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IRAN SANCTIONS: WHY DOES THE U.S. GOVERNMENT DO BUSINESS WITH COMPANIES DOING BUSINESS IN IRAN?

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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CONTENTS

	Page
Opening statements:	
Senator Lieberman	1
Senator Collins	3
Senator Brown	17
Senator McCaskill	18
Senator Ensign	21
Senator Gillibrand	23
Prepared statements:	
Senator Lieberman	27
Senator Collins	29
Senator Burris	31

WITNESSES

WEDNESDAY, MAY 12, 2010

Hon. Theodore E. Deutch, a Representative in Congress from the State of Florida	5
Joseph A. Christoff, Director, International Affairs and Trade, U.S. Government Accountability Office	8
Danielle Pletka, Vice President, Foreign and Defense Policy Studies, American Enterprise Institute for Public Policy Research	10

ALPHABETICAL LIST OF WITNESSES

Christoff, Joseph A.:	
Testimony	8
Prepared statement	63
Deutch, Hon. Theodore E.:	
Testimony	5
Prepared statement with an attachment	32
Pletka, Danielle:	
Testimony	10
Prepared statement	79

APPENDIX

GAO report sent to Senators Lieberman, Collins, and Kyl, dated May 4, 2010	71

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

IRAN SANCTIONS: WHY DOES THE U.S. GOVERNMENT DO BUSINESS WITH COMPANIES DOING BUSINESS IN IRAN?

WEDNESDAY, MAY 12, 2010

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 11:02 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, McCaskill, Collins, Brown, McCain, and Ensign.

Also Present: Senator Gillibrand.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. The hearing will come to order. We will begin with an apology to our witnesses for starting late, but, as my kids always say, "It wasn't my fault." And it certainly was not Senator Collins'. Sorry, the Senate staged these votes at this time. This is an important hearing. We appreciate the witnesses being here. Congressman, I thank you for your patience.

The title of our hearing today really says it all: "Iran Sanctions: Why Does the U.S. Government Do Business with Companies Doing Business in Iran?"

A prohibition on awarding Federal contracts to companies that violate the Iran Sanctions Act of 1996 is one of the actions authorized in that law. It was intended by Congress to be a tool, a powerful tool, and it could be if it was ever used. But it has not been up until this time, and that is now 14 years.

In the last fiscal year, the Federal Government spent $520 billion to buy goods and services, everything from basic office supplies to parts for weapons systems to an extraordinary range of services that are acquired.

Here is another example of the scope of Federal purchasing: The Federal Government is the single largest purchaser of energy in the world.

The U.S. Government's market power gives us the capacity, I think, to influence the behavior of companies doing business with Iran and to give them a choice between doing business with us or doing business with Iran. We no longer should allow businesses to do both.

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But Presidents of both parties have failed to enforce the existing law. As a result, many companies that make money from the U.S. Government continue to do business with Iran and in Iran, helping to sustain—directly or indirectly—the fanatical, anti-American regime in Tehran that regularly promises to bring "Death to America."

Today the Government Accountability Office (GAO) is releasing a report which illustrates America's failure to use the 1996 law as authorized.

Based on publicly available information, GAO has identified 41 foreign companies that have conducted commercial activity in support of Iran's energy sector. While GAO reaches no conclusion about whether these companies are in violation of the Iran Sanctions Act—because that is not its responsibility—the report does suggest strongly that many companies see no downside to doing business with Iran in violation of the law.

At the request of Senators Kyl, Collins, and myself, GAO is releasing a follow-up report today on seven companies doing energy business with Iran that also held Federal contracts between fiscal years 2005 and 2009.[1] These companies have received combined payments of nearly $880 million from the Department of Defense—including $319 million to Repsol of Spain and $312 million to Total of France for the purchase of fuel, and $111 million to Daelim Industrial Company of South Korea for the construction of military family housing in Korea.

The *New York Times* recently published its own analysis showing that the Federal Government has awarded more than $107 billion in contracts, grants, and other benefits over the last decade to foreign companies, as well as to foreign subsidiaries of U.S. companies, that have engaged in commercial activity in Iran. This includes $15 billion to companies that certainly appear to me to have violated the Iran Sanctions Act.

Companies identified in the *New York Times* report include Royal Dutch Shell, which has helped develop oil fields in Iran and has received over $11 billion from the U.S. Government, mostly through contracts for the purchase of fuel for the Department of Defense.

I hope that this hearing this morning, the GAO report, and the testimony of the witnesses send a clear message to those companies: Either do business with Iran's $250 billion a year economy, or do business with America's $13 trillion economy, including our government, but you cannot do business with both. And it is simply unacceptable for the Federal Government to enrich foreign firms that are enriching the extremist, repressive, terrorist Government of Iran.

Those companies should be put on notice—I hope they will be today—that Congress is on the verge of passing tough new sanctions legislation. The conference committee on which I am privileged to serve just held a meeting this morning. What cannot be sanctioned today can and will, I am confident, be sanctioned tomorrow.

[1] The GAO report referenced by Chairman Lieberman appears appears in the Appendix on page 71.

I note that both chambers have adopted provisions intended to tighten the prohibition on American Government contracts to companies that violate sanctions, which is based on legislation originally introduced in both chambers by Senator Chuck Schumer and in the House by Congressman Ron Klein.

I really want to thank our panel today, which I know will help us better understand the scope of foreign commercial activity in Iran, with a focus on its energy sectors, and the nexus between these companies and U.S. Government contracting.

I look forward to the testimony and our discussion afterwards.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman.

We are at a critical juncture in our efforts to prevent Iran from obtaining nuclear weapons, a capability that threatens the stability of the region and, indeed, the world. The conference committee on the comprehensive Iran Sanctions Act is now underway, and I commend the Chairman for his leadership on that legislation and for holding this oversight hearing.

Like the Chairman, I am deeply troubled by recent reports in the *New York Times* and by the GAO that the U.S. Government continues to do business with companies that are, at least indirectly, aiding and abetting Iran's nuclear program by investing in the Iranian economy. GAO's report that the U.S. Government entered into almost $880 million worth of contracts with seven foreign firms that had investments in Iran's energy sector is extremely troubling. Obviously, this practice goes against our own national security interests.

The GAO report exposes evidence of potentially serious violations of our current sanctions regime. In light of this alarming information, we not only need to pursue rigorous enforcement of our current laws but also to strengthen our sanctions against Iran. Congress can assist by completing conference negotiations on the Iran Sanctions Act. But the State Department can take immediate action to improve our efforts simply by enforcing current law.

Unfortunately, this lack of enforcement is not a new problem. As far back as 1996, when the Iran Sanctions Act first became law, Congress has attempted to extinguish investment in the energy sector. Yet, despite clear evidence of violations of that law, not a single company has ever been sanctioned. In fact, many of the corporations that have reportedly done business with Iran have continued to receive Federal contracts or other benefits from our government.

This failure to enforce the law has sent a signal to the Iranian leadership that we may be less than determined to bring their nuclear program to a halt. Continuing lack of enforcement may undermine our credibility as we seek tougher international sanctions. And, most important, Iran has seized on our leniency by continuing to enhance its nuclear weapons capability.

While the Federal Government continues to send mixed messages, many States have taken much more forceful action. In 2007, Florida became the first State to divest its pension funds from companies doing business in Iran and the Sudan. Many other States

have adopted similar divestment measures or have imposed procurement restrictions on companies doing business in Iran. For example, the State of Illinois requires State contractors to disclose in each bid whether or not they are engaged in operations in Iran's energy sector.

The Federal Government requires contractors to certify that they do not conduct prohibited business operations with Sudan. Unfortunately, no similar requirement is in place for contractors doing business with Iran. At a minimum, it seems to me the Federal Government should impose this requirement on its contractors.

I have repeatedly expressed my concern about the Federal Government's inconsistent actions to enforce and strengthen our sanctions against Iran. And as the Chairman has pointed out, this problem has gone across Administrations and involved both Democratic and Republican Presidents. Along with our allies, our Nation must be prepared to impose strong sanctions against Iran if the U.N. Security Council fails to implement tough and effective measures. But the fact is that the sanctions will lack teeth if they are not enforced. Mere threats will not prevent companies, including government contractors, from doing business with the Iranian regime.

In light of the danger posed by the Iranian nuclear threat, we must take every possible economic, political, and diplomatic measure to demonstrate to Iran's leaders that the price for its nuclear program has simply become too high.

As we consider broader sanctions to deter the nuclear threat posed by Iran, I am reminded of the suffering endured by the 66 American hostages seized by the Iranian Revolutionary Guard and other militants in November 1979. These Americans were held against their will for 444 days. To date, they have received absolutely no compensation from the Iranian Government for the brutality that they experienced. One of those hostages, Moorhead Kennedy, lives in Maine and is here today. I am very pleased that he is present for this hearing. His presence reminds us that these Americans continue to be denied justice from the Iranian regime, despite the intent of Congress.

Mr. Chairman, again, thank you for holding this hearing, and I look forward to discussing these issues with our witnesses.

Chairman LIEBERMAN. Thanks very much, Senator Collins. I thank Senator McCain and Senator Brown for being here. We will go to the witnesses now who have been so patient in waiting.

First, Congressman Ted Deutch was elected to Congress to fill an open seat last month by the voters of the 19th District of Florida in quite an impressive victory, all the more impressive to those who know because of the fact that he had earlier in his career supported various of my campaigns, and notwithstanding that, he went on to win a great victory.

Congressman Deutch is seated as a member of the House Foreign Affairs Committee and the House Judiciary Committee, I think showing the confidence that the leadership has in him. But this morning we asked him to be here particularly to share with us lessons from the State Senate in Florida where he has served and where he led a successful effort to pass legislation requiring the State pension fund to divest from companies doing business in

Iran. And I think the process followed there is instructive and encouraging for us at the Federal level.

Congressman Deutch, congratulations again and welcome to our Committee this morning.

TESTIMONY OF HON. THEODORE E. DEUTCH,[1] A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. DEUTCH. Thank you, Chairman Lieberman, Ranking Member Collins, and Members of the Committee. I appreciate the invitation to join you here today.

The Iranian nuclear weapons program poses a grave and growing national security threat to our Nation, risks a nuclear arms race in the Middle East, threatens our allies in Europe and beyond, and poses an existential threat to our critical ally Israel.

I am grateful that the House and Senate have now both passed new Iran sanctions legislation, and I firmly expect strong language to emerge from the conference committee before the end of this month.

It is important to note that States and local governments have been at the forefront of the Iran sanctions movement for years, highlighted by dramatic successes such as those in my own State of Florida. I was elected to the Florida State Senate in 2006, and recognizing the threat of the Iranian nuclear program, I was determined to use every tool at my disposal to put pressure on the regime. I crafted legislation that would prevent the pension funds of Florida's workers from investing in companies that conduct business within the energy sector of Iran, consistent with the framework established by the Iran Sanctions Act.

As the author of the Protecting Florida's Investments Act, I laid out a procedure for identifying and engaging those "violating" companies who currently invest in the energy sector of Iran above the thresholds in both the State and Federal statutes. The Florida State Board of Administration (SBA), subsequently worked with experts from across the country to develop an effective course of action for divesting the Nation's fourth largest pension fund.

Three years later, it is clear that this effort has been a dramatic success. The State of Florida has divested nearly $1.5 billion from 24 companies that do or did business in the Iranian energy sector, including Royal Dutch Shell, Total, Eni, and others. This is $1.5 billion from Florida alone. But no public worker, no retiree from any State or local government or from any police force, fire department, or school district should see his or her retirement savings invested in Iran's nuclear program. Divestment must be expanded, and most significantly for our collective efforts here today, the companies must be identified.

While 19 other States and the District of Columbia have passed similar divestment policies, Florida is the only State to have successfully identified, named, and published on a quarterly basis a list of violating companies, followed by a full and successful divestment from them. Therefore, I would urge Congress to look to Florida as one model for how to identify those companies who are pres-

[1] The prepared statement of Mr. Deutch with an attachment appears in the Appendix on page 32.

ently doing business in Iran in contravention of international security. Once those companies are identified, immediate economic pressure can be brought to bear at the Federal level.

Now, SBA identifies potentially violating companies through a thorough and multi-source research effort which relies on their own analysis along with independent external research providers. The SBA then sends written notification to any company found to have active business operations with Iran informing the company that it is now subject to divestment and that it has 90 days to cease such activity.

In only a matter of months, Florida published a verifiable and comprehensive list of companies and did so with a small budget and minimal staffing levels. The Federal Government can easily match and replicate the actions of Florida to create and maintain its own list of violating companies that are presently doing business in Iran.

The legislation that emerges from the House-Senate conference must include a requirement that the Administration provide a list of all companies that are in current violation of the Iran Sanctions Act.

But in advance of these new legislative requirements, the Administration should waste no time in creating its own definitive list so that the American people can know immediately which companies are choosing to risk international security by investing in Iran. It would be highly imprudent to waste time by waiting until after the new sanctions law takes effect to compile this important list when, in fact, it can be created quickly and easily today. In Florida, this research is done by the pension fund administrators and their outside consultants. I am aware that the State Department currently has jurisdiction over this area, but it is worth noting that the Energy Department is well positioned to publish such a list, as these are ultimately factual findings, and the Department of Energy has a long track record of publishing similar data within their detailed reports that document energy activity in specified countries, including Iran.

If the United States is serious about shining a light on the companies that continually defy U.S. law, we must do everything that we can to simplify this process. The easiest way to gather information is to mandate that companies divulge their business activities in Iran. I would like to commend the Securities and Exchange Commission (SEC) Chairman Mary Schapiro for her recent comments in support of strengthening the disclosure requirements for companies engaged in such dealings with Iran. It is apparent to a growing number of observers that, under U.S. securities law, doing business in Iran should properly be considered a material event that triggers mandated disclosure on SEC filings. Stricter SEC disclosure requirements have also been promoted by Florida's SBA and the not-for-profit group United Against Nuclear Iran—whose president, Ambassador Mark Wallace—circulated a letter recently favoring this new understanding of materiality in the securities law context. I would respectfully ask the Members of this Committee to join in the call for more complete disclosure requirements. A company's decision to do business in Iran at a time when the United Nations, the European Union, and this Congress are all de-

bating various forms of economic sanctions certainly makes any such Iranian investment material and worthy of full notice to the company's shareholders and to the public.

The list of violating companies serves another role. We must cease awarding any government contracts to companies that invest in Iran. My colleague, Congressman Klein, has written tough and important legislation in the House that is included in this comprehensive Iran sanctions package currently in conference committee.

As the Chairman referred to earlier, the *New York Times* article confirmed over $107 billion of Federal Government money has been awarded to companies appearing to be in violation of the Iran Sanctions Act since its enactment. Further, as the most recent GAO report states, the Federal Government spent almost $880 million just in the last 5 years contracting with companies currently doing business in the Iranian energy sector.

This is unacceptable, and I am gratified that we are on the verge of passing legislation to ban this practice going forward.

Through both Democratic and Republican Administrations, the sanctions regime under the Iran Sanctions Act has essentially lay dormant. I am certain that Congress did not repeatedly enact thoughtful and complex Iran sanctions for them never to be used. This practice must end, and it is long past time for these sanctions to be utilized as designed.

I am aware that in the world of international diplomacy it is not polite to name names. I understand that foreign nations do not want us telling their companies when and where to invest, but the stakes are now too high for diplomatic niceties to trump international security. It is time for our government to name and publish the companies that are investing in Iran. I am aware that many of those companies are based in countries that are our allies. Nevertheless, there is no greater threat to global security than the Iranian regime's quest for nuclear weapons, and it is time we put proper pressure on our friends, allies, and international competitors alike to end their investments in Iran.

The government should be using every power at our disposal to encourage, badger, demand, entice, and sanction companies to remove their business interests from Iran.

We are at a crucial moment in history, and time is not on our side. For many years, we waited for diplomacy to take hold and for Iran to forgo its nuclear weapons program. Instead, Iran is spinning more centrifuges and announcing the opening of new nuclear facilities, while their president declares his intent to wipe Israel off the map and publicly envisions a world without America. We will have failed if our discussion shifts toward containment and how to deter Iran from using nuclear weapons. Our mission is clear: We must prevent Iran from acquiring nuclear weapons. We must act now before it is too late for economic sanctions to deliver genuine results. Florida has shown that it is possible to identify violating companies and to exert real economic pressure. Congress and the Administration must now do the same. We can prepare that list today and immediately move ahead with sanctions. We need not and we cannot wait a moment longer.

Thank you, Mr. Chairman, for your dedication and commitment to this vital national security interest, and thank you for giving me this opportunity.

Chairman LIEBERMAN. Congressman Deutch, thank you for a very thoughtful, very strong, and ultimately very hopeful statement about what the Federal Government can and should do. Obviously we would love for you to stay for questions, but we will understand if in light of the delay you have to return to the House.

Mr. DEUTCH. Thank you.

Chairman LIEBERMAN. Mr. Christoff of GAO, thanks for being here. Thanks for the work that you have overseen. We now look forward to a presentation on the findings of GAO on this subject, and particularly the list of foreign firms engaged in Iran's energy sector who also hold U.S. Government contracts. Thank you.

TESTIMONY OF JOSEPH A. CHRISTOFF,[1] DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. CHRISTOFF. Thank you, Mr. Chairman, Members of the Committee. Thanks for inviting GAO to this important hearing. I am here today to discuss our work on foreign firms that have commercial interests in Iran's energy sector. The issue is important because Iran needs foreign investments to develop its energy sector, and the United States seeks to deter these investments through additional sanctions.

Iran seeks investments from foreign firms to increase oil and natural gas production and meet domestic energy needs. According to the International Monetary Fund (IMF), Iran's oil production has remained virtually flat in recent years and will likely stagnate without more investment. In addition, Iran must import about 130,000 barrels of gasoline each day to meet domestic demand. Currently, oil revenues account for as much as three-quarters of the Iranian government's revenues and one-quarter of the country's gross domestic product (GDP).

The Iran Sanctions Act seeks to limit Iran's ability to produce more oil and thereby deny it the financial resources it needs to fund international terrorism and develop its nuclear sector. Under the Act, foreign firms may lose U.S. Government contracts if they invest more than $20 million in Iran's energy sector within a 12-month period.

The only time the United States invoked the Iran Sanctions Act was in 1998 when it determined that the investments of three foreign energy firms were sanctionable. However, at that time the Secretary of State waived the sanctions citing U.S. national interests.

My statement today is based on two reports that we completed for this Committee, one in March and one that is being released today. In the March report, we found that 41 foreign firms had commercial activity in Iran's energy sector between 2005 and 2009. These firms are located in 22 countries throughout Europe, Asia, and South America. We defined commercial activity as having either signed an agreement to conduct business, invested capital, or

[1] The prepared statement of Mr. Christoff appears in the Appendix on page 63.

received payment for providing goods or services in Iran's energy sector.

To identify these 41 firms, we examined over 200 industry publications, U.S. Government and trade associations reports, and corporate statements. We also interviewed officials from the Departments of Energy and State, and U.S. intelligence agencies. We excluded sources that we deemed insufficiently reliable because GAO's evidentiary standards require accurate and credible information. Therefore, we excluded newspaper reports and statements from the Iranian Government.

We included a firm only if its activities in Iran were documented in at least three reputable industry publications or in at least one industry publication plus a corporate statement. Accordingly, the 41 firms represent a minimum number of firms with commercial activity in Iran's energy sector.

We provided the firms an opportunity to comment on our report. Thirteen of the 41 firms responded and confirmed our findings. Since the report was released, four more firms have responded, including one firm that stated that it had not yet made an investment decision.

Mr. Chairman, it is important to note that we did not determine whether the activities of these 41 firms meet the legal criteria for an investment under the Iran Sanctions Act. The Secretary of State is responsible for making such determinations.

In the report released today, we found that seven of the 41 firms had contracts with U.S. Government agencies, and over the past 5 years, U.S. agencies have obligated almost $880 million to fund these contracts. About 90 percent of these funds purchased fuel and petroleum products for U.S. military operations overseas. Two firms—Repsol of Spain and Total of France—accounted for nearly three-quarters of the $880 million.

To identify which of the 41 firms had U.S. Government contracts, we took three steps. First, we obtained each firm's unique registration number. Second, we used the registration numbers to search the General Services Administration's Federal Procurement Data System and identified the seven firms with U.S. Government contracts. And, third, we searched a second database, the Department of Defense's Electronic Document Access System, to obtain copies of the documents and thereby corroborate our findings.

In closing, let me note that our work for this Committee continues. At your request we are developing a third report where we identify firms selling gasoline, diesel, and other refined petroleum products to Iran.

Mr. Chairman, Ranking Member Collins, that concludes my statement. I look forward to your questions.

Chairman LIEBERMAN. Thanks, Mr. Christoff. That is very important, revealing work, and I look forward to the question period.

Finally, we are delighted to have with us Danielle Pletka, who is Vice President for Foreign and Defense Studies at the American Enterprise Institute (AEI). I think Ms. Pletka will offer some opinions about why the Iran Sanctions Act (ISA) has not been enforced and hopefully suggest ways to strengthen our sanctions policy. It is a pleasure to have you here this morning.

TESTIMONY OF DANIELLE PLETKA,[1] VICE PRESIDENT, FOREIGN AND DEFENSE POLICY STUDIES, AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH

Ms. PLETKA. Thank you, Mr. Chairman and Senator Collins, Senator Brown, Senator McCaskill. I have to apologize in advance, I am sick and so——

Chairman LIEBERMAN. You are making me feel right at home because whatever the ailment is, my wife has had it for the past few days.

Ms. PLETKA. Well, stay away from her, is all I can tell you. [Laughter.]

Chairman LIEBERMAN. You are asking a lot, really.

Ms. PLETKA. I know her and I agree, but, boy, this is horrible. In any case, thank you very much for including me in this most important hearing.

The question that you posed in the title of the hearing, "Why does the U.S. Government do business with companies doing business in Iran?"—has a pretty simple answer: Because it can.

As the Department of Defense (DOD) rightly noted in its commentary on the GAO report released today, the companies in question are qualified to bid on Federal contracts and are not excluded by any U.S. law or by any regulations.

The *New York Times,* as we have mentioned repeatedly, reported earlier this year that 74 companies have done business with both the Islamic Republic of Iran and with the U.S. Government over the past decade. Of those, 49 continue to do business there, according to the *New York Times,* and have no reported plans whatsoever to stop their business with Iran. The GAO report does make clear that some of this business seems necessary for either logistical or financial reasons; fuel supplies, base building and similar endeavors can, though may not necessarily, limit the choices available to DOD. But among the benefits that some of these companies receive have also been $4.5 billion in loan guarantees and loans from the Export-Import Bank—loans which the bank leadership insisted were fully vetted with the Department of State and other Administration players.

The larger problem, as I think all of the witnesses and you, the Members, have suggested, is that the U.S. Government is for the most part indifferent as to whether beneficiaries of U.S. taxpayer dollars are indeed doing business in Iran. And that is entirely in keeping with the underlying trouble: For the last decade and a half, the U.S. Government has not taken the Iran sanctions legislation passed by the Congress seriously.

Under the Iran Sanctions Act, there is a full menu of measures available to sanction entities found to be doing business with Iran, which range from a slap on the wrist to punitive or crippling sanctions for a designated company. Section 6 of the act targets two of the focuses of recent articles and some of the things that we have actually been talking about here today: The sanction in paragraph (1) offers "denial of Export-Import Bank loans, credits, or credit guarantees," and paragraph (5) offers a "prohibition on U.S. Government procurement from the entity." Had there been designa-

[1] The prepared statement of Ms. Pletka appears in the Appendix on page 79.

tions in accordance with the Act by the Department of State, it would not have been necessary for the taxpayer to subsidize any of these Iranian business partners.

But since the passage of the Iran Libya Sanctions Act (ILSA) back in 1996, as we have said, only three companies taking part in one particular project have actually been sanctioned. Those sanctions were immediately waived. And no project bar that example has merited more than an inconclusive and half-hearted investigation by the Department of State.

Several years ago, an amendment to the underlying law would have required the President to make a determination within a time certain about a particular case, but that was opposed by the White House and was ultimately excluded from revisions to ILSA. Indeed, this is the history of what we now call the Iran Sanctions Act. Congress acts to force the Executive Branch to seriously pursue a stringent sanctions regime against Iran, and the Executive Branch—whether led by Democrat or Republican Administrations—resists.

Congress' previous efforts to encourage Administration implementation of the Iran Sanctions Act were really for naught. And the Bush Administration was no more aggressive against firms investing in Iran than was the Clinton Administration—the intervention of September 11, 2001, Iran's own progress toward a nuclear weapon, the election of Mahmoud Ahmadinejad, and Iran's complicity in attacks on our troops in Iraq notwithstanding.

By 2006, it had become clear to many in Congress that the loopholes in the Iran sanctions legislation sufficed to accommodate a State Department convoy driving through. And the Iran Freedom and Support Act tried to close those loopholes, also funding democracy activities in Iran and sanctioning companies transferring weapons of mass destruction (WMD) and conventional weaponry. In other words, it expanded beyond the energy focus. It also set a 90-day time limit on a sanctions determination—a clear congressional response to State's failure to comply in good faith with the Iran Libya Sanctions Act. The House version of the bill was even tougher still, with a ban on foreign aid to countries whose nationals violated the terms of the bill and an amendment closing the loophole which allowed subsidiaries of U.S. companies to operate in Iran.

But the Bush Administration opposed the stronger language with the stock claim that the bill failed to afford the President sufficient flexibility. And as a result, a watered-down version was ultimately passed—one that did not require a determination about violators, but notably did provide support for promotion of democracy in Iran, an activity largely discontinued by the Obama Administration. The bill also suggested that the Administration not conclude nuclear agreements with countries known to have provided nuclear technology to Iran. This last was a swipe at Russia, and yet another ignored signal from the Congress. The Bush Administration transmitted a so-called 123 Agreement for nuclear cooperation with Russia to the Congress in May 2008, rescinding it in the wake of the Russian attack on Georgia 3 months later. The Obama Administration reportedly retransmitted that 123 Agreement to Congress yesterday.

As Members of this Committee are aware, Congress is once again considering legislation intended to strengthen and expand the Iran Sanctions Act. And once again, the administration in power is seeking to weaken the provisions of the legislation.

I understand that the State Department is playing an active role behind the scenes in conference seeking to weaken key provisions of the legislation, including demands to create an exemption for so-called cooperating countries. This, by the way, has been something that they have been trying to get in there throughout all of these years.

There is no question that there is no silver bullet to address Iran's nuclear program. No single bill and no single set of sanctions is going to deliver the government of the Islamic Republic. But in light of this rather pathetic history of Executive Branch evasion, one may legitimately wonder what would have happened had the White House had less latitude to ignore decades of investment in Iran's energy sector.

Successive administrations will argue that the track record for discouraging investment in Iran is a good one. Indeed, by the count at our own AEI IranTracker project, 18 companies have pulled out of Iran in the last couple of years, including some that are key to Iran's refining and energy production sectors. But I would suggest that many of those decisions have been prompted by aggressive divestment legislation now passing in U.S. States—Congressman Ted Deutch being behind the first and leading one of those—the terror-free investment movement, Iran's own mafia-like business environment, growing fear of an Israeli military strike, and changing perceptions in European countries of the threat posed by Iran.

Looking at the list of companies that have reportedly ceased business in Iran, it is striking that the vast majority—13 of the 18—are located in the United States or Europe.

Moreover, as the pattern of overall investment in Iran shifts away from our European allies toward less responsible stakeholders in the international system such as China, there will be continuing opportunities to implement the Iran Sanctions Act—and a growing imperative to do so.

The GAO has cautioned that its standards do not equate to a determination by the Department of State. And that is fair enough. Determinations by State will need to be careful; companies themselves should absolutely be required to certify that they are not engaged in sanctionable transactions with Iran under the ISA. But if they are not asked, they are certainly never going to tell.

Your efforts, Mr. Chairman, and those of your colleagues who have pursued the question of U.S. indirect subsidies to Iran and more effective sanctions legislation, are the beginning of a very important process. We can no longer rely on the good faith of a well-intentioned Executive Branch to ensure that Iran is isolated using all means available. Rather, it must be the Congress that sets the agenda, identifies the problems, closes the loopholes and guarantees enforcement of the law of the land.

Thank you very much.

Chairman LIEBERMAN. Thank you very much, Ms. Pletka. That was an excellent statement.

Each of the Members of the Committee will have 7 minutes on this first round.

I want to begin with you, Ms. Pletka, and ask if you would venture an opinion, and speak a little bit more than you have already about how you explain the reluctance of the Executive Branch, regardless of whether there have been Democratic or Republican Presidents, to enforce the sanctions legislation. What is going on? What is behind all this?

Ms. PLETKA. I do not think there is a single answer. Clearly, in the department of a very fair and just answer, it is difficult to identify companies without a shadow of a double. GAO identifies 40-plus companies. Our own IranTracker list lists more than 200 companies. So clearly there is——

Chairman LIEBERMAN. Two hundred companies that are doing business——

Ms. PLETKA. Companies worldwide that are doing business in Iran.

Chairman LIEBERMAN. Right.

Ms. PLETKA. Florida listed a number of countries. I think that the Executive Branch has always been very leery about putting out false information. That being said, there is an opportunity for them to investigate. They have always claimed over the years that this complicates our diplomacy, that it affords an ability by Iran to drive a wedge between us and our European allies, between potential Security Council members who will stand with us—Russia, China, and others—and that is fine. Even the investigations, however, provide a chilling atmosphere that could close off options for Iran, and they have not done that.

The other problem is what my late boss, Senator Jesse Helms, used to call the problem of the Foreign Service, and that was about making the world safe for cocktail parties. What will they say when I go and sit down and ask the Chinese why their businesses are facilitating the Islamic Republic if I also have to sit down and have some cheese with them and talk about sanctions?

This is a big part of the problem from my perspective, and I think that is why the Congress needs to be behind this.

Chairman LIEBERMAN. Thanks. Let me go to the first possible explanation, which is the possibility that it is difficult to bring these lists together.

Mr. Christoff, let me ask you first, how long did it take the GAO to compile the list of companies involved in commercial activity in Iran?

Mr. CHRISTOFF. Well, we spent about 6 months with three full-time people, first trying to develop a good methodology, and then 2 solid months of searching the 200 industry publications and coming up with a preliminary list.

Chairman LIEBERMAN. And, likewise, Congressman Deutch, can you tell us how long it took the State of Florida to generate a similar list of firms doing business in Iran?

Mr. DEUTCH. Sure. The State Board of Administration reached out to a number of organizations and research firms, first to gather an initial list. They then ran that list through their own risk management firms that they typically use, and then ultimately

scrubbed that list internally. The whole process took them only months to compile.

I would, if I may, Mr. Chairman, point out that while there is some discussion about whether a company belongs on the list or not, certainly for those companies that the SBA in Florida reached out to who confirmed that indeed they are doing business in Iran, or for the 13 of the 41 companies that the GAO has reached out to, who, in fact, have confirmed that they are doing business in Iran, there is no reason for further analysis, it seems to me. Those should be the initial countries placed on that list.

Chairman LIEBERMAN. Well said. I will come back to the first point, which is that hearing the relative ease with which GAO and the State of Florida assembled this list, leads me to say that it requires a kind of willing suspension of disbelief to think that the State Department has been investigating this question for 12 years without making a single determination—well, there were three during the Clinton years, but then those three were immediately waived. And, look, a lot of good work has been done in different administrations, particularly the last two, by the Treasury Department to essentially put pressure on firms and to stop them from doing business in Iran. But overall the reality is that nothing we have done has, in my opinion, affected at all the onward movement of the Iranian nuclear weapons program. And perhaps this sorry record of enforcement explains best of all why that is the case.

Congressman Deutch, let me ask you again, what has been the reaction of companies that have been identified by the State of Florida? And, particularly, have any of them tried to contest Florida's actions in court?

Mr. DEUTCH. They have not. The response to the State Board of Administration sounds comparable to the response that the GAO received. There are some companies who defended their actions and were very clear to point out that they do not belong on a list, they are not doing business, and they wanted to explain why. There are a number of companies who have confirmed indeed they are doing business, and they understand that the result is, according to the letters that the SBA provided to them, that the State would then divest holdings in those firms. And there are a significant number who have simply ignored the SBA throughout the process. But there have been no threats, there have been no lawsuits, and there is a growing recognition, at least by some of these companies, that this is something to which they need to pay attention.

Chairman LIEBERMAN. Mr. Christoff, I think by my count you said that 17 of the 41 firms responded in one way or another. Give us a sense of what the response was.

Mr. CHRISTOFF. All 17 affirmed the information that we had provided in our draft report.

Chairman LIEBERMAN. They did. Right.

Mr. CHRISTOFF. I think it was interesting that some of the firms corrected our understanding of what their agreements were with the Iranian Government. Reports indicted that Royal Dutch Shell, for example, had signed an agreement in which they had a 25-percent stake in developing a natural gas field. They wrote back and

said, no, it is 50 percent, it is not 25 percent, but we are still deciding whether or not we want to pursue that investment.

Chairman LIEBERMAN. Was that the one that you referred to? I believe you said in your testimony that one of the firms contested what you said or denied that they were—or did I misunderstand?

Mr. CHRISTOFF. No, none of the firms disputed what we had found among those 17.

Chairman LIEBERMAN. OK. I thank the three of you. My time is up. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Christoff, I want to follow up on the questions that the Chairman was asking you about the State Department's efforts over the past 12 years. I assume that during the course of your study you contacted the State Department. Did you get a sense of how far the Department has progressed in researching which companies may be in violation of the Iran Sanctions Act?

Mr. CHRISTOFF. I think we have seen additional resources that State is now dedicating to this effort vis-a-vis prior Administrations. When we did our report in 2007, there was one individual over at the State Department that was responsible for trying to develop some information.

Senator COLLINS. Just one?

Mr. CHRISTOFF. Yes. There appear to be more individuals that are trying to develop a list, but I am not certain when that list will be offered to the Congress. I know you all have sent letters to the State Department transmitting our list, and the Congressional Research Service's list, and asking them to comment. And I believe you are still waiting to hear back from the State Department as well.

Senator COLLINS. What do you think is a reasonable time frame for the State Department to compile a list similar to the list that GAO compiled?

Mr. CHRISTOFF. If you assert a credible methodology, which I believe GAO did—we spent 2 to 3 months using what we believed to be a high threshold, a gold standard in terms of identifying companies. One can develop a credible list in that time.

Senator COLLINS. Congressman, you mentioned in your testimony the efforts of the SEC to strengthen disclosure requirements for companies engaged in business in Iran so that potential shareholders are aware of whether or not a company is doing business with Iran. I have pushed the Chairman, Mary Schapiro, on this issue and did so in a recent Appropriations Subcommittee hearing just a couple of weeks ago. And the fact is the SEC has made very little progress in carrying out the mandate that this information be disclosed to investors.

I wondered if you could comment on what steps you think the SEC should take to strengthen the disclosure requirements.

Mr. DEUTCH. Sure. Thank you. If our goal is to have the benefit of full information—and the party best able to provide that information obviously is the company that is doing business in Iran—for the SEC to determine that investments in Iran are material, meet the materiality test and, therefore, must be disclosed on their SEC filings, that disclosure would then be made available to shareholders. It would be made available to the general public. And as

I said earlier, at a time when sanctions are being discussed here and at the United Nations, it seems certainly to me, and I think to most observers, that the decision of a company to invest in Iran is material and that its shareholders deserve to know that. That would be the best way to make that information available rapidly and almost immediately.

Senator COLLINS. Ms. Pletka, you talked about the difficulty that the Federal Government has had over administrations in this area. If the U.S. Government were to deny Federal contracts to companies doing business in Iran, do you believe that most of those corporations would cease their activity? Is that a sufficient incentive, if you will, for them to stop doing business with Iran?

Ms. PLETKA. I think that many of them would think twice. Part of the problem is that they have really never been forced to make that choice. It has not been presented to them as an either/or proposition.

Certainly there are some that would continue, and we have a choice to make at that point. That is why there is a waiver in the last. If, in fact, we are required to buy fuel for Afghanistan, for example, from a particular company and we have to do it for national security reasons, there is a waiver in law. But companies could also be afforded the opportunity to make the choice between the two governments.

I also want to add something, by the way, that has not come up that is important. At the time of the 1998 decision on the Gazprom-Total-Petronas investment in Iran, when the Secretary of State at that time, Madeleine Albright, did a determination and a waiver, foreign countries did threaten the United States to take us to the World Trade Organization (WTO). And that is another factor that I do want to highlight. It is not fair to give a serious reason and a flippant reason and leave everything out in between. That is an issue. Secondary sanctions are opposed by many countries, and these are perceived as secondary sanctions. So I just want to put that on your radar screen as something worth understanding.

Senator COLLINS. Congressman, when Florida enacted its law, did it have an impact on the decisions made by the corporations that were no longer receiving investments from Florida's pension funds, to your knowledge?

Mr. DEUTCH. Florida's decision alone to enact tough divestment legislation was not sufficient to move any company to withdraw from Iran. However, as a result of Florida's efforts and those in 19 other States, there have been decisions made not to proceed on contracts that had been signed, and there were further statements that have been made about the decision to withhold the decision to go forward to see how these divestment laws continue to play out.

The point is—and I think this is a point that has been made previously by other members of the panel—one of these items alone, one layer of sanctions may not suffice to move companies, but when you shine the light on these companies and risk the various sanctions that we are discussing, then that type of pressure might well move those companies to make decisions which will ultimately impact the regime in Tehran.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks very much, Senator Collins.

Just for the information of Members, next is Senator Brown, then Senator McCaskill, Senator Ensign, and we are honored to have a guest appearance today by Senator Gillibrand.

OPENING STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman, and thank you for holding this very important hearing. Being new here, I am flabbergasted, quite frankly, at the failure by the administrations, without casting stones, to enforce our laws. And I have always felt that we need to use draconian sanctions immediately against Iran to ensure that they do not become nuclear-capable and start exporting weapons and terrorism throughout the region. I think it is critical, and I am shocked that the present Administration is not devising a plan to handle that or enforcing and really putting its foot down to say, OK, it is time, we really need to get cracking here and enforce our laws, and to send a very strong message that we are not going to tolerate anymore people circumventing our laws or just ignoring the fact that we need to get serious.

In the *New York Times* article, that came out is deeply troubling. I know that triggered, obviously, us having a hearing, Mr. Chairman. I was wondering if I could direct a question to Ms. Pletka. As you know, over the past decade the Federal Government has awarded $107 billion plus to companies doing business in Iran, including $15 billion paid to companies that defied American sanctions law, and the current law, as you know, requires the U.S. Government to deny entry to aliens who we reasonably believe will commit unlawful acts. Do you think that non-American chief executive officers (CEOs) of companies that do business in Iran and contravene our sanctions regime should be denied entry on those grounds? And would this be an effective sanctions tool if enforced? And the reason I ask that is because we are exploring, hopefully in a bipartisan measure, to propose legislation, and I am interested in working with my colleagues on this that would, in fact, do that, to basically deny visas to CEOs and their families as another tool in the toolbox.

Ms. PLETKA. Thank you, sir. I think that visa restrictions are always a useful tool. They are personal, and they tend to get people's attention very quickly.

I do think that offering that opportunity to the President and whoever he delegates to carry out the law gives him an opportunity to do that. I do not think that it is something that would be effective were it applied in blanket fashion. But I do think that it would enable companies to make a very sharp choice between the opportunities that they see in Iran and the desire to come to the United States for whatever purposes. Visiting the United States is not a right. It is a privilege. And I think that anytime that you can use that in a way that is effective for our national security, you are moving in a good direction.

Senator BROWN. It seems to me that you have to follow the money, as usual, and the fact that we could certainly involve the United Nations to do certain things, but we really need to get European involvement and make sure a lot of the European Union countries that are actually doing very serious business in Iran, ulti-

mately recognize and have to determine whether they want a nuclear Iran and whether that outweighs the financial gains.

Do we need a new law, or should we just enforce the ones that we have now? Or is it a combination of the above? What type of solutions can any of you offer? And, Congressman, I appreciate that is a great idea. That is certainly something we can do.

Ms. PLETKA. Successive presidents have enormous authorities under the International Emergency Economic Powers Act (IEEPA), to do all sorts of things to restrict. I think that when we think about these things we do need to recognize that we live in a world in which most of us believe in free trade and in globalization. And I think that we need to understand that when we go after companies and we go after company leaders, we do invite retaliation by foreign governments against our own company directors. And so we need to be careful and thoughtful when we think about this.

One of the things that strikes me is that we have an opportunity with companies that are engaged in some of the most egregious activities—in other words, companies that are helping Iran's nuclear program, helping Iran's missile program, helping the Iranian Revolution Guard Corps to promote terrorism—these companies should be a special carveout in my estimation. There I think that you should feel very enthusiastic about the notion of slapping visa sanctions on the directors of those companies because those are the people that are responsible for not just endangering American lives but for the deaths of Americans over the years.

Senator BROWN. Thank you. Mr. Chairman, thank you.

Chairman LIEBERMAN. Thanks very much, Senator Brown. I agree with you. Senator McCaskill.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you, Mr. Chairman.

Common sense tells me that what we ought to do is tell every American President that they cannot stand in front of a microphone and talk about sanctions against Iran ever again if they do not begin to take the sanction laws that are on the books more seriously than what this hearing has demonstrated. And this is not the first time we have covered this subject matter. I know that I had the opportunity to talk to General David Petraeus about it at a hearing in the Armed Services Committee. I know there was a hearing in the Armed Services Committee about this. It is no wonder Iran is so disrespectful if we cannot get our act together to enforce the laws that are on the books. Passing more laws is not going to do any good if we do not have the political will to do what we need to do.

I understand the issue of diplomacy and that part of the problem is that, our friends do not want us to enforce, and, therefore, if we do not enforce against them, then our not so friendly nations say, wait a minute, you did not enforce against them, so why are you now picking on us? And that is a problem.

Mr. Christoff, in the GAO report, do you get a sense of the deliberations that are going on in terms of this subject matter? I am trying to get a handle on where is it in government that people are sitting around a table and saying, well, we got that law on the

books, should we ignore it? Should we try to enforce it? Is that conversation even going on somewhere? And if so, where?

Mr. CHRISTOFF. I think it is starting at the State Department. Some of the brief discussions that we had with the new Administration and the office working these issues at the State Department indicate that discussion is beginning. We did not see any of these discussions when we issued a report in 2007 and looked at the State Department's enforcement of the Iran Sanctions Act.

I would also note that the State Department is capable of enforcing other aspects of sanctions against Iran. It has, as we said in our 2007 report, issued sanctions against 111 firms or entities that violated the nonproliferation portion of the collective sanctions against Iran. Many of those companies were Chinese companies. But it has not moved forward on that portion of our collective sanctions that deal with the energy sector.

Senator MCCASKILL. So they are selectively picking out some parts of the law they like and ignoring the parts of the law they do not like, in essence?

Mr. CHRISTOFF. Well, I do not want to put those words in their mouths, but by their actions, it appears that it is more difficult for them to impose sanctions on energy companies through ISA.

Senator MCCASKILL. What about the issue of changing names of companies? I am a big believer that you have to have accountability. Who is in charge of investigating whether or not companies are changing their names in order to evade sanctions? Where would the responsibility for that lie?

Mr. CHRISTOFF. That I do not know.

Senator MCCASKILL. Would you like to take a stab at it, Ms. Pletka? You have been around this subject matter for probably——

Ms. PLETKA. Too long.

Senator MCCASKILL [continuing]. More years than you want to admit.

Ms. PLETKA. Yes, that is probably true.

Senator MCCASKILL. Who in the grand labyrinth of government is supposed to be in charge of even tracking what companies fall under these sanctions much less enforcing them?

Ms. PLETKA. That is an excellent question. In a quarter of a century, I have never been able to figure out who actually wears the chief's hat on this issue. Theoretically, the intelligence community is tracking companies that change their names. Lots of companies do not change their names and are serial violators of our proliferation law and various Iran sanctions, particularly Chinese companies.

It is absolutely remarkable that we together have been able to generate an enormous amount of information that is apparently entirely mysterious. And on the energy side, I think that where you have seen a change for the good at the Department of State, in this Administration we have seen a change for the bad on the energy side. The Energy Information Agency no longer provides significant amounts of information about companies doing energy business in Iran. And so rather than getting more information, we are getting less.

Senator MCCASKILL. Mr. Chairman, it seems like maybe what we need to do is start with figuring out who is in charge. I think

maybe we have avoided accountability on this because we have not flown down long enough to figure out who is the person in government that is not doing their job, and as long as we do not identify who that person is, they are not going to do their job. It is mind-boggling to me that we do not know who to yell at.

Yes, Congressman Deutch.

Mr. DEUTCH. Senator McCaskill, I worry that at least with respect to identifying the companies, whether or not to impose sanctions is the next step, but in terms of identifying the companies, I think we have determined here that we have made this a harder task than, in fact, it may be.

In Florida, on a quarterly basis, the Pension Board publishes a list of companies who are doing business within the energy sector in Iran, and part of that time is spent reviewing exactly this issue of company name changes and subsidiaries, and efforts sometimes to shield, sometimes just corporate restructurings to ensure that the correct names remain on that list. I am not sure ultimately who should have responsibility, but the Department of Energy, again, as Ms. Pletka points out, has published these reports on a regular basis, factual reports. That might be a place to identify companies.

Senator MCCASKILL. Well, welcome to Congress. I think you are going to be a great addition to the intellectual heft of the body in which you serve, and clearly you have a great work ethic, and we welcome you here.

Let me briefly talk about companies that claim to do business with Iran on their Web sites. There is a company that we have been trying to make accountable. Senator Collins is a cosponsor of the Rocky Baragona law. Kuwait and Gulf Link Transport (KGL) killed a soldier of ours in Iraq through their negligence and have evaded responsibility for that by avoiding personal jurisdiction in the United States, and we are trying to fix that law by requiring companies that do business with us to accept jurisdiction as part of their contractual obligation to do government business with the United States.

KGL brags on its Web site that it does business with an Iranian shipping company. And I am wondering, in Florida, Congressman Deutch, would somebody bragging on their Web site that they do business in Iran, would that be sufficient for the officials in Florida to consider them a company that would not be included?

Mr. DEUTCH. If, Senator McCaskill, they fall within the requirements of the Florida act, which is titled the same as the Iran Sanctions Act, then certainly as the Pension Board and its outside research firms conduct their research, self-disclosure by a computer would certainly warrant inclusion on the list and would trigger the correspondence with that company going forward.

Senator MCCASKILL. It seems like self-disclosure would be the easiest way to nail them.

Mr. DEUTCH. It does.

Senator MCCASKILL. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Senator McCaskill.

Senator Collins and I have been talking about what is an appropriate follow-up, and one thing we are thinking about is that we should direct a letter to, particularly, the Secretary of State, also

the Secretary of Defense, presenting the GAO report and asking for a response. What are you going to do about it? Why is this happening? But it strikes me that we should start with a clear identification of who at the State Department is responsible, so we will put that together, and we will ask Members of the Committee to sign. Thank you.

Senator Ensign.

OPENING STATEMENT OF SENATOR ENSIGN

Senator ENSIGN. Thank you, Mr. Chairman. It is amazing how much there is agreement going around the table today.

Senator MCCASKILL. Look out, it might catch on.

Senator ENSIGN. Yes, be careful. [Laughter.]

And I think it is because there is a lot of frustration. There has been a lot of frustration over the years with sanctions that have not been enforced, and I think that no matter whether you are a Republican or Democrat, when you see something that is wrong out there, it is very frustrating to a lot of us.

One of the questions that I would like to get to is under the Iran-North Korea-Syria Nonproliferation Act, the Administration is supposed to submit a report every 6 months. Do we know the last time that a report was submitted to the Congress?

Ms. PLETKA. It was 2 years ago, I think, they submitted a report.

Senator ENSIGN. I think it was 2008, and from what I understand, they have no plans to submit their next report. This gets back to who at the State Department is responsible. We pass these laws saying you must do this, but then there is no penalty when they do not do it. And that is something that, the Congress, really the only thing we have is basically the purse strings if they do not do something like that, and that is something that we should start considering when we actually—do we really mean what we say when we want these reports every 6 months?

This gets to my next question. You know, we have been exploring how these entities have done business in Iran, how they are still able to do business with the U.S. Government to get contracts. In the course of the GAO study of this matter, did the GAO make an assessment of why the State Department has not sanctioned anyone under this act?

Mr. CHRISTOFF. No. You would have to go back to the 1998 decision when the State Department waived sanctions against several foreign firms. Some of the reasons that the State Department cited were: Concerns about maintaining solidarity with the European Union; concerns about Strategic Arms Reduction Treaty (START) negotiations with the Russians; and the Asian financial crisis with the Malaysian firm. That is the only evidence out there as to why the State Department has not enforced the Iran Sanctions Act.

Senator ENSIGN. Ms. Pletka, you have been around this for a long time. Do you have any idea of why the State Department has not sanctioned anyone under this Act? Because they have loopholes that they can—we used to say drive a truck through, but maybe more of a freight train or an oil tanker would be more appropriate.

Ms. PLETKA. In fact, yes, the Chairman asked a similar question, and I think that, frankly speaking, that is a question best directed to State. There is always an excuse. There is always something

going on in diplomacy. Part of the difficulty of the structure of our government is that when the Department of State is responsible for the conduct of diplomacy and the conduct of the imposition of sanctions and decisions, they tend to weigh one against the other.

An interesting question was asked a moment ago, which is, why are we so much more serious about the nonproliferation violations than we are about the energy sanctions? And a lot of that has to do, again, with the structure of the Department of State. The Under Secretary for International Security and Nonproliferation and that Bureau traditionally has been far more serious about violations of the missile technology control regime and our various Arms Export Control Act violations and nuclear proliferation, then the Bureau of Near East Affairs has been serious about problems with Iran.

It is a major challenge, and oversight is the answer.

Senator ENSIGN. This feeds right into my next question about the current bill that is in conference, the Iran Sanctions Act, to expand the authority of the President to impose sanctions upon entities providing refined petroleum products. There are reports out there to put into the bill a cooperating country exemption, and so a couple of questions go along that line. If there was a cooperation country exemption put in the bill, could China be considered a cooperating country under current law—or under a law like that?

Ms. PLETKA. Well, it depends who you ask. If you ask me, the answer is no. But there is a cooperating country exemption in this bill, because if you cooperate, then you are not committing a sanctionable act and you will not be sanctioned. It is really pretty straightforward. If you do not do it, then you are cooperating, and you are not going to be sanctionable.

So the notion that you have to provide a blanket exemption to countries that in the judgment of somebody—I think we still cannot figure out who—is a really big mistake, and I think that this really goes to the bona fides of the Administration in negotiating on this bill and their intention to enforce whatever ends up coming out of conference.

Senator ENSIGN. What if, say, the Russians decide to give certain missiles, the SA–20 or SA–21, would that be considered cooperating?

Ms. PLETKA. I think the Administration has suggested that they are getting good cooperation from the Russians and that they are getting good cooperation from the Chinese. And what they characterize as good cooperation is a willingness to sit down in New York at the United Nations and discuss the imposition of sanctions. And our standard apparently is that they are willing to come and discuss them, not that they are willing to agree to a stringent set of sanctions but that they are merely willing to sit down with us, because apparently good behavior is constituted by just sitting down. And, yes, the Russians have reiterated as recently as last month that they were going to be transferring a S–300 air defense system to the Iranians that would enable them to withstand a serious attack from outside.

Senator ENSIGN. Thank you.

Mr. Chairman, I think that some of the answers to the questions illustrate the problems that everybody has been asking here, and

why I think there is so much frustration in the Congress with what is going on with diplomacy when it comes to Iran, because it is making our country look weak, it is making these sanctions completely ineffective. And if we really want to stop some of the proliferation issues and have some teeth behind it, we actually have to enforce the current laws. As Senator McCaskill said, what is the use of having new laws if our current laws are not even being enforced?

So we need to get much tougher, and I am glad to hear in a bipartisan way that people are talking about getting tougher.

Chairman LIEBERMAN. Thanks, Senator Ensign. Thanks for that statement. Thanks for your excellent questions.

Senator Gillibrand has a real interest in this subject and this legislation. She asked if she could come by and ask some questions, and we are happy to give you that opportunity now.

Senator Gillibrand, it is a pleasure to have you here.

OPENING STATEMENT OF HON. KIRSTEN E. GILLIBRAND, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator GILLIBRAND. Well, thank you, Mr. Chairman. I am extremely grateful for your leadership on this issue and holding this hearing. Thank you, Madam Ranking Member, as well for your leadership.

I was most alarmed when I read a *New York Times* article in March that said the Federal Government has awarded more than $107 billion in contract payments, grants, and other benefits over the past decade to foreign and international American companies while they were doing business with Iran, and did an internal analysis and found that $15 billion was paid to companies that defied our sanctions law. So, obviously, this is something that we have all been discussing about how so much of American contracts could be going to companies doing business with Iran.

I do not know if you would know this question, but if we are doing business with them and Iran is doing business with them, relatively who is doing more business? Is it worth more to them to maintain our business or do they do more with Iran?

Mr. CHRISTOFF. Well, those are some good questions that we might be able to research for you and submit for the record.

Senator GILLIBRAND. That would be helpful because, obviously, as legislators we want to solve this problem and we want to know how we can influence behavior, and not only enforce the sanctions laws but figure out how we could perhaps work behind the scenes.

And to that point, the Treasury Department has been very effective in getting 80 banks to pull out of Iran when sanctions on the strategy sector have not been implemented. And so we have worked well through the Treasury Department to influence behavior. Are there any ways that we should be doing that in the energy sector, working behind the scenes perhaps more effectively than we have done overtly?

Ms. PLETKA. There is no question that there are a lot of opportunities in the energy sector, and those can also be undertaken by the Treasury if other branches of the government are unwilling. I think the problem for the Treasury Department and for this new office under Stuart Levey that was created in 2004 is a limitation

on resources. There are additional resources in this bill for Under Secretary Levey's office to do more designations, to do more investigations, but information is key and they need more of it. They need to move forward more quickly. The problem is that, we are now looking at 14 years since the Iran Libya Sanctions Act was passed, and if we are going to take another 14 years to get to this point, we are going to be beyond Iran having a nuclear weapon.

So the Congress needs to encourage them not just to move into different areas, but to move a little bit more quickly.

Senator GILLIBRAND. Right. Now, you mentioned the Treasury Department doing other responsibilities. The Treasury Department is responsible for Iran export sanctions, but the Commerce Department oversees Syrian sanctions and other export licenses. But one of the fundamental challenges for the Treasury Department is they do not have an electronic tracking system and they have an inability to inspect shipments or hold exporters accountable. So how could you address that shortcoming in the Treasury Department's ability? And is it justifiable that they still then maintain the responsibility of Iran sanctions if they do not have those capabilities?

Ms. PLETKA. I think it is a little bit of a question of apples and oranges. You are talking about export controls in this case, and I do not think that the challenge that we are facing is one in which we are worried about things getting through the cracks and being exported from the United States to Iran. Rather, we are worried that we are, because money is fungible, enriching companies that are doing business in Iran with taxpayer dollars at the same time.

Defense Secretary Robert Gates has talked about revisions to our export control laws and rationalization of the export administration of this country so that we do a better job and, the right arm knows what the left arm is doing. But the licensing process is not one that has directly affected the ability of the Treasury Department to enforce.

I think that the ability of the Treasury Department to enforce is most severely impacted by a limitation on resources, and if I may put it in the vernacular, a really bad attitude on the part of some parts of the government in moving forward.

Senator GILLIBRAND. Right. But I am worried with exports because of dual-use issues. There is obviously a concern that if we are exporting airplane parts that are then being used for military use and similar types of transferable technology, that we have some measure to investigate whether what we are sending over there is being appropriately used and not going to strengthen Iran's military intentions.

Ms. PLETKA. End-use requirements are very important, and certainly it is a very important area for oversight. At this point, however, we are looking at Iran moving to a third-generation centrifuge. We are looking to them working very closely with China, possibly with North Korea and with other countries, trying through illegal front companies mostly, Iranian Revolutionary Guard Corps (IRGC) front companies, to get stuff from Europe. They are not looking to us as much. So that last step I would say is not going to be in getting dual-use equipment from the United States. It is highly sensitive——

Senator GILLIBRAND. They will get it from somewhere else.

Ms. PLETKA [continuing]. Equipment from other countries.

Senator GILLIBRAND. Can I just shift gears to a separate issue that I want to address? One of the concerns is that our sanctions do not touch upon natural gas. Why do you think our current sanctions or the bills in conference address the goods, services, and technologies that aid in production and export of liquified natural gas?

Ms. PLETKA. The truth is that you should be asking the author of the legislation before me. I think it is important——

Senator GILLIBRAND. Do you think it should, though? Or do you think it——

Ms. PLETKA. I think it is very important to be consistent. I think it is very important to be specified. I also think that it is very important not to afford the Administration, the Executive Branch, the opportunity to say that Congress has written such overbroad legislation that it is impossible to enforce. So if we are going to move forward with not just oil but gas, liquified natural gas, etc., and we are going to go to all parts of a supply chain and the technology, then the key is for the legislation to be extraordinarily targeted and extraordinarily specific. After all, we are really not interested in expending our taxpayer dollars and resources going after folks who are shipping pencils to the National Iranian Oil Company. We are interested in things that are actually key to their advancement and the production of refined products, gas, etc.

So it is necessary to be specific, not just in legislation but in report language, and I agree with you it is important not to create new loopholes, because goodness knows they will be found and they will be driven through.

Senator GILLIBRAND. The last issue in my few seconds remaining, I have read a lot of reports that the Revolutionary Guard has begun to take up the slack in areas where sanctions have actually worked. Do you have any thoughts or comments on that to inform our panel?

Ms. PLETKA. That is absolutely true. Over the last few years, beginning for the most part in the Ahmadinejad presidency, the Iranian Revolutionary Guard has begun to play a dominant role in the Iranian economic sector. And while I think that the Administration is doing exactly the right thing—as Secretary of State Hillary Clinton said, that Iran is really becoming a military dictatorship. In targeting the IRGC, unfortunately, I do not think that we have caught up in terms of identifying the companies that are now owned by the IRGC or the role that they play in the government.

If you look at—and we are about to produce a long list of the companies that have been taken over. Iran has been engaged in a 2-year-long process of privatization, which has, in fact, not involved the devolution from government ownership to private ownership, but government ownership to IRGC ownership.

Senator GILLIBRAND. Right.

Ms. PLETKA. And so the IRGC is absolutely involved in every part of the Iranian economy, including, by the way, in the financial sector, yet we have yet to sanction IRGC-owned banks—something that should be fairly easy under our own laws, certainly, but even under relevant U.N. Security Council resolutions that have already been passed. So it is a great opportunity.

Senator GILLIBRAND. Thank you.

Thank you, Mr. Chairman. Thank you, Madam Ranking Member.

Chairman LIEBERMAN. Thanks very much, Senator Gillibrand. That last matter of sanctioning the IRGC, which really is now dominating increasingly large sections of the Iranian economy—and, of course, also funding terrorism and directing their most critical parts of the Iranian military—is a focus now of the conferees on the current bill.

So really on Senator Collins' behalf and mine, I thank the three of you for the time you gave. This has been a very informative, important, and I would say energizing hearing, no pun intended. But the facts here are very compelling, and it is why in addition to our concern that Iran has continued to go forward headlong toward a nuclear capability without any regard to what we have done, the facts cry out for us to adopt new legislation, but also to begin to put pressure—and we will try to start to do this with the letter we are talking about—on the State Department to enforce the existing legislation.

You joked a bit about making the world safe for cocktail parties, but there is a way in which—it is easy for us to say, but I believe it so I will say it—that diplomacy occurs within the confines of the relationships. Sometimes negotiators to a private disagreement will in the end try to satisfy each other in the conference room negotiating, sometimes forgetting what is happening outside. Sometimes members of conference committees do that as well. And so there is an actual human tendency to do that, but it forgets what is at work here.

As you all know—and I will not hold you to a political opinion, Mr. Christoff, but the other two, I will—the experts on Iran all say that the only prayer of a chance we have to stop their nuclear program is if they have no doubts about our will, our strength, and our steadfastness. And right now we are sending a very uncertain signal to them.

Senator Collins, do you want to add anything?

Senator COLLINS. Thank you, Mr. Chairman. I just want to thank you for holding this hearing. All of us are aware of the problem. It has been going on for a long time, and I think all of us are determined to bring about enforcement of current laws as well as to strengthen those laws. But as we have all said, sanctions have no impact if they are not enforced.

Chairman LIEBERMAN. Hear, hear. Thank you all. We are going to keep the record of the hearing open for 15 days for any additional statements or questions from the Members or the witnesses.

With that, the hearing is adjourned.

[Whereupon, at 12:25 p.m., the Committee was adjourned.]

APPENDIX

United States Senate
Committee on Homeland Security and Governmental Affairs
Chairman Joseph I. Lieberman, ID-Conn.

"Iran Sanctions: Why Does the U.S. Government Do Business with Companies Doing Business in Iran?"
Chairman Joe Lieberman
May 12, 2010

Good morning. Our hearing today is tied to one of the gravest national and homeland security threats to the world today – the threat of a nuclear-armed Iran. At this moment, the U.S. and our allies should be doing everything in our power to pressure Iran to abandon its illicit nuclear ambitions. And as part of that effort, we ask pointedly with our hearing title: "Why Does the U.S. Government Do Business with Companies Doing Business in Iran?"

A prohibition on awarding federal contracts to companies that violate the Iran Sanctions Act (ISA) is one of the actions authorized in that 1996 law. It was intended BY Congress to be a powerful tool and could be if it was ever used. But it hasn't been up until now, and it's been 14 years.

In the last fiscal year, the federal government spent $520 billion to buy goods and services - from basic office supplies to parts for weapons systems, to an extraordinary range of services. The federal government, for example, is the single largest purchaser of energy in the world.

The U.S. government's market power gives us the ability to influence the behavior of companies doing business with Iran and to give them a choice between doing business with us or doing business with Iran. We no longer should allow businesses to do both.

But presidents of both parties have failed to enforce the existing law. As a result, many companies that make money from the United States government continue to do business with Iran, helping to sustain - directly or indirectly – the fanatical and anti-American regime in Tehran that regularly promises to bring "Death to America."

Today the Government Accountability Office (GAO) is releasing a report which illustrates America's failure to use the sanctions of the 1996 law as authorized.

Based on publicly available information, GAO identifies 41 foreign companies that have conducted commercial activity in support of Iran's energy sector. While GAO reaches no conclusion about whether these companies are in violation of the Iran Sanctions Act – because that is not its responsibility - it suggests strongly that many companies see no downside to doing business with Iran in violation of the law.

At the request of Senators Collins, Kyl, and myself, GAO is releasing a follow-up report today on seven companies doing energy business with Iran that also held federal contracts between fiscal years 2005 and 2009. These companies have received combined payments of nearly $880 million from the Department of Defense - including $319 million to Repsol of Spain and $312 million to Total of France for the purchase of fuel, and $111 million to Daelim Industrial Co. of South Korea for the construction of military family housing in Korea.

The New York Times recently published its own analysis showing that the federal government has awarded more than $107 billion in contracts, grants, and other benefits over the last decade to foreign companies, as well as to foreign subsidiaries of U.S. companies, that have engaged in commercial activity in Iran. This includes $15 billion to companies that certainly appear to me to have violated the Iran Sanctions Act.

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Companies identified in the Times report include Royal Dutch Shell, which has helped develop oil fields in Iran and has received over $11 billion from the U.S. government, mostly through contracts for the purchase of fuel for the Department of Defense.

I hope that this hearing, the GAO report, and the witness testimony send a clear and unmistakable message to those companies: Either do business with Iran's $250 billion a year economy, or do business with America's $13 trillion economy, but you cannot do business with both. It is simply unacceptable for the federal government to enrich foreign firms that are enriching the extremist, repressive, terrorist government of Iran.

Those companies should be put on notice that Congress is on the verge of passing tough new sanctions. What cannot be sanctioned today can and will, I am confident, be sanctioned tomorrow. I am pleased to be a member of the conference committee deliberating now on the bills that have passed the House and Senate. I note that both chambers have adopted provisions intended to tighten the prohibition on American government contracts to companies that violate sanctions, based on legislation originally introduced by Senator Chuck Schumer and Representative Ron Klein.

I thank our panel today, which will help us better understand the scope of foreign commercial activity in Iran, with a focus on its energy sectors, and the nexus between these companies and U.S. federal contracting.

I look forward to the testimony and our discussion afterwards. Senator Collins?

Opening Statement of Senator Susan M. Collins

Iran Sanctions: Why Does the U.S. Government Do Business with Companies Doing Business in Iran?

Committee on Homeland Security and Governmental Affairs

May 12, 2010

We are at a critical juncture in our efforts to prevent Iran from obtaining nuclear weapons, a capability that threatens the stability of the region and, indeed, the world. The conference committee on the comprehensive Iran sanctions bill is now underway, and I commend the Chairman for his leadership on that legislation and for holding this oversight hearing.

I am deeply troubled by recent reports in *The New York Times* and by the Government Accountability Office (GAO) that the United States government continues to do business with companies that are, at least indirectly, aiding and abetting Iran's nuclear program by investing in the Iranian economy. GAO's report that the U.S. government entered into almost $880 million in contracts with seven foreign firms that had investments in Iran's energy sector is extremely troubling. Obviously, this practice goes against our own national security interests.

The GAO report exposes evidence of potentially serious violations of our current sanctions regime. In light of this alarming information, we not only need to pursue rigorous enforcement of our current laws but also to strengthen our sanctions against Iran. Congress can assist by completing conference negotiations on the Iran Sanctions Act. But, the State Department can immediately improve our efforts simply by enforcing current law.

Unfortunately, this lack of enforcement is not a new problem. As far back as 1996 when the Iran Sanctions Act first became law, Congress has attempted to extinguish investment in Iran's energy sector. Yet, despite clear evidence of violations of that law, not a single company has been sanctioned. In fact, many of the corporations that have reportedly done business with Iran have received federal contracts or other benefits from our government.

The failure to enforce the law has sent a signal to the Iranian leadership that we may be less than determined to bring their nuclear program to a halt. Continuing lack of enforcement may undermine our

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credibility as we seek tougher international sanctions. And, most important, Iran has seized on our leniency by continuing to enhance its nuclear weapons capability.

While the federal government continues to send mixed messages, many States have taken more forceful action. In 2007, Florida became the first state to divest its pension funds from companies doing business with Iran and Sudan. Many other states have adopted similar divestment measures or have imposed procurement restrictions on companies doing business in Iran. For example, Illinois requires state contractors to disclose in each bid whether or not they are engaged in operations in Iran's energy sector.

The federal government requires contractors to certify that they do not conduct prohibited business operations with Sudan. Unfortunately, no similar requirement is in place for contractors doing business with Iran. At a minimum, the federal government should impose this requirement on its contractors.

I have repeatedly expressed my concern about the federal government's inconsistent actions to enforce and strengthen our sanctions against Iran. Along with our allies, our nation must be prepared to impose strong sanctions against Iran if the U.N. Security Council fails to implement tough and effective measures. But sanctions lack teeth if they are not enforced. Mere threats will not prevent companies, including government contractors, from doing business with the Iranian regime.

In light of the danger posed by the Iranian nuclear threat, we must take every possible economic, political, and diplomatic measure to demonstrate to Iran's leaders that the price for its nuclear program has become too high.

As we consider broader sanctions to deter the nuclear threat posed by Iran, I am reminded of the suffering endured by the 66 American hostages seized by the Iranian Revolutionary Guard and other militants in November 1979. These Americans were held against their will for 444 days. To date, they have received absolutely no compensation from the Iranian government for the brutality they experienced. One of those hostages – Moorhead Kennedy who lives in Maine – is with us today. I am pleased that Mr. Kennedy could join us. His presence reminds us that these Americans continue to be denied justice from the Iranian regime, despite the intent of Congress.

I look forward to discussing these critical issues with our witnesses.

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Statement for the Record
Senator Roland W. Burris

"Iran Sanctions: Why Does the U.S. Government Do Business With Companies Doing Business in Iran?"
May 12, 2010

The government of Iran continues to exploit its oil, gas, and petrochemical sector to promote interests that are often contrary to those of the United States. Although Iran sits atop the world's third largest oil reserve and second largest natural gas reserve, it still lacks the technology and funding to reach peak production levels and to expand its oil-refining capacity. Consequently, Iran is seeking the participation of foreign firms to provide financial and technical assistance to its growing energy industry – an industry that provides indirect funding to Iran's nuclear and missile programs.

Unfortunately, federal dollars have been awarded to foreign and multinational American companies that do business with Iran despite the provisions set forth in the Iran Sanctions Act and efforts from the Obama Administration to dissuade investment in Iran. This poses a challenge to the United States by undermining efforts to place economic controls on industries that Iran could convert into military use.

As we consider legislation to strengthen the Iran Sanctions Act, we must not let our commercial interests hinder our national security. Often, the two go hand in hand. I agree that the use of sanctions as a means of deterring Iran's development of nuclear weapons is a sound idea, but only if enforced in an effective and responsible manner.

I believe the bills under consideration in the 111th Congress would set responsible standards for the types of entities the U.S. government should be doing business with. It is my hope that this hearing will shed some light on the best way to modify and enforce the Iran Sanctions Act. It is time for the United States to send a clear message to the international community, and Iran in particular, that we do not do business with nations seeking to harm our people and our national security interests.

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Testimony of Congressman Ted Deutch before the

Senate Committee on Homeland Security and Governmental Affairs

May 12, 2010

Thank you Chairman Lieberman and Ranking Member Collins for inviting me to participate in this important hearing.

The Iranian nuclear weapons program poses a grave and growing national security threat to the United States, risks a nuclear arms race in the Middle East, threatens our allies in Europe, the Middle East and beyond, and poses an existential threat to our critical ally Israel.

The State Department has continually declared Iran to be the chief sponsor of international terrorism, and Iran has consistently violated international law, its own international agreements, and it continues to defy the international community with its continued pursuit of nuclear weapons. In addition, human rights abuses are significantly rising in Iran, and the denial of freedom to everyday citizens has only grown since last year's fraudulent presidential election. I am gratified that the House and Senate have now both passed new Iran sanctions legislation, and I firmly expect strong language to emerge from the conference committee before the end of this month.

In addition, I support the Obama Administration's efforts to move the United Nations Security Council to enact punishing new sanctions, which in turn should encourage the E.U. to take stronger action against Iran's nuclear weapons ambitions.

As these federal and international efforts unfold, it is important to note that states and local governments have been at the forefront of the Iran sanctions movement for years, highlighted by dramatic successes such as those in my state of Florida. These state efforts provide an excellent roadmap for Congress on what is possible and what works, as we enact new federal economic sanctions on the Iranian regime.

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I was elected to the Florida State Senate in 2006, and recognizing the threat of the Iranian nuclear program, I was determined to use every tool at my disposal to put pressure on the regime. Building on divestment legislation from the 1980's that was successful in helping to end apartheid in South Africa, I crafted legislation that would prevent the pension funds of Florida's workers from investing in companies that conduct business within the energy sector of Iran. Our focus on the energy sector was consistent with the existing framework established by the Iran Sanctions Act (ISA) which targeted any company that invests more than $20 million toward Iran's efforts to develop its petroleum resources. The energy sector is critical because it is this profitable sector of the Iranian economy that funds the regime's very expensive nuclear weapons program.

In 2007, with the unanimous support of both Republicans and Democrats, Florida became the first state in the nation to successfully pass Iran divestment legislation. As the author of the Protecting Florida's Investments Act (PFIA), I crafted a procedure for identifying and engaging those 'violating' companies who currently invest in the energy sector of Iran above the thresholds of the PFIA and the ISA. The Florida State Board of Administration, or SBA, subsequently worked with experts from across the country to develop an effective course of action for divesting the nation's fourth largest pension fund.

Three years later, it is clear that this effort has been a dramatic success. Thus far, the state of Florida has divested nearly $1.5 billion from 24 companies that do (or did) business in the Iranian energy sector, including Royal Dutch Shell, Total, ENI and many others. This is $1.5 billion from Florida alone. But no public worker or retiree, from any state or local government or from any police force, fire department or school district should see his or her retirement savings invested in Iran's nuclear weapons program. Divestment must be expanded, and the companies must be identified.

The Florida Legislature passed another law in 2009 requiring the SBA to identify and offer at least one "terror-free" investment plan. This will give participants in Florida's defined contribution plan the ability to ensure that their money will not be invested in terror-sponsoring states. Our law is nearly identical to Chairman Lieberman's important efforts to offer a similar "terror-free" option within the Thrift Savings Plan for federal

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workers. I commend you, Mr. Chairman, for championing this effort. American citizens can wield great economic power individually in the battle against terror, and they should be given the opportunity to exercise that power.

Aggressive state government divestment, like we enacted in Florida, sends a clear message that the American people will not support companies who continue to invest in and engage with the dangerous Iranian regime. It is no surprise that companies do not often respond to moral pressure alone. We need to hit them hard in their pocket book and on their balance sheet. We need to show them that their stock prices will be affected if their actions encourage Iran's nuclear weapons ambitions. Divestment has provided, and will continue to provide, crucial financial pressure that will help to convince companies to stop doing business with Iran. Already, I am aware of major international corporations that have decided to pull out of Iran based in part on the pressure of divestment. One recent example is the oil and gas behemoth ENI, Italy's largest industrial company, which announced on April 29th that it would not extend contracts in Iran due to the pressure of divestment.

While 19 other states and the District of Columbia have passed similar divestment policies, Florida is the only state to have successfully identified, named, and published a list of the violating companies – followed by a full and successful divestment from these companies. Therefore, I would urge Congress to look to Florida as a model for how to identify those companies who are doing business in Iran in contravention of international security. Once those companies are identified, immediate economic pressure can be brought to bear at the federal level.

Florida's State Board of Administration, the entity that invests on behalf of the Florida Retirement System, is responsible for complying with the terms of the PFIA. On a quarterly basis, the SBA assembles and publishes on their website a list of violating companies.

SBA identifies potentially violating companies through a thorough and multi-source research effort which relies on SBA analysis along with independent external research providers. Identified companies are researched using SEC reports, industry analysis,

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government agencies including the SEC's Office of Global Security Risk, the Treasury Department's Office of Foreign Asset Control, CRS and NGO reports, along with other publicly available information. The SBA then sends written notification to any company found to have active business operations with Iran informing the company it is now subject to divestment, and that is has 90 days to cease such activity.

Each quarter, the SBA issues a report that includes a summary of correspondence with engaged companies; a listing of all investments sold, redeemed, divested, or withdrawn; a listing of all prohibited investments; a description of any progress finding "terror-free" investment options; and a list of all publicly traded securities held directly by the state. Those reports are published at the SBA's website, www.sbafla.com.

In only a matter of months, Florida published a verifiable and comprehensive list of companies and did so with a small budget and minimal staffing levels. The federal government can easily match and replicate the actions of Florida to create and maintain its own list of violating companies that are presently doing business in Iran.

I am confident the legislation that emerges from the House/Senate conference will now include a requirement that the Administration provide a list of all companies that are in current violation of the ISA, including the requirement that if the Administration chooses to waive the sanctions, an explanation must be sent to Congress.

In advance of these new legislative requirements, however, the Administration should waste no time in creating its own definitive list so that the American people can know immediately which companies are choosing to risk international security by investing in Iran. It would be highly imprudent to waste time by waiting until after the new sanctions law takes effect to compile this important list – when in fact that list can be created quickly and easily today. In Florida, this research is done by the pension fund administrators and their outside research consultants. I am aware the State Department currently has jurisdiction over this area, but it may be worth noting that the Energy Department could assist in the publication of such a list, as these are ultimately factual findings, and the Department of Energy has a long track record of publishing similar data

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within their detailed reports that document energy activity in specified countries including Iran.

As I have detailed, identifying companies investing in Iran can be readily accomplished using currently available resources. However, if the United States is serious about shining a light on companies that continually defy U.S. law, we must do everything in our power to simplify this process. The easiest way to gather this information is to mandate companies to divulge their business activities in Iran. I would like to commend SEC Chairman Mary Schapiro for her recent comments in support of strengthening the disclosure requirements for companies engaged in such dealings with Iran. It is apparent to me and a growing number of observers that, under U.S. securities law, doing business in Iran should properly be considered a material event that triggers mandated disclosure on SEC filings. Should the SEC formally mandate that Iranian business interests are a material event, companies would in effect self-disclose whether they are violating companies for purposes of the ISA and state and local divestment laws. Stricter SEC disclosure requirements have also been promoted by the SBA and the not-for-profit group, United Against Nuclear Iran, who recently circulated a letter to myself and Senator Lieberman favoring this new understanding of materiality in the context of securities law. I would also respectfully ask the Members of this Committee to join the call for more complete disclosure requirements. A company's decision to do business in Iran at a time when the United Nations, the European Union, and this Congress are debating various forms of economic sanctions, certainly makes any such Iranian investment material and worthy of full notice to the company's shareholders and to the public.

Once the Administration has easily identified the full scope of the violating companies under the measures I have already discussed, we have additional tools at the state and federal level to ratchet up pressure on Iran. We must cease awarding any government contracts to companies that invest in Iran. Before my election to this Congress, I wrote and introduced legislation in the Florida Senate that would have barred the State of Florida from entering into any contracts with companies doing business in the Iranian energy sector. My colleague, Congressman Ron Klein, has written tough and important

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legislation in the House that is included in the comprehensive Iran sanctions package currently in conference committee.

As a recent New York Times article confirmed, over 107 billion dollars of federal government money has been awarded to companies appearing to be in violation of the Iran Sanctions Act. Further, as the most recent GAO report states, the federal government spent almost 880 million dollars in the last five years contracting with companies currently doing business in the Iranian energy sector.

This is unacceptable, and I am gratified that we are on the verge of passing legislation to ban this practice going forward. Companies that do business in the Iranian energy sector – the very sector that supports the ruling regime, the Revolutionary Guard and the illegal nuclear weapons program – should never contract with the United States government.

Through both Democratic and Republican Administrations, the sanctions regime under the ISA has essentially lay dormant. I am certain that Congress did not repeatedly enact thoughtful and complex Iran sanctions for them never to be used. This practice must end, and it is long past time for these sanctions to be utilized as designed.

I am aware in the world of international diplomacy it is not polite to name names. I understand that foreign nations don't want us telling their companies when and where to invest, but the stakes are now too high for diplomatic niceties to trump international security. It is time for our government to name and publish the companies that are investing in Iran. I am aware that many of these companies are based in countries that are our allies. Nevertheless, there is no greater threat to global security than the Iranian regime's quest for nuclear weapons, and it is time we put proper pressure on our friends, allies, and international competitors alike to end their investments in Iran.

We are making progress, led in great part by the incredible work of Stuart Levey in the Treasury Department. In fact, in recent days, more and more companies are cutting ties with Iran. Four out the five largest suppliers of refined petroleum to Iran have ceased their operations with Iran. The top four accounting firms are also pulling out.

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The government should be using every power at our disposal to encourage, badger, demand, entice, and sanction companies to remove their business interests from Iran. Now Congress must act, and it is time to make these companies choose – either you do business with the United States or you do business with Iran – there is no middle ground. If you want access to the established US banking system, you cannot enter it with tainted Revolutionary Guard dollars.

We are at a crucial moment in history, and time is not on our side. For many years, we waited for diplomacy to take hold and for Iran to forgo its nuclear weapons program. Instead, Iran is spinning more centrifuges and announcing the opening of new nuclear facilities, while their President declares his intent to wipe Israel off of the map and publically envisions a world without America. We will have failed if our discussion shifts toward containment and how to deter Iran from using its nuclear weapons. Our mission is clear – we must prevent Iran from acquiring nuclear weapons. Therefore, we must act now before it is too late for economic sanctions to deliver genuine results. Florida has shown that it is possible to identify violating companies and to exert real economic pressure. I now urge Congress and the Administration to do the same. We must all focus our efforts on the singular premise of preventing a nuclear-armed Iran. Thank you, Mr. Chairman.

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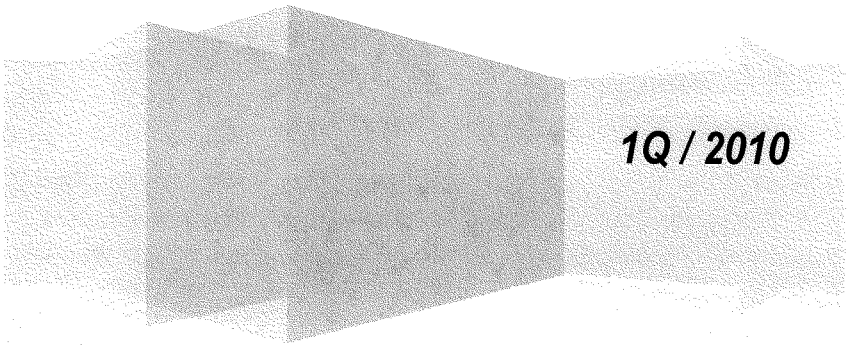
Document submitted by
Rep. Ted Deutch

Protecting Florida's Investments Act (PFIA)

Quarterly Report – April 27, 2010



FLORIDA STATE BOARD OF ADMINISTRATION

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Table of Contents

About the State Board of Administration 2
Primary Requirements of the PFIA 3
Definition of a Scrutinized Company 4
SBA Scrutinized Companies Identification Methodology 5
Key Changes since the Previous PFIA Quarterly Report 7
Table 1: Scrutinized Companies with Activities in Sudan 8
Table 2: Continued Examination Companies with Activities in Sudan 10
Table 3: Scrutinized Companies with Activities in the Iran Petroleum Energy Sector 11
Table 4: Continued Examination Companies with Petroleum Energy Activities in Iran 12
Table 5: Correspondence & Engagement Efforts with Scrutinized Companies 13
Table 6: Correspondence & Engagement Efforts with Continued Examination Companies 15
Key Dates for PFIA Activities 17
Summary of Investments Sold, Redeemed, Divested or Withdrawn 18
Table 7: List of Prohibited Investments (Scrutinized Companies) 19
Table 8: SBA Holdings in Prohibited Investments Subject to Divestment 21
Summary of Progress, SBA Investment Manager Engagement Efforts 22
Listing of All Publicly Traded Securities (Including Equity Investments) 23

About the State Board of Administration

The statutory mission of the State Board of Administration (SBA) is to invest, manage and safeguard assets of the Florida Retirement System (FRS) Trust Fund and a variety of other funds for state and local governments. FRS Trustees are dedicated to ensuring that the SBA invests assets and discharges its duties in accordance with Florida law, guided by strict policies and a code of ethics to ensure integrity, prudent risk management and top-tier performance. The SBA is an investment fiduciary under law, and subject to the stringent fiduciary duties and standards of care defined by the Employee Retirement Income Security Act of 1974 (ERISA), as incorporated into Florida law. The SBA has three Trustees: the Governor, as Chairman, the Chief Financial Officer, as Treasurer, and the Attorney General, as Secretary.

As of March 31, 2010, the net asset value of total funds under SBA management was approximately $141 billion. The FRS Pension Plan provides defined pension benefits to 1.1 million beneficiaries and retirees. The strong long-term performance of the FRS Pension Plan, the fourth-largest public pension fund in the nation, reflects our commitment to responsible fiscal management. The SBA strives to meet the highest ethical, fiduciary and professional standards while performing its mission, with a continued emphasis on keeping operating and investment management costs as low as possible for the benefit of Florida taxpayers.

We encourage you to review additional information about the SBA and FRS on our website at www.sbafla.com.

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Introduction

On June 8, 2007, the Protecting Florida's Investments Act ("PFIA") was signed into law. The PFIA requires the State Board of Administration ("SBA"), acting on behalf of the Florida Retirement System Trust Fund (the "FRSTF"), to assemble and publish a list of "Scrutinized Companies" that have prohibited business operations in Sudan and Iran. Once placed on the list of Scrutinized Companies, the SBA and its investment managers are prohibited from acquiring those companies' securities and are required to divest those securities if the companies do not cease the prohibited activities or take certain compensating actions. The implementation of the PFIA by the SBA will not affect any FRSTF investments in U.S. companies. The PFIA will solely affect foreign companies with certain business operations in Sudan and Iran involving the petroleum or energy sector, oil or mineral extraction, power production or military support activities. This quarterly report is developed pursuant to Section 215.473 (4), Florida Statutes.

Primary Requirements of the PFIA

The PFIA created new reporting, engagement, and investment requirements for the SBA, including:

1. Quarterly reporting to the Board of Trustees of every equity security in which the SBA has invested for the quarter, along with its industry category. This report is posted on the SBA website.

2. Quarterly presentation to the Trustees of a "Scrutinized Companies" list for both Sudan and Iran for their approval. Scrutinized Company lists are available on the SBA's website, along with information on the FRSTF direct and indirect holdings of Scrutinized Companies.

3. Written notice to external investment managers of all PFIA requirements. Letters request that the managers of actively managed commingled vehicles (i.e., those with FRSTF and other clients' assets) consider removing Scrutinized Companies from the product or create a similar actively managed product that excludes such companies. Similar written requests must be provided to relevant investment managers within the defined contribution plan.

4. Written notice to any company with inactive business operations in Sudan or Iran, informing the company of the PFIA and encouraging it to continue to refrain from reinitiating active business operations. Such correspondence continues semiannually.

5. Written notice to any Scrutinized Company with active business operations, informing the company of its Scrutinized Company status and that it may become subject to divestment. The written notice must inform the company of the opportunity to clarify its Sudan-related or Iran-related activities and encourage the company, within 90 days, to cease its scrutinized business operations or convert such operations to inactive status.

6. A prohibition on further investment on behalf of the FRSTF in any Scrutinized Company once the Sudan and Iran scrutinized lists have been approved by the Trustees. All publicly traded securities of Scrutinized Companies must be divested within 12 months after the company's initial (and continued) appearance on the Scrutinized Companies list. Divestment does not apply to indirect holdings in actively managed commingled investment funds—i.e., where the SBA is not the sole investor in the fund. Private equity funds are considered to be actively managed.

7. Reporting to each member of the Board of Trustees, President of the Senate, and the Speaker of the House of Representatives of Scrutinized Company lists within 30 days of creation, and public disclosure of each list.

8. Quarterly reporting of the following to each member of the Board of Trustees, the President of the Senate, the Speaker of the House of Representatives, the United States Presidential Special Envoy to Sudan and, if one is appointed, the United States Presidential Special Envoy to Iran. The report is made publicly available and posted to the SBA's website.

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00045 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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a. A summary of correspondence with engaged companies;
b. A listing of all investments sold, redeemed, divested, or withdrawn;
c. A listing of all prohibited investments;
d. A description of any progress related to external managers offering PFIA compliant funds; and
e. A list of all publicly traded securities held directly by the state.

9. Adoption and incorporation into the Investment Policy Statement (IPS) of SBA actions taken in accordance with the PFIA. Changes to the IPS are reviewed by the Investment Advisory Council and approved by the Trustees.

10. Relevant Sudan or Iran portions of the PFIA are discontinued if the Congress or President of the United States passes legislation, executive order, or other written certification that:

    a. Darfur genocide has been halted for at least 12 months;
    b. Sanctions imposed against the Government of Sudan are revoked;
    c. Government of Sudan honors its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons;
    d. Government of Iran has ceased to acquire weapons of mass destruction and support international terrorism;
    e. Sanctions imposed against the government of Iran are revoked; or
    f. Mandatory divestment of the type provided for by the PFIA interferes with the conduct of U.S. foreign policy.

11. Cessation of divestment and/or reinvestment into previously divested companies may occur if the value of all FRSTF assets under management decreases by 50 basis points (0.5%) or more as a result of divestment. If cessation of divestment is triggered, the SBA is required to provide a written report to each member of the Board of Trustees, the President of the Senate, and the Speaker of the House of Representatives prior to initial reinvestment. Such condition is required to be updated semiannually.

12. In 2009, the Florida Legislature approved a bill requiring the SBA to identify and offer, by March 1, 2010, at least one terror-free investment product for the FRS Investment Plan. The product must allocate its funds among securities not subject to divestiture, as provided in section 215.473, Florida Statutes.

Definition of a Scrutinized Company

The following is a brief review of the criteria on which the active business operations of companies must be judged, in accordance with subsection (1) (t) of the Section 215.473, F.S.

Sudan:

1. Have a material business relationship with the government of Sudan or a government-created project involving oil related, mineral extraction, or power generation activities, or
2. Have a material business relationship involving the supply of military equipment, or
3. Impart minimal benefit to disadvantaged citizens that are typically located in the geographic periphery of Sudan, or
4. Have been complicit in the genocidal campaign in Darfur.

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Iran:

1. Have a material business relationship with the government of Iran or a government-created project involving oil related or mineral extraction activities, or
2. Have made material investments with the effect of significantly enhancing Iran's petroleum sector.

Affiliates of companies with scrutinized business operations are also subject to the requirements of the PFIA. An affiliated company is generally defined as any other company that either directly or indirectly controls, is controlled by or is under common control with the company conducting scrutinized active business operations. Control generally means the power to exercise a controlling influence over the management or policies of a company. As well, many companies have parent—subsidiary relationships whereby a parent company may own several other companies. In such cases, the SBA has included any known parent and/or subsidiaries which can be clearly linked to a company with scrutinized active business operations. The SBA has used a 50 percent ownership threshold in determining whether or not companies are affiliated, examining parent company—subsidiary ownership on a pro rata basis.

The SBA views companies which have explicit plans and activities related to discontinuation of active business operations as meeting the PFIA definition of substantial action. For all identified companies, the SBA will request information detailing what a company has actually done, if anything, to discontinue its active business operations or if it has pursued humanitarian efforts (applicable to Sudan only).

SBA Scrutinized Companies Identification Methodology

The SBA has developed two lists of Scrutinized Companies with active business operations by principally relying on the research and findings of four "External Research Providers:"

1. Conflict Risk Network (CRN). CRN is a project of the Genocide Intervention Network, a non-profit organization focused on fundraising for the UN-supported African Union Mission in Darfur and political activism to pressure governments and the UN to pursue a comprehensive strategy to end the genocide in Darfur. CRN was formerly known as the Sudan Divestment Task Force (SDTF).

2. RiskMetrics Group (ISS). RiskMetrics delivers proxy voting and corporate governance solutions to institutional clients. RiskMetrics offers screening services to help pension funds and their investment managers comply with the specific and unique components of state law pertaining to investments in sanctioned countries, including Sudan and Iran.

3. KLD Research & Analytics (KLD). KLD is an investment research firm producing a Sudan Targeted Divestment Compliance product, which meets the requirements of the CRN. While KLD consults with the CRN on legislative criteria and certain companies, KLD independently performs all of the research involved in creating the product. KLD also produces an Iran Compliance product, which identifies companies generally meeting the criteria of the federal government elements of the Iran Sanctions Act. {NOTE: The RiskMetrics Group recently purchased KLD Research & Analytics. We are currently in correspondence with the companies as they integrate operations.}

4. American Israel Public Affairs Committee (AIPAC). AIPAC works on public policy issues with the intent to strengthen the U.S.-Israel relationship. AIPAC produces a list of foreign companies at risk of being sanctioned by the U.S. for investing in Iran's oil and natural gas sector, in violation of the Iran Sanctions Act (ISA).

The SBA Investment Programs and Governance unit and other senior investment professionals review the assessments of the External Research Providers and other publicly available information. The SBA has utilized the following sources to evaluate over 200 companies and affiliates with reported links to Sudan or Iran:

Company disclosures:

- SEC filings (DEF 14A Proxy Statements, 10-K & 20-F Annual Reports, etc.)

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- Investor Relations/company websites
- Industry publications and analyst research

Investment/Finance Organizations:
- Industry Analysts
- Index Providers (e.g., Russell)
- Other Institutional Investors/Private Investors

U.S Government Agencies:
- SEC Office of Global Security (EDGAR)
- U.S. Treasury, Office of Foreign Asset Control (OFAC)
- Dept. of Energy, Energy Information Administration (EIA)
- Congressional Research Service (CRS), Library of Congress

Non-Governmental Organizations (NGOs):
- American Enterprise Institute (AEI)
- Amnesty International
- Yale University (Allard K. Lowenstein International Human Rights Project)
- Human Rights Watch

Other Sources:
- SBA External Investment Managers
- U.S. Federal Sanctions Laws covering State Sponsors of Terror
- Any other publicly available information.

Using the previous information sources, the SBA has developed two separate categorizations of a company's involvement in Sudan and/or Iran.

1. **"Scrutinized"** — All applicable External Research Providers indicate that a company meets the classification of a Scrutinized Company as defined by the PFIA as set forth in Section 215.473 (1)(t)1., 2., or 3. [Sudan] or Section 215.473 (4)(t)1. [Iran]. For Sudan, CRN, RiskMetrics Group, and KLD must unanimously agree on the company's status under the PFIA. For Iran, AIPAC, RiskMetrics Group, and KLD must unanimously agree on the company's status under the PFIA. Upon SBA review, no other information sources clearly contradict the conclusions of the External Research Providers.

2. **"Continued Examination"** — At least one, but not all applicable External Research Providers indicates that a company meets the classification of a Scrutinized Company as defined by the PFIA as set forth in Section 215.473, (1)(t)1., 2., or 3. [Sudan] or Section 215.473, (4)(t)1. [Iran]. In other words, the External Research Providers do not agree on the status of a company and the SBA is unable to definitively categorize the company's activities as scrutinized without further research to resolve the differences. For companies classified as "Continued Examination" the SBA will begin an engagement process to clarify each firm's current business relationships.

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Key Changes since the Previous PFIA Quarterly Report

Sudan

No companies were **added** to the Sudan Scrutinized list this quarter.

The following changes are the result of name changes for two companies on the Sudan Scrutinized list:

- **Jiangxi Changhe Automobile Co. Ltd**, which is a Scrutinzed company, has changed its name to **China Avic Avionics Equipment Company Ltd.**
- **CNPC Hong Kong Limited**, which is a Scrutinized company, has changed its name to **Kunlun Energy Company Ltd.**

The following company was **removed** from the Sudan Scrutinized list this quarter:

- **Wartsila Oyj** has committed to humanitarian actions in Sudan and has been removed from Scrutinized status.

Companies **added** to the Sudan Continued Examination list this quarter:

- **Glencore International AG**
- **Nippon Oil Finance**
- **Nippo Corp.**
- **Wartsila Oyj** has been downgraded from Scrutinized to Continued Examination.

Companies **removed** from the Sudan Continued Examination list this quarter:

- **ABB Ltd.**
- **MMC Bhd**

Iran

No companies were **added** to the Iran Scrutinized list this quarter.

The following change is the result of a name change for one company on the Iran Scrutinized list:

- **CNPC Hong Kong Limited**, which is a Scrutinized company, has changed its name to **Kunlun Energy Company Ltd.**

No companies were **removed** from the Iran Scrutinized list this quarter.

No companies were **added** to the Iran Continued Examination list this quarter.

No companies were **removed** from the Iran Continued Examination list this quarter.

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Table 1: Scrutinized Companies with Activities in Sudan

New companies on the list are shaded and in bold.

Company	Country of Incorporation	Date of Initial Scrutinized Classification
Alstom	France	September 19, 2007
Alstom Projects India	India	April 14, 2009
AREF Energy Holdings Co.	Kuwait	July 28, 2009
AviChina Industry & Technology Company Limited	China	September 19, 2007
Bharat Heavy Electricals, Ltd.	India	September 19, 2007
Bongaigaon Refinery & Petrochemicals	India	September 19, 2007
Chennai Petroleum Corp Ltd	India	September 19, 2007
China Avic Avionics Equipment Co. Ltd. (fka: Jiangxi Changhe Automobile Co. Ltd)	**China**	**September 19, 2007**
China Petroleum & Chemical Corp (CPCC) Sinopec	China	September 19, 2007
Daqing Huake Group Co Ltd	China	March 25, 2008
Dongan Motor (aka Harbin Dongan Auto Engine)	China	September 19, 2007
DongFeng Automobile Co Ltd	China	September 19, 2007
Egypt Kuwait Holding Co. SAE	Kuwait	January 13, 2009
Electricity Generating Public Co	Thailand	September 19, 2007
Favelle Favco	Malaysia	April 14, 2009
Gas District Cooling (Putrajaya) Sdn Bhd	Malaysia	April 14, 2009
Hafei Aviation Industry Co Ltd	China	September 19, 2007
Harbin Power Equipment	China	September 19, 2007
Indian Oil Corp Ltd (IOCL)	India	September 19, 2007
Jiangxi Hongdu Aviation (aka Hongdu Aviation)	China	September 19, 2007
Jinan Diesel Engine Co. Ltd.	China	July 28, 2009
Kejuruteraan Samudra Timur Bhd	Malaysia	September 19, 2007
Kencana Petroleum Berhad	Malaysia	December 18, 2007
Khanom Electricity Generating Co	Thailand	December 18, 2007
Kingdream PLC	China	April 14, 2009
KLCC Property Holdings Bhd	Malaysia	April 14, 2009
KMCOB Capital Bhd	Malaysia	September 19, 2007
Kunlun Energy Company Ltd. (fka: CNPC Hong Kong Limited)	**Hong Kong**	**September 19, 2007**
Kuwait Finance House	Kuwait	April 14, 2009
Lanka IOC Ltd	India	September 19, 2007
Mangalore Refinery & Petrochemicals Ltd	India	September 19, 2007
Midciti Resources Sdn Bhd	Malaysia	September 19, 2007
MISC Bhd	Malaysia	September 19, 2007
MISC Capital Ltd.	Malaysia	April 14, 2009
Muhibbah Engineering BHD	Malaysia	September 19, 2007
Oil & Natural Gas Corp (ONGC)	India	September 19, 2007

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00050 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Company	Country of Incorporation	Date of Initial Scrutinized Classification
Optimal Olefins Sdn Bhd	Malaysia	September 19, 2007
PECD Bhd.	Malaysia	September 19, 2007
PetroChina	China	September 19, 2007
PetroKazakhstan Finance BV	Canada	July 28, 2009
Petroliam Nasional (Petronas)	Malaysia	September 19, 2007
Petronas Capital Limited	Malaysia	September 19, 2007
Petronas Dagangan Bhd	Malaysia	September 19, 2007
Petronas Gas Berhad	Malaysia	September 19, 2007
Ranhill Bhd	Malaysia	September 16, 2008
Ranhill Labuan Ltd.	Malaysia	April 14, 2009
Ranhill Powertron Sdn	Malaysia	April 14, 2009
SAJ Holdings	Malaysia	July 28, 2009
Scomi Engineering BHD	Malaysia	September 19, 2007
Scomi Group Bhd	Malaysia	September 19, 2007
Sinopec Finance	China	April 14, 2009
Sinopec Kantons Holdings Ltd	Bermuda	September 19, 2007
Sinopec Shanghai Petrochemical	China	September 19, 2007
Sinopec Yizheng Chemical Fibre	China	March 25, 2008
Wuhan Boiler Company	China	September 19, 2007
# of Companies	**55**	

The following company was removed from the Scrutinized Company list for SUDAN during the quarter.

Removed Company	*Country of Incorporation*
Wartsila Oyj	***Finland***

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00051 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Table 2: Continued Examination Companies with Activities in Sudan

New companies on the list are shaded and in bold.

Company	Country of Incorporation
AREF Investment Group	Kuwait
Bharat Electronics Limited	India
Bollore Group	France
China North Industries Group Corp (CNGC/Norinco)	China
Dietswell SA	France
GAZ Group	Russia
Glencore International AG	**Switzerland**
Korea Plant Service and Engineering Co. Ltd.	South Korea
LS industrial Systems Co. Ltd.	South Korea
Managem	Morocco
Mercator Lines Limited (Mercator Lines Singapore)	India
Nam Fatt	Malaysia
Nippo Corp.	**Japan**
Nippon Oil Finance	**Japan**
Oil India Limited	India
PetroFac	United Kingdom
PTT Public Company Ltd.	Thailand
Seadrill Ltd.	Bermuda
Sinohydro	China
Sudan Telecommunications (Sudatel)	Sudan
Total SA	France
Wartsila Oyj	**Finland**
# of Companies	**22**

The following companies were removed from the Continued Examination Company list for SUDAN during the quarter.

Removed Company	*Country of Incorporation*
ABB Ltd.	***Switzerland***
MMC Bhd	***Malaysia***

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Table 3: Scrutinized Companies with Activities in the Iran Petroleum Energy Sector

New companies on the list are shaded and in bold.

Company	Country of Incorporation	Date of Initial Scrutinized Classification
China Petroleum & Chemical Corp (CPCC) Sinopec	China	September 19, 2007
ENI	Italy	September 19, 2007
Gas District Cooling (Putrajaya) Sdn Bhd	Malaysia	April 14, 2009
Gazprom	Russia	September 19, 2007
Gazprom Neft	Russia	September 16, 2008
GS Engineering & Construction Corp.	S. Korea	September 16, 2008
GS Holdings	S. Korea	September 19, 2007
Indian Oil Corp Ltd (IOCL)	India	September 19, 2007
Inpex Corp.	Japan	September 19, 2007
Kingdream PLC	China	April 14, 2009
Kunlun Energy Company Ltd. (fka: CNPC Hong Kong Limited)	**Hong Kong**	**September 19, 2007**
KLCC Property Holdings Bhd	Malaysia	April 14, 2009
Midciti Resources Sdn Bhd	Malaysia	September 19, 2007
MISC Bhd	Malaysia	September 19, 2007
MISC Capital Ltd.	Malaysia	April 14, 2009
Mosenergo	Russia	September 16, 2008
Oil & Natural Gas Corp (ONGC)	India	September 19, 2007
Optimal Olefins Sdn Bhd	Malaysia	September 19, 2007
Persian Gold PLC	United Kingdom	July 28, 2009
PetroChina	China	September 19, 2007
Petroliam Nasional (Petronas)	Malaysia	September 19, 2007
Petronas Capital Limited	Malaysia	September 19, 2007
Petronas Dagangan Bhd	Malaysia	September 19, 2007
Petronas Gas Berhad	Malaysia	September 19, 2007
Repsol YPF	Spain	September 19, 2007
Royal Dutch Shell PLC	United Kingdom	September 19, 2007
Shell International Finance BV	Netherlands	October 27, 2009
Sinopec Finance	China	April 14, 2009
Sinopec Kantons Holdings Ltd	Bermuda	September 19, 2007
Sinopec Shanghai Petrochemical	China	September 19, 2007
Sinopec Yizheng Chemical Fibre	China	March 25, 2008
Snam Rete Gas	Italy	September 19, 2007
StatoilHydro	Norway	September 19, 2007
Total (Nigeria) PLC	Nigeria	March 25, 2008
Total SA	France	September 19, 2007
# of Companies	**35**	

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Table 4: Continued Examination Companies with Petroleum Energy Activities in Iran

No companies were added or removed from the list this quarter.

Company	Country of Incorporation
Aker Kvaerner ASA	Norway
CNOOC Ltd.	China
Daelim Industrial Co.	South Korea
Edison Spa	Italy
Engineers India Ltd.	India
GAIL Ltd.	India
GVA Consultants	Sweden
Hyundai Engineering & Construction Co.	South Korea
Hyundai Heavy Industries	South Korea
Liquefied Natural Gas LNGL	Australia
Lukoil OAO	Russia
OMV AG	Austria
Petrofac Ltd.	United Kingdom
PT Citra Tubindo Tbk	Indonesia
PTT Exploration & Production PCL	Thailand
Samsung Engineering Co. Ltd.	Korea
Sasol Ltd.	South Africa
Siam Cement PCL	Thailand
Siemens AG	Germany
Technip	France
Trevi-Finanziaria Industriale SpA	Italy
Welspun-Gujarat Stahl Rohren Ltd.	India
# of Companies	**22**

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Table 5: Correspondence & Engagement Efforts with Scrutinized Companies

In accordance with Section 215.473(3)(a), F.S., the SBA began to engage companies on the September 19, 2007, Scrutinized Company lists. The SBA sent letters to each Scrutinized Company that was owned and held as of September 19, 2007, per the requirements of the law.

The SBA also sent written communication to other scrutinized firms since the initial company engagement effort in September 2007. Each letter encouraged the company to cease any active business operations within 90 days or convert such operations to inactive status to avoid qualifying for divestment by the SBA. In addition, the SBA sent a second letter to scrutinized companies on January 25, 2008, again requesting companies to provide all information necessary to avoid divestment.

On September 30, 2008, the SBA sent a follow-up letter to all Scrutinized Companies. Although, these companies are no longer held by the SBA, the September 30, 2008, letter was intended to once again provide notice of the requirements of the PFIA. Since our original correspondence, several companies on the scrutinized list have replied with valuable information. Each company's response and classification status is summarized below. Any company that responded to the SBA's written correspondence is highlighted in blue text.

Company	Company Responsive to SBA Communications	Status
ABB	Yes; January 29, 2009	Removed from Sudan Scrutinized List
Alstom	Yes; October 1, 2007	Sudan Scrutinized Classification Continues
Bharat Heavy Electricals Limited	Yes; October 4, 2007	Sudan Scrutinized Classification Continues
Bow Valley Energy	Yes; October 22, 2008	Removed from Iran Scrutinized List
Chennai Petroleum Corporation Limited	Yes; October 16, 2008	Sudan Scrutinized Classification Continues
China Petroleum & Chemical Corp (Sinopec)	No	Iran & Sudan Scrutinized Classification Continues
Electricity Generating PCL	No	Sudan Scrutinized Classification Continues
ENI	Yes; February 13, 2008	Iran Scrutinized Classification Continues
Gazprom	Yes; November 1, 2007	Iran Scrutinized Classification Continues
Harbin Power Equipment	No	Sudan Scrutinized Classification Continues
Indian Oil Corp Ltd (IOCL)	No	Iran & Sudan Scrutinized Classification Continues
Inpex Corp	Yes; October 15, 2007	Iran Scrutinized Classification Continues
Kencana Petroleum	Yes; October 31, 2008	Sudan Scrutinized Classification Continues
Kunlun Energy Company Ltd. (fka: CNPC Hong Kong Limited)	Yes; October 5, 2007 and May 24, 2008	Iran & Sudan Scrutinized Classification Continues
Lukoil OAO	Yes; October 8, 2007	Moved to Iran Continued Examination List
Lundin Petroleum AB	Yes; October 17, 2008	Removed from Sudan Scrutinized List
Lundin International SA	No	Removed from Sudan Scrutinized List
MISC Bhd	No	Iran & Sudan Scrutinized Classification Continues
Norsk Hydro	Yes; November 30,2007	Removed from Iran Scrutinized List
OMV AG	Yes; November 6, 2007 and April 14, 2010	Moved to Iran Continued Examination List
PetroChina	Yes; December 22, 2008	Iran & Sudan Scrutinized Classification Continues
Petroleo Brasileiro (Petrobras)	Yes; January 13, 2010	Removed from Iran Scrutinized List

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Company	Company Responsive to SBA Communications	Status
Ranhill Bhd	Yes; October 22, 2008	Sudan Scrutinized Classification Continues
Repsol YPF	Yes; October 15, 2007	Iran Scrutinized Classification Continues
Royal Dutch Shell PLC	Yes; October 5, 2007	Iran Scrutinized Classification Continues
Sinopec Kantons Holdings Ltd.	No	Iran & Sudan Scrutinized Classification Continues
Sinopec Shanghai Petrochemical Company	No	Sudan Scrutinized Classification Continues
Snam Rete Gas	Yes; October 9, 2008	Iran Scrutinized Classification Continues
StatoilHydro	Yes; February 4, 2008	Iran Scrutinized Classification Continues
Total SA	Yes; October 12, 2007	Iran Scrutinized Classification Continues
Wartsilä Oyj	Yes; December 4, 2007	Moved to Sudan Continued Examination List

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Table 6: Correspondence & Engagement Efforts with Continued Examination Companies

In addition to Scrutinized Companies, the SBA engaged companies on our initial September 19, 2007, Continued Examination company lists. The SBA also sent written communication to firms added to the Continued Examination list since the initial company engagement effort in September 2007. Such companies were asked to provide information to the SBA in order to assist us in determining the extent of their activities, if any, in Sudan and Iran. The SBA sent a follow-up letter to all companies on September 30, 2008. Each company's response and classification is summarized below. Any company that responded to the SBA's written correspondence is highlighted in blue text.

Company	Company Responsive to SBA Communications	Continued Examination Status
Actividades de Construccion y Servicios S.A.(ACS)	No	Removed from Iran List
Aggreko PLC	Yes; January 28, 2008	Removed from Iran List
Air Liquide	Yes; November 30, 2007 January 28, 2008	Removed from Iran List
Aker Kvaerner ASA	No	Iran CE Classification Continues
AREF Investment Group	No	Removed from Sudan List
Areva SA	Yes; October 27, 2008 December 29, 2009	Removed from Sudan List
Bauer Aktiengesellschaft	Yes; March 13, 2008	Removed from Sudan List
BG Group	Yes; November 23, 2007	Removed from Iran List
Bharat Electronics Limited	No	Sudan CE Classification Continues
Bollore Group	No	Sudan CE Classification Continues
CNOOC Ltd	Yes; October 28, 2008	Iran CE Classification Continues
Costain Group PLC	Yes; November 5, 2007	Removed from Iran List
Daelim Industrial Co.	No	Iran CE Classification Continues
Engineers India Ltd.	Yes; October 16, 2008	Iran CE Classification Continues
Essar Oil	Yes; January 9, 2009	Removed from Iran List
Finmeccanica SpA	No	Removed from Sudan List
GVA Consultants	Yes; September 26, 2007	Iran CE Classification Continues
ICSA India Limited	No	Removed from Sudan List
Itochu Corp	Yes; May 9, 2008	Removed from Iran List
JGC Corp	Yes; October 1, 2007	Removed from Iran List
La Mancha Resources	Yes; October 21, 2008	Removed from Sudan List
Linde AG	Yes; November 14, 2007	Removed from Iran List
Liquefied Natural Gas LNGL	No	Iran CE Classification Continues
Mitsubishi Heavy Industries Ltd	Yes; October 26, 2007	Removed from Iran List
Mitsui & Co.	Yes; October 17, 2007	Removed from Iran List
Mitsui Engineering & Shipbuilding	Yes; November 21, 2007 December 18, 2007	Removed from Iran and Sudan Lists
MMC Bhd	No	Sudan CE Classification Continues
Nam Fatt	No	Sudan CE Classification Continues
Saipem	Yes; December 12, 2007	Removed from Iran List

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Company	Company Responsive to SBA Communications	Continued Examination Status
Samsung Engineering Co. Ltd.	No	Iran CE Classification Continues
Samsung Heavy Industries Co. Ltd.	No	Removed from Iran List
Sasol Ltd.	No	Iran CE Classification Continues
Siemens AG	Yes; October 22, 2009	Iran CE Classification Continues
Schlumberger Limited NV	Yes; October 19, 2007	Removed from Iran and Sudan Lists
Siam Cement PCL	Yes; October 21, 2008	Iran CE Classification Continues
SNC - Lavalin Group Inc.	Yes; September 25, 2007	Removed from Iran List
Sudan Telecommunications (Sudatel)	No	Sudan CE Classification Continues
Technip	No	Iran CE Classification Continues
The Weir Group PLC	Yes; November 16, 2007	Removed from Iran and Sudan Lists
Total SA	Yes; October 12, 2007	Sudan CE Classification Continues
Weatherford International, Ltd.	No	Removed from Sudan List

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00058 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Key Dates for PFIA Activities

June 8, 2007 — Legislation's effective date, upon becoming a law.

August 6, 2007 — SBA letter to state agencies requesting data on all publicly traded securities held directly by the State.

August 20, 2007 — First of two letters to investment managers providing written notice of PFIA enactment and amendment to Schedule B of investment management contracts.

September 19, 2007 — SBA assembles initial Scrutinized Companies lists for Sudan and Iran.

September 20, 2007 — SBA engages companies classified as either Scrutinized or needing Continued Examination through written correspondence, subsequent conference calls and additional communication. SBA disclosed the Scrutinized Companies lists on its website, including reporting of all equities held by the State.

September 21, 2007 — Second of two letters to investment managers providing Scrutinized Companies lists.

October 16, 2007 — SBA formally submits the Scrutinized Companies lists to the Legislature and the United States Special Envoy to Sudan, and continues to do so every quarter.

November 30, 2007 — SBA sends notification via email to any owned scrutinized company that has not responded to initial written correspondence. Similar notification was sent to each company classified as needing continued examination.

January 25, 2008 — SBA sends additional notice of divestment and request for information to all Scrutinized Companies, with emphasis to companies that have been unresponsive to the SBA's prior request for the necessary information.

July 1, 2008 — In March 2008, the SBA developed a policy approach directing all affected managers to sell their remaining PFIA related holdings no later than July 1, 2008, approximately three months earlier than the statutory deadline of September 18, 2008.

September 18, 2008 — Statutory deadline for the SBA to complete divestment of *initial* Scrutinized Companies (i.e., within 12 months of their initial appearance on the September 19, 2007 list), if they do not stop scrutinized active business operations.

March 1, 2010— Deadline for the SBA to identify and offer at least one terror-free investment product for the FRS Investment Plan (Defined Contribution).

Quarterly Reporting—SBA provides quarterly updates to the Scrutinized Companies lists for Sudan and Iran, including a summary of engagement activities. PFIA quarterly reports have been issued on the following dates:

September 19, 2007
December 18, 2007
March 25, 2008
June 10, 2008
September 16, 2008
January 13, 2009
April 14, 2009
July 28, 2009
October 27, 2009
January 26, 2010
April 27, 2010

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00059 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Summary of Investments Sold, Redeemed, Divested or Withdrawn

In accordance with the PFIA, the SBA must divest all holdings of any scrutinized companies within 12 months of their original appearance on the prohibited securities list. External managers are contractually responsible for administering investments in accordance with restrictions set forth by the SBA, including the prohibited securities list of the PFIA. Beginning in April 2008, the SBA developed a policy approach that directed all affected managers to sell their remaining PFIA related holdings no later than July 1, 2008, approximately three months earlier than the statutory deadline of September 18, 2008. Historical divestment transaction data is contained in prior PFIA Quarterly Reports.

Below is a table showing the aggregate amounts divested by the SBA, by company, since the PFIA's inception:

Royal Dutch Shell	$215,784,700.79
Total SA	$214,536,015.45
Petroleo Brasileiro SA (Petrobras) **	$206,135,264.10
ENI	$141,403,034.78
Gazprom (a.k.a. OAO Gazprom)	$71,275,453.14
Alstom	$65,897,698.67
Repsol YPF	$53,420,179.87
StatoilHydro	$46,792,677.58
China Petroleum and Chemical Corp (CPCC) Sinopec	$38,455,440.48
PetroChina	$25,723,158.75
Inpex Corp.	$24,835,110.63
MISC Bhd	$16,448,397.44
Snam Rete Gas	$9,596,905.78
Lukoil OAO**	$9,487,631.46
OMV AG **	$8,601,977.98
Shell International Finance	$8,599,813.40
Wärtsilä Oyj**	$1,797,871.96
Petrofac Ltd **	$1,496,881.43
The Weir Group PLC **	$1,322,666.62
Petrobras International Finance**	$1,148,750.00
Lundin Petroleum AB **	$1,133,120.04
Oil & Natural Gas Corporation (ONGC)	$945,363.83
Petrobras Energia (Participaciones) **	$298,632.08
Dongfeng Motor Group	$158,623.49
Electricity Generating Public Company	$121,321.38
Gazprom Neft	$37,892.73
** denotes companies no longer on the Prohibited Company list.	**$1,165,454,584**

In accordance with the PFIA, the SBA will report on the performance implications of PFIA-related divestitures and restrictions. Generally, the impact of PFIA legislation on performance is measured as the opportunity cost of not being able to hold prohibited securities, measured by comparing the monthly return of the standard foreign equity benchmark (i.e., the MSCI ACWI ex-US) to a custom foreign equity benchmark based upon PFIA divestiture requirements. The difference in returns between the standard benchmark and custom benchmark represents the opportunity cost to the SBA of not being able to invest in (or hold) prohibited companies. The percent return difference is then applied to the average monthly balance of foreign equity investments to determine a dollar impact. Monthly dollar impacts, whether positive or negative, are added together through time and then compared to the total value of the FRS Pension Plan to determine the percentage or basis point impact of PFIA legislation.

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00060 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Table 7: List of Prohibited Investments (Scrutinized Companies)

New companies on the list are shaded and in bold.

Company	Scrutinized Country	Country of Incorporation	Initial Appearance on Scrutinized List	Full Divestment
Alstom	Sudan	France	September 19, 2007	Yes
Alstom Projects India	Sudan	India	April 14, 2009	Yes
AREF Energy Holdings Co.	Sudan	Kuwait	July 28, 2009	Yes
AviChina Industry & Technology Company Limited	Sudan	China	September 19, 2007	Yes
Bharat Heavy Electricals, Ltd.	Sudan	India	September 19, 2007	Yes
Bongaigaon Refinery & Petrochemicals	Sudan	India	September 19, 2007	Yes
Chennai Petroleum Corp Ltd	Sudan	India	September 19, 2007	Yes
China Avic Avionics Equipment Co. Ltd. (fka: Jiangxi Changhe Automobile Co. Ltd)	**Sudan**	**China**	**September 19, 2007**	**Yes**
China Petroleum & Chemical Corp (CPCC) Sinopec	Sudan & Iran	China	September 19, 2007	Yes
Daqing Huake Group Co Ltd	Sudan	China	March 25, 2008	Yes
Dongan Motor (aka Harbin Dongan Auto Engine)	Sudan	China	September 19, 2007	Yes
DongFeng Automobile Co Ltd	Sudan	China	September 19, 2007	Yes
Egypt Kuwait Holding Co. SAE	Sudan	Kuwait	January 13, 2009	Yes
Electricity Generating Public Co	Sudan	Thailand	September 19, 2007	Yes
ENI	Iran	Italy	September 19, 2007	Yes
Favelle Favco	Sudan	Malaysia	April 14, 2009	Yes
Gas District Cooling (Putrajaya) Sdn Bhd	Sudan & Iran	Malaysia	April 14, 2009	Yes
Gazprom	Iran	Russia	September 19, 2007	Yes
Gazprom Neft	Iran	Russia	September 16, 2008	Yes
GS Engineering & Construction Corp.	Iran	S. Korea	September 16, 2008	Yes
GS Holdings	Iran	S. Korea	September 19, 2007	Yes
Hafei Aviation Industry Co Ltd	Sudan	China	September 19, 2007	Yes
Harbin Power Equipment	Sudan	China	September 19, 2007	Yes
Indian Oil Corp Ltd (IOCL)	Sudan & Iran	India	September 19, 2007	Yes
Inpex Corp.	Iran	Japan	September 19, 2007	Yes
Jiangxi Hongdu Aviation (aka Hongdu Aviation)	Sudan	China	September 19, 2007	Yes
Jinan Diesel Engine	Sudan	China	July 28, 2009	Yes
Kejuruteraan Samudra Timur Bhd	Sudan	Malaysia	September 19, 2007	Yes
Kencana Petroleum Berhad	Sudan	Malaysia	December 18, 2007	Yes
Khanom Electricity Generating Co	Sudan	Thailand	December 18, 2007	Yes
Kingdream PLC	Sudan & Iran	China	April 14, 2009	Yes
KLCC Property Holdings Bhd	Sudan & Iran	Malaysia	April 14, 2009	Yes
KMCOB Capital Bhd	Sudan	Malaysia	September 19, 2007	Yes
Kunlun Energy Company Ltd. (fka: CNPC Hong Kong Limited)	**Sudan & Iran**	**Hong Kong**	**September 19, 2007**	**Yes**
Kuwait Finance House	Sudan	Kuwait	April 14, 2009	Yes
Lanka IOC Ltd	Sudan	India	September 19, 2007	Yes
Mangalore Refinery & Petrochemicals Ltd	Sudan	India	September 19, 2007	Yes
Midciti Resources Sdn Bhd	Sudan & Iran	Malaysia	September 19, 2007	Yes
MISC Bhd	Sudan & Iran	Malaysia	September 19, 2007	Yes
MISC Capital Ltd.	Sudan & Iran	Malaysia	April 14, 2009	Yes

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Company	Scrutinized Country	Country of Incorporation	Initial Appearance on Scrutinized List	Full Divestment
Mosenergo	Iran	Russia	September 16, 2008	Yes
Muhibbah Engineering BHD	Sudan	Malaysia	September 19, 2007	Yes
Oil & Natural Gas Corp (ONGC)	Sudan & Iran	India	September 19, 2007	Yes
Optimal Olefins Sdn Bhd	Sudan & Iran	Malaysia	September 19, 2007	Yes
PECD Bhd.	Sudan	Malaysia	September 19, 2007	Yes
Persian Gold	Iran	United Kingdom	July 28, 2009	Yes
PetroChina	Sudan & Iran	China	September 19, 2007	Yes
PetroKazakhstan Finance BV	Sudan	Canada	July 28, 2009	Yes
Petroliam Nasional (Petronas)	Sudan & Iran	Malaysia	September 19, 2007	Yes
Petronas Capital Limited	Sudan & Iran	Malaysia	September 19, 2007	Yes
Petronas Dagangan Bhd	Sudan & Iran	Malaysia	September 19, 2007	Yes
Petronas Gas Berhad	Sudan & Iran	Malaysia	September 19, 2007	Yes
Ranhill Bhd	Sudan	Malaysia	September 16, 2008	Yes
Ranhill Labuan Ltd.	Sudan	Malaysia	April 14, 2009	Yes
Ranhill Powertron Sdn	Sudan	Malaysia	April 14, 2009	Yes
Repsol YPF	Iran	Spain	September 19, 2007	Yes
Royal Dutch Shell PLC	Iran	United Kingdom	September 19, 2007	Yes
SAJ Holdings	Sudan	Malaysia	July 28, 2009	Yes
Scomi Engineering BHD	Sudan	Malaysia	September 19, 2007	Yes
Scomi Group Bhd	Sudan	Malaysia	September 19, 2007	Yes
Shell International Finance BV	Iran	Netherlands	October 27, 2009	Yes
Sinopec Finance	Sudan & Iran	China	April 14, 2009	Yes
Sinopec Kantons Holdings Ltd	Sudan & Iran	Bermuda	September 19, 2007	Yes
Sinopec Shanghai Petrochemical	Sudan & Iran	China	September 19, 2007	Yes
Sinopec Yizheng Chemical Fibre	Sudan & Iran	China	March 25, 2008	Yes
Snam Rete Gas	Iran	Italy	September 19, 2007	Yes
StatoilHydro	Iran	Norway	September 19, 2007	Yes
Total (Nigeria) PLC	Iran	Nigeria	March 25, 2008	Yes
Total SA	Iran	France	September 19, 2007	Yes
Wuhan Boiler Company	Sudan	China	September 19, 2007	Yes
# of Companies	**70**	-	-	

The following company was removed from the Prohibited Investments list during the quarter.

Removed Company	*Country of Incorporation*
Wartsila Oyj	***Finland***

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Table 8: SBA Holdings in Prohibited Investments Subject to Divestment

[As of March 31, 2010]

The SBA currently has no holdings in companies on the Prohibited Investments list in accounts subject to the PFIA divestiture requirements.

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00063 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Summary of Progress, SBA Investment Manager Engagement Efforts

On August 20, 2007, the SBA sent letters to 66 external investment managers notifying them of the Act and informing them of new contract language that would enforce their cooperation with the requirements of the new law.

On September 19, 2007, the SBA sent letters to all affected managers outlining the list of prohibited securities for any future purchases. The letter described the SBA's engagement process with companies on the list, which affords companies a 90-day period in which to comply with the conditions of the law or clarify their activities. The letter directed these managers to cease purchase of securities on the list and to await the direction of the SBA for any divestment necessary in the event engagement fails, with a deadline for divestment under the law of September 18, 2008.

On September 19, 2007, the SBA sent letters to actively-managed, indirectly held funds holding scrutinized securities, including managers of the defined contribution program, asking the funds to review the list of scrutinized securities and consider eliminating such holdings from the portfolio or create a similar fund, devoid of such holdings, per the requirements of the law.

Each quarter, the SBA sends written and electronic notification to all affected managers about the list of prohibited companies.

The SBA has received responses noting our concerns in writing and by telephone from several of the contacted managers.

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00064 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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Listing of All Publicly Traded Securities (Including Equity Investments)

Due to the large number of individual securities and the volume of information, this list has been electronically posted to the SBA's website and is updated quarterly. A list of all publicly traded securities owned by the State of Florida can be found at www.sbafla.com within the PFIA information section. Please observe the electronic report's notes page for important clarifying explanations of included data.

VerDate Nov 24 2008 08:45 Oct 18, 2011 Jkt 057936 PO 00000 Frm 00065 Fmt 6601 Sfmt 6601 P:\DOCS\57936.TXT SAFFAIRS PsN: PAT

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For more information, please contact:

Florida State Board of Administration (SBA)
Investment Programs & Governance
1801 Hermitage Blvd., Suite 100
Tallahassee, FL 32308
www.sbafla.com

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pfia@sbafla.com

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United States Government Accountability Office

GAO

Testimony
Before the Homeland Security and Governmental Affairs Committee, U.S. Senate

For Release on Delivery
Expected at 10:00 a.m. EDT
Wednesday, May 12, 2010

IRAN SANCTIONS

Firms Reported to Have Commercial Activity in the Iranian Energy Sector and U.S. Government Contracts

Statement of Joseph A. Christoff, Director
International Affairs and Trade

GAO
Accountability * Integrity * Reliability

GAO-10-721T

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss our work regarding foreign firms with commercial interests in Iran's energy sector. In March 2010, we issued a report identifying 41 foreign firms that have commercial activity in Iran's energy sector. The report released today identifies which of the 41 foreign firms also have U.S. government contracts.[1]

Iran's energy sector is vital to its economy and government. In recent years, oil export revenues have accounted for 24 percent of Iran's gross domestic product and between 50 and 76 percent of the Iranian government's revenues. However, Iran has not reached peak crude oil production levels since 1978, does not produce sufficient natural gas for domestic use, and lacks the refining capacity to meet domestic demand for gasoline. Accordingly, Iran is seeking the participation of foreign firms in providing financing and technical assistance in numerous energy projects. IHS Global Insight reports that Iran's priorities for the next 5 years are to (1) raise oil production and exports as much as possible, (2) increase natural gas production for domestic use, and (3) expand refining capacity. In November 2008, the Deputy Minister of the National Iranian Oil Company stated that Iran would need about $145 billion in new investment over the next 10 years to build a thriving energy sector.

U.S. law restricts U.S. firms from investing in Iran's energy sector through sanctions to discourage Iran from supporting terrorism and developing nuclear weapons.[2] In addition, the Iran Sanctions Act (ISA) provides for sanctions against persons, including foreign firms, who invest more than $20 million in Iran's energy sector in any 12-month period.[3] The act allows the President, who delegated authority under the act to the Secretary of State, to ban such persons from U.S. government procurement, including contracts for

[1]See GAO, *Firms Reported to Have Commercial Activity in the Iranian Energy Sector and U.S. Government Contracts*, GAO-10-639R (Washington, D.C.: May 3, 2010) and *Firms Reported in Open Sources as Having Commercial Activity in the Iran's Oil, Gas and Petrochemical Sectors*, GAO-10-515R (Washington, DC.: Mar. 23, 2010)

[2]*See e.g.* Exec. Order 13,059, 62 Fed. Reg. 44,531 (Aug. 19, 1997).

[3]Iran-Libya Sanctions Act of 1996, Pub. L. No. 104-172, § 5, 110 Stat. 1541, 1543 as amended. The act also allows for sanctions against persons providing goods, technology, or services to Iran knowing that such provision would contribute materially to Iran's ability to acquire or develop chemical, biological, or nuclear weapons or related technologies; or acquire or develop destabilizing numbers and types of advanced conventional weapons.

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goods or services.[4] The Secretary of State is responsible for determining whether a firm's activities meet the legal criteria for an investment, and the firm could therefore be subject to actions under the Iran Sanctions Act. The Secretary of State may waive the sanctions if the Secretary determines it is in the national interests of the United States to do so.[5]

The Secretary has not determined that a firm's activities have met the legal criteria for sanctions under the Iran Sanctions Act since 1998. At that time, the Secretary waived sanctions on three foreign energy firms—Total (France), Gazprom (Russia), and Petronas (Malaysia). We did not attempt to determine whether the activities of the 41 firms we identified meet the legal criteria for an investment under the Iran Sanctions Act. To identify firms reported in open sources as having commercial activity in the Iranian energy sector, we relied only on government reports and information, about 200 energy trade publications, and corporate Web site information and statements. We excluded sources deemed insufficiently reliable, such as newspaper reports, newswires and news releases from the Iranian government. We listed a firm as having commercial activity in Iran's energy sector if three reputable industry publications or the firm's corporate statements reported the firm to have (1) signed an agreement to conduct business; (2) invested capital; or (3) received payment for providing goods or services in connection with a specific Iranian energy project. We provided the firms on our list an opportunity to comment on our findings.

To determine the extent to which the firms we identified also had contracts with the U.S. government, we searched the Federal Procurement Data System-Next Generation (FPDS-NG) for references to the firms.[6] We verified that the firms in FPDS-NG were matches to firms on our list by

[4]Pub. L. No. 104-172, §§ 5-6; Memorandum: Delegation of Responsibilities Under the Iran and Libya Sanctions Act of 1996, 61 Fed. Reg. 64,249 (Nov. 21, 1996). Other sanctions include a denial of Export-Import Bank assistance, a ban on issuing licenses to export controlled technologies to the sanctioned firm, and other sanctions to restrict imports with respect to the sanctioned person in accordance with the International Emergency Economic Powers Act.

[5]Pub. L. No. 104-172, § 9; 61 Fed. Reg. 64,249.

[6]FPDS-NG is the primary governmentwide contracting database. More than 60 government agencies, departments, and other entities submit contract data to FPDS-NG. FPDS-NG can be accessed at https://www.fpds.gov/fpdsng_cms/. Reporting requirements for FPDS-NG are in Federal Acquisition Regulation (FAR) subpart 4.6. FPDS-NG data are described in FAR 4.602.

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using the U.S. government central contractor registration to confirm identifying information. We took steps to corroborate key FPDS-NG information by obtaining U.S. government documents and public statements that confirmed the firms' U.S. contracts.

We conducted our work from September 2009 to April 2010 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and discuss any limitations in our work.

Summary

Based on our review of open source information, we identified 41 firms that had commercial activity in the Iranian energy sector between 2005 and 2009. Of these firms, seven had contracts with the U.S. government. From fiscal years 2005 through 2009, the U.S. government obligated almost $880 million in contracts to these seven firms.[7] U.S. agencies obligated almost 90 percent of these funds for purchases of fuel and petroleum products overseas. Thirteen of the 41 firms listed in our March 2010 report responded to our inquiries regarding their commercial activities in Iran, including two of the seven firms with U.S. government contracts. Since the report was released, four more firms responded, including one firm that noted it had not made a decision about finalizing its commercial activities in Iran.

Background

Iran seeks commercial investments to increase its oil and natural gas production, refining capacity, and pipeline and tanker infrastructure.

Iran has the world's third largest oil reserves, or about 140 billion barrels, and produces about 4.2 million barrels per day. However, Iran's oil production has remained virtually flat in recent years and will likely stagnate in the medium term due to insufficient investment, according to the International Monetary Fund. Iran requires increasingly modern and advanced oil recovery technologies to stop natural declines of oil production, but has found advanced technology difficult to import due to international sanctions and high costs.

[7]An obligation is recorded when a government agency enters into a binding agreement to purchase services or goods.

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According to DOE, Iran does not currently have sufficient refining capacity to meet its domestic demand for gasoline. Iran imported approximately 130,000 barrels of gasoline per day in 2009, as well as other refined products such as diesel fuel. Iran's nine refineries are operated by the National Iranian Oil Refining and Distribution Company. With the potential participation of foreign companies, Iran plans to add capacity at eight refineries to fully meet domestic demand for gasoline by 2013 or 2014, according to DOE officials.

Iran has one of the world's largest natural gas reserves, second only to Russia. Iran's domestic consumption of natural gas has increased rapidly over the past 20 years, and development of natural gas resources would better position Iran to meet domestic demand. According to U.S. officials, between 20 and 25 percent of Iran's natural gas is currently reinjected into mature oil fields to enhance oil recovery. Iran plans to expand its development of liquefied natural gas, but this plan requires significant investment from international partners.[8]

Iranian officials have stated that Iran needs large investments in its natural gas infrastructure, including pipelines. In addition, while Iran has over 40 tankers, Iran purchased additional tankers for shipping crude oil in 2009.

Forty-One Foreign Firms Had Commercial Activity in Iran's Oil, Gas, or Petrochemical Sectors from 2005 to 2009

Based on our review of open source information, we identified 41 foreign firms that had commercial activity in the development of the Iranian oil, gas, and petrochemical sectors from 2005 to 2009. We define commercial activity as having signed an agreement to conduct business, invested capital, or received payment for the provision of goods or services in Iran's energy sector. We did not review the contracts and documents underlying these transactions and did not independently verify these transactions. These firms are listed in table 1. Open source information stated that these firms supported activities throughout Iran that involved the exploration and development of oil and gas, petroleum refining, or the construction of pipelines and tankers for the transport of oil or gas. The firms provide technical expertise, equipment, or funding that enables Iran to increase the productive capacity and profitability of its oil, gas, and petrochemical sectors.

[8]Iran has three major liquefied natural gas (LNG) projects in various stages of development—Iran LNG, Pars LNG, and Persian LNG—all of which are associated with a phase of the South Pars development. The South Pars natural gas field has a 25 phase development scheme spanning 20 years.

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Table 1: Foreign Firms Publicly Reported to Have Commercial Activity in the Iranian Oil, Gas, or Petrochemical Sectors

Firm	Country*	Sector
ABB Lummus	Not applicable	Refining, petrochemicals
Amona	Malaysia	Oil exploration and production
Belneftekhim	Belarus	Oil exploration and production
China National Offshore Oil Corporation	China	Natural gas
China National Petroleum Corporation	China	Oil exploration and production, natural gas
Costain Oil, Gas & Process Ltd.	United Kingdom	Natural gas
Daelim	South Korea	Natural gas
Daewoo Shipbuilding & Marine Engineering	South Korea	Oil tankers
Edison	Italy	Oil exploration and production
ENI	Italy	Oil exploration and production
Gazprom	Russia	Oil exploration and production, pipeline
GS	South Korea	Natural gas
Haldor Topsoe	Denmark	Refining
Hinduja	United Kingdom	Oil exploration and production, natural gas
Hyundai Heavy Industries	South Korea	Oil tankers
INA	Croatia	Oil exploration and production, natural gas
Indian Oil Corporation	India	Natural gas
Inpex	Japan	Oil exploration and production
JGC Corporation	Japan	Refining
Lukoil	Russia	Oil exploration and production
LyondelBasell	Netherlands	Petrochemicals
Oil India Ltd.	India	Natural gas
Oil and Natural Gas Corporation	India	Oil exploration and production, natural gas
OMV	Austria	Natural gas
ONGC Videsh Ltd.	India	Natural gas
Petrobras	Brazil	Oil exploration and production
Petrofield	Malaysia	Natural gas
Petroleos de Venezuela S.A.	Venezuela	Natural gas
Petronet LNG	India	Natural gas
PGNiG	Poland	Natural gas
PTT Exploration & Production	Thailand	Natural gas
Repsol	Spain	Natural gas
Royal Dutch Shell	Netherlands	Natural gas
Sinopec	China	Oil exploration and production, refining
SKS Ventures	Malaysia	Natural gas
Snamprogetti	Italy	Pipeline
StatoilHydro	Norway	Oil exploration and production, natural gas
Tecnimont	Italy	Petrochemicals
Total	France	Natural gas
Turkish Petroleum Company	Turkey	Natural gas
Uhde	Germany	Petrochemicals

Source: GAO analysis of open source information.

*The country listed is the physical location of the firm.

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The 41 firms listed in table 1 represent a minimum of firms with commercial activity in Iran's energy sectors (see GAO-10-515R for details on our methodology). We provided the 41 firms an opportunity to comment on our findings. Thirteen firms responded before we issued the March 2010 report, and confirmed our findings.[8] Four firms responded after we issued the report. An official from Statoil stated that the information in our March 2010 report was accurate. Tecnimont noted that the contract we described had never entered into force due to a lack of financing. Repsol stated that it had not yet made a final investment decision on the project that we identified. ENI neither confirmed nor denied the information that we reported.

Seven of the Foreign Firms Also Had Contracts with the U.S. Government

From fiscal years 2005 through 2009, the U.S. government obligated almost $880 million in contracts to seven of these 41 firms. U.S. agencies obligated almost 90 percent of these funds for purchases of fuel and petroleum products overseas. The firms are presented in table 2 in order of magnitude of obligations, as reported in FPDS-NG.

Table 2: Firms Reported in Open Sources as Having Both Commercial Activity in the Iranian Energy Sector and U.S. Government Contracts

	U.S. Government obligations					
Firm/country*	**FY 2005**	**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**Total**
Repsol/Spain	$40 million	$37 million	$110 million	$81 million	$51 million	$319 million
Total/France	$0	$27 million	$0	$154 million	$131 million	$312 million
Daelim Industrial Co./South Korea	$0	$0	$0	$0	$111 million	$111 million
ENI/Italy	$9 million	$88 million	Less than $100,000	$0	$0	$97 million
PTT Exploration and Production/Thailand	$21 million	$4 million	$6 million	$1 million	$3 million	$35 million
Hyundai Heavy Industries/South Korea	$1 million	$2 million	$1 million	$0	$0	$5 million
GS Engineering and Construction/ South Korea	Less than $100,000	$0	$0	$0	$0	Less than $100,000
Total	$71 million	$158 million	$117 million	$236 million	$296 million	$879 million

Source: GAO analysis of Federal Procurement Data System-Next Generation records and other government records.

Note: Totals may not add due to rounding.

*The country listed is the physical location of the firm as reported in open sources.

[8]See GAO-10-515R for summaries of these firms' comments.

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According to FPDS-NG, the Department of Defense (DOD) obligated funds to

- Repsol of Spain for the purchase of fuel for naval and aviation purposes;
- Total of France for the purchase of fuel, including jet fuel, gasoline, and diesel;
- Daelim Industrial Co. of South Korea for the construction of family housing at a U.S. Army base in South Korea;[10]
- ENI of Italy for the purchase of petroleum products;
- PTT Exploration and Production of Thailand for the purchase of jet fuel and other petroleum products;
- Hyundai Heavy Industries of South Korea for the purchase of power transformers;[11] and
- GS Engineering and Construction of South Korea (then known as LG Engineering and Construction) for the construction of office buildings in South Korea.

According to DOD, these firms are qualified to contract with the U.S. government based on reviews of the Excluded Parties Listing System and the Office of Foreign Assets Control Specially Designated Nationals List, maintained by the Departments of State and Treasury. DOD also stated that these contracts are critical to support mission requirements of worldwide military operations.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members may have at this time.

[10]The U.S. Army Corps of Engineers has announced that it has contracted with Daelim Industrial to construct family housing at a U.S. base in South Korea. See http://www.army.mil/-news/2009/08/09/25673-corps-of-engineers-awards-contract-for-new-family-housing-at-usag-humphreys/.

[11]According to FPDS-NG, DOE also obligated funds to Hyundai Heavy Industries of South Korea for the purchase of power transformers.

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United States Government Accountability Office
Washington, DC 20548

May 4, 2010

The Honorable Joseph I. Lieberman
Chairman
The Honorable Susan Collins
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Jon Kyl
Ranking Member
Subcommittee on Terrorism and Homeland Security
Committee on the Judiciary
United States Senate

Subject: *Firms Reported to Have Commercial Activity in the Iranian Energy Sector and U.S. Government Contracts*

On March 23, 2010, we issued a report entitled *Firms Reported in Open Sources as Having Commercial Activity in Iran's Oil, Gas, and Petrochemical Sectors.*[1] Based on open sources, we identified 41 foreign firms as having commercial activity in these vital sectors of Iran's economy from 2005 to 2009.[2] As you requested, this report identifies which of the 41 firms in our March 2010 report had contracts with the United States government from fiscal years 2005 to 2009.

Our March 2010 report and this report are intended to support congressional consideration of U.S. sanctions against Iran, including proposed legislation to expand the Iran Sanctions Act (ISA). We did not use ISA criteria or monetary thresholds when identifying firms and did not attempt to determine whether firms meet the legal criteria for an investment specified in ISA.[3] Under the existing Iran Sanctions Act, persons, including firms, that invest more than $20 million in Iran's energy sector in any 12-month

[1]GAO, *Firms Reported in Open Sources as Having Commercial Activity in Iran's Oil, Gas, and Petrochemical Sectors*, GAO-10-515R (Washington, D.C.: Mar 23, 2010).

[2]Iran's energy industry is vital to its economy and government. However, Iran has not reached peak crude oil production levels since 1978, does not produce sufficient natural gas for domestic use, and lacks the refining capacity to meet domestic demand for gasoline, according to the Department of Energy (DOE) and IHS Global Insight. Accordingly, Iran is seeking the participation of foreign firms in providing financing and technical assistance in numerous oil, gas, and petrochemical projects, according to DOE.

[3]The Secretary of State is responsible for making such determinations. Our complete methodology for identifying the 41 firms is described in GAO-10-515R.

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period may be banned from U.S. government procurement.[4] In 1998, the United States made its first and only determination that a firm's investments constituted activity covered by the Iran Sanctions Act. The sanctions were waived because the Secretary of State determined it was in the national interest to do so. The U.S. Senate and House of Representatives have passed separate bills to expand U.S. sanctions against Iran and are now working to resolve differences.[5]

To identify which of the 41 firms listed in our March 2010 report also had U.S. government contracts, we searched the Federal Procurement Data System-Next Generation (FPDS-NG) for fiscal years 2005 through 2009. We first searched in FPDS-NG for firms with identical names and other identifying information as the firms listed in our March 2010 report, and we found seven firms with identical names. We verified that those seven firms were among the firms listed in our March 2010 report. We then corroborated the information in FPDS-NG on the seven firms by obtaining U.S. contracts and other evidence that confirmed the existence of contracts with these firms. Enclosure I provides our scope and methodology for this report and enclosure II lists the 41 firms from our March 2010 report.

We conducted our work from March to April 2010 in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objective. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objective and discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions.

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[4]Iran-Libya Sanctions Act of 1996, Pub. L. No. 104-172, § 5, 110 Stat. 1541, 1543 as amended. Other sanctions include a denial of Export-Import Bank assistance, a ban on issuing licenses to export controlled technologies to the sanctioned firm, and other sanctions that fall under the powers of the International Emergency Economic Powers Act.

[5]The House of Representatives passed H.R. 2194, the Iran Refined Petroleum Sanctions Act of 2009, on December 15, 2009. On March 11, 2010, the Senate amended and passed H.R. 2194, renaming it the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009. The Senate also asked for a conference on the bill on March 11, 2010.

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Seven Firms with Commercial Activity in the Iranian Energy Sector Also Had Contracts with the U.S. Government

From fiscal years 2005 through 2009, the U.S. government obligated almost $880 million in contracts to seven of the 41 firms identified in our March 2010 report.[6] U.S. agencies obligated almost 90 percent of these funds for purchases of fuel and petroleum products overseas. The firms are presented in table 1 in order of magnitude of obligations, as reported in FPDS-NG.

Table 1: Firms Reported in Open Sources as Having Commercial Activity in the Iranian Energy Sector and Reported to Have U.S. Government Contracts

Firm/country[a]	U.S. Government obligations[b]					
	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total
Repsol/Spain	$40 million	$37 million	$110 million	$81 million	$51 million	**$319 million**
Total/France	$0	$27 million	$0	$154 million	$131 million	**$312 million**
Daelim Industrial Co./South Korea	$0	$0	$0	$0	$111 million	**$111 million**
ENI/Italy	$9 million	$88 million	Less than $100,000	$0	$0	**$97 million**
PTT Exploration and Production/Thailand	$21 million	$4 million	$6 million	$1 million	$3 million	**$35 million**
Hyundai Heavy Industries/South Korea	$1 million	$2 million	$1 million	$0	$0	**$5 million**
GS Engineering and Construction/South Korea	Less than $100,000	$0	$0	$0	$0	**Less than $100,000**
Total	**$71 million**	**$158 million**	**$117 million**	**$236 million**	**$296 million**	**$879 million**

Source: GAO analysis of Federal Procurement Data System-Next Generation records and other government records.

Note: Totals may not add due to rounding.

[a]The country listed is the physical location of the firm as reported in open sources.

[b]We confirmed that each of these firms had U.S. government contracts by obtaining official documents and statements that confirmed the existence of contracts with these firms. Of the obligation amounts reported in the table, we tested 8 instances against U.S. government contractual documents and official statements. We determined the amounts were consistent with the information reported in FPDS-NG.

According to FPDS-NG, the Department of Defense (DOD) obligated funds to

- Repsol of Spain for the purchase of fuel for naval and aviation purposes;
- Total of France for the purchase of fuel, including jet fuel, gasoline, and diesel;
- Daelim Industrial Co. of South Korea for the construction of family housing at a U.S. Army base in South Korea;[7]

[6]An obligation is recorded when a government agency enters into a binding agreement to purchase services or goods.

[7]The U.S. Army Corps of Engineers has announced that it has contracted with Daelim Industrial to construct family housing at a U.S. base in South Korea. See http://www.army.mil/-news/2009/08/09/25673-corps-of-engineers-awards-contract-for-new-family-housing-at-usag-humphreys/.

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- ENI of Italy for the purchase of petroleum products;
- PTT Exploration and Production of Thailand for the purchase of jet fuel and other petroleum products;
- Hyundai Heavy Industries of South Korea for the purchase of power transformers;[8] and
- GS Engineering and Construction of South Korea (then known as LG Engineering and Construction) for the construction of office buildings in South Korea.

Agency Comments

We provided the Departments of State and Defense a draft of this report for comment. The Department of State provided technical suggestions which we have incorporated as appropriate.

DOD provided oral comments on the draft. DOD stated that it contracts for services, supplies, and construction worldwide in support of military operations. According to DOD, these contracts are critical to meeting mission requirements; however, contracting overseas is compounded by a limited number of contractors who are able to perform where DOD requires support. DOD stated it must meet Federal Acquisition Regulation requirements to evaluate the qualifications of a contractor. A DOD review of current and active records in the Excluded Parties Listing System and the Office of Foreign Assets Control Specialty Designated Nationals List, operated by the Departments of State and Treasury, did not find any contractors listed in this report. According to DOD, the seven firms listed in this report are qualified to contract with the federal government and DOD and are not excluded from such contracts.

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[8]According to FPDS-NG, the Department of Energy also obligated funds to Hyundai Heavy Industries of South Korea for the purchase of power transformers.

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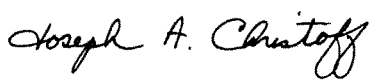
As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of the report to interested committees, the Secretary of State, and the Secretary of Defense. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staffs have any questions about this report, please contact me at 202-512-8979 or christoffj@gao.gov. Major contributors to this report include Tetsuo Miyabara (Assistant Director), JoAnna Berry, Colleen Candrl, Jon Fremont, Julia Kennon, Lauren Membreño, and Pierre Toureille. Technical support was provided by Martin De Alteriis, Grace Lui, Jodi Munson, and Joseph Carney.

Sincerely,



Joseph A. Christoff
Director, International Affairs and Trade

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Enclosure I

Scope and Methodology

To determine the extent to which firms identified in open sources as having commercial activity in Iran's energy sector also have contracts with the U.S. government, we searched the Federal Procurement Data System-Next Generation (FPDS-NG) for references to the 41 firms identified in our March 2010 report. As we described in that report, each of these 41 firms had (1) been cited in at least three standard industry publications as having commercial activity in a specific project, or (2) provided information on its corporate web site about its involvement in a specific project *and* had been cited as having been involved in the same project by at least one standard industry publication.[9] We chose FPDS-NG to determine if any of these 41 firms also had contracts with the U.S. government because FPDS-NG has served as the primary governmentwide contracting database since 1978. Congress, executive branch agencies, and the public rely on FPDS-NG for a broad range of data on agency contracting actions, procurement, and spending.[10] The Office of Management and Budget established FPDS-NG, and the U.S. General Services Administration administers the system.[11] More than 60 government departments, agencies, and other entities submit contract data to FPDS-NG. FPDS-NG contains data on obligations, which are recorded when a government agency enters into a contract to purchase services or goods.

We searched the FPDS-NG archives from fiscal years 2005 through 2009 using search terms that would select any record with the same firm name as identified in our March 2010 report. After matching firms from our March 2010 list with records in FPDS-NG, we obtained the Data Universal Numbering System (DUNS) numbers for the firms determined to be identical matches, and searched FPDS-NG for these DUNS numbers.[12] With certain exceptions, all firms that do business with U.S. agencies are required by the U.S. government to register with the U.S. government central contractor registration

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[9]Our complete methodology for identifying these 41 firms is described in GAO, *Firms Reported in Open Sources as Having Commercial Activity in Iran's Oil, Gas, and Petrochemical Sectors*, GAO-10-515R (Washington, D.C.: Mar 23, 2010). As noted in GAO-10-515R, we did not attempt to determine whether the listed firms meet the legal criteria for an investment specified in the Iran Sanctions Act. The Secretary of State is responsible for making such determinations.

[10]FPDS-NG can be accessed at https://www.fpds.gov/fpdsng_cms/. Reporting requirements for FPDS-NG are in Federal Acquisition Regulation (FAR) subpart 4.6, FPDS-NG data are described in FAR 4.602.

[11]For more information on FPDS-NG and other federal procurement data systems, see GAO, *Federal Contracting: Observations on the Government's Contracting Data Systems*, GAO-09-1032T (Washington, D.C.: Sept. 29, 2009).

[12]Data Universal Numbering System (DUNS) numbers are 9-digit identifying numbers obtained by firms through Dun and Bradstreet to uniquely identify a firm. Dun and Bradstreet is a leading source of commercial information, and maintains a commercial database with more than 140 million business records. U.S. vendors must be registered in the U.S. Central Contract Registry prior to the award of a U.S. government contract and a firm must have a DUNS number to register. We also compared the street addresses of the firms listed in our March 2010 report with street addresses listed in the U.S. government central contractor registration (CCR) data system (https://www.bpn.gov/ccr/).

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(CCR) and obtain a unique DUNS number. We matched all of the data in table 1 to individual firms' DUNS numbers.

We took steps to corroborate key FPDS-NG information by obtaining U.S. government documents and public statements that confirmed that these seven firms have U.S. contracts. To do so, we searched (1) the Department of Defense's Electronic Document Access system[13] to locate copies of relevant contract documents and (2) the U.S. Army Corps of Engineers website for announcements of contracts.

Our searches for U.S. contracts only covered firms that we had identified as being directly involved in commercial activity in the Iranian energy sector. Therefore we included a parent firm or subsidiary only if that firm had also been reported in open sources as having commercial activity in the Iranian energy sector. For example, in our March 2010 report, we included two parent firms and two of their subsidiaries because all were reported in open sources as having commercial activity in the Iranian energy sector.

[13]The Electronic Document Access system is a Department of Defense online system designed to provide acquisition-related information.

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Enclosure II

Foreign Firms Publicly Reported to Have Commercial Activity in the Iranian Oil, Gas, or Petrochemical Sectors

This table provides information from our March 2010 report. We did not attempt to determine if these firms meet the legal criteria specified in the Iran Sanctions Act.

Table 2: Foreign Firms Publicly Reported to Have Commercial Activity in the Iranian Oil, Gas, or Petrochemical Sectors

Firm	Country[a]	Sector
1. ABB Lummus	Not applicable	Refining, petrochemicals
2. Amona	Malaysia	Oil exploration and production
3. Belneftekhim	Belarus	Oil exploration and production
4. China National Offshore Oil Corporation	China	Natural gas
5. China National Petroleum Corporation	China	Oil exploration and production, natural gas
6. Costain Oil, Gas & Process Ltd.	United Kingdom	Natural gas
7. Daelim	South Korea	Natural gas
8. Daewoo Shipbuilding & Marine Engineering	South Korea	Oil tankers
9. Edison	Italy	Oil exploration and production
10. ENI	Italy	Oil exploration and production
11. Gazprom	Russia	Oil exploration and production, pipeline
12. GS	South Korea	Natural gas
13. Haldor Topsoe	Denmark	Refining
14. Hinduja	United Kingdom	Oil exploration and production, natural gas
15. Hyundai Heavy Industries	South Korea	Oil tankers
16. INA	Croatia	Oil exploration and production, natural gas
17. Indian Oil Corporation	India	Natural gas
18. Inpex	Japan	Oil exploration and production
19. JGC Corporation	Japan	Refining
20. Lukoil	Russia	Oil exploration and production
21. LyondelBasell	Netherlands	Petrochemicals
22. Oil India Ltd.	India	Natural gas
23. Oil and Natural Gas Corporation	India	Oil exploration and production, natural gas
24. OMV	Austria	Natural gas
25. ONGC Videsh Ltd.	India	Natural gas
26. Petrobras	Brazil	Oil exploration and production
27. Petrofield	Malaysia	Natural gas
28. Petroleos de Venezuela S.A.	Venezuela	Natural gas
29. Petronet LNG	India	Natural gas
30. PGNiG	Poland	Natural gas
31. PTT Exploration & Production	Thailand	Natural gas
32. Repsol	Spain	Natural gas
33. Royal Dutch Shell	Netherlands	Natural gas
34. Sinopec	China	Oil exploration and production, refining
35. SKS Ventures	Malaysia	Natural gas
36. Snamprogetti	Italy	Pipeline
37. StatoilHydro	Norway	Oil exploration and production, natural gas
38. Tecnimont	Italy	Petrochemicals
39. Total	France	Natural gas
40. Turkish Petroleum Company	Turkey	Natural gas
41. Uhde	Germany	Petrochemicals

Source: GAO analysis of open source information.

[a]The country listed is the physical location of the firm as reported in open sources.

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American Enterprise Institute for Public Policy Research

Testimony of Danielle Pletka,
Vice President,
Foreign and Defense Policy Studies
The American Enterprise Institute

Before the Senate Committee on Homeland Security and Governmental Affairs hearing:

"Iran Sanctions: Why Does the U.S. Government Do Business With Companies Doing Business in Iran?"

May 27, 2010

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"Why does the United States government do business with companies doing business in Iran?" Simple answer: Because it can.

As the Department of Defense rightly noted in its commentary on the GAO report released today, the companies in question are qualified to bid on federal contracts and are not excluded by any U.S. law or regulation.

The New York Times reported earlier this year that 74 companies have done business with both the Islamic Republic of Iran and the United States Government over the past decade. Of those, 49 continue to do business there, according to the *Times,* and have no reported plans to stop their business with Iran. The GAO report makes clear that some of this business seems necessary for either logistical or financial reasons; fuel supplies, base building and similar endeavors can – though may not necessarily --- limit the choices available to the Department of Defense. But among the benefits that some of these companies receive have been $4.5 billion in loan guarantees and loans from the Export Import Bank – loans, which the Bank's leadership insist were fully vetted with the Department of State and other administration players.[1]

It was only in December of last year – more than 13 years after the passage of the Iran Libya Sanctions Act – that Exim put in place a rule requiring borrowers to certify they have no operations in Iran's energy sector. (That they did so is a testament to Congressional pressure; as late as December 2008, Exim was suggesting that it is "generally prohibited from taking foreign policy considerations into account when making credit decisions"[2].)

In terms of direct U.S. business, the total amount of U.S. government contracting going to these firms is not astronomical over five years: $879 million[3]. It's not peanuts – but it's not keeping most of these companies in business either.

The larger problem is that the United States government is for the most part indifferent as to whether beneficiaries of U.S. taxpayer dollars are doing business in Iran. And that is entirely in keeping with the underlying trouble: For the last decade and a half, the USG has not taken the Iran sanctions legislation passed by the Congress seriously.

Under the ISA, there is a full menu of measures available to sanction entities found to be doing business with Iran, which range from a slap on the wrist to punitive steps that could be "crippling" to a designated company. Indeed, Section 6 of the Act targets two of the focuses of recent articles and today's GAO report: The sanction in Paragraph (1) offers "denial of Export-Import Bank loans, credits, or credit guarantees for U.S. exports to the sanctioned entity;" and paragraph (5) offers a "prohibition on U.S. government procurement from the entity." Had there been designations in accordance with the Act by the Department of State, it would not have been necessary for the taxpayer to subsidize any of these Iranian business partners.

But since the passage of the Iran Libya Sanctions Act in 1996, only three companies taking part in one project have been designated for violating its terms. This occurred in 1998, and those sanctions were then immediately waived. At the time, Secretary of State Madeleine Albright stated that: "it is important to the national interest to waive the imposition of sanctions against the three firms involved.

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[1] Letter to Senator Jon Kyl from James Lambright, Chairman and President, Export Import Bank, December 2, 2008
[2] Ibid.
[3] GAO Report, May 2010,
Firms Reported to Have Commercial Activity in the Iranian Energy Sector and U.S. Government Contracts

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Among other factors, I considered the significant, enhanced cooperation we have achieved with the European Union and Russia in accomplishing ILSA's primary objective of inhibiting Iran's ability to develop weapons of mass destruction and support of terrorism."

In the wake of Albright's waiver, hundreds of companies poured into the breach, Russia stepped up nuclear cooperation with Iran and between 2000 and 2005, EU-Iran trade almost tripled.

In the years since the passage of ILSA, while numerous firms have done business in Iran's energy sector, no project bar the one example has merited more than an inconclusive and half-hearted investigation by the Department of State. The operative language in the law, as amended, states that: "The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section."

The operative word in that text is "should". An amendment to the law that would have required the President to make such a determination within a time certain was opposed by the White House, and was ultimately excluded from revisions to ILSA. Indeed, this is the history of what we now call the Iran Sanctions Act. Congress acts to force the Executive Branch to seriously pursue a stringent sanctions regime against Iran, and the Executive Branch – whether led by either a Democratic or a Republican administration – resists.

A brief review of the legislation's history under the last administration is instructive: After years of failed enforcement of the provisions of the original Act, ILSA was set to expire in 2001. That was fine with the Bush administration (I was in the briefings, and recall it well). Congress opposed expiration, and sought instead to tighten the Act's provisions, reducing the monetary threshold for designation of a sanctionable investment and requiring a report from the administration about the bill's implementation and effectiveness. The bill also changed the definition of investment to include amendments to existing contracts.

But the Congress's efforts to encourage administration implementation of the ISA were for naught. And the Bush administration was no more aggressive against firms investing in Iran than was the Clinton administration -- the intervention of 9/11, Iran's own progress toward a nuclear weapon, the election of Mahmoud Ahmadinejad, and Iran's complicity in attacks on our troops in Iraq notwithstanding.

To be fair to the Bush administration, while the State Department continued to aggressively ponder the value of diplomacy with Iran, the Department of the Treasury began what has been the most successful efforts to isolate Iran since the mid-1990s, the financial sanctions effort led by Undersecretary Stuart Levey. Using provisions of the Patriot Act and Executive Orders targeting proliferators and sponsors of terrorism, Levey's office has designated more than 100 entities supporting Iran's illicit programs, and was the first in the U.S. government to initiate targeted efforts against the Iranian Revolutionary Guard Corps. Needless to say, his efforts have been dogged by reluctant foreign service bureaucrats since the beginning.

By 2006, it became clear to many in the Congress that the loopholes in Iran sanctions legislation sufficed to accommodate a State Department convoy driving through. The Iran Freedom and Support Act tried to close those loopholes, fund democracy activities in Iran and sanction companies transferring WMD and conventional weaponry. It also set a 90 day time limit on a sanctions determination – a clear Congressional response to State's failure to comply in good faith with the ISA. The House version of the bill was tougher still, with a ban on foreign assistance to countries whose nationals violated the terms of

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the bill and an amendment closing the loophole allowing subsidiaries of U.S. companies to operate in Iran.

The Bush administration opposed the stronger language with the stock claim that the bill failed to afford the President sufficient flexibility. As a result, a watered down version was ultimately passed -- one that did not require a determination about violators, but notably did provide support for promotion of democracy in Iran (an activity largely discontinued by the Obama administration) and suggested the administration not conclude nuclear agreements with countries known to have provided nuclear technology to Iran. This last was a swipe at Russia, and yet another ignored signal. The Bush administration transmitted a so-called 123 nuclear cooperation agreement with Russia to the Congress in May of 2008, rescinding it in the wake of the Russian attack on Georgia three months later. The Obama administration reportedly retransmitted the agreement to Congress yesterday.

As members of this Committee are aware, Congress is once again considering legislation intended to strengthen and expand the Iran Sanctions Act. And once again, the Administration in power is seeking to weaken the provisions of this legislation. I note the familiar sounding plaint in Deputy Secretary of State Jim Steinberg's SAP letter on S. 908 in which he writes: "It is our hope that any legislative initiative would preserve and maximize the President's flexibility, secure greater cooperation from our partners in taking effective action, and ultimately facilitate a change in Iranian policies."

I understand that State is playing an active role behind the scenes in conference seeking to weaken key provisions of the new Iran sanctions legislation, including demands to create an exemption for so-called "cooperating countries," raise thresholds for sanctioning suppliers to Iran's gas refining industry, and finally keep open the loophole that allows the State Department to avoid serious investigations of ISA violators, and more.

There is no silver bullet to address Iran's nuclear weapons program. No single bill and no single set of sanctions can "deliver" the government of the IRI. But in light of this rather pathetic history of Executive Branch evasion, one may legitimately wonder what would have happened had the White House had less latitude to ignore decades of investment in Iran's energy sector.

Successive administrations will argue that the track record for discouraging investment in Iran is a good one. Indeed, by the count at AEI's IranTracker project, 18 companies have pulled out of Iran in the last couple of years, including some that are key to Iran's refining and energy production sectors. But I would suggest that many of those decisions have been prompted by aggressive divestment legislation now passing in U.S. states (and I commend Representative Ted Deutch for his outstanding leadership on divestment), the terror-free investment movement, Iran's own mafia-like business environment, growing fear of an Israeli military strike and changing perceptions in European countries (several of which now see themselves as tougher on Iran than the Obama administration).

Looking at the list of companies that have reportedly ceased business in Iran, it is striking that the vast majority – 13 – are located in the U.S. or Europe. Attitudes have not changed elsewhere, and between April 1, 2001 and today, our IranTracker team has identified new international energy deals with Iran that include:

- Iranian and Venezuelan plans to launch a joint are to launch a refinery in Syria, including a joint company to take advantage of oil deposits in third countries.

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- Continuing discussions about a new pipeline between Kuwait and Iran (Kuwait and Iran have discussed building a 570-kilometer pipeline that will carry Iranian gas to Kuwait. Negotiations continue, and the final terms of the deal have not been finalized.)
- A uranium deal between Iran and Zimbabwe (A mutually beneficial deal for both nations, Zimbabwe will reap the economic benefits of increased export trade with Iran. Iran will utilize the uranium for its nascent nuclear program and replenish its diminishing stockpiles of the material.)
- An increase in Turkmen gas exports to Iran.

Moreover, as the pattern of overall investment in Iran shifts away from our European allies toward less responsible stakeholders in the international system such as China, there will be continuing opportunities to implement the Iran Sanctions Act—and a growing imperative to do so.

The General Accounting Office has cautioned that its standards do not equate to a determination by the Department of State. Fair enough. Determinations by State will need to be careful; companies should be required to certify that they are not engaged in sanctionable transactions with Iran under the ISA. If they are not asked, they will certainly never tell.

Your efforts, Mr. Chairman, and those of your colleagues who have pursued the question of U.S. indirect subsidies to Iran and more effective sanctions legislation, are the beginning of an important process. We can no longer rely on the good faith of a well-intentioned Executive to ensure that Iran is isolated using all means available. Rather, it must be the Congress that sets the agenda, identifies the problems, closes the loopholes and guarantees enforcement of the law of the land.

Thank you.

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