOULON. Thank you, Mr. Chairman, Senator Shelby, members of the committee.

First of all, let me thank you for the support that you have given the Commerce Department and the Bureau of Industry and Security over they ears as we pursue our nationals security and economic mission. Thank you for today for the opportunity to appear before you to discuss U.S. export control and sanctions policies toward Iran.

I am pleased to be here with my colleagues from the Departments of State and Treasury, with whom we work closely to implement the Iran sanctions.

As you know, the United States has maintained sanctions against Iran since 1979 with the reinforcing trade embargo starting in May 1995. Iran has been designated as a state sponsor of terrorism since 1984. And because of Iran's continued active support for terrorism and concerns that it is pursuing weapons of mass destruction, U.S. actions were increased until a comprehensive embargo was put in place.

Under the embargo, the Departments of Commerce and Treasury prohibit virtually all exports of U.S. origin goods to Iran. Due to the comprehensive nature of the embargo, the Treasury Department is the agency with primary jurisdiction for export licensing to Iran. This approach is often used when the broad nature of an embargo requires not only a prohibition on exports of items under the Commerce Department's jurisdiction but also comprehensive restrictions on financial transactions and investments under the jurisdiction of the Treasury Department, as Under Secretary Levey has just discussed with us.

Thus, the Commerce Department's primary role in the licensing process is to provide technical assistance to Treasury on the proper classification of items proposed for export or re-export to Iran under a Treasury Department license.

The Commerce Department also plays an important role in the enforcement of the Iran sanctions by investigating for possible prosecution and penalties violations of the Export Administration Regulations. These investigations are conducted by the Bureau of

Industry and Security's Office of Export Enforcement, which has approximately 100 Federal agents in 10 locations throughout the United States. Currently, more than 20 percent of our open investigations, around 150, involve Iran.

Since October of 2004 our investigations, which we often take in conjunction with sister enforcement agencies such as Immigration and Customs Enforcement or the FBI, have resulted in 13 Iran-related criminal convictions with five more cases pending sentencing.

Let me just point out two cases, in particular, as representative of the types of activities and the types of enforcement cases that Commerce agents have been bringing.

The first one is last November the sales director of United Calibration Corporation was sentenced to 5 years probation, 6 months home confinement, 100 hours of community service, and a fine of $10,000 for attempting to export machinery and calibration software that could be used to measure the tensile strength of steel. One use of such items could be to test the chemical properties of metals that are used in the manufacturing of nuclear materials.

A second example of the kind of cases we bring was last December when a man named Ernest Koh was sentenced to 52 months in prison for exporting parts for C–130 military transport planes and P–3 naval aircraft. These parts were first diverted to Malaysia and then illegally transshipped to Iran. The investigation also found that Koh had laundered millions of dollars from bank accounts in Singapore through accounts in the United States to promote this illegal scheme.

In addition to criminal penalties, violators of the Iran Sanctions Regulations can also face administrative penalties. Last year our investigations led to such penalties in 16 cases, totaling $1.6 million in fines.

I would like to make one additional point with regard to penalties, particularly relevant to the point that Senator Shelby made about whether we have all of the tools necessary to do the job we are trying to do. Our underlying statute, the Export Administration Act, has been in lapse since 2001. While that act is in lapse we implement the Sanctions Regime, our authorities, under the President's emergency authorities under IEEPA. The important point to remember is that under IEEPA penalties are substantially less than they would be under an Export Administration Act, thereby negating some of the deterrent effect of the penalties we are able to bring.

As the examples I cited also illustrate, enforcement of our comprehensive embargo against Iran involves more than just stopping direct shipments from the United States to Iran. We are also focused on preventing the illegal transshipment of U.S. goods through third countries to Iran and other embargoed destinations. This effort takes two major forms.

The first is in coordination with the State Department, Commerce works with other countries to identify foreign entities that are trying to evade our embargo and our export control laws to divert U.S. origin goods to Iran.

Second, the Commerce Department, the State Department, Treasury, and other agencies are working to help foreign governments improve their own export control regimes and their own ex-

port control practices so they will block those types of shipments going into Iran.

Now recently, in an effort to increase the options at our disposal for combating such illicit transshipment to Iran and elsewhere, we published last month an advance notice of proposed rulemaking to amend our Export Administration regulations to define a new group for countries, which we call Country Group C. This group would be reserved for countries that pose a diversion concern based on certain criteria such as the amount and types of materials that transit through and the strength of their own export controls.

At this point, this is still an idea we are working out and a policy we are still developing. So no countries have been identified yet for inclusion in this new Country Group C.

Mr. Chairman, as our presence here today demonstrate, administering and enforcing the Iran sanctions involves many agencies of the U.S. Government working together. These two gentlemen to my right are no strangers to me as we work on Iran issues.

We at the Commerce Department are pleased, and in fact honored, to be a part of the Administration's Iran sanctions team.

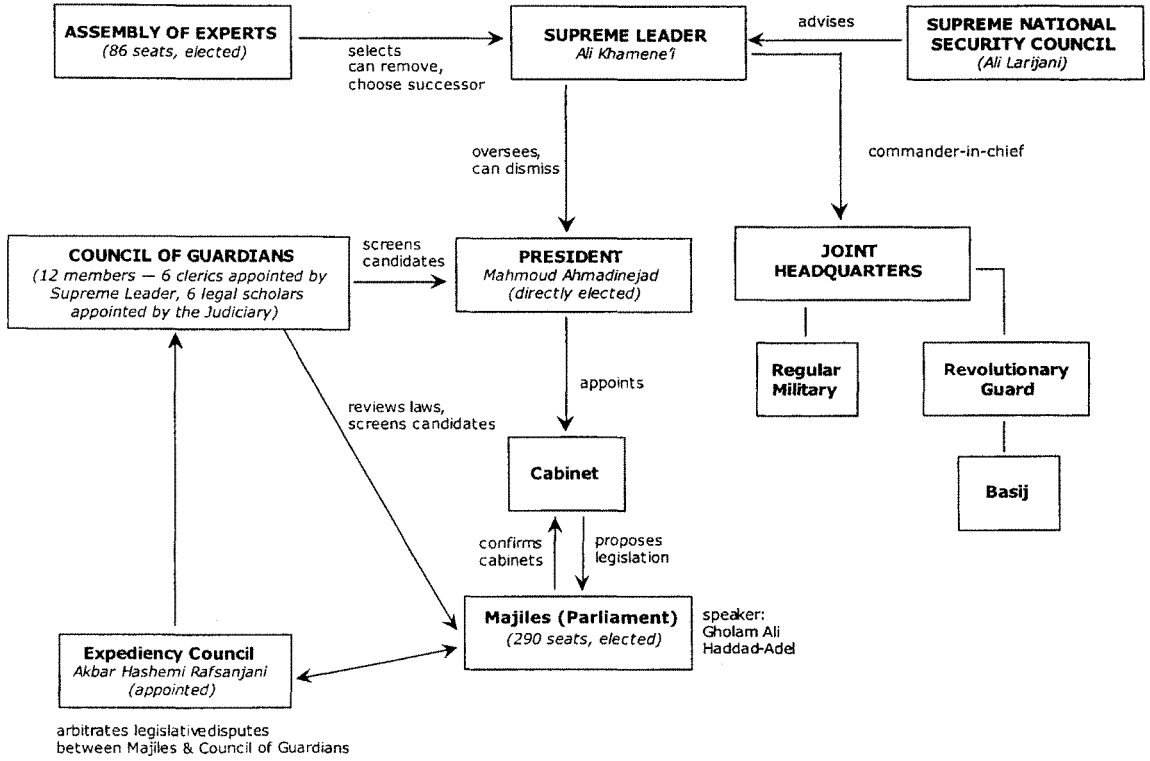
Thank you for this opportunity and thank you for your questions.

Chairman DODD. Thank you all very, very much.

What I am going to do here, if I can, we are going to ask the clock go on for 7 minutes. I did a quick math count here and I think, Secretary Burns, we can get every member to get a least a round in here with you before you have to depart. And then we will move to the other witnesses, as well. But during the questioning, obviously, if there is a response that either Secretary Foulon or Secretary Levey feel they want to contribute to, please do not resist.

I have a couple of charts here I am going to put up. And one is here, which I want to ask Secretary Burns about. This is sort of a flowchart because I think a lot of people get confused about who is in control, who is really—in Iran where the power centers are.

**Figure 1. Structure of the Iranian Government**



I was going to ask you to take a look at this and share with us sort out how this breaks down. What are the key intersections with these various agencies in the Iranian government, the economic sector, the nuclear sector, the military sector, and how they kind of relate.

Obviously, a great deal of attention has been focused on the presidency here. In fact, I would argue to some degree we have probably inflated the role of the presidency as a result of our focus and attention on Mahmoud Ahmadinejad over the last number of months, whereas power centers—there are other power centers in Iran. It goes to the point I think you were raising earlier about pursuing this diplomatic approach in Iran, which I welcome the information from the Administration that that door is now opening for us. And it might be worthwhile to run through this a little bit and give us some sense of it.

Before I do that though, I want to ask you about the news that we saw the other day and the Russian decision to apparently be more supportive on the sanctions issue. The news story reported that it was unclear what the motivations were here. Is it one, to get paid for the contracts that they have already had with Iran that are not forthcoming? Or are they moving more to recognition of the larger question here, and that is that the dangers posed by Iran possessing a weapons capability here?

Can you share with us what the Administration's observations are about this? How serious is it? And where is it likely to lead?

Mr. BURNS. Mr. Chairman, thank you. I will be happy to answer that question and then go on to the very interesting organizational chart behind you.

On the nuclear front, I do think that the weight of international opinion is now shifting against the Iranians. It has been very interesting to see the Russian government over the last week decide that they are not going to provide fuel for the Bushehr power plant. They have delayed the implementation schedule in 2007. The very clear message, as we translate it, from the Russian government to the Iranian government is it is not going to be business as usual. This mirrors a change that we have seen over the past few years.

You referred, in your opening remarks, Mr. Chairman, of the fact that as recently as 2 years ago there were just three countries negotiating with Iran: Britain, France, and Germany. That was with the prior Iranian government before this radical regime of Ahmadinejad took power.

And now you have a large international coalition. The Russians were part of the sanctions decision in December. The Russians are sponsoring, with the Chinese, the sanctions resolution that the United States, is Britain, and France put on the table just a week ago in New York. And so Russia is very much our partner. Russia is bringing its weight to bear against Iran. I think that countries are worried.

This Iranian government is just proceeding right down the track toward the ability to master the enrichment and reprocessing process. They have strung together, we think, the IAEA thinks, about 160 or so—they are trying to—centrifuges. Their ambition is to engage in P2 centrifuge research and also to get to 3,000 centrifuges within a year.

If that happens and if the Iranians proceed without being blocked, then their scientists and nuclear engineers will have the intellectual capacity to design and fabricate a nuclear weapon. It is our opinion that Iran must not be able to secure a nuclear weapons capability.

That is also how we appreciate the Chinese and the Russian and the European attitude. It has really been extraordinary to see the dimensions of this international coalition.

In the U.N. it is the five permanent measures now sponsoring one resolution. In the IAEA, as I said before, India and Egypt and Brazil and Argentina and Japan have all voted against Iran. Iran essentially has four friends in the world: Syria, Belarus, Venezuela and Cuba. And with friends like that, compared to this large coalition, I think they are rather isolated. So I think the Russian actions over the last week have been very important.

Chairman DODD. They go beyond just an effort to get paid?

Mr. BURNS. Is our appreciation of the Russian government does not wish to see Iran possess nuclear weapons. So that is a point of agreement.

On your organizational chart, if you would like——

Chairman DODD. By the way, all members have a copy of this chart in front of you, as well. I presume if you have any additions you want to make to this chart, please let us know.

Mr. BURNS. I think the important message from your chart would be this to me, in that Iran is not a monolithic power structure. It is not one person. It is not one ideology. It is not one set of motivations. If anything, your organization chart shows competing power centers.

The most important person is the person at the center at the top, the Supreme Leader, Ali Khamenei. He is the successor to the Ayatollah Khomeini. Iran is, in many ways, a theologically based state. It is a mullocracy, of sorts, and the Supreme Leader is by far the most important political, economic and military leader in the country.

The title is accurate. He has supreme power over all others.

But underneath him there are competing power centers. The person directly below him, the president of Iran, is Mahmoud Ahmadinejad. He is this radical, in our view irresponsible demagogue who has said that the Holocaust did not happen, that Israel should be wiped off the face of the earth, that Iran should become a nuclear weapons state.

He is opposed, we think, by many of the other power centers on your chart. Certainly, the Expediency Council chaired by Mr. Rafsanjani, the former president if Iran. Most, I think, analysts would say that there are not friends, that they are not partners, and that they are rivals. The National Security Council, I believe—yes, the National Security Council appears on the upper right of your chart. And that is headed by Dr. Ali Larijani, who we also believe is a competing figure to Ahmadinejad.

So I think we look at Iran as a divisive government with different power centers, different motivations. I think you see that in the actions of the government.

The most significant thing we have done, in my judgment, over the last 27 years is to offer negotiations on the nuclear issue last

June 1st. Secretary Rice was the first Secretary of State since 1979 to say she would sit down with the Iranians at the negotiating table about with the Chinese, Russians, and Europeans on our side in an attempt to forestall a nuclear weapons capability by Iran.

They did not answer that offer for four-and-a-half months because we think they were fighting among these various power centers over the offer. We do think that there are elements in the power structure who want to negotiate with the Perm-5 countries, including the United States. We know there are others, including President Ahmadinejad, who do not want negotiations.

So it is a tumultuous political scene, as best as we can understand it. I want to be a little bit humble here because we have not had an American diplomat in Iran since the hostages left on January 20th, 1981. We have no embassy there. So we are peering into the country from the outside, trying to understand it with a lot of help from friends around the world. There are very few American academics or business people there. So we are somewhat limited, but that is our appreciation.

And finally, Mr. Chairman, the last box that I would draw attention to is the Revolutionary Guard, which is in the center right of your chart. The Revolutionary Guard was created after the revolution to be the arm of the religious ideologues, of the Ayatollah Khomeini and others. They are the people who have sponsored the terrorist attacks against the United States, in 1983 against our Marine barracks and against our Embassy in Lebanon, in 1996 against Khobar Towers in Dhahran, Saudi Arabia.

It is the Quds Force, a subset of the Revolutionary Guard, that are right now providing this explosive IED technology that we believe Shia militant groups have used to target our soldiers in Iraq. So that is a particular interest of ours, and it is a particularly malevolent branch of the Iranian government.

Chairman DODD. You mentioned the diplomatic efforts. It seems to me I heard that we had actually made an offer to establish diplomatic relations or at least to establish an embassy in Tehran once again. Is that accurate?

Mr. BURNS. We have not made such an offer, no. We do not seek, at this point, normal diplomatic relations with Iran.

The problem is, Mr. Chairman, as you know well, they are trying to build a nuclear weapons capability. They are the leading state sponsor of terrorism. They have directed that against the United States. And then they are the leading force, radical force, against what we want in Israel, in Lebanon, and in Iraq.

So our appreciation as we are better off, and I think this unites the last few American administrations, President Clinton's and President Bush's especially. We are better off trying to isolate them and pressure them from the outside than trying to make nice to them and do business with them from the inside.

Chairman DODD. My time is expired.

I had a chart here I wanted to raise about the existing contracts with other countries that you have addressed here earlier. I will leave it up and presumably you want to address it.

# Post-1999 Foreign Investment in Iran Energy Sector

| Date | Field | Company | Value | Output Goal |
|---|---|---|---|---|
| Feb. 1999 | Doroud (oil) | Totalfina Elf/ENI | $1 billion | 205,000 bpd |
| Apr. 1999 | Balal (oil) | Totalfina Elf/ Bow Valley (Canada)/ENI | $300 million | 40,000 bpd |
| Nov. 1999 | Soroush and Nowruz (oil) | Royal Dutch Shell | $800 million | 190,000 bpd |
| Apr. 2000 | Anaran (oil) | Norsk Hydro (Norway) | Unknown | 100,000bpd |
| July 2000 | Phase 4 and 5, South Pars (gas) | ENI | $1.9 billion | 2 billion cu.ft./day |
| Mar. 2001 | Caspian Sea oil exploration | GVA Consultants (Sweden) | $225 million | Unknown |
| June 2001 | Darkhovin (oil) | ENI | $1 billion | 160,000 bpd |
| May 2002 | Masjid-e-Soleyman (oil) | Sheer Energy (Canada) | $80 million | 25,000 bpd |
| Sep. 2002 | Phase 9 and 10, South Pars (gas) | LG (South Korea) | $1.6 billion | 2 billion cu.ft/day |
| Oct. 2002 | Phase 6, 7, 8, South Pars (gas) | Statoil (Norway) | $2.65 billion | 3 billion cu.ft./day |
| Feb. 2004 | Azadegan (oil) | Inpex (Japan) 10% stake | $200 million | 260,000 bpd |
| Oct. 2004 | Yadavaran (oil) | Sinopec (China) and ONGC (India) | $70 billion | 300,000 bpd |
| June 2006 | Gamsar block (oil) | Sinopec (China) | $50 million | Unknown |
| Jan. 2007 | Golshan and Ferdows (gas) | SKS Ventures (Malaysia) | $20 billion | 100 million cu.ft/day |
| **Pending Deals** | | | | |
| North Pars Gas Field (offshore gas) | | China National Offshore Oil Co. | $16 billion | 3.6 billion cu.ft/day |
| South Pars phase 13 and 14 | | Royal Dutch Shell and Repsol (Spain) | $10 billion | 3 billion cu.ft/day |

| | | |
|---|---|---|
| **TOTALS:** | **$126 billion+** | **OIL: 1.3 million bpd+**<br>**GAS: 13.7 billion cu.ft/day+** |

bpd = barrels per day, cu.ft/day = cubic feet per day

Sources: Congressional Research Service, WWP-Report on Oil Gas & Petrochemicals in the Developing World, EIU ViewsWire, International Oil Daily

FOREIGN INVESTMENT SANCTIONABLE
UNDER IRAN SANCTION ACT (ISA):

# $126 BILLION

NO. OF TIMES ISA SANCTIONS APPLIED:

# ZERO

But these are the $126 billion of agreements that have been reached with other nations, many of whom are allies of ours, ongoing and no action has been taken on them. I see Secretary Levey reacting to this already. This has to be explained to some degree.

The Iranian Sanctions Act does allow us to have tools to deal with some of these issues. You have got a present when here in January of 2007, at least it was on my chart earlier, 2007 here for $20 billion with the Malaysian government here.

I am very interested in—jawboning works to some degree. But we have given you tools up here now, the Congress has, over the years. These are very specific tools that allow you to take much more specific actions than just asking people not to do certain things.

I am very interested at some point here this morning that you address the issue of why over $126 billion in contracts in the energy-related areas, totaling more than 1.3 billion barrels of oil per day, not to mention some 13 billion cubic feet of natural gas going forward.

That is not exactly a modest amount coming out. If these tools exist, why we are not using them more definitively, more accurately.

But let me turn to Senator Shelby and you can respond to this at some point in your questions.

Senator SHELBY. Thank you, Mr. Chairman.

Secretary Burns, the Administration has worked very hard to get resolutions condemning Iran's nuclear activities and imposing sanctions through the U.N. Security Council. What additional measures, either within the confines of Security Council Resolution 1737 or in a new resolution, do you believe are necessary to ensure that foreign companies and financial institutions refrain from doing business with Iran as banks, oil, gas, you name it, the big ones.

And given the scale of Islamic Revolutionary Guard business activities and the Corps' major role in supporting terroristic organization, why is it not listed in Resolution 1737's Annex? I understand the commander of the Corps is listed but not the entire Corps.

You brought up the Revolutionary Guards and I thought I would respond.

Mr. BURNS. Senator Shelby, thank you very much.

First, let me just, if I could, unite your question with that of the chairman. I had the pleasure of testifying before you, Senator Shelby, last summer to say that the Administration agreed with the reauthorization of the Iran Sanctions Act. And we do. I think that we find this Act has been useful in deterring some foreign investment in the oil and gas sectors in Iran but obviously not all, as your chart shows. There has still been significant activity.

In that respect, Mr. Chairman and Senator Shelby, I know that the last two administrations—and I served in President Clinton's Administration—have essentially taken the view that this Act is useful as a deterrent.

The problem comes in application. I just want to be very frank here. I think that the last two administrations, Clinton and Bush, have used the waiver authority once, very infrequently. The problem is as you try to build a diplomatic coalition to oppose the Iranians, we want to the pressure of the sanctions to be on Iran itself

and not so much on our allies. Because that would disrupt and maybe even disassemble our coalitions.

So right now we have succeeded in getting France and Britain and Germany and Russia and China all on the same music sheet with us. And yet, if we turn around and sanction them but not the Iranians, they might be less willing to support us on some of these diplomatic efforts like denying Iran a nuclear weapon.

And so that is the dilemma that I think both of the last administrations, if I can say as someone who has served in both, have felt. We would like to see the legislation as it progresses—and I know there is new legislation in the House being considered by Chairman Lantos and Congresswoman Ros-Lehtinen. We would like to see it focus on Iran, on the Iranian government, and on the state structures of Iran, and not so much on our allies.

But I would say this, if you give us a law and if you pass a law, we will implement the law to the best of our ability. That is our obligation.

In this case, I think there have been no new final oil and gas investment deals, I am told, since 2004. I can check that figure, Mr. Chairman, and get back to you in writing, if you would like. But we are now beginning to jawbone Shell and the China National Oil Company and the Malaysians involved in a prospective deal. In all three areas, they have announced the interest to conclude a deal but have not concluded one. We have gone to the CEOs and major financial officers of those corporations just in the last few weeks and months to say this is a bad idea. You should not do it. And if Congress does pass tougher sanctions legislation, you will be subject to our law and we will not be able to protect those companies.

So we have made that point to all of them.

Senator SHELBY. But Mr. Secretary, to be effective they are going to have to believe you are going to do something, the oil companies and everybody else. Otherwise they probably will not blink.

Mr. BURNS. We have asked—I think that your legislation and whatever comes through the House and Senate this year, new legislation, is coinciding with a general trend, I think, toward sanctions by our allies. Until about a year ago, the European allies and Japan were not interested in sanctions against Iran.

Senator SHELBY. What about China?

Mr. BURNS. I do not think the Chinese are there yet, unfortunately. We differ with the Chinese. We think the Chinese have too much of a business as usual attitude with Iran, too much trade going on.

But I think that as your legislation proceeds, you are going to see the EU and Japan consider what they can do to shut off some of this normal commerce that has been underway. We are in favor of the Europeans doing less and we are not in favor of any of these oil and gas deals.

Senator Shelby, on the IRGC, we have worked very hard over the last few weeks to put into this second Chapter 7 resolution that is being debated today in New York a specific set of sanctions against IRGC front companies and individuals that are important in the ballistic missile and WMD area.

Senator SHELBY. Secretary Burns, as sanctions have taken effect, have they weakened the Iranian leadership? Or have they given the Iranian people a rallying point behind their president?

Mr. BURNS. I think, for the most part, the sanctions and the international efforts against Iran have weakened the government of Ahmadinejad and put him on the defensive in his own political system because their policy is not working.

The Chairman referred to this extraordinary episode when the newspaper controlled by the Supreme Leader Khamenei criticized Ahmadinejad about a month ago for his handling of a nuclear issue. So we think this policy of pressure, the financial sanctions by the Treasury Department, the financial measures, banks stopping lending, the U.N. Security Council sanctions, are beginning to have an effect. And we hope they will not becoming a rallying point for the people of Iran, because we want the people of Iran to know that we want them to have civil nuclear power. We would be willing to participate in a consortium with the Russians and the Europeans to build a nuclear power center but without access to the fuel cycle.

Senator SHELBY. Secretary Levey, in 1998, I was in Islamabad and I had the opportunity to spend some time with the infamous Dr. Khan. We talked about nuclear proliferation, among other things. I asked Dr. Khan, I said doctor, in your judgment, how long will it be before Iran has nuclear weapons? And he did not blink at all and hesitate at all. He said 10 to 12 years. That has been nearly 9 years.

Are they on track from the statement of Dr. Khan to me?

Mr. LEVEY. I think what Under Secretary Burns said in his opening statement about where they would be within a year is something we need to take very seriously and why we are working so diligently to stop the proliferation in Iran's nuclear program. I would not hazard a guess about exactly how long they have but it is not off by orders of magnitude.

Senator SHELBY. Is the recent Russian attitude, is this about payment of money from Iran? In other words, are they behind in their payments to the Russians for aid and help in the construction of the power plant or whatever you want to call it? Or is this a change of heart? Or is it too early to say?

Could it be about both?

Mr. LEVEY. I do not have much more to say than what Nick said about that. I think we are seeing that they are standing with us in terms of sponsoring this new resolution. I have been to Russia twice, once with Under Secretary Burns, to talk to them about this. And we have been engaging them very diligently. My Assistant Secretary was just there last week.

We would like to think that there is a change of heart and if they stand with us on this resolution that would be an excellent sign.

Senator SHELBY. But you have not seen a 180 degree turn yet have you, Secretary Burns, on the part of the Russians?

Mr. BURNS. We have a very different relationship with Iran than does Russia. Russia trades with Iran. Russia sells military arms, and we disagree with that, to Iran. Russia has diplomatic relationships. We do not have a similar exact policy. But the Russians have been turning toward applying pressure, sanctions. They voted for

one resolution and they are sponsoring the second. That is a pretty good indication of where they are going.

Senator SHELBY. Secretary Levey, is the level of support that you receive from the intelligence community sufficient to allow for additional sanctions if warranted? Do you have what you need as far as information? I know you work with the intel community.

Mr. LEVEY. Senator Shelby, yes, I think we have been getting really excellent cooperation from the intelligence community, not just because of the intelligence office that you helped us create within Treasury, but also because, I think, of the successful integration of that office into the overall intelligence committee. We have been getting excellent support.

Senator SHELBY. How is your office that we created in Treasury doing?

Mr. LEVEY. Well, I like to think it is doing quite well. You will be the judges of that, I suppose, in many ways.

Senator SHELBY. I think you are making a lot of progress.

Mr. LEVEY. I appreciate that. We are working well with the whole interagency. I think we have been putting pressure here in the Iran area but also, as the Chairman pointed out, we have worked very hard on the North Korea issue and on terrorism as well. We have a lot more to do but I think we are making good progress.

Senator SHELBY. Thank you, Mr. Chairman.

Chairman DODD. Thank you very much.

Senator Tester.

**STATEMENT OF SENATOR JON TESTER**

Senator TESTER. Thank you, Mr. Chairman, and I want to thank the members here who testified today. I appreciate the work you folks have done and appreciate the potential of continuing your good work into the future.

I was particularly heartened by Secretary Burns's statement that aggressive diplomacy may really bring Iran to a situation where they become regular good citizens within the world. We can only hope.

Back in 2003, and this is for Secretary Burns, back in 2003 I think I read this in the Post last month, that Iran came forth with a proposition to deal with the nuclear issue. I do not want to put words in your mouth but I think you had said that you did not think that that was a genuine offer.

I guess my question is what would constitute a genuine offer? Now that we have got more people in the fold today, what would make it a genuine offer if Iran were to come forth with such an offer again?

Mr. BURNS. Thank you, Senator.

I was at NATO in 2003 so I did not participate in this series of discussions. But from talking to people who were in the White House and the State Department at the time, there was a lot of doubt about whether or not that particular offer reflected the views of the Iranian leadership. I know I have seen arguments on both sides of that.

I guess I would say to you that what is really important is what they are doing now. We have put this big offer out there, June 1

of last year, 2006, by Secretary Rice. We, the United States, will sit down at the negotiating table with you. The offer was made with Russia, China, and the Europeans and us. We only asked one thing: suspend for the life of those negotiations your enrichment program. And the Iranians have refused to do that.

So I think the ball is in their court. We are willing to negotiate on the nuclear issue. And you have seen on Iraq we just sat down with the Iranians and the Syrians 10 days ago in Iraq, our Ambassador Zal Khalilzad did, to talk about Iraq. And those meetings will continue in the future. So there are lines open to them.

Senator TESTER. And just for my information, had Iran been closing off the shipping lanes?

Mr. BURNS. The Iranians, of course, call it the Persian Gulf. We call it the Gulf.

We have had the American fleet in the Gulf since 1949 to protect the waterways. And since the Iranian revolution of 1979, there been times when we have had to have a show of naval force to keep the Gulf open and to send the signal that we do not want and we will not support and we will not tolerate any interdiction of international shipping in that area.

So the deployment of two carrier battle groups to the Gulf by the United States in the last 2 months is an expression of that policy.

Senator TESTER. I appreciate that answer and appreciate the conciseness of it.

Talked about $22 billion trade credit at one point in time. You said it is smaller now than it was then. Specifically what level is it at now? And these are credits, correct me if I am wrong, that are used to enhance and encourage trade with Iran. What level are they at now?

Mr. BURNS. Of course, the United States has been out of the trade business for 27 years with Iran. These are our allies, the European allies, the OECD countries, Japan.

The 2005 figure is $22 billion of various types of export credits available. And we have been leaning on the European governments to reduce that because we say to the Europeans, you know, it cannot be business as usual with Iran. You cannot try to sanction them on a nuclear issue but make profits on the economic side.

So the Italians, Germans, French, and Japanese have told us that their export credit levels are coming down. I do not have 2006 figures. Maybe Mark or Stuart do.

Senator TESTER. It would just seem to me, and I know you guys are doing the best you can, but it would just seem to me if our allies that understand what is going on with Iran, why aren't they just zeroing these trade credits out? I know that is what your wish is, certainly what mine is. But it does not make a lot of sense to me that if they understand what kind of impact Iran and their nuclear capabilities can have on our world, that they do not just say enough.

Mr. BURNS. You know, we just have a fundamentally different relationship, we the United States, then the European allies do. They all trade with Iran. They all have diplomatic relations. We have began to see that comity break down, however. I think the European governments are now of the mind that they should reduce the

level of what they do with the Iranians and they have been good partners on the nuclear issue. I must say that.

Senator TESTER. If, in fact, you can find out what those trade credits are at, I would sure like to know. It would be great if you could.

It is my understanding that half the population of Iran is under the age of 25. You talked about radio and TV as being used as a method for outreach to contact the regular citizenry. What role can the Internet play in this? And does it play in it? Are you utilizing it? Where are they at technologically?

Mr. BURNS. The have the same view that you do. The younger portion of the Iranian population is Internet savvy and a lot takes place on the Iranian blogs that they cannot do out in the open because the government is so repressive.

And so Congress was good enough to give us $5 million last year, and we are using that to fund what we call a virtual presence embassy, a virtual presence post. We have a computer network that allows us to speak to young Iranians. We have webpages for different cities in Iran that talk about—that give the honest truth about U.S. Government policy. We are really encouraging a dialog with young people through the Internet.

Senator TESTER. Is there any way you can monitor how effective that is, as well as radio and TV too?

Mr. BURNS. Yes, and I think actually we have to report to the Congress on how we are spending that money. And we have established a set of metrics that would give us a rough indication—because the problem is we are not there—but a rough indication of a type of impact we are having. But we are convinced that reaching out to young people through the Internet is a good way to go.

Senator TESTER. Just one more, if I might.

The situation with Korea and their nuclear—and then they backed off. And I was told it was because of financial sanctions that were put on. I do not know if that was all of it or not, but it seemed to me that working with our allies evidently something happened and it was more than just business as usual.

Can you apply what happened to Korea and the fact that they backed off on or apparently backed off on their nuclear development to Iran? And can we use that as a template to apply pressure to Iran to get the same results, assuming those results are accurate?

Mr. BURNS. Senator, I think we can in a rough sort of way, I do. It is ironic that a lot of countries criticize the United States for not being willing to engage in one-to-one talks with North Korea. We always felt it made much more sense to have the pressure of China and Russia and Japan and South Korea with us. And that worked. And we have now seen progress in the North Korea talks. My colleague, Chris Hill, is in Beijing pushing that today.

We have the same view of Iran. This is not about the United States and Iran, this argument over nuclear weapons on terrorism. We have been able to have this coalition of China, Russia, Britain, France, Germany and a wider coalition including India, Brazil this has been very effective. So I think it is a template of sorts. This multilateral pressure, we think, is the way to go. And diplomacy, we think, can be effective.

I cannot guarantee that. It is going to take some time to play out. But it certainly is the preferred option right now.

Senator TESTER. Thank you. Thank you, Mr. Chairman. I will let the other members have at it.

Chairman DODD. Thank you very much.

Senator Hagel.

**STATEMENT OF SENATOR CHUCK HAGEL**

Senator HAGEL. Mr. Chairman, thank you. Gentlemen, welcome.

Secretary Burns, in the Regional security conference setting in Baghdad almost 2 weeks ago, did we take any initiatives or did the Iranians approach us for any off-line conversations, meetings, opportunities to engage?

Mr. BURNS. Senator, we had two representatives in that meeting, Ambassador Zal Khalilzad and Ambassador David Satterfield, and I have spoken to both of them.

It was one of his first pro forma organizational meetings. There was a lot of talk about whether or not we create working groups to work on particular issues concerning Iraq's security, for instance, being first and foremost, and whether there be further meetings.

The United States took the position in that meeting that there should be further meetings. There should be meetings of the neighbors of Iraq with the U.S. in Iraq. And there should be meetings of a larger group of countries, including some of our Perm-5 and G–8 allies.

And so we are hopeful that at the Ambassadorial level and perhaps even at the ministerial level Secretary Rice might engage with the Iranians and Syrians and the other countries in the configuration.

To the best of my knowledge, and I have not had exhaustive conversations with both of them but I have had good enough ones, that is pretty much how the meeting went. And so we have the ability now to not talk to them and let them know how unhappy we are with their policy in Iraq.

And in another channel, we have this offer to negotiate on the nuclear issue, which they keep turning down, which is also the offer that we have made with China, Russia, and the Europeans together.

Senator HAGEL. Does that mean we did not have any off-line conversations, meetings, engagement with the Iranians at the conference?

Mr. BURNS. Senator, as I understand it, Ambassador Khalilzad had a quick conversation with the Iranian Deputy Foreign Minister, but very quick and I think rather perfunctory, kind of standing around before the meeting was to take place.

Senator HAGEL. To your knowledge, is there a follow-up effort planned by either side? Or is there a discussion of this as we get to the next meeting at the ministerial level between the Iranians and the United States? Or any initiatives on our side for that to happen?

Mr. BURNS. We are not anticipating, at the present time, any one-to-one meetings between Iran and the United States. But we do have this multilateral configuration where Iran and the U.S. are

around a table talking about Iraq. And we have the prospect of nuclear negotiations.

That is where our real emphasis is. The two aspects of Iranian behavior that are the most injuries to the United States and to our interests are will they get a nuclear weapon and therefore disrupt the balance of power in the Middle East in a negative way to our interests? And two, will they stop being such a negative influence in Iraq?

So we are focusing on those two channels. But they are both multilateral. Neither of them is a singular conversation between the two countries.

Senator HAGEL. You noted in your testimony and some of the responses you have given to the questions, as well as Secretary Levey, that we, the United States, are looking at diplomatic initiatives, engagements which is, I think your term was, Secretary Burns, a more comprehensive policy, which some of us have been advocating for some time using all of the instruments of power: military, economic, and diplomatic.

Can you tell this Committee whether we are thinking through what we might be in a position to suggest or offer in the way of diplomatic initiatives to Iran if, in fact, we were able to get some agreements? For example, opening up a consulate, not necessarily formal diplomatic relations yet. You noted, I believe, in your comments about engaging. You have noted that the younger generation it appears, I think in your words, that country is probably—at least by the latest poll numbers—the one country in the Middle East that actually might like Americans.

So what are we doing? What are we contemplating? What are we thinking through in the way of trying to take advantage of that situation in the way of initiatives? Now I know a number of things have to come together for that to happen. But what can you share with us on that front?

Mr. BURNS. Thank you, Senator.

I think the most important thing we have done is to put in writing an incentives package for Iran should they come to the negotiating table on the nuclear issue. We gave them a written document on June 1st, 2006, the Permanent 5 and Germany. That document essentially said there are two paths for Iran and the way you relate to us on the nuclear issue. If you continue to try to build a nuclear weapons capacity, we will sanction you. You have seen as now, we are on the verge of a second resolution in New York.

We said there is another path, and that would be a negotiation. Now what would be the subject of that negotiation? We would be willing, the six countries including Russia and China, to help you build a civil nuclear power industry so that the people of Iran have the benefit of nuclear power. But we are not willing to give you access to the more sensitive aspects of the fuel cycle, the enrichment and reprocessing. That would be done offshore.

We also added in that package a relief from some sanctions provisions, normalization of some economic ties between a lot of us, including the United States, with Iran. We thought it was a very substantial package because we thought that the Iranians needed to know what might be put on the table when they got to the table. We thought it would be an incentive.

But as I described, we think there has been this rather tumultuous internal debate which has prevented them from accepting that offer.

Second, Senator, we are not anticipating at this time the establishment of normal diplomatic relations between the United States and Iran. There is too much bad blood. There is too much that Iran has to account for, including attacks on our military personnel and on our diplomats.

But we are proceeding, with the help of the Congress and with financing from Congress, to try to open up the people-to-people ties between Americans and Iranians in a way that we have never tried before.

Senator HAGEL. For example? Give me an example of a program.

Mr. BURNS. Well, I know wrestling is a big sport in the Midwest and our national wrestling team went to Iran at our suggestion to compete in a tournament against the Iranians. They were received very enthusiastically, a standing ovation by the crowd in Iran. One of our wrestlers actually won his weight class, which is also a nice benefit.

Senator HAGEL. He must have been from Nebraska.

Mr. BURNS. He must have been, or Iowa.

And we are trying very hard to bring Iranians here. So we brought a group of health professionals Harvard Medical School and to Washington. We are bringing disaster relief experts. We are trying to break down the barriers that have separated us from the Iranians for the better part of three decades. So that is very much a part of our policy.

Senator HAGEL. Would you give us a quick glimpse into what is going on at the U.N. today regarding the Security Council debate on this resolution? It appears obviously, as our colleagues have noted, that the Russians have come a considerable way in this. But where that, you believe, is going to go? And then how would that enhance our position, bringing together our allies in using not just a unilateral sanction which there is some question, as the chairman has noted and I suspect he is going to get back to you on that, on why unilateral sanctions maybe in this case are not a particularly effective.

If you could give us a sense of what you believe is going to happen today and where that goes from today.

Mr. BURNS. Thank you, Senator.

We hope to have a resolution passed in the Security Council by the weekend. This is a resolution sponsored by the U.S., the UK, France, Germany, China and Russia. We are all together on it. It would substantially increase the type of sanctions placed on Iran from the first resolution passed on December 23. It would add arms sales as a sanction. It would add sanctions on the IRGC, the Revolutionary Guard Corps Command. It would open up a process to eventually make progress on export credits. So we think it is a good one.

We are working now with the other members of the Council, the non-permanent members, and we hope very much that South Africa, the current president of the Security Council, will want to negotiate with us in a productive way. But we are prepared to push this

through because it is the right thing to do, to apply this kind of multilateral pressure on the Iranians.

Senator HAGEL. Thank you.

Chairman DODD. Thank you very much, Senator.

Senator Reed.

**STATEMENT OF SENATOR JACK REED**

Senator REED. Thank you very much, Mr. Chairman. Thank you, gentlemen.

Secretary Levey, as I understand the statute, subsidiaries of U.S. firms are not barred from dealing with Iran as long as the subsidiary has no operational relationship to the parent company. Is that an accurate assessment of the current status of the law?

Mr. LEVEY. Basically you are right, Senator, that currently foreign subsidiaries are not cutoff in that same way.

Senator REED. Do you have a current list and do you deliberately go out and identify those foreign subsidies of American firms that are trading with Iran? And can you give us that information?

Mr. LEVEY. We do not have a comprehensive list of this. This is something which there is some ongoing effort in the Government, as you may be aware. The SEC has an Office of Global Risk where they require companies to make disclosures of information and then they try to put it out in the public domain so that investors are aware of information the SEC deems to be material of that purpose. But that is the status of kind of a governmentally created set of information.

Senator REED. It would just seem to me that that would be a very productive use of your time, to identify subsidiaries of American companies that are dealing in Iran, profiting from Iran, and taking those profits and sending them back to the parent company in the United States.

Just simply, I think, that knowledge, publicly might go a long way in curtailing the activities of these companies.

I presume from your response, there are a number of companies operating in Iran that have—there are subsidiaries of American corporations; is that correct?

Mr. LEVEY. There certainly are some. I think there is probably a lot less than some people might imagine. I obviously do not know for certain.

What I have been able to glean from sort of an anecdotal perspective is that a lot of companies are pulling out of Iran for much of the same reasons that we have already been discussing here, including moving subsidiary operations. Some of the ones that I think are more significant are making that same decision.

Senator REED. I think the tempo might increase if public attention was more focused, and you might be able to do that through your office.

Just one other question about trade with Iran. Is Turkey still buying gas directly from Iran?

Mr. BURNS. I believe so, Senator.

Senator REED. Is there any effort on our part to talk to our NATO ally and convince them not to do that?

Mr. BURNS. We are trying to convince all companies seeking investment in oil and gas with Iran to not do it. We are jawboning pretty heavily, pretty seriously.

A number of our allies, Turkey is a prominent one, a partner like India is another, have long-term oil and gas relationships. And we are trying to suggest that there are alternatives for the future.

For instance, with Pakistan, India, and Afghanistan the alternative to Iranian gas would be Kazakhstan. And so we are trying to produce a movement toward a systemic shift away from reliance on Iranian energy. It is very difficult, obviously, in a neighborhood where countries are energy dependent.

Senator REED. Secretary Burns, again thank you for not only your testimony today but for your service over many years.

You suggest, I think with some credibility, that in one sense the position of the Iranian government has weakened because of their growing isolation from the world powers. But in another sense, they have seen their strategic position enhanced. The regime in Tehran is now an ally of them. They have quite an active participation in western Afghanistan, contrary to the Taliban years, where they have councils with economic issues, they are building roads.

The issue I have is Senator Dodd has shown this chart of the Revolutionary Guard and I think you have talked about it. But the long-term relationship between organizations like the Badr Brigade with the Quds Force with the Revolutionary Guard, now those people have been transformed into significant members of the Iraqi government. How does that complicate our relationship with Iraq and Iran?

You talk about the Iranian influence in Iraq. Some of it is clearly hostile to our purposes. But much of it seems to be at the invitation of Iraqi political figures that we support and deem legitimate. And how do you parse that very difficult dilemma?

Mr. BURNS. I think it is a bit of a mix, as you suggest. On the one hand, the Iranians have clearly profited from the fact that Saddam Hussein has fallen from power and now no more. They have clearly profited from the fact that the Taliban disappeared as a power center in Afghanistan.

But on the other hand they are more isolated on the nuclear issue than they were a year ago or 2 years ago. They have played their cards wrong. They have not given any indication of interest in negotiations, which have stiffened the spine of countries like Russia. So I think they have actually miscalculated on the nuclear issue.

I think their credibility has been hurt in the Middle East and around the world by Ahmadinejad. Now he is popular in some parts of the Middle East because he was seen to be Hezbollah's protector in those parts of the Middle East where Hezbollah is popular.

But on the other hand, he is the guy who says that another state, a member state of the United Nations, should be wiped off the map of the world, Israel. He has denied the Holocaust. T hat has hurt him very much in Europe.

And I think that Iran now has responsibilities in Iraq that it did not have before. So we are suggesting that they have to meet those responsibilities. You are right that many of the Shia leaders in

power in Baghdad sought refuge in Iran during the Saddam years. And so there are personal and institutional and official links between some of the Shia leaders and their institutions and Iran.

But now Iran has to act as a normal state and help keep Iraq together and be more responsible than it has been. And I am not sure Iran is meeting that test either.

So overall while their strategic position is improved in some ways, I think on balance they are weaker today than they were a year ago, and they have got much more international opposition to them on a number of fronts.

Senator REED. Is that weakness a function of declining oil prices in some respects?

Mr. BURNS. They have got a problem with energy because they are importing about 40 percent of their gasoline, which is a great irony considering the fact that they are the second leading oil producer in the world. They have set prices artificially low and so that has been a major expense for the state. There is a profligate use of energy by people in terms of the use of automobiles, for instance, in Tehran itself.

Senator REED. It sounds familiar.

Mr. BURNS. And so they are facing an energy challenge. And as the energy prices dip over time, their ability to finance Hezbollah and Hamas is going to be decreased.

Senator REED. Thank you, Mr. Secretary. Thank you, gentlemen.

Chairman DODD. Thank you, Senator Reed.

Senator Allard.

**STATEMENT OF SENATOR WAYNE ALLARD**

Senator ALLARD. Thank you, Mr. Chairman. Welcome, Secretary Burns. I have a question for you.

The media has recently reported a chlorine gas aspect to the explosive devices in Iraq, and I made note of your comments here on the Revolutionary Guard that they were making many of the explosive devices in Iran and then exporting them into Iraq. Is that chlorine coming out of Iran?

Mr. BURNS. Senator, I just have no way of knowing. It was very worrisome to see this chlorine gas explosion a couple days ago. It is not the first that we have seen and so we are trying our very best to do what we can to diminish the IED and the bomb threats but they are continuous.

What we know about Iran, what we do know, is that they have provided these explosively formed projectiles, the sophisticated IED technology, to Shia militant groups. We have seen the markings of the Iranian government. We know that for sure. And we know that the Shia militant groups have used those devices to attack American soldiers.

We think we have a general rough estimate of how many soldiers have been killed by that and we saw the level of frequency increase in the latter part of 2006.

But we have no indications that I know of that Iranians are actually conducting the attacks. These are Shia militants inside Iraqi doing so.

Senator ALLARD. If we should happen to tie that to Iran, how does the chemical weapons treaty kick in? Or does it at all?

Mr. BURNS. Senator, I just have no indication whatsoever that Iran is behind the chlorine gas attacks. Obviously we are investigating it with the Iraqi authorities. I just would not want to speculate on a hypothetical basis because it would be a very serious charge I would be making and I do not want to do that today. I do not have the intelligence knowledge to do that.

Senator ALLARD. I understand. Let me structure that differently.

How does the chemical weapons treaty handle sanctions?

Mr. BURNS. Senator, I would be very happy to reply to that question in writing. I, myself, am not an expert on that particular treaty. But it is a good question and I will be happy to give you a written answer on it.

Senator ALLARD. Good. I am glad we have got your attention on that. It is something I have thought about. If you could get a written response I think it would be helpful both to me and the Committee.

Also, I would like to follow up a little bit on Senator Reed's line of questioning on the importation of natural gas from Iran to Turkey. My information is that is occurring. But when they built the pipeline across Iran to carry Turkmenistan natural gas over to Turkey, and I guess the countries built their respective parts of that pipeline, do we have any monitoring going on as to whether Iran is injecting any natural gas into that line that is transporting from Turkmenistan over to Turkey?

Mr. BURNS. Senator, I do not know the answer to that particular question, but again I would be glad to investigate that for you, see what we know inside of our Government, and report it back to you.

Senator ALLARD. I would like to know just what level of monitoring is going on there, if any. That is the bottom line on that question. So again, if you can provide that in writing, I certainly we would appreciate it and probably the Committee would, too, also if you would, please.

Let me ask you this question: how does the State Department make the determination to provide a waiver of sanctions? What is the process? And what criteria are used? Can you share that with me?

Mr. BURNS. We have a waiver provision under the law that has been given to us by the Congress, the first Iran Sanctions Act, and now the reauthorization of 2006. If we believe that a particular foreign company has violated the provisions of the Act, then we have a responsibility to report that to you, and the president has the possibility of using the waiver authority in that instance.

As I said to the Chairman earlier, I also served in the Clinton Administration. I am a foreign service officer. I can check this but I believe that the Clinton and Bush Administrations have only used that waiver authority once.

Senator ALLARD. Where I am driving my question is to establish that belief what criteria do we rely on?

Mr. BURNS. We have a very active effort that encompasses a number of departments, and both Mark and Stu can speak to this, to try to track what companies are trying to invest or seeking investments with Iran in oil and gas.

As I said before, we have asked our Ambassadors to be very active. I know we have in the case of Shell, Royal Dutch Shell. I

know we have with the Chinese, because I made the demarche to the Chinese to say to these companies and countries we think it would be a mistake for you to finish an investment deal.

A number of the deals that are on the chart that the Chairman had of more recent vintage are ideas on paper or preliminary deals that have not yet been consummated. So we do have an opportunity here to try to convince these companies not to go forward.

And frankly, we also tell them that there is the Iran Sanctions Act, that the Congress is considering modifications in it. And so the specter of that is useful to the Administration, as I think it was to President Clinton's Administration.

Senator ALLARD. I did not want to get into a repeat response that you had given to Senator Reed. My understanding is the source is the SEC records and what they have online.

I guess to pursue this issue a little further, could we be accused, in any way, of having a double standard in the way that we deal with various countries?

Mr. BURNS. I would not say that. I think that we have applied pressure fairly across the international political spectrum. We have been as tough on some of our West European allies as we have been on the Chinese in terms of these prospective oil and gas deals, if that is what the question is.

Senator ALLARD. Yes, that is.

Mr. BURNS. We are pressing on all fronts. We think that oil and gas investment with Iran is wrong. It is contrary to the international interest to isolate and pressure that regime.

Senator ALLARD. I just bring that question up because I would be concerned about how our allies might react when we deal with some of these sanctions.

Mr. Chairman, my time is about ready to expire, so thank you

Chairman DODD. Thank you. And by the way, the written questions and requests for submissions we have already raised with the Secretary, and he has promised to comply with that.

Mr. Secretary, we have about three or four members and I know the time is getting beyond what we promised you could leave. If we could maybe ask my colleagues, instead of 7 minutes, 5 minutes at least to try to get these questions in so that everyone has a chance.

You have some interest. We had over two-thirds of the members of this Committee show up this morning to be a part of this. So I will try and move along here. You let us know when the hour has arrived you just have to leave and we will respect that. So if you can stay a few more minutes, we would appreciate that.

Mr. BURNS. Mr. Chairman, if you would permit me, I am very open to talking to members and I would be happy to see you individually, too.

My problem is I have a boss who is always on time and I am expected in his office, in the Oval Office, at 11. And I have got to get by car from here to there.

And I do not mean to be disrespectful, but I am supposed to attend this meeting with him with the Prime Minister of New Zealand.

I would be happy to come to each of the Senator's office to talk to them, or I would be happy to come back to this Committee at anytime to testify in open testimony.

I apologize for the situation.

Chairman DODD. No, not at all. In fairness to the Secretary, he did promise at the beginning that was going to be the circumstances. And I appreciate that very much.

Our other two members will stay here and so we will continue pursuing this.

But thank you very much. I must say, Secretary Burns, the Administration is very fortunate to have you. You are a voice of moderation and rationality in all of this and we appreciate it. I do certainly, anyway.

So thank you very much.

Senator CARPER. Mr. Chairman, I would be delighted to accept the offer from the Secretary.

When you have a chance to come by and visit with us, I hope before the end of this month, I would be especially interested in talking about a piece that was written by Walter Isaacson in Time Magazine about a week or so ago, following his visit with the Iranian ambassador to the U.N.

Thank you.

Chairman DODD. Thanks very much.

Senator Bayh.

**STATEMENT OF SENATOR EVAN BAYH**

Senator BAYH. Thank you. And Mr. Secretary, thank you. Gentleman, I am grateful for your efforts. This is an important challenge facing our country.

You have had some success. I think you hear from this Committee and on my own behalf, I urge you to do more.

Secretary Levey, I would like to start with you. As I understand it, we have been bringing pressure to cutoff transactions with regard to two of the Iranian banks; is that correct? Why not all of them?

Mr. LEVEY. That is an excellent question, Senator. Here is what our thinking is on that. We are trying to establish, as Under Secretary Burns said, an international coalition to bring pressure on Iran.

What we found as the most effective way to do that is not just to exercise power—and I think you will find that this is going to be the theme of a lot of answers—not just exercise the power that we have, but to exercise it in a way that brings others on board.

So, what we have done with respect to the two banks that we have taken action against is not just cut them off, but to explain why we have cut them off. So with Saderat, it was about terrorist financing. With Sepah, it was about proliferation finance.

The result of that has been to really cause others around the world to take a close look at whether they are going to do business with these banks.

Senator BAYH. Are you telling us there is no evidence that the other three Iranian banks have been involved in similar activities?

Mr. LEVEY. Not at all, and I certainly do not want to suggest that we will not take further actions at the appropriate time.

What I am saying is that we thought it was the appropriate time and we had evidence that we could put in the public domain with respect to those banks. As Under Secretary Burns mentioned, we

are about to see the possibility of Bank Sepah listed at the United Nations and in the Security Council Annex, which would be a very dramatic step, something which I do not think would have been possible if we had just said we are going to cutoff all Iranian banks.

Senator BAYH. Perhaps. Again, I think what you have done to date is good. But I think we need to keep the pressure on and be even more aggressive. The clock is ticking. We do not know with precision when Iran will reach the point of no return with regard to a nuclear capability. The effort here is to try and avoid the necessity to resort to military force.

And so we want to be a aggressive sooner rather than later when it comes to this situation.

And so I would encourage a very thorough scrutiny of these three additional banks. And if the actions taken with regard to the two have had a beneficial impact, as I understand it, with regard to increasing the inconvenience and cost to Iran, why not do more with regard to the other three?

Mr. LEVEY. I take your point and I think in principle we are very much in agreement. We want to be as aggressive as possible and as effective as possible.

Senator BAYH. Which of the international banks that you have been trying to convince to not do business with the two Iranian entities have not been cooperative?

You spoke about the beneficial impacts of risks to reputation. Let us put that on the table here. Who has not been cooperating?

Mr. LEVEY. I think generally speaking, I think that all of the banks have been taking this seriously. And every single bank that we have engaged with has told us that they are either cutting back or cutting off entirely their business with Iran or with respect to these specific banks.

Senator BAYH. Is there a way to verify that when they make those statements? Or are they just facilitating transactions in euros rather than dollars?

Mr. LEVEY. Some of them have been straightforward with us that they are cutting off only dollar transactions. I am glad you asked this. Some of them say we got your message, we are cutting off the business in dollars.

That is what I think they think they need to do in order to comply with our law. But that is the beginning of the conversation, not the end, from my perspective. Because then I ask them, what is the difference in the risk of the transactions. If you really want to stay away from the terrorist financing transactions or the proliferation financing transactions, how can you be sure you are doing that if you are doing it in euros?

I do not think there is a really intellectually coherent response to that question.

Senator BAYH. When we encounter that situation, since they do not have an intellectually coherent response, what do we do? What is the sanction for them at that point? We cutoff a Macao bank for facilitating a North Korean business. If European banks are just doing a bait and switch, why shouldn't they pay some consequence?

Mr. LEVEY. I think—there is a large step—to be honest with you, my inclinations are the same as yours, Senator, I can assure you. But what was going on in the Macao bank was——

Senator BAYH. I am trying to help you here.

Mr. LEVEY. I understand.

What was going on in the Macao bank was illegal under the domestic law of any country and also putting—facilitating criminal activity. What is going on when a bank in Europe decides to do business in euros with an Iranian bank is not illegal under European law. And so it is a big step for us to then take the dramatic action that we took against Bauco Delta Asia in Macao against a European bank for doing that.

I think what we have to do, at least in the first instance, is really try to persuade——

Senator BAYH. Should it be illegal under American law, facilitating transactions with a state that facilitates terrorist acts, that is attempting to acquire a nuclear capability. Should that be illegal under American law?

Mr. LEVEY. I think that while it is tempting to say yes to that question, I think we are getting into an area where the reaction to that would be real hostility for the extraterritorial application of U.S. law.

What we are doing by trying to persuade these banks is already, I think, viewed by some as trying to project our own policies internationally. It is having some effect. If we were to make it illegal for banks to do business in the United States if they did business with Iran, I think that would be a very, very——

Senator BAYH. So we have to weigh the risk of a backlash to the attempted extraterritorial application of U.S. law versus the facilitation of Iran obtaining a nuclear capability. Those are the two risks we have to weigh?

Mr. LEVEY. I think—that is one way of putting it. I think the way others would describe that is that they will say we do not want to do any business with Iran that we think is advancing their proliferation efforts. But we want to do what we think is legal business with Iran.

And that is what I run into when I have this discussion, that the business they are doing is not advancing their proliferation, it is not advancing terrorism, that they are being very careful. That is the way the conversation actually goes when we have it.

Senator BAYH. The reason we are here today is the national security interests of the United States of America are implicated. I understand the possible financial backlash. But there are greater stakes in this dialog than that.

Mr. Chairman, my time is expired. I did have one question for Secretary Burns, but I guess I will have to follow up on that later.

Secretary Levey, you are not as involved as Secretary Burns would be with the application or the lack thereof of the Iranian Sanctions Act; is that correct?

Mr. LEVEY. That is correct.

Senator BAYH. Lucky you. I did have some questions about that, Mr. Chairman, why in the last decade there has only been finding of violation. I find that to be rather incredible. But I guess that will be a conversation for another day.

I would just conclude, Mr. Chairman, by thanking you for conducting this hearing. I think it is very important.

And gentleman, I would urge you on. This seems to be having some impact but we need to extend that.

Chairman, I am grateful to you for emphasizing that today.

Chairman DODD. Thank you, Senator.

We raised the issue earlier, in fact we had the chart up here talking about the $126 billion in various transactions where there has been zero sanctions against that kind of business.

Your questions were excellent. Thank you very much.

Senator Casey.

**STATEMENT OF SENATOR ROBERT P. CASEY**

Senator CASEY. Chairman Dodd, thank you very much for this hearing. And I want to thank both of our witnesses for your testimony and for your public service.

Chairman DODD. By the way, let me just point out to Senator Bayh, as well, Secretary Burns has agreed by the way, in a very prompt fashion, to respond, knowing his time was going to be limited here, to written questions. So I would urge you to frame those questions, submit them to the Secretary so we can get some answers right back to complete the hearing so we have a full record on these issues.

Thank you.

Senator CASEY. Thank you and I, too, had questions for Secretary Burns and will meet him at another time.

I wanted to get back to the issue of terrorism because it was cited not only in your testimony, Secretary Levey, but also in Secretary Burns's testimony. He said, and I'm quoting from age 10, this is a summary of the section on terrorism. He concludes with this sentence in the section. He says, and I am reading halfway through the sentence, "We are disrupting Iran's ability to support groups such as Hezbollah and Hamas while increasing the political costs of the support."

You say, in your testimony, which I guess is on page two, that you speak of Tehran arming and funding and advising Hezbollah, as well as supporting the Palestinian Islamic Jihad and Hamas. You go through there.

The question I have is based upon the information we have to date, and based upon that long history that you point to, what has happened in the last year in terms of Iran's support for those organizations due to, or maybe there is no connection here, but due to the fact that Iran has been let us say distracted because of the international pressure on the nuclear question. Is there any indication that they been distracted from that? Or has that support intensified or increased? Just say in the last year.

Mr. LEVEY. Senator, the information that I have is not what I would like to be able to report to you. I do not think that their support for terrorism has decreased in any way. All the estimates that we have in our assessment is that they are sending over $200 million a year in that general amount to Hezbollah alone. They remain the primary funder for Hamas, and the Palestinian Islamic Jihad.

With respect to the Palestinian Islamic Jihad, they even condition their funding on attacks, is the information we have.

So their support for terrorism is not waning in any way.

Now the action that we took with respect to Bank Saderat, I would just take 1 minute to mention that, is disruptive in terms of making that support more difficult because that really was the node that they were using to supply this money, particularly to Hezbollah.

As I think some of the Senators understand, with respect to Hezbollah, it is difficult for the United States to get at that as effectively as we would like to because the European Union does not recognize Hezbollah as a terrorist organization, which is something we would very much like to see changed. And so that is something we are working on quite diligently.

Senator CASEY. You said that with regard to Hezbollah, $200 million per year?

Mr. LEVEY. Yes.

Senator CASEY. What do you know about the other two? Do you have a specific number you can apply or attach to Hamas or Islamic Jihad?

Mr. LEVEY. I do not have a specific number that I can give you, Senator, but it is our information that they are the primary funder, particularly with respect to Palestinian Islamic Jihad, and that, as I mentioned, that they condition their funding on the use for attacks.

Senator BAYH. With regard to those two or frankly any other terrorist organization, if it is not part of the record of this hearing, if you are able to calculate and determine that and then submit it as part of your testimony, then I would ask you to that.

Mr. LEVEY. We will do the best we can. It may have to be, as you might understand, it may have to be a classified answer.

Senator CASEY. OK.

Also, with regard to these questions that center on terrorism, I know that when Secretary Burns said the sentence I read before "We are disrupting Iran's ability to support these organizations."

What, in particular, has been done, if it is not classified? And second, what can you tell us in terms of amplifying the answer to that question about the impact it has had?

In other words, what strategies are in place and how are they worked?

Mr. LEVEY. The fact that Iran is a state sponsor of terrorism, designated as such by the United States, as Under Secretary Foulon indicated in his opening statement, subjects them to formal sanctions by the United States in terms of what can be exported to Iran. So there is that.

In addition to that, we have been highlighting exactly what Iran is doing. That is something that is important. We took the action against Bank Saderat that I mentioned, which cut off the easiest way that they were funneling the money to these terrorist organizations which is a way of disrupting their support. They have to go to something that is much more cumbersome like shipping cash in trucks across Syria into Lebanon in order to fund this, which is much riskier, for obvious reasons.

But I think maybe the most effective thing that we can be doing is focusing on the IRGC. Under Secretary Burns mentioned that we are trying to get the IRGC mentioned in this follow-on resolution.

But as I think Senator Shelby said earlier, the commander of the IRGC was already listed in the first resolution.

So one thing that I have been doing is making the point to my colleagues around the world, both in the private sector and the public sector, that under 1737 that already has been passed calls for the freezing of assets not just for the individual, Safavi, who is listed, but for all the entities under his ownership and control, which obviously already includes the IRGC.

So we have been sharing lists of companies that we think are controlled by the IRGC and trying to put pressure on the IRGC as that organization within Iran that is its coercive arm, that is being used to sort of export terrorism around the world.

Senator CASEY. My last question is this, I have 1 minute left, With regard to your ability individually but also obviously our Government, our ability to have a positive and constructive impact on the question of how we disrupt their terrorist links what, if any, and I am assuming there are some, but what, if any, stumbling blocks or obstacles are in our way with regard to the Europeans? What is the basic impediment to doing that in terms of our ability to engage the Europeans to do what we think they must do in terms of combating this terrorist threat?

Mr. LEVEY. The major stumbling block, the one that looms larger than all the others combined, is that the Europeans will not recognize Hezbollah as a terrorist organization. It is a terrorist organization. I think that some in Europe agree with that but the Europeans will only act as a unanimous body by consensus. And so they have not been willing to recognize Hezbollah as a terrorist organization.

Since Hezbollah is often the first stop for Iranian support for other terrorist organizations, that eliminates sort of our best opportunity to stop that external support for terrorism coming from Iran. That would be the most effective change if that could be done.

Senator CASEY. Thank you.

Chairman DODD. Thank you very much, Senator.

Senator Carper.

**STATEMENT OF SENATOR THOMAS R. CARPER**

Senator CARPER. Thanks, gentlemen. And thanks for staying. You do not have a meeting with the President at noon, do you?

Mr. LEVEY. No such luck for me.

Senator CARPER. This may have been covered before I arrived, and if it has been I would just ask you to bear with me and comment on it, if you will. This may be more in the purview of Secretary Burns, but if you could cast some light on it, I would appreciate it.

I have been following the back and forth between Russia and Iran with respect to Russia's support and willingness to go forward to enable Iran to complete the work on their nuclear power plant, which is a project I think may have been in the works for several decades. I think the Russians have been involved in for a number of years. The Russians are asserting that they are not prepared to go forward because Iran has not been making payments, I guess, since January.

I am not sure in reading the press accounts who struck John or who struck Ivan or what is going on here. Do you all have a sense for what is happening here? What is going on?

Mr. LEVEY. To be honest with you, Senator Carper, I think—all I would be doing is reflecting what Under Secretary Burns tried to express on this issue before, which is that we have seen a change, a slow change in Russia, in terms of their willingness to stand up against Iran's nuclear program. The most significant thing being that they are currently sponsoring this resolution that is being considered at the United Nations right now. They voted for the first resolution to sanction Iran for its defiance on the nuclear program.

I do not know the details of this particular dispute between Russia and Iran and how that plays into it, but this is an encouraging sign that at least on the resolutions they are standing up against it.

There is certainly a difference, as Under Secretary Burns said, between our view of Iran generally and our relationship with Iran than Russia's, which has a long-standing trade ties and so forth. But we are starting to see that, at least on the nuclear issue, they are more on the same page with us.

Senator CARPER. There is a question whether or not Iran has actually been making their payments. Do we have any ability to monitor that or to know?

Mr. LEVEY. I am not sure that we do. I would only be speculating. I do not know whether we do or not.

Senator CARPER. Thank you.

Is it Secretary Foulon?

Mr. FOULON. Foulon.

Senator CARPER. Foulon.

Mr. FOULON. It embarrassed me when I used to play basketball.

Senator CARPER. Welcome to this March madness here.

According to your testimony, I think there are a couple of instances in which Commerce is, I believe, involved in the sanctions against exports to Iran. First, when transferring sensitive technologies to Iranian nationals, I think those are deemed exports within the U.S.

And second when sensitive technologies are exported to another country and that country wants to re-export those technologies to Iran.

In both cases exports wanting to export need to receive, I believe, special licenses from your department, from Commerce. A couple of questions if I could.

First of all, to what extent has commerce evaluated how well export controls work for Iranian nationals and re-exports?

Mr. FOULON. Let me take it in the two different pieces, the first piece around deemed exports which, as you pointed out, is the transfer of controlled technology to non-U.S. citizens in the United States. In terms of how that program works, just so you are clear and everybody on the Committee is clear, is that we are trying to implement the regulations in such a way that American research institutions, universities, laboratories have access to Iranian citizens without those Iranian students then being able to take that information back.

As we evaluate the program through our intelligence open source and other ways follow the careers of the various Iranian students or researchers who receive the deemed export licenses, then we are able to evaluate the effectiveness. Last year we provided 38 licenses to Iranians.

To this point, without going into details in open session that we cannot do, in closed session we would be delighted to do so, we believe the program is being implemented successfully with respect to those applications that we receive. The gap that we need to fill now is to make sure that universities, industries, businesses, research laboratories fully understand the regulations, fully understand the need for this extra deemed export license screening.

That is why we do over 100 outreach events every year, to universities, to industries, to others to make sure they are aware.

In terms of the re-exports, for most re-exports of controlled items by American companies or by American persons into Iran, those are covered by the Department of Treasury and the OFAC licenses.

Where we, where the Department of Commerce has a role is if it is an item that we call EAR99. It it one that does not appear on any the control lists but is kind of all other things, a catchall category. If a non-American citizen outside the United States is exporting an EAR99 item to an end user with proliferation or terrorism concerns, then we must do the licensing for that with a presumption of denial.

Since I have checked back as far back as 2000, we have had no instances of that occurring, Senator.

Senator CARPER. Thank you.

A question both, if I could, for you and Secretary—do you pronounce your name Levey?

Mr. LEVEY. I pronounce it Levey but I do not take it personally. So whatever you call me.

Senator CARPER. I know a fellow whose last name is spelled closely to yours and he pronounces it Levy, so you guys have to get together and straighten this out.

A question for both of you, if I could. The Iranian regime has sought, I think for some time, to acquire as we know, technology for its nuclear program, its nuclear program, and its aging military platforms by using a middleman, if you will, I think in this country, I think in Canada, maybe Europe to purchase technology and illegally export it to Iran.

I believe in the middle of December last year a report to the Financial Times quoted a U.S. Administration official saying something to the effect that increasing numbers of controlled items are being diverted from ports in the United Arab Emirates to Iran.

I was wondering if you all might detail for us the cooperation you are receiving from the international community in combating the exporting of sensitive technologies to Iran? And specifically, is the United Arab Emirates taking the necessary measures they need to control, to ensure that controlled export items are not being diverted to Iran?

Mr. FOULON. Thank you, Senator. You put your finger on a very important issue, the issue we call the transshipment issue. It is one we have given great attention to over the last four or 5 years. We have tried to develop a tool kit of policies, procedures that we

can use in dealing directly with the countries of transshipment concern, the areas of transshipment concern.

So before I turn to the United Arab Emirates, let me lay out in a little bit more detail kind of how we view the tool kit and how we implement those policies, which we tailor to each of the individual transshipment countries. It is everything from, with Hong Kong for example, we have annual meetings, close enforcement, data exchange, close enforcement cooperation. Hong Kong has a very sound export control law and they implement it very well.

So countries have a law, they have how well they implement the law, they have cooperation with us in terms of data sharing, in terms of enforcement cooperation. In some we had actually have Bureau of Industry and Security Commerce Department people on the ground who do spot checks, end use checks to identify the magnitude of the diversion concern.

With respect to the United Arab Emirates, we have been in close contact for the past several years in terms of encouraging them to implement, to pass and implement an effective export control law that would help screen out sensitive items going into Iran. As you know, geography is destiny. And no one's geography is more destined than that of the United Arab Emirates.

We were delighted 2 weeks ago when the UAE Minister of Economy, Sheikha Lubna bint Qasimi, announced that their export control law was in the final stages. So we will look forward to seeing that export control law passed. We will provide technical assistance to help them implement it and enforce it. We have an officer on the ground and we will continue to cooperate and exchange data.

So based on the statements that the Minister of Economy said 2 weeks ago, the United Arab Emirates is on the right track, we believe.

Let me just close by saying that we are always looking at the list of tools, the types of policies we have. Which is why 2 months ago we first raised the idea of creating a new country group. Our exports controls divide countries into groups. A is the NATO allies and so on. To create a new Country Group C, which would be countries of diversion concern.

So if we find that there are countries that are not adequately protecting it from their side we will protect it from our side, using Country Group C.

Senator CARPER. Thanks very much.

Mr. Chairman, thank you for your indulgence.

Chairman DODD. Not at all. Thank you.

I am going to come back to this, Secretary Foulon, because we have one agent in the United Arab Emirates. With all due respect, this is not what I call a very aggressive program considering this is a major port of entry and transit. The idea that we have one person on the ground there to monitor all of this is—well anyway, it speaks for itself, quite obviously here. We have to do a better job than that. We will come back to it.

Senator Menendez.

**STATEMENT OF SENATOR ROBERT MENENDEZ**

Senator MENENDEZ. Thank you, Mr. Chairman.

I want to thank you for calling what I think is an incredibly important and timely hearing early on in the Committee's agenda.

I appreciate the fact that we did not let the Iran Sanctions Act expire the end of the last session. But I am one of those, Mr. Chairman, that as I listened to the testimony here and the testimony that preceded before I got here but I got a good sense of it, it seems to me that it is not enough that our current sanction law permits foreign subsidiaries of United States companies to violate the spirit of the U.S. law by investing in Iran's energy sector. That the current sanctions law against Iran continues to allow U.S. pension funds to invest in foreign companies which invest in Iran without informing their investors. That, in fact, the current sanctions law allows a Presidential waiver that is so huge and broad that it does not provide even for true congressional oversight.

And that it is not enough to have renewed current sanctions that allows the administration to ignore certain investments in the Iranian energy industry so as to avoid either applying sections or waiving them. And that is the point I want to pick up with you, Secretary Levey.

There has only been one determination of a violation. I know that is done by the State Department. But nonetheless, there has only been one determination of violation in nearly a decade of what was ILSA.

But in the same period of time the Energy Information Agency, a part of the Department of Energy, and the Congressional Research Service have both reported major investments. It seems to me that how can we totally dismiss the findings of another arm of the U.S. Government and ignore them in pursuing sanctions against those companies?

Mr. LEVEY. I had a feeling I was going to be upset that Under Secretary Burns got away when he did.

As you indicated in your question, the Iran Sanctions Act is administrated by the State Department, but I think——

Senator MENENDEZ. I know you all said you work so closely together in the comprehensive nature of enforcing this that I am sure that you have some insights into it.

Mr. LEVEY. I am not going to be able to hide.

I think the general answer applies to the Iran Sanctions Act, it applies to a lot of the other things you mention in your question about what we do with respect to foreign subs, forced divestment, a lot of the other things I know people are thinking about.

I think the basic response, and then we can perhaps discuss it in more detail, is we want to put as much pressure as possible on Iran. The best way to do that, as Under Secretary Burns said at the outset, is to have a broad coalition that will all work together to put pressure on Iran.

If we start sanctioning European companies or Japanese companies or fill-in-the-blank companies for investing in Iran, then there will be a kind of backlash against us and it has the chance of disassembling the coalition.

Senator MENENDEZ. You mean we will get weaker sanctions than the ones that we have right now?

Mr. LEVEY. I think the theory is that potentially we would not get any sanctions at the United Nations without having a coalition.

Senator MENENDEZ. As I look at the language even of what is going to be ratcheted up now, it is all a suggestion that member companies not do X, Y, or Z. But it is not a ban against doing X, Y, or Z.

Mr. LEVEY. I think you are right, Senator. And as I think you know, we have been advocating for stronger resolution at the U.N. in the first instance, and I think would support a stronger resolution in the second instance. What we are trying to do essentially is this is what we think the market will bear.

Senator MENENDEZ. Can I ask you this? There are media reports that suggest the Administration is considering sanctions against companies investing in Iran's oil sector. Can you shed any light on that? Have you been part of those discussions?

Mr. LEVEY. I have seen the same media reports. What I do know, and I do not know whether there is anything internally going on in the State Department, there may be. But I do know that we have been talking to these companies that are considering these oil investments. I know that the Treasury Department has been part of some of those discussions where we are explaining to them, frankly, that if they do go forward with these investments that sanctions are certainly a possibility.

And even aside from the sanctions that one of the things that we say to them is if you invest in this oil sector, what you are doing is helping this regime generate income that will be put toward all the policies that we have been discussing here today that are so negative, their nuclear program, terrorism, et cetera. So we do try to persuade.

And with some success, as the Chairman said. Not complete success, but with some success.

Senator MENENDEZ. Let me ask you something that maybe you can help me with here, understand the nature of the law a little better.

Under existing U.S. law if a U.S. company invest $20 million over the course of a year in Iran's energy sector, the president would have to impose sanctions; is that correct?

Mr. LEVEY. I do not know that that is the case. As I understand it, that is not the case, that it is not a mandatory——

Senator MENENDEZ. He could waive it?

Mr. LEVEY. There is a waiver provision and there is also investigations that have to go on.

Senator MENENDEZ. But assuming there is a determination that a U.S. company invests $20 million over the course of a year in Iran's energy sector. Does the president have discretion from imposing sanctions?

Mr. LEVEY. I could be wrong with this. I do not think a U.S. company is permitted to do that.

Senator MENENDEZ. But if a U.S. company does that through a foreign subsidiary?

Mr. LEVEY. The rules with respect to foreign subsidiaries are somewhat different, that essentially if a U.S. company is using a foreign subsidiary to evade our sanctions—and this is something we have to determine on a case-by-case basis—then we can investigate that and take action against them.

But if their foreign subsidiary is actually acquired for other purposes and is not being used specifically to evade our sanctions, then it is permitted to do business with Iran.

Senator MENENDEZ. But if they have a foreign subsidiary and make that investment through that foreign subsidiary, you are telling me that if that is not their primary purpose then they can avoid the sanctions regime?

Mr. LEVEY. I think you are right. I do not know whether the standard is primary purpose or not. So I would not want to say that but I think you are right.

Senator MENENDEZ. I think, Mr. Chairman, this is one of the big problems we have, U.S. foreign subsidiaries, as I understand it, can actually make such investments. They go basically without the purview of the sanctions regime. And so therefore those who believe that an economic enterprise is more important than the security of the United States are allowed to do so.

This is just one of the many problems that we have with a law that is not vigorously applied, it has had only one finding in a decade, and that we talk about we want to act tough with Iran. And it seems to me we act like a pussy cat along the way.

I will save the rest of my questions for Secretary Burns, since I think that is where the bulk of them might have to be answered.

Chairman DODD. Thank you, Senator.

Let me point out, as I understand it on this last point that Senator Menendez has raised here, is there can be no U.S. personnel involved in the subsidiary and its efforts have to be totally independent of the parent. I think those are additional criteria that are included in that.

But obviously, at the end of the day, it could have these additional criteria if the resources continue to flow and provide an economic support for activity and increase the coffers of Iran, then obviously the purpose behind it seems to be circumvented. If the intention here is to limit the amount of financial support for this government and its activities then these provisions—I want to pick up on the point Senator Menendez has raised, and others, Senator Bayh raised it. I think all of us have to one degree or another here, Senator Reed.

And that is this call. This chart, I do not have it up here any longer, but you have got it in front of you, going back to 1999. As Secretary Burns pointed out, some of these are apparently not yet contracts but discussions, the latest being with a Malaysian company for $20 billion by the way. This is providing a revenue source of $126 billion in the last 6 or 7 years to Iran, companies that clearly would be subject to sanctions based on the Iranian Sanctions Act. You can waive them and so forth. Not a single one has been called on this.

If we are trying to get, and again you can make a case, and you have here, that the reaction to this could be a negative one on the part of various allies around the world. But I think Senator Menendez raises a very legitimate point, in the absence of not doing anything here we are not getting stronger sanctions out of the multilateral group here, but weaker ones, in fact.

And that if you want to get serious about it, or the administration ought to take the view that the section of the law ought to go.

And instead of having this myth up there that, frankly, we are going to take actions and never do, it seems to weaken our position in my view in terms of building that kind of international support. If, in fact, we use some examples here, getting very serious about this.

The point that Senator Bayh made, I think needs to be repeated. We are talking about a government here that is deeply involved in the financing of global terrorism, of organizations and individuals who are determined to do us great, great harm, who are trying to acquire a capability that poses incredible risk to the world, incredible risk to the world.

Here we are talking about some economic sanctions for many of us here who would like to do everything we possibly could to avoid that option that none of us are going to take off the table, that some apparently may be trying to rush to a little bit more quickly, and that is the military option in Iran, the dangerous implications of that step.

And one certain way it seems to avoid having to get to that point is to get very, very serious about the sanctions we are talking about. In the absence of doing that, I think history will be a very tough judge, that you have $126 billion in 6 or 7 years flowing into the coffers of the government by allies of ours around the world who are refusing to join in a serious effort here to bring a halt to this.

And you have got to get a lot tougher of this, in my view, or we are going to pay an awful price in the end.

You have explained it to the best of your ability here and Secretary Burns obviously has some more responding to do to these issues. But I think you have heard here from a good percentage of this Committee here this morning that is very, very concerned about what this is all headed.

Mr. FOULON. Mr. Chairman, just bearing to the question that Senator Menendez raised and that you also have raised concerning the sufficiency of legal authorities, and it also bears on your comments on the adequacy of having only one export control officer in the United Arab Emirates.

I would just revert back to the comments I made in my opening statement that there is one area where we do not have the legal authorities that we might otherwise have, which is the fact that the Export Administration Act is in lapse. As a result of that, for example, our attache in the United Arab Emirates does not have overseas investigative authority but must work through Immigration and Customs Enforcement.

Again, the penalties are not sufficient to be an adequate deterrent.

So I would just flag that as an area in which there is opportunity to strengthen our ability to achieve our common goals on this.

Chairman DODD. I thank you for that.

Let me raise a couple of additional quick questions, if I can, for you here. Concerns have been raised over the FBI's use of national security letters as authorized by the PATRIOT Act. The Banking Committee added provisions, later incorporated in Title III, to expand information access and sharing authorities for financial institutions, regulators and law enforcement.

I wonder if you could assure the Committee, this is for you, Secretary Levey, assure the Committee that you have implemented reasonable standards to enforce these provisions and that the Treasury Department has complied with both the spirit and letter of the law on that point.

Mr. LEVEY. I think I very definitely can give you that assurance, Mr. Chairman. The expansions of authorities that we received in the PATRIOT Act, for the most part, were not information collection in the sense of the FBI national security letter authority that I think you are referring to.

But all of the—the one provision in there that does allow us to collect information, we have very strict standards in place for how it is used. And it is 314(a) of the PATRIOT Act where we are able to get information from financial institutions is response to law enforcement requests so that they can identify which institution has an account for someone that a person that law enforcement is looking for or is investigating that they can follow up with.

The 314 authority works in a way where law enforcement then has to take that lead and acquire the actual underlying information through legal process. There is no other PATRIOT Act authority that we were given that I think implicates any of the concerns that you are referring to.

Chairman DODD. I appreciate that.

Let me go back if I can, Secretary Foulon, to the question that was raised earlier by Senator Carper dealing with the number of agents on the ground, and your response to it here.

What we are talking about here, as all of us, I think most people are aware, products can be shipped and end up going through three or four or five different countries before they get to their ultimate destination is what we are talking about here. Foreign governments may or may not cooperate. And that is what we are trying to drive at here, and the overseas export control investigations or arrests here.

How does the Commerce Department ensure effective enforcement of re-export requirements toward Iran? And how many enforcement cases have involved illegal re-exports of U.S. controlled technology to Iran?

I am not necessarily expecting you to have that data at your fingertips, so you may want to submit it in writing. Unless you have it, I would be interested in hearing, or some broad response to it.

And are there any cases that suggest a pattern of what technology Iran is seeking and who is supplying it? Can you answer that?

Mr. FOULON. Thank you, Senator. As I—one of the cases I referred to in my opening remarks was a case of a transshipment from Malaysia, as you will recall. There are other cases of transshipments through the United Arab Emirates and other economies in the area.

I would be happy to get back to you with a greater compilation based on the cases we have had, how many of those involve transshipment.

Chairman DODD. And also whether or not you are getting patterns here. It seems to me that is a very important question, to determine whether or not—it may not exist but it seems to me that

may be an interesting question to pursue, the patterns of technology that are being sought and requested by Iran, as well.

Mr. FOULON. I think there are clearly patterns of technology. Certainly various types of aircraft parts for civil and military aircraft. But let me get back to you with a more structured analysis of the patterns we see.

In terms of how do we know how we are doing? How do we know we are capturing the transshipments that go through? We use all of the tools of law enforcement. I would say it is not just the Commerce Department and the Bureau of Industry and Security. We work very closely with Immigrations and Customs Enforcement. We work with Customs and Border Protection, with the FBI. We work very closely with the intelligence community. We look through the shipper's export declarations. All exporters are required to file a declaration. We have a staff that analyzes those and tries to determine are there trends, are there vulnerabilities? Do we see a pattern of certain types of exports going through?

And so it is the full panoply of law enforcement.

And then the great benefit we have as well, Senator, is because in the Bureau of Industry and Security we have the licensing officers together with the enforcement people. They talk. And licensing officers see things that enforcement people may not see otherwise, a certain number of licenses going in a certain way or types of commodities going to a certain——

Chairman DODD. Have you requested more personnel in the UAE?

Mr. FOULON. We have not at this point. As we have looked at the authorities our person there has, the amount of licensed exports through the United Arab Emirates——

Chairman DODD. Is it your sense you need more people on the ground there, your personal opinion?

Mr. FOULON. From the Commerce Department perspective, which is all I can speak to, as I do not know the larger issues, as we evaluate the workload against the resources against the amount that a person can do, we are confident that our person there is doing the job that he needs to do.

Chairman DODD. And you do not need any additional personnel there?

Mr. FOULON. We believe that the workload and the personnel match at this point, Senator.

Chairman DODD. Thank you both very, very much.

Again, we will leave the record open here for a few days for some additional questions that may be forthcoming.

This is a very, very important hearing, a very important subject matter, and one the Committee is going to pay a lot of attention to in the couple of days with a possibility for additional legislation in this area, as well. So we are going to want to be in communication with all of you as we move forward here.

The Committee will stand adjourned.

[Whereupon, at 11:24 a.m. the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

## PREPARED STATEMENT OF SENATOR TESTER

Mr. Chairman, thank you. I welcome the witnesses, especially Ambassador Burns, whose resume includes a career in the foreign service and work for both Secretary Albright and Secretary Rice. That is the kind of very rare non-partisan commitment to making our country better that I believe public service is really all about. Thank you for your service and for your testimony today.

I am heartened by the testimony I have heard today about the efforts that are being made to prevent Iran from gaining nuclear capabilities and about the importance of giving diplomacy every last chance to succeed. I absolutely agree with that. And this really is probably one of the most important hearings that we can have in the Senate, because we have to get our Iran policy just right.

We have almost 200,000 U.S. troops involved in combat on the east and west borders of Iran. Iran is led a by a president who is, I am afraid, a real madman who is funding Hamas and Hezbollah, and who appears bent on developing some kind of nuclear program—something we cannot allow. So this is a very dangerous situation. There is no margin for error when it comes to dealing with these issues.

I understand that the Congress, mostly supported by both the Clinton and Bush administrations, has done a great deal to impose and then tighten sanctions against Iran. Given the stakes and the continuing level of President Ahmadinejad's rhetoric, I think most Americans can understand why these sanctions have been needed, and I think most people support these sanctions.

But as much as I support these sanctions, it seems to me that we have a very delicate task ahead of us. On the one hand, we should continue to use every element of diplomatic pressure, and every workable sanction program to move the Iranians away from the nuclear program. On the other hand, we absolutely must not lose the Iranian people. It is my understanding that between the various ethnic minorities, half the population being under 25, and an unemployment rate of more than 11 percent, you have all the makings of a considerable, though still quiet, opposition to the current government—opposition that may even be felt by some of the mullahs that oversee the government. It does not make sense to push these folks back toward supporting the current regime.

So I hope that we can have a good discussion about how to ensure that our message gets through to the Iranian people. I understand that there is money in the FY 08 budget to increase people-to-people contacts—that is a good start. But I look forward to hearing from our witnesses about what else we can do, from making increased use of the Internet as a means of reaching the Iranian people to finding new ways to reach the 50 percent of the population under age 25. Thank you.

**R. Nicholas Burns**
**Under Secretary of State for Political Affairs**
**Testimony Before the Senate Committee on Banking, Housing and Urban Affairs**

**March 21, 2007**

**"United States Policy Towards Iran"**

INTRODUCTION

Good morning. Thank you Chairman Dodd, Ranking Member Shelby, and distinguished members of the Committee for this opportunity to speak to you about the profound challenges posed to our national security interests by Iran. It is my pleasure to be here today with Treasury Under Secretary Levey and Commerce Acting Under Secretary Mark Foulon to discuss the strategy the United States is undertaking to address these challenges.

The topic of this hearing is one of tremendous urgency for U.S. interests in the Middle East and worldwide. We are advancing an ambitious agenda in the Middle East today through efforts to help stabilize Iraq, establish the foundation for a lasting peace between Israelis and Palestinians, promote democracy and freedom in countries like Lebanon, and avert the spread of extremist ideologies and dangerous

weapons. We will not fully succeed in any of these endeavors without successfully addressing the challenges emanating from Iran.

Under the radical leadership of President Mahmoud Ahmadi-Nejad, Iran directly threatens vital U.S. interests in multiple arenas and through a variety of instruments – its defiance of the international community in pursuit of a nuclear weapons capability; its efforts to sow chaos and instability throughout the region, particularly in the precarious democracies of Iraq and Lebanon; repressive treatment of its own citizenry; its support for international terrorism; and its long-standing and violent rejection of any Middle East peace.

Crafting an effective response to this Iranian threat is as important as any challenge America faces in the world today. It is critical that we succeed. The endurance of the Iranian regime, the escalation of its provocative policies and abhorrent rhetoric, and the alarming stridency of its leaders mean that inaction or failure is simply not an option. For this reason, President Bush and Secretary Rice have placed the highest priority on opposing Iran's policies across the board in the greater Middle East region.

The dangers posed by the Iranian regime are complex and diverse, and they necessitate an equally multi-faceted and sophisticated American response. We have constructed a comprehensive strategy that relies on American diplomatic

leadership and a robust multilateral coalition that is designed to prevent Tehran from achieving its objectives. And as the United Nations Security Council takes up a second sanctions resolution this week and important countries undertake new efforts to exert bilateral pressure on Iran, it is clear that we are on the right track.

Our policy toward Iran is clear and focused. First and foremost, we have demonstrated to the Iranian regime that its provocative and destabilizing policies will entail painful costs for Iran, including financial hardship, diplomatic isolation, and long-term detriment to Iran's prestige and fundamental national interests. Secondly, and equally importantly, we are working to convince the regime that another, more constructive course is available to it.

We have seen both elements of this strategy play out over the past week in New York. Consistent with our commitment to make clear to Iran that there will be costs for its defiance, I worked closely with my counterparts in the United Kingdom, France, Germany, Russia, and China on a second sanctions resolution, which we hope will be adopted by the full Council this week. This resolution builds on the elements of Resolution 1737 passed in December and increases targeted pressure on the Iranian regime in new areas such as arms sales, export credits and the IRGC.

While we are isolating the regime, we are also offering Tehran a diplomatic way forward. In the P5+1 context, the United States will reiterate the historic offer Secretary Rice first extended in June 2006 to engage in direct discussions with Iran "at any place and at any time," provided Iran completely, verifiably suspends its enrichment activities. This avenue represents the best opportunity for Iran and the United States to begin resolving our differences.

The diplomatic strategy I have outlined represents the best way forward for our country. Despite the fulminations of President Ahmadi-Nejad, Iran is not impervious to financial and diplomatic pressure. It is clear to us that our strategy is paying dividends, in terms of undercutting the regime's sense of ascendancy, unnerving its overconfident leadership, and clarifying the costs of confrontation.

In sum, this diplomatic strategy is just one facet of our policy of applying multiple points of pressure against the Iranian regime. We are also working at the United Nations and bilaterally to increase pressure on Iran to abandon its quest for a nuclear weapons capability. As a result, there is now a major international coalition of countries asking Iran to abandon its nuclear program. Furthermore, we continue our efforts to discourage the Iranian regime's support for terrorism and extremism, while expanding engagement with the Iranian people. Finally, we have

stationed two carrier battle groups in the Gulf to reassure our friends in the Arab world that it remains an area of vital importance to us and we have taken steps to counter the destructive activities of Iran in Iraq.

Today, I would like to provide some additional detail on the steps we are pursuing to increase pressure on Iran to abandon its destabilizing policies and expand engagement with the Iranian people.

**NUCLEAR ISSUE**

The United States and the entire permanent membership of the UN Security Council recognize Iran's right to peaceful, civil nuclear energy under relevant articles of the Nuclear Non-Proliferation Treaty (NPT). However, that right comes with responsibilities, paramount among them a legal obligation to forgo the pursuit of nuclear weapons and to cooperate with the International Atomic Energy Agency (IAEA) monitoring.

The Iranian regime has, of course, had sufficient time to clarify questions regarding its nuclear activities. Since 2003, the IAEA Board of Governors has called on Iran to meet its obligations under the Nuclear Nonproliferation Treaty. The UN Security Council called on Iran several times—both in March 2006 and

again in July 2006—to suspend all enrichment-related and reprocessing activities and to cooperate with the IAEA's ongoing inspections.

Iran, however, ignored these requests as well as the generous P5+1 incentives package offered last June. Faced with the Iranian regime's blatant disregard for its international nuclear obligations, the UN Security Council had no choice but to unanimously adopt Resolution 1737. And in the face of Iran's continued defiance, we expect that the Council will shortly adopt a second resolution increasing targeted pressure on the Iranian regime.

While President Ahmadi-Nejad continues to scorn the Security Council's efforts and declare its Resolutions "torn piece of paper," we have observed that the international community is increasingly determined to prevent Iran from obtaining a nuclear weapons capability. We see evidence of this in our unprecedented cooperation with our European partners at the UNSC—cooperation one country recently described as "the best in more than a decade." We see evidence in the willingness of Russia and China to more rapidly agree to the elements for a second resolution. And we see evidence of this in the international community's concerted efforts to both implement Resolution 1737 and cooperate on other

financial pressures outside of the UNSC. I will leave it to Under Secretary Levey to address those financial pressures in more depth.

**ENERGY SECTOR**

In recent weeks, we have vigorously engaged relevant companies and countries at senior levels about potential investments in Iran's oil and gas sector. In making clear our opposition to such deals, we have emphasized the negative impact they could have on international efforts to resolve the nuclear issue, as well as the potential implications under our law. Most of these deals remain in the discussion and negotiation stage. Our approaches are intended to diminish the likelihood of seeing them finalized. More broadly, Iran continues to encounter great difficulties in attracting foreign investment to its hydrocarbon sector and few foreign companies in recent years have committed to developing Iranian oil and gas fields. Some earlier agreements, notably one for developing the Azadegan oilfield, have come apart. Iran's own behavior and policies have contributed to this situation, but ILSA/ISA has also been a part of the negative investment climate that prevails for Iran today.

We worked last year with Congress on the reauthorization and amendment of the Iran and Libya Sanctions Act (ILSA) which, thanks to the success of our

diplomatic and economic efforts with respect to Libya, is now simply the Iran Sanctions Act (ISA). ISA has been extremely valuable in emphasizing to foreign governments and firms our concerns about Iran and highlighting the risks and potential consequences of investing there. As I have noted, we believe that ILSA/ISA has been a factor in Iran's lack of recent success in attracting the oil and gas investment it seeks.

**BLOCKING IRAN'S REGIONAL ASPIRATIONS**

We have also acted to blunt Iran's regional ambitions. In Iraq, Iran continues to provide lethal support to select groups of Shia militants who target and kill U.S. and British troops, as well as innocent Iraqis. We have communicated our redlines to Tehran and made clear that this is unacceptable. As President Bush announced in January, our troops in Iraq will act to disrupt networks in Iraq—regardless of their nationality—which provide weapons to Iraqi groups. These actions are consistent with the mandate of the Multi-National Forces in Iraq (MNF-I), granted by the United Nations Security Council and the Iraqi Government, to take all necessary measures to contribute to the maintenance of Iraq's security and stability. We have an absolute and indisputable obligation to defend our soldiers – and Iraq's citizens – from such attacks. At the same time, we are supporting the

Iraqi Government's efforts to solicit international support for stabilizing Iraq. We were pleased that Iran participated in the March 10 conference in Baghdad and hope that Tehran will begin to play a constructive role in supporting a stable and secure Iraq.

Outside of Iraq we are working with France, Saudi Arabia, Egypt and Jordan to signal our strong support for Prime Minister Siniora's democratically elected government in Lebanon and are working with European and regional allies to enforce the arms embargo imposed by UNSCR 1701 and to prevent Iran and Syria from rearming Hizballah. We have stationed two carrier battle groups in the Gulf to reassure our friends in the Arab world that it remains an area of vital importance to us. And at the regional level, Secretary Rice last autumn launched a series of ongoing discussions with our GCC partners, as well as Egypt and Jordan, regarding issues of shared concern, including the threat posed by Iran.

Combined with our long-term efforts to promote peace and stability in the region and reassure allies, including Israel, these steps mark the natural evolution of our efforts to demonstrate international resolve against Iran's disregard for international law and its aspirations to dominate the region. And they have all had

an impact. Iran is now more isolated and under more intense international scrutiny.

**TERRORISM**

Tehran has long-been the world's leading state sponsor of terrorism; the regime was responsible for the deaths of scores of Americans in the 1980s and 1990s. As we saw just last week, Iranians were implicated in the 1994 bombing of the Argentine-Israeli Mutual Association (AMIA) building in Buenos Aires. The United States will continue to support efforts to spotlight and bring to justice Iranians involved in terrorism, such as the Argentine Government's campaign for justice in the AMIA case. Additionally, recognizing Iran's role as the central banker of global terrorism, the Departments of State and Treasury have enlisted foreign support in efforts to deny suspect Iranian individuals and entities access to funds. Through these efforts and domestic designations, we are disrupting Iran's ability to support groups such as Hizballah and Hamas, while increasing the political costs of this support.

**ENGAGING THE PEOPLE OF IRAN**

As President Bush and Secretary Rice have long noted, our problems are with the Iranian regime, not the Iranian people. Part of charting a new course for U.S.-Iranian relations is intensifying our engagement with the Iranian people. While it is now not feasible for us to have formal diplomatic relations with Iran, it is within our grasp to bridge the divide between our peoples. So in addition to our diplomatic efforts to persuade Tehran to alter its foreign policy, we have launched a program to increase contacts between the American and Iranian peoples. We sent the U.S. National Wrestling Team to compete in Iran in January; we are also bringing hundreds of Iranians on exchange programs to the United States. We are encouraging American athletes, artists, religious leaders and others to visit Iran, as well, to help promote greater mutual understanding. And through intensified Persian language broadcasting efforts we are also communicating directly with the Iranian people, making clear our policies.

Simultaneously, we are continuing our efforts to support development of Iranian civil society. Iranian leaders often claims that Iran has an indisputable right to nuclear power. While we acknowledge that right—in accordance with Iran's NPT obligations—we also believe that the Iranian people have an indisputable right to

freedom of expression, transparent judicial proceedings, and the freedom to elect leaders representing a full spectrum of viewpoints. Unfortunately, the regime's record at home is not equal to the aspirations of the Iranian people. We are working to change this.

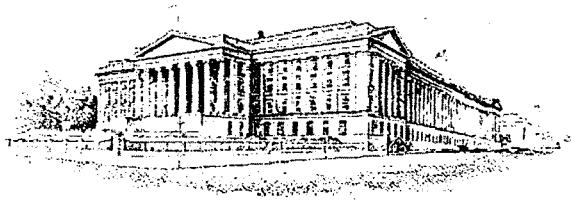
As a result of generous funding from Congress we have implemented a wide range of democracy, educational, and cultural programs, as well as significantly expanded our efforts to improve the free flow of information to the Iranian people. Our programs are open to all who are committed to peaceful, democratic progress in Iran. Their goal is to support different parts of Iranian society by promoting basic human rights and religious freedoms; building civil society; improving justice, accessibility and the rule of law; and promoting a deeper understanding of our culture, values, and ideas.

Given Iran's repressive political climate, progress toward our goals has been predictably difficult. But we are moving forward, and many brave men and women are helping promote basic civil rights and the necessity of political dialogue. In the long-term, we hope that a more open political climate that encourages, rather represses, dialogue, will stimulate a change in the behavior of the Iranian Government.

**CONCLUSION**

The United States is committed to pursuing a diplomatic solution to the challenges posed by Iran. This will require patience and persistence.

We are making every effort to improve U.S.-Iranian relations. But that cannot happen without a change in the Iranian regime's policies. Secretary Rice offered the Iranian Government an extraordinary opportunity, in June 2006, when she pledged to engage in direct talks alongside Russia, China, and our European partners if Iran verifiably suspends enrichment and cooperates with the IAEA. This offer remains on the table, and we will continue to make clear to the Iranian regime that the best to way to ensure its security is by complying with, not ignoring, its international nuclear obligations.



# DEPARTMENT OF THE TREASURY
## OFFICE OF PUBLIC AFFAIRS

**EMBARGOED UNTIL 9:00 A.M.** March 21, 2007
**CONTACT** Molly Millerwise, (202) 622-2960

### TESTIMONY OF STUART LEVEY
### UNDER SECRETARY FOR TERRORISM AND FINANCIAL INTELLIGENCE

### BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

**WASHINGTON, DC-** Chairman Dodd, Ranking Member Shelby and distinguished members of the Committee, thank you for the opportunity to speak with you today about the Treasury Department's role in dealing with the myriad challenges posed by the radical regime in Iran. I welcome this Committee's ongoing focus on the Iranian threat, and, more broadly, your continued support for our efforts to stop illicit financial flows.

INTRODUCTION

The challenges posed by Iran have become particularly urgent, and the Administration is employing a multi-faceted strategy to meet them. I know you are hearing much about that strategy today from my colleague, Under Secretary of State for Political Affairs Nicholas Burns. The Department of State's diplomatic efforts have yielded critical successes, including a unanimously adopted UN Security Council resolution last December, Resolution 1737, imposing Chapter CII sanctions on Iran's nuclear and missile programs. As a result of Iran's noncompliance with that resolution, including its expansion rather than suspension, of uranium enrichment, the Security Council is now set to pass a follow-on resolution with expanded sanctions. That our international partners now support pressuring the Iranian regime to comply with its international obligations is a true credit to Under Secretary Burns's patient, yet persistent, diplomacy.

The Treasury developed the financial component of the Administration's overall Iran strategy at the direction of Secretary Rice and Secretary Paulson and in close coordination with other agencies. Through our teamwork, we have crafted an innovative strategy to highlight the reckless and dangerous conduct of the Iranian regime, deter Tehran's dangerous activities through the use of financial measures, and prevent the regime's abuse and manipulation of the international financial system. As I will discuss, the Treasury's efforts and the State Department's intensive diplomacy at the United Nations are mutually reinforcing.

Over the past nine months, senior Treasury Department officials, including Secretary Paulson and Deputy Secretary Kimmitt, have met with foreign finance ministry and central bank counterparts from tens of countries -- in many cases multiple times -- to discuss the imperative of ensuring that the international financial system is not tainted or harmed by Iran's abuse. We have also engaged in unprecedented outreach to the international private sector, meeting with more than 40 banks around the world to share information and discuss the risks of doing business with Iran. And we have implemented targeted financial measures against Iranian banks, entities, and individuals engaged in illicit activities, highlighting to the world their dangerous conduct, preventing U.S. persons from doing any business with them, and, in some cases, requiring that any assets subject to U.S. jurisdiction be frozen. Those targeted actions have helped pave the way for international action.

Today, I would like to give you an overview of these Treasury efforts.

IRANIAN THREAT AND DECEPTION

Mr. Chairman, the Committee is well aware of the threat posed by Iran's dangerous activities, so I will just briefly summarize the problem. Iran poses two threats – an unrelenting pursuit of a nuclear weapons capability, on the one hand, and the provision of financial and material support to terrorist groups, on the other – the combination of which has an extraordinarily lethal potential. Under President Ahmadinejad, the regime has ignored calls from the International Atomic Energy Agency (IAEA) and the UN Security Council to suspend its enrichment-related and reprocessing activities, and to comply with its obligations under the Non-Proliferation Treaty. The danger we face is that Ahmadinejad not only has an extreme vision of the future but that he might develop the weapons that make him believe that his vision can be obtained.

Iran's role in supporting international terrorism is of serious concern. Iran has long been a state sponsor of terrorism. Tehran arms, funds, and advises Hizballah, an organization that has killed more Americans than any terrorist network except for al Qaeda. It is also widely reported that Iran provides extensive support to Palestinian terrorist organizations, including the Palestinian Islamic Jihad (PIJ) and Hamas. In the case of PIJ, Iran's financial support has been contingent upon the terrorist group carrying out attacks against Israel. And we are all familiar with Iran's funding and equipping of elements of the insurgency in Iraq, further destabilizing that country and resulting in deaths of Americans, Iraqis and others. Iran needs money to provide all of this support. Indeed, the regime operates as the central banker of terror, spending hundreds of millions of dollars each year to fund terrorism.

Iran also uses its Islamic Revolutionary Guard Corps, or IRGC, to provide a 'train and equip program' for terrorist organizations like Hizballah, as well as to pursue other military objectives of the regime. The head of the IRGC was listed last December by the UN Security Council as

supporting Iran's nuclear and missile programs. The IRGC's control and influence in the Iranian economy is growing substantially. More and more IRGC-associated companies are being awarded important government contracts. An IRGC company, for example, has taken over management of the airport and runways in Tehran, while another company has won the contract to build the Tehran metro system.

Iran's present integration into the world financial community allows it to support and facilitate its dangerous activities. The regime disguises its hand in terrorism and weapons proliferation through an array of deceptive techniques specifically designed to avoid suspicion and evade detection from the law-abiding international community. For example, Tehran uses front companies and intermediaries to engage in ostensibly innocent commercial transactions that are actually related to its WMD programs. These front companies and intermediaries enable the regime to obtain dual-use technology and materials from countries that would typically prohibit such exports to Iran.

We have also seen Iranian banks request that other financial institutions take their names off of U.S. dollar transactions when processing them in the international financial system. This practice is even used by the Central Bank of Iran. This practice is specifically designed to evade the controls put in place by responsible financial institutions and has the effect of threatening to involve them in transactions they would never knowingly choose to settle. It can allow Iran's banks to remain undetected as they move money through the international financial system to pay for the Iranian regime's illicit and terrorist-related activities.

TREASURY ACTION AGAINST IRAN

Because of the longstanding U.S. concerns about Iran's well-documented illicit behavior, the Treasury Department maintains broad sanctions against Iran. Although I want to focus today on our new, targeted sanctions -- or "measures" as I prefer to call them – against individual bad actors, it is important to remember that the U.S. Government has maintained these general country sanctions for some time and that the new measures build upon our overall and long-standing Iran policy.

U.S. commercial and financial sanctions against Iran, which are administered by the Treasury's Office of Foreign Assets Control (OFAC), prohibit U.S. persons from engaging in a wide variety of trade and financial transactions with Iran or the Government of Iran. They prohibit most trade in goods and services between the United States and Iran, and any post-May 7, 1995 investments by U.S. persons in Iran. U.S. persons are also prohibited from facilitating transactions via third-country persons that they could not engage in themselves.

Beyond these general country sanctions, we are relying more and more on "targeted" measures directed at specific individuals, key members of the government, front companies, and financial institutions. These measures are aimed at specific actors engaged in specific conduct. Some require financial institutions to freeze funds and close the accounts of designated actors, denying them access to the traditional financial system. At times, the action includes bans on travel or arms transfers, which further confine and isolate those engaged in illicit activities. To maximize the effect, we try to apply these measures in concert with others. Whenever possible, we act with

a partner or a group of allied countries. We have done so, for example, in the context of U.N. Security Council Resolution 1737, which I will discuss shortly.

These kinds of measures have several advantages. Because they single out those responsible for supporting terrorism, proliferation, and other criminal activities, rather than apply to an entire country, they are more apt to be accepted by a wider number of international actors and governments. Targeted financial measures also warn people and businesses not to deal with the designated target. And those who might still be tempted to work with targeted high risk actors get the message loud and clear: if they do so, they may be next.

The United States is using various types of targeted measures to combat Iran's pursuit of nuclear weapons and development of ballistic missiles, as well as its support for terrorism.

First, while under our general Iran country sanctions program Iranian financial institutions are prohibited from directly accessing the U.S. financial system, they are permitted to do so indirectly through a third-country bank for payment to another third-country bank. In September 2006, we cut off one of the largest Iranian state-owned banks, Bank Saderat, from any access, including this indirect, or "u-turn," access to the U.S. financial system. This bank, which has approximately 3400 branch offices, is used by the Government of Iran to transfer money to terrorist organizations. Iran has used Saderat to transfer money to Hizballah. Iran and Hizballah also use it to transfer money to E.U.-designated terrorist groups, such as Hamas, the PFLP-GC, and the Palestinian Islamic Jihad. Since 2001, for example, a Hizballah-controlled organization received $50 million directly from Iran through Saderat.

We have also acted against 19 entities and individuals supporting Iran's WMD and missile programs, including another Iranian bank, Bank Sepah, using Executive Order 13382. That Executive Order, signed by President Bush in June of 2005, authorizes the Treasury and State Departments to target key nodes of WMD and missile proliferation networks, including their suppliers and financiers, in the same way we target terrorists and their supporters. A designation under E.O. 13382 effectively cuts the target entity or individual off from access to the U.S. financial and commercial systems and puts the international community on notice about the threat they pose to global security as a result of their activities. Specifically, such a designation freezes any assets that the target may have under U.S. jurisdiction and prohibits U.S. persons from doing business with it.

While most states do not have a similar national-level designation authority as a tool to stem proliferation, they do now have binding obligations, which are similar to those under our Executive Order, under U.N. Security Council Resolution 1737. That resolution contains an annex listing entities and individuals responsible for Iran's nuclear and missile programs, and requires states to freeze their assets and the assets of entities owned or controlled by them.

Five of the U.S. designations against Iranian entities and individuals under E.O. 13382 have been similarly designated under UNSCR 1737. And, where our designations are not matched by designations at the United Nations, I can tell you that they still receive a great deal of international attention. I have traveled all over the world, sharing our list of Iran-related designations with foreign government counterparts and private sector representatives, and stressing the importance of ensuring that these proliferators are not able to access the

**Statement of**
**Mark Foulon**
**Acting Under Secretary of Commerce for Industry and Security**

**before the**

**Committee on Banking, Housing, and Urban Affairs**
**United States Senate**

**March 21, 2007**

Mr. Chairman, Senator Shelby, Members of the Committee:

Thank you for the opportunity to appear before the Committee today to discuss U.S. export control and sanctions policies towards Iran. I am pleased to be here today with my colleagues from the Departments of State and Treasury, with whom we work closely to implement the President's policies with regard to trade with Iran.

The United States has maintained sanctions against Iran since 1979, with a reinforcing trade embargo starting in May 1995. Iran has been designated as a state sponsor of terrorism since 1984, and because of Iran's continued active support for terrorism and concerns that it is pursuing weapons of mass destruction, U.S. sanctions were gradually increased until a comprehensive embargo was put in place. Consistent with these authorities, the Departments of Commerce and Treasury prohibit virtually all exports of U.S.-origin goods to Iran.

The Department of Commerce does not have primary jurisdiction for export licensing to Iran. Because of the comprehensive nature of the U.S. embargo on Iran, the Treasury Department has

been designated as the lead agency in this area. Within Treasury, this function is performed by the Office of Foreign Assets Control. This approach has been used when the broad nature of a U.S. embargo requires not only a prohibition on exports and re-exports of items under the Commerce Department's jurisdiction, but also comprehensive restrictions on financial transactions and investments under the jurisdiction of the Treasury Department.

Virtually any export of U.S.-origin goods to Iran must therefore be authorized by the Treasury Department. The Commerce Department's primary role in the licensing process, as part of the Administration's overall sanctions program, is to provide technical assistance to Treasury on the proper classification of goods proposed for export or re-export to Iran under a Treasury license.

The Commerce Department also plays an important role in the enforcement of the Iran sanctions regime by investigating for possible prosecution and penalties violations of the Export Administration Regulations. These investigations are conducted by the Commerce Department's Bureau of Industry and Security's Office of Export Enforcement (OEE), which has approximately 100 federal agents in ten locations throughout the United States. These locations include field offices in Boston, New York, Washington, Miami, Chicago, Dallas, Los Angeles, and San Jose; one resident office in Houston; and the Washington, DC, headquarters. More than 20 percent of OEE's current open investigations – over 150 – involve Iran.

Since October, 2004, investigations by OEE, at times working with U.S. Immigration and Customs Enforcement (ICE) or other law enforcement agencies, have resulted in 13 criminal

convictions related to illegal exports of dual-use items to Iran, with five more cases pending sentencing. A sample of these successful prosecutions includes the following:

- On November 30, 2006, Juan Sevilla, sales director of United Calibration Corporation, was sentenced to five years probation, six months home confinement, 100 hours of community service, and a fine of $10,000 for attempting to export machinery and calibration software to measure the tensile strength of steels; one use of such items would have been to test the chemical properties of metals that could be utilized for manufacturing nuclear materials.

- On December 7, 2004, Ebara International, Inc., was sentenced to a $6.3 million criminal fine, and one corporate officer was sentenced to three years probation and a $10,000 criminal fine, for exporting industrial natural gas pipeline equipment to the National Iranian Gas Company; and industrial pumps and valves to the South Pars Gas Field Project.

- On December 13, 2006, Ernest Koh was sentenced to 52 months in prison for exporting parts for C-130 military transport planes and P-3 naval aircraft. The parts were diverted to Malaysia and then illegally transshipped to Iran. The investigation also found that the guilty party had laundered millions of dollars from bank accounts in Singapore through accounts in the United States to promote the illegal scheme;

- In September, 2005, Mohammed Farajbakhsh was sentenced to seven months in prison and two years probation for his role in a conspiracy to export computer goods and satellite equipment via the United Arab Emirates to an entity affiliated with Iran's ballistic missile program.

Violators of the Iran sanctions regulations can also face Administrative penalties. Last year, OEE investigations led to such penalties in 16 cases, totaling $1.6 million in fines.

I would like to make one additional point with regard to the prosecutions. While the Export Administration Act is in lapse, as it has been since 2001, the U.S. dual-use export control system has been maintained under the authority of the International Emergency Economic Powers Act (IEEPA). IEEPA penalties are substantially less than the penalties under the EAA.

I would also like to emphasize the value we place on cooperation with our sister law enforcement agencies. Indeed, many of our enforcement investigations are conducted jointly with the Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement, or other agencies. In addition, Commerce actively participates in FBI-led Joint Terrorism Task Forces which focus on export control violations, including those involving Iran's support of international terrorism and violations of the Iran sanctions.

As the examples I cited illustrate, enforcement of our comprehensive embargo against Iran involves more than just stopping direct shipments from the United States. The Administration is

also focused on interdicting and disrupting the illegal transshipment of U.S. goods through third countries to Iran and other embargoed destinations. This takes two major forms.

First, in coordination with the Department of State, Commerce work s with other countries to identify foreign entities that seek to evade U.S. export control laws to divert U.S.-origin goods to Iran. We encourage these countries to prevent companies located within their borders from undertaking such illegal activities, focusing first on government-to-government cooperation as well as cooperation and information-sharing with the private sector.

Second, to strengthen government-to-government cooperation, the Administration works to develop or strengthen foreign government export control regimes; to promote information and data exchanges with foreign export control and customs authorities; and to cooperate on enforcement. Specific initiatives to develop export control capabilities have included technical assistance in drafting export control laws and licensing procedures, enforcement training, and industry outreach. Through programs like the Export Control and Related Border Security Assistance (EXBS) Program, the Departments of Commerce and State have been able to work with countries, including those of transshipment concern, to help them develop and implement effective export and border controls.

To strengthen cooperation and facilitate enforcement, the Commerce Department also has posted export control officers to five foreign locations – Abu Dhabi, Beijing, Hong Kong, New Delhi and Moscow. These export control officers are OEE agents temporarily assigned to the U.S. & Foreign Commercial Service. While they do not have overseas investigative authority, they do

support the effort to prevent illicit transshipments. Pursuant to an existing Memorandum of Understanding between OEE and ICE, ICE's 56 Attaché offices are responsible for conducting ICE and OEE investigative activities overseas.

Commerce's export control officers conduct post-shipment verification visits to verify that items are being properly used – and have not been diverted to illicit users or uses within the country or illegally transshipped to another country such as Iran. The export control officer in Hong Kong has broader regional responsibilities, reaching to other transshipment countries such as Malaysia, Singapore, and Indonesia.

As part of our efforts in this regard, the Commerce Department has worked to educate the private sector, especially key companies such as freight forwarders, integrators, air cargo carriers, and shipping lines. With regard to Iran, we have targeted our education and outreach on major hubs that might be used to illegally transship U.S.-origin goods to Iran, not only in the Persian Gulf region but also in Southeast Asia.

One recent successful example of Commerce's efforts to stop dangerous transshipments involves Mayrow General Trading, a company located in the United Arab Emirates. In June 2006, the Commerce Department imposed strict sanctions on transactions with this firm and its related corporate entities, because Mayrow is believed to have acquired U.S.-origin components capable of being used to construct Improvised Explosive Devices or other devices that have been, and may continue to be, used against coalition forces in Iraq and Afghanistan. In addition, as a result

of information provided by the United States government, the United Arab Emirates initiated an investigation of Mayrow that led to it being shut down.

In an effort to increase the options at our disposal for combating illicit transshipment to Iran and elsewhere, Commerce published last month an advance notice of proposed rulemaking that would amend the Export Administration Regulations by adding a new group – Country Group C. This group would be reserved for countries that pose a diversion concern based on criteria such as transit and transshipment volume and the adequacy of export controls. At this time, this is an idea in the preliminary stages of consideration, and therefore it is premature to discuss to which countries these requirements might apply. However, Commerce believes that this approach could be an effective tool to increase our ability to prevent illicit diversions of U.S. goods to countries like Iran.

As our presence here today demonstrates, Mr. Chairman, the Iran sanctions program encompasses many agencies of the U.S. Government that work together to ensure that the sanctions are being implemented and enforced to the fullest extent possible under existing laws and regulations. We at the Commerce Department are pleased to be a part of the Administration's Iran sanctions team. At this time I would be happy to answer any questions you may have.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM NICHOLAS BURNS**

**Q.1.** Is it not true that under current U.S. law, if U.S. Company X invests $20 million over the course of one year in Iran's energy sector that the President must impose sanctions?

**A.1.** A U.S. firm would be subject to the restrictions of the Iran Transactions Regulations (ITR) which prohibit virtually all commercial dealings by U.S. persons with Iran or Iranian entities. A U.S. firm would thus be unable, under ordinary circumstances, to make such an investment. If a U.S. firm were somehow to make such an investment despite the prohibitions in the ITR, it would be subject to criminal and/or administrative penalties.

**Q.2.** Is it also not true that under current U.S. law, if a foreign subsidiary of that same U.S. Company X invests $20 million of the course of one year in Iran's energy sector that there would be no consequences for U.S. Company X (meaning the U.S. parent company)?

**A.2.** It is true that in general, foreign subsidiaries of U.S. firms are not directly subject to the provisions of the Iran Transactions Regulations ("ITR") (which apply to U.S. persons), and thus are able to engage in activities that would be forbidden to the parent company. It is also true that in general, parent firms are not penalized for decisions independently made by their foreign subsidiaries. However, the parent company would be subject to the penalties of the ITR if the parent were involved in any way—financially, or in terms of decision-making—in a transaction by a subsidiary that contravened the Regulations. In addition, a parent company that deliberately created or used a foreign subsidiary in order to evade the restrictions of the ITR would be subject to penalties.

**Q.3.** Is it not true that this allows U.S. companies to do business in Iraq [sic] through their foreign subsidiaries?

**A.3.** In a situation of this kind, the "business" concerned would be done by the foreign subsidiary, acting independently, not by the U.S. parent. If the U.S. parent is involved in, for example, setting up or running the subsidiary's business in Iran, the U.S. parent would be subject to penalties.

**Q.4.** My understanding of our sanctions program is that the goal is to make sure that Iran cannot use money from its petroleum sector to fund its development of a nuclear weapons program.

Would you not, then, advocate for a change in current U.S. law to close this loophole?

**A.4.** Entities established under the laws a particular foreign country are generally regarded as "nationals" of that country and are subject to its laws. This is true even if most or all of the equity in the entity is owned by nationals of another country. While we understand your concerns, we believe that an attempt, direct or indirect, to make foreign-incorporated subsidiaries subject to U.S. law rather than to the laws of the country of incorporation would be roundly condemned and stoutly resisted by other countries, and would set an undesirable precedent that could destabilize the structure of international commerce. Certainly we would not want to see foreign governments assert that U.S.-incorporated subsidiaries

owned by their companies are subject to their laws rather than to U.S. laws. Such a step would also likely be ineffective because other countries may have on the books or may enact blocking legislation that would prohibit subsidiaries located in their countries from complying with U.S. sanctions laws. The likely result then would be a dispute between us and countries in which U.S. subsidiaries are located, taking the focus off of united action against Iran.

**Q.5.** In the ten plus years since the Iran-Libya Sanctions Act (ILSA) was enacted, there has been one determination of a violation of ILSA. In that case, sanctions were waived as provided for in law.

Since that time the State Department has made no other determinations of foreign investments in Iran that violate the ILSA standard. However, in this same period the Energy Information Agency, a part of the Department of Energy, and the Congressional Research Service have both reported major investments.

If the U.S. Department of Energy has made such findings, how can another arm of the U.S. government ignore them?

**A.5.** In the Iran and Libya Sanctions Act (ILSA), now the Iran Sanctions Act (ISA), there are specific definitional requirements. By delegation from the President to the Secretary, the Department of State has responsibility for determining whether particular activities constitute investment within the meaning of the Iran and Libya Sanctions Act (ILSA), now the Iran Sanctions Act (ISA).

**Q.6.** Does the State Department disagree with the Department of Energy report?

**A.6.** The Department of Energy report is a useful survey of energy matters in Iran. However, by delegation from the President to the Secretary of State, the Department of State has responsibility for determining whether particular activities constitute investment within the meaning of the Iran and Libya Sanctions Act (ILSA), now the Iran Sanctions Act (ISA).

**Q.7.** There have been reports in the media that the State Department is considering sanctions against companies investing in Iran's oil sector.

In your opinion, what effect would such sanctions have on those companies?

**A.7.** As you indicate, there have been recent reports referring to the possible imposition of sanctions in connection with deals being discussed or contemplated that have not yet been finalized. We hope that the many financial, legal, and reputational risks of investment in Iran's petroleum sector, and our vigorous efforts to highlight these risks, will continue to make companies wary of going forward with such deals.

**Q.8.** The U.S. Ambassador to India recently warned that the Iran gas pipeline to India/Pakistan may be a violation of the Iran Sanctions Act.

Has the State Department reviewed the transaction to see if it is a violation?

**A.8.** We have repeatedly made clear at senior levels of the governments of India and Pakistan, our opposition to this project and the concerns it raises under U.S. policy and U.S. law—the Iran Sanc-

tions Act. We have also stressed that Iran is an undependable supplier, and that relying on gas piped from Iran will not enhance the energy security of either country. Despite years of discussion, no firm agreement has been signed, and the project has not yet reached a stage for a determination under ISA. Major issues concerning the pipeline—including structure, financing, routing, and gas prices—remain to be resolved.

**Q.9.** We heard at the hearing about the broad international coalition to deny Iran a nuclear weapons capability, to stop it from sponsoring terrorism, to help build democracy in Iran to counter the totalitarian regime of Ahmadinejad. All of these measures, all of the sanctions contained in ISA, all of the sanctions that may be leveled at Iran in the Security Council, are targeted to give Iran a message, a strong message that developing a clandestine nuclear weapons program, that deceiving the international community, deceiving the IAEA is not acceptable. Here's the problem: Iran continues to enrich uranium. Iran has not dismantled its nuclear program. The goal of the original ILSA sanctions was to cut off funding from Iran's energy sector which would be used to fund its nuclear weapons program.

Don't you think it's time to turn up the heat, to tighten the noose on Ahmadinejad's regime?

**A.9.** The Department considers the threat of a nuclear-armed Iran one of the most important issues facing our nation today. It has implemented a broad diplomatic strategy over the past year and will continue to do so. The strategy has multiple pressure points, including a steady increase in action at the UNSC, which has adopted two unanimous resolutions imposing sanctions against Iran under Chapter VII of the UN Charter in three months; designating Iranian individuals and entities associated with WMD and missile programs, effectively denying them access to the U.S. financial system; terminating the ability of two Iranian banks to conduct transactions in dollars; working with foreign governments to curtail business transactions with companies tied to Iran's nuclear activities; and encouraging the reduction of official export credits for Iran. Our strategy also includes the disruption of Iran-backed militant networks which threaten our troops in Iraq; and increased people-to-people outreach.

We have engaged senior levels of government and companies to make clear our opposition to oil and gas investment in Iran, the damaging effect of such activities on our common diplomatic efforts with Iran, and the potential implications under U.S. sanctions laws. As a consequence, Iran has enjoyed little recent success in finalizing deals with international oil and gas companies to develop its fields.

**Q.10.** Don't you think it's time to expand the sanctions in ISA and to actually implement them?

**A.10.** Last year, we worked with Congress on amending and extending the Iran Libya Sanctions Act (ILSA), which became ISA, the Iran Sanctions Act. As Secretary Rice has said, ISA has proved a useful tool, particularly in emphasizing to foreign governments and companies the risks of investing in Iran, including the potential implications under U.S. law. Iran continues to experience dif-

ficulty in finalizing investment deals, and in recent years, few foreign companies have committed to developing Iranian oil and gas fields. Still, our allies remain crucial to the success of our diplomatic efforts against Iran, as evidenced by their support for two recent UN Security Council Resolutions imposing sanctions on Iran. It is imperative that we keep the focus on Iran, rather than modifying ISA to turn the weight of sanctions against allies.

**Q.11.** What exactly has the State Department done to press the Libyan government to fulfill its obligations to the Pan Am 103 families and the $2 million per family?

**A.11.** Claims filed by American citizen victims of Libyan terrorist acts and their families, including Pan Am 103, have been at the top of our bilateral agenda both before and since the reestablishment of direct bilateral relations between the U.S. and Libya.

In 2002, 269 of the 270 estate representatives of the Pan Am 103 families entered into an out-of-court settlement of their pending lawsuit against Libya that linked payments to the lifting of various sanctions within a stipulated time period. Pursuant to that settlement, the Government of Libya paid each of the participating claimants $8 million. There is currently a legal dispute over whether the settlement requires Libya to pay $2 million in additional compensation to each claimant. The United States is not a party to the settlement, but legal counsel for the Pan Am families has advised the State Department that the families have initiated court proceedings to resolve this matter. We have always encouraged, and will continue to encourage, the Libyan Government to deal with pending lawsuits in good faith. At the request of the families' legal representatives, we are also seeking to facilitate direct contacts between the two sides in an attempt to bring the case to closure outside of a potentially lengthy judicial process.

**Q.12.** What steps does the State Department plan to take to carry out that sense of the Senate and make sure the Libyans honor their obligations?

**A.12.** Our commitment to our citizens is unwavering and we remain very active in promoting the resolution of pending claims out of court wherever possible to allow claimants to avoid the burden and delay of litigation. At the same time, Libya continues to reaffirm its commitment to deal with the court cases in good faith and is actively participating in the U.S. legal proceedings brought by American citizens.

To improve our liability to pursue resolution of pending claims and other pressing bilateral interests, we have asked for agrément from the Libyan Government so that the President may appoint an Ambassador to Tripoli. The appointment of an Ambassador to a country is not a reward. Rather it is one of our most important tools. A fully functioning embassy, headed by a confirmed ambassador, is critical to pursuing the most pressing bilateral issues, including pending claims.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR DODD FROM MARK FOULON**

**Q.1.** What patterns do you see of diversions to Iran through third countries?

**A.1.** BIS's Office of Export Enforcement (OEE) has observed in the course of our investigations several patterns of Iranian diversions. The major pattern involves the establishment of Iranian controlled trading companies in United Arab Emirates (UAE) and utilization of free trade zones. These trading companies procure U.S.-origin items, usually concealing the fact that the items are destined for Iran.

Until recently, Singapore and Hong Kong had also been significant diversion points to Iran. While several significant diverters still operate out of Hong Kong and Singapore, OEE has observed the majority of diverters that we are aware of shifting their routing of goods through Malaysia for diversion to Iran. OEE believes this is occurring because Hong Kong and Singapore have adopted and implemented export control regimes, while Malaysia has not. OEE is also investigating incidents of diversion to Iran through the United Kingdom, France, and Spain.

**Q.2.** What technologies are the Iranians seeking in this way?

**A.2.** Since October 2004, investigations by OEE, at times working with U.S. Immigration and Customs Enforcement or other law enforcement agencies, have resulted in 13 criminal convictions related to illegal exports of dual-use items to Iran, with five more cases pending sentencing. A review of these cases provides insight into some of the commodities being sought by the Iranians.

- Computer equipment
- Aircraft parts and components
- Fork lifts
- Alloyed piping
- Nickel alloyed piping
- Night vision lenses
- Oil burning nozzles
- Submersible pumps

In addition, of the 136 open investigations involving Iranian transactions for which an ECCN has been identified as part of the ongoing investigation, the below listed commodities make up the top five commodities.

10—Category 3 Electronics [includes generation 2 night vision goggles]
10—Category 9 Propulsion Systems, Space Vehicles and Related Equipment [includes aircraft engines]
7—Category 2 Materials Processing [includes cryogenic pumps]
6—Category 0 Nuclear Materials, Facilities, and Equipment (and Misc. Items) [includes riot shields and centrifuge]
5—Category 5 (Part 1) Telecommunications [includes satellites]

**Q.3.** How many of your Iran cases and investigations involve diversions, and through which countries?

**A.3.** OEE has 136 open investigations involving Iranian transactions. Of these 136 cases, the following is a break down of cases depicting known countries used as transshipment points:

- 58—UAE
- 10—UK
- 10—Singapore
- 5—Malaysia
- 6—France

A further break out of the 13 criminal convictions and the five cases pending sentencing reveals multiple transshipment countries. Oftentimes these cases reveal that multiple diversion points have been used in furtherance of the alleged illegal exports.

- 4—UAE
- 3—UK
- 3—Singapore
- 3—Malaysia
- 1—France
- 1—Taiwan
- 2—Canada
- 1—Austria
- 3—Germany
- 1—Canada
- 1—Netherlands
- 1—Australia
- 1—Israel

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