

---

---

# IRAN COUNTER-PROLIFERATION ACT OF 2007

---

---

HEARING  
BEFORE THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE  
ONE HUNDRED TENTH CONGRESS  
SECOND SESSION

ON

**S. 970**

---

APRIL 8, 2008

---



Printed for the use of the Committee on Finance

---

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 2008

55-675—PDF

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON FINANCE

MAX BAUCUS, Montana, *Chairman*

JOHN D. ROCKEFELLER IV, West Virginia	CHUCK GRASSLEY, Iowa
KENT CONRAD, North Dakota	ORRIN G. HATCH, Utah
JEFF BINGAMAN, New Mexico	OLYMPIA J. SNOWE, Maine
JOHN F. KERRY, Massachusetts	JON KYL, Arizona
BLANCHE L. LINCOLN, Arkansas	GORDON SMITH, Oregon
RON WYDEN, Oregon	JIM BUNNING, Kentucky
CHARLES E. SCHUMER, New York	MIKE CRAPO, Idaho
DEBBIE STABENOW, Michigan	PAT ROBERTS, Kansas
MARIA CANTWELL, Washington	JOHN ENSIGN, Nevada
KEN SALAZAR, Colorado	JOHN E. SUNUNU, New Hampshire

RUSSELL SULLIVAN, *Staff Director*

KOLAN DAVIS, *Republican Staff Director and Chief Counsel*

# CONTENTS

## OPENING STATEMENTS

	Page
Baucus, Hon. Max, a U.S. Senator from Montana, chairman, Committee on Finance .....	1
Grassley, Hon. Chuck, a U.S. Senator from Iowa .....	2
Salazar, Hon. Ken, a U.S. Senator from Colorado .....	15

## WITNESSES

Gordon, Philip, senior fellow for U.S. foreign policy, The Brookings Institution, Washington, DC .....	3
Kittrie, Orde, visiting associate professor, University of Maryland School of Law, Baltimore, MD; and professor of law, The Sandra Day O'Connor College of Law, Arizona State University, Tempe, AZ .....	5
Reinsch, William A., president, National Foreign Trade Council, Washington, DC .....	8
Pletka, Danielle, vice president, foreign and defense policy studies, American Enterprise Institute, Washington, DC .....	10

## ALPHABETICAL LISTING AND APPENDIX MATERIAL

Baucus, Hon. Max: Opening statement .....	1
Gordon, Philip: Testimony .....	3
Prepared statement .....	27
Responses to questions from committee members .....	33
Grassley, Hon. Chuck: Opening statement .....	2
Kittrie, Orde: Testimony .....	5
Prepared statement .....	36
Responses to questions from committee members .....	50
Kyl, Hon. Jon: Prepared statement .....	55
Pletka, Danielle: Testimony .....	10
Prepared statement .....	58
Responses to questions from committee members .....	64
Reinsch, William A.: Testimony .....	8
Prepared statement .....	68
Responses to questions from committee members .....	74
Salazar, Hon. Ken: Opening statement .....	15
Prepared statement .....	80



## IRAN COUNTER-PROLIFERATION ACT OF 2007

---

TUESDAY, APRIL 8, 2008

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:05 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Lincoln, Salazar, Grassley, Snowe, Kyl, and Smith.

### **OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The hearing will come to order.

The Earl of Mountbatten said, "If a third world war is fought with nuclear weapons, the fourth will be fought with bows and arrows." Few goals can be as momentous as preventing that third world war, and central to that end is containing the proliferation of nuclear weapons to unstable or provocative regimes in strategic regions. Just such a regime is that of the Islamic Republic of Iran.

Today we will address S. 970, the Iran Counter-Proliferation Act of 2007. This bill takes action to achieve the worthy end of a nuclear-free Iran. S. 970 seeks this end by tightening and expanding economic sanctions against Iran, and it seeks to deter foreign countries from cooperating with Iran.

But S. 970 has its critics. Some argue that the bill will not achieve its goal. Some believe that the potential negative consequences of the bill outweigh its benefits. Others argue that America should not impose unilateral sanctions on any country. Still others have expressed concerns about the potential humanitarian effects of the bill, and others, including this Senator, hope to address some WTO questions that the bill raises.

These are valid concerns, but we cannot fail to act because we have concerns. Rather, we must address and resolve the concerns. Today we will hear from both supporters and critics of the bill. We will seek to have a frank discussion about the effect of the bill on promoting a nuclear-free Iran. We will closely examine the trade and economic effects of this bill, including its WTO implications, and we will analyze the bill's effect on American businesses to be sure that we are not punishing ourselves in our efforts to deter Iran.

We will also look at the role that this bill plays in a broader multilateral sanctions regime. America is a leader in the international community. As such, we are often called upon to take tough actions

to ensure the safety and security of ourselves and our allies. But time and experience have shown that multilateral sanctions are more effective. We should ensure that any actions that we take can be used as building blocks for broader international action to deter Iran from its nuclear ambitions.

Finally, we will examine the humanitarian effects of this bill. We must make sure that this bill does not undermine our humanitarian goals. We seek to heighten pressure on the Iranian government, but not lower the living standards of the Iranian people.

I thank today's witnesses for helping us to consider the implications of the bill. I hope that they will give us their ideas about the benefits and the consequences of this bill, the role of this bill in a broader multilateral sanctions regime, and the humanitarian effects of the bill.

So let us learn about S. 970, what it can do to help to prevent the proliferation of nuclear weapons. Let us learn what this bill means for America, our allies, and the people of Iran, and let us work to find the most effective means to lessen the threat of a nuclear-armed Iran.

Senator Grassley?

**OPENING STATEMENT OF HON. CHUCK GRASSLEY,  
A U.S. SENATOR FROM IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman.

This is a very important hearing because of the threat that Iran poses to the rest of the world. Particularly, being armed with nuclear weapons, this is a reason for us to address this issue. Iran also is the leading state sponsor of terrorism, supporting groups like Hezbollah and Hamas.

The president of Iran has vowed to destroy Israel. Iran is working to enrich uranium for purposes of developing nuclear weapons. It continues to pursue missile arsenals to deliver weapons. Iran should not be allowed to develop and possess nuclear weapons. The international community has been clear in opposing Iran's efforts. This is a multilateral approach to Iran, not just the United States' approach to Iran.

The United Nations Security Council has passed three separate resolutions demanding that Iran suspend all uranium enrichment, yet Iran continues to defy the international community. A nuclear Iran poses a serious threat to peace to our allies in the region and, if not right today, eventually our own national security. The Iran Counter-Proliferation Act of 2007 is another important tool then for the United States to use to put even more pressure on the Iranian regime to abandon its quest for nuclear weapons.

The bill has strong bipartisan support. I am glad that we're taking a serious look at this legislation. While I agree with most of the bill—maybe I had better say the overwhelming part of it—I do not yet support all the trade provisions as they are currently drafted, but we are working to see what we can do to change those.

For instance, I am not comfortable with the way that the bill links sanctions to the extension of preferential trade treatment in the process of accession to the WTO. I want to ensure that we end up with a strong, targeted bill that is fully consistent with general

policy interests in promoting and enforcing the rule of law in international trade.

So we are engaging, through my staff and Senator Smith's staff, on these issues. I want to thank Senator Smith for his willingness to address some of our concerns—that is, assuming we can get together. I look forward to continuing to work with him then. I hope that the Iranian regime and the Iranian people will see that their interests are not served by the pursuit of nuclear weapons.

I look forward to working with my colleagues on efforts to continue to apply political and economic pressure on the Iranian regime. Its leaders must understand that their quest for nuclear weapons will not be tolerated, and a measure like the Iran Counter-Proliferation Act is a strong signal for our position on that issue.

Thank you, then, Mr. Chairman.

The CHAIRMAN. Thank you, Senator, very much. I appreciate that.

Today's panel begins with Philip Gordon, who is a senior fellow for foreign policy at the Brookings Institution. Mr. Gordon formerly served on the staff of the National Security Council.

Following Mr. Gordon is Professor Orde Kittrie, a visiting associate professor of law at the University of Maryland, and professor of law at Arizona State University.

Our third witness is William Reinsch, president of the National Foreign Trade Council. Mr. Reinsch previously served as Under Secretary for Export Administration in the Department of Commerce.

Our final witness, who is on her way, is Danielle Pletka, the vice president of foreign and defense policy studies at the American Enterprise Institute. Ms. Pletka formerly served on the staff of the Senate Foreign Relations Committee.

Mr. Gordon, why don't you begin? As you all know, our usual rule is that witnesses speak 5 minutes, and prepared statements will automatically be in the record.

**STATEMENT OF PHILIP GORDON, SENIOR FELLOW FOR U.S. FOREIGN POLICY, THE BROOKINGS INSTITUTION, WASHINGTON, DC**

Mr. GORDON. Thank you, Mr. Chairman. It is an honor to be here. I appreciate the opportunity to testify on this issue.

As I noted in my written testimony, I have some concerns about certain aspects of S. 970, but I would like to begin my summary by saying that I applaud Congress's involvement in this issue, and I think that the basic approach in the bill, designed to increase the price Iran pays for its pursuit of a nuclear weapon, is the right one. I want to begin by saying why.

There is little doubt to me that Iran is actively working towards a nuclear weapons capability, even if its final decisions on whether to build an actual nuclear weapon may not have been made. In that sense, the conclusion of the December 2007 National Intelligence Estimate that Iran had "halted its nuclear weapons program," I think, was misleading.

By defining a nuclear weapons program only in terms of weapons design and covert enrichment programs, the NIE gave the impres-

sion that Iran had ceased to move towards a nuclear weapons capability when in reality our concern, and the international community's concern, has always been the declared enrichment capability.

Even using the NIE's narrow definition, it reported that until just a few years ago Iran was secretly working on military aspects of a nuclear weapons program, in violation of the Nuclear Non-Proliferation Treaty (NPT), and that it could accumulate enough enriched uranium for a nuclear weapon within a few years.

Despite the U.N. Security Council resolutions that you referred to, Mr. Chairman, demanding that Iran suspend its enrichment program because it had hidden aspects of that program for nearly 2 decades, Iran continues to enrich. It is operating 3,000 P-1 centrifuges at Natanz that, if operated efficiently, could generate enough highly enriched uranium for a nuclear weapon in about a year.

Recent reports from the International Atomic Energy Agency suggest that Iran has now started operating 300 much more efficient centrifuges, and Iranian President Mahmoud Ahmadinejad announced yesterday that they are installing 6,000 more, possibly of an advanced type.

Iran also has plans to build an industrial-scale enrichment facility of 54,000 centrifuges which, when completed, would be able to produce enough highly enriched uranium for several nuclear weapons within weeks.

The lack of transparency, the scale of these projects, the absence of a large-scale nuclear energy program, and the willingness to absorb all the international costs of isolation suggest that the Iranian enrichment program is not designed for civil purposes, but rather to give Tehran a real nuclear weapons option.

In the context of S. 970, therefore, it seems to me that the logic of the bill is right, because the best option to deal with this challenge is, indeed, to increase international pressure on Iran. If we, on one hand, acquiesce to Iran's nuclear weapons development, we would tilt their cost/benefit analysis in the direction of doing so and basically imply that U.N. Security Council resolutions, even binding ones under chapter VII, have no meaning.

The policy option at the other end of the spectrum, using military force, however, is equally unpalatable. I believe that targeted air strikes could no doubt set the Iranian program back for a number of years, but our intelligence is far from perfect. It would have major consequences, and Iran would no doubt respond, including asymmetrically against our interests in Iraq and Afghanistan.

Because those options are so bad, I think the option, the philosophy behind S. 970 is the right one, using all possible political, diplomatic, and economic leverage to convince the Iranian leadership that the costs of defying the international community are greater than the benefits. That, it seems to me, is the merit of this bill.

I support many of the measures in this bill, but let me conclude my summary, rather, by talking about, very briefly, what I think the principles should be as we consider these different measures. That is my greatest concern with the bill.

What we need to keep in mind is that any step in this bill that would lead to legal challenges from allies at the WTO or elsewhere, I think, could be counterproductive. We have discovered in the



past, with various challenges to the Iran Sanctions Act, that most countries, even among our closest allies, reject the extra-territorial application of U.S. sanctions, and they are willing to act to defend that principle, the principle that countries should not impose their foreign policy priorities on others.

So it seems to me any measure in S. 970 deemed to provide for mandatory secondary sanctions, especially if they limited the President's ability to waive those sanctions, could be counterproductive. The principle is that sanctions, as Deputy Treasury Secretary Kimmitt has said, have their most comprehensive impact when applied cooperatively and collectively.

This, I think, is particularly true at a time when the international community is actually moving forward to increase pressure on Iran. I have detailed that in my written testimony. You are all familiar with the four U.N. Security Council resolutions. But there is also the reality that, I think, increasingly international companies and banks are refusing to work with Iran, and that is major progress.

Finally, let me just say that I think that these positive trends in the international community would be reinforced by U.S. diplomatic pressure on these countries. Reporting requirements that name and shame the countries and companies that are contributing to Iran's proliferation activities and efforts to promote U.S. divestment from Iran and the companies that invest in Iran—and all of that is, I think, quite usefully in this bill.

Lastly, let me say that I think the bill could be strengthened with elements to make clear not only that Iran must pay a price for its refusal to cooperate, but that more flexibility on its part would be rewarded. So just as the bill proposes to increase IAEA funding for the creation of a nuclear fuel bank, I think it would do well to reiterate the offer that the United States and others made to Iran in 2006 to ensure its access to peaceful use of nuclear energy.

My last point is that pressure from Congress can play a useful and constructive role in making sure that foreign governments and companies uphold their responsibility to contain the nuclear risk from Iran. I believe that S. 970 adds to that pressure in some useful ways, but also that we must take great care not to provoke divisions in the international coalition that has been forming to contain Iran, and I hope Congress will keep that principle in mind as it moves forward.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Gordon.

[The prepared statement of Mr. Gordon appears in the appendix.]

The CHAIRMAN. Mr. Kittrie?

**STATEMENT OF ORDE KITTRIE, VISITING ASSOCIATE PROFESSOR, UNIVERSITY OF MARYLAND SCHOOL OF LAW, BALTIMORE, MD; AND PROFESSOR OF LAW, THE SANDRA DAY O'CONNOR COLLEGE OF LAW, ARIZONA STATE UNIVERSITY, TEMPE, AZ**

Mr. KITTRIE. Chairman Baucus, Ranking Member Grassley, distinguished members of the committee, thank you for the opportunity to speak with you about S. 970.

Today, April 8th, is a date Iran has marked as its National Day of Nuclear Achievement. This date commemorates the April 2006 day on which Iran, for the first time, produced enriched uranium. Last year, 2007, Iran celebrated this National Day of Nuclear Achievement with an announcement by President Mahmoud Ahmadinejad, in a ceremony accompanied by chants of "Death to America," that Iran had begun to enrich uranium on an industrial scale.

This year, today, Iran is celebrating its National Day of Nuclear Achievement by announcing it has started to install 6,000 advanced enrichment centrifuges at its Natanz uranium enrichment facility. Under international law, any uranium enrichment by Iran is flatly prohibited by three legally binding resolutions of the U.N. Security Council, so Iran is, today, explicitly celebrating nuclear progress explicitly prohibited to it by international law. It is anyone's guess how Iran will celebrate its National Day of Nuclear Achievement next year. In 2010, at the current rate of development, Iran just might celebrate it by detonating a nuclear bomb.

The sanctions imposed on Iran thus far, including by the Security Council, the EU, and the U.S. have obviously failed to dissuade Iran from continuing to pursue its nuclear program. It could be tempting to conclude from this experience that sanctions can, under no circumstances, succeed in stopping Iran's nuclear weapons program. Such a conclusion would be both unfortunate and incorrect.

The international community has learned in recent years that strong sanctions can stop illicit nuclear weapons programs. For example, it was discovered in the wake of the U.S. occupation of Iraq that strong U.N. Security Council sanctions had destroyed Iraq's nuclear weapons program and succeeded in preventing Saddam from restarting it between the Gulf War in 1991 and the coalition occupation of Iraq in 2003.

Strong U.N. Security Council sanctions also induced Libya's government to both forsake terrorism and completely and verifiably relinquish its nuclear, chemical, and biological weapons programs. Unfortunately, the sanctions imposed on Iran by the international community thus far are much weaker than the sanctions which stopped the Iraqi and Libyan nuclear weapons programs.

The Security Council's resolutions imposed on Iran thus far are too weak to coerce Iran into compliance, to contain Iran's ability to advance its nuclear weapons program, or to deter other states from following Iran's lead in developing their own nuclear weapons program. This is unfortunate because Iran's heavy dependence on foreign trade leaves it potentially highly vulnerable to strong economic sanctions.

Why are the Security Council sanctions on Iran so weak? In considerable part, because Russia and China are prioritizing the short-term profits to be gained from business as usual over the long-term security to be gained by forcing Iran to stop before it develops nuclear weapons.

The EU has played a more constructive role, but could do much more. If the EU, which supplies one-third of Iran's imports, including a high proportion of Iran's sophisticated machinery needs, were to follow the U.S. lead and impose a nearly comprehensive embargo

on Iran, it might quickly succeed in coercing Iran to cease its nuclear weapons program.

Diplomatic tools traditionally include incentives as well as sanctions, but Iran has already been offered generous incentives and consistently rejected any suggestion that it halt or limit its nuclear work in exchange for any incentives.

S. 970 could contribute to convincing Iran's regime that the price for its nuclear program has become too high, that the risk from sanctions to the regime's survival has become so great that the regime is better served by halting its nuclear program rather than further risking its grip over the Iranian people.

Some will argue that S. 970 is wrong because it is unilateral, or because it runs afoul of our international trade commitments, or because it will have an inappropriate humanitarian impact. None of these is correct. The U.S.'s recent success with unilateral banking sanctions, about which the committee heard just last week, demonstrate that unilateral sanctions can be very effective in both directly impacting Iran and persuading third countries to lessen their ties to Iran. S. 970 would help build on those successes.

In addition, S. 970 would not run afoul of our international trade commitments. Rather, it falls well within the security exceptions provided by article 21 of the GATT. With respect to the concern that S. 970 might harm humanitarian interests, I would stress that S. 970 would deprive Iran of neither food nor medicine. Indeed, S. 970 explicitly exempts exports to Iran of food and medicine.

If the people of Iran are not as prosperous today as they would like to be, it is because their government has grossly mismanaged the Iranian economy and chosen to isolate itself from the international community by persisting in its nuclear program in explicit defiance of international law.

Whatever inconvenience the Iranian people might incur from a tightening of sanctions attributable to S. 970 would pale in comparison to the humanitarian cost to the U.S. and its allies of an Iranian nuclear arsenal, including the greatly increased risk of stepped-up terrorism under an Iranian nuclear umbrella, a likely spread of nuclear proliferation to Iran's neighbors, and the greatly increased risk of a nuclear 9/11. By impeding an Iranian nuclear arsenal, S. 970 would therefore advance, rather than hinder, humanitarian interests.

In conclusion, stronger U.S. sanctions on Iran would impose costs on U.S. business. Yes, they would. Stronger multilateral sanctions would impose costs in Russia, China, Europe, and other sanctioning countries. But as my written statement discusses, sanctions are investments in protecting against the far higher price of an Iranian arsenal.

In light of Iran's advancing nuclear program, a failure by the West to quickly improve its peaceful leverage over Iran will inevitably leave us with a terrible choice: taking military action to stop Iran's nuclear weapons program or allowing Iran to obtain a nuclear arsenal. I urge you to pass S. 970. Thank you.

The CHAIRMAN. Thank you, Professor Kittrie.

[The prepared statement of Mr. Kittrie appears in the appendix.]

The CHAIRMAN. Mr. Reinsch?

**STATEMENT OF WILLIAM A. REINSCH, PRESIDENT,  
NATIONAL FOREIGN TRADE COUNCIL, WASHINGTON, DC**

Mr. REINSCH. Thank you, Mr. Chairman. It is a pleasure to be back with you, although I think I am in the rather lonely position of having to tell you why it would be a mistake to pass this bill and to express the serious concerns my organization, the National Foreign Trade Council, and also the USA Engage Coalition, have with it.

There is no question that Iran's behavior poses grave concerns for the United States and for our allies. Iran's pursuit of a nuclear program is deeply troubling, and its documented support for terrorist organizations is unacceptable.

It is important, however, to consider what approach is most likely to change the behavior that we all want to see changed. By picking fights with our allies and limiting the ability of this and future presidents to negotiate directly with Iran, legislation like S. 970 would make it more difficult for the United States to address the threats that the other witnesses and I have described.

Members of this committee, as well as members of the Banking and Foreign Relations Committees, who have also been working on this problem, must balance the need to stand strong against Iran's unacceptable behavior, against the risk of doing something counterproductive in an effort to address it. We believe that passing S. 970 would come at a heavy price.

As a general matter, unilateral sanctions rarely achieve U.S. foreign policy goals. The Peterson Institute for International Economics has concluded that unilateral U.S. sanctions in place from 1970 through 2000 were effective only 19 percent of the time, and most successes came where a modest policy change, like release of a political prisoner, were sought.

Moreover, sanctions may make the problems they are intended to address worse by providing an excuse for the targeted government to blame its failures on outside pressures and to rally support for its regime. In the case of Iran, our ability to change behavior through future sanctions is further limited because the United States already maintains comprehensive restrictions.

More pressure by the United States alone is very unlikely to convince Iran to change its behavior. Instead, the best hope of altering Iran's behavior is through vigorous and unified multilateral pressure in concert with our allies and Security Council partners, combined with direct diplomacy with Iran.

Unfortunately, S. 970 would make it more difficult to unify our partners behind further multilateral measures and would also impede efforts by this and future presidents to conduct direct diplomacy. Section 8 of S. 970 would expand current unilateral U.S. sanctions to foreign companies by making a parent company liable for the actions of its foreign subsidiaries. This bill would draw international attention away from the core problem of Iran's threatening behavior and instead effectively penalize entities and individuals in the very countries whose cooperation we need to counteract Iran's behavior.

These other governments could draw on already existing blocking statutes or implement new measures to counteract the threat of U.S. penalties. If enacted, this provision would override and pre-

empt provisions of the 17 executive orders issued over a 28-year period that provide legal authority for the current sanctions. This is a dramatic departure from current policy. The last time the United States attempted to sanction foreign companies in this way it caused a major rift with our allies and ultimately forced the President—in that case President Reagan—to back down.

The fact is that extraterritorial sanctions, as these are, are more likely to cause a trade war than they are to change Iran's behavior. Moreover, it is important to remember that adequate authority exists in current U.S. law for the U.S. Government to target sham corporations that exist to circumvent domestic sanctions. Simply put, if a subsidiary is independent and legitimate it should not, and cannot, be held to U.S. law for conduct outside the United States. If it is not independent and legitimate, then the U.S. Government already has adequate enforcement authority.

Mr. Chairman, the Senate has considered and rejected this particular provision three times in the last 4 years, and I recommend that you continue that record.

S. 970 would also limit the ability of the President to conduct diplomacy. Codifying existing prohibitions would remove the ability of a U.S. President to offer incentives or to respond to positive developments in Iran. For example, in the 1990s the United States allowed imports of caviar and rugs in response to what was perceived then as a political opening in Tehran. It is essential that future Presidents have the same tools available to them, even if there are no present plans right now to employ them.

Equally important, under the current wording, this provision would seem to prohibit the export of medical devices to Iran and could hinder the ability of NGOs or news organizations to work on humanitarian activities in Iran. Banning the export of medical devices to Iran could compromise basic medical treatment of Iranian citizens, while prohibiting the export of civil aviation parts, which this legislation also does, could compromise air safety not only for Iranian passengers, but for European and other passengers on Iranian airlines.

Further, this provision could inhibit the ability of NGOs, international organizations such as the U.N., news bureaus, and other organizations from working on humanitarian activities. Sanctions often end up hurting ordinary people, while having little impact on the government leaders we are trying to influence.

In the case of Sudan, for example, poorly drafted State laws have discouraged American business activity in southern Sudan at the same time the Federal Government is trying to encourage it. These are just some of the problems with S. 970. USA Engage has compiled a list of concerns with the legislation which are attached to my testimony, which I hope will be placed in the record.

Finally, Mr. Chairman, we believe that the best way to change Iran's unacceptable behavior is through multilateral pressure and direct talks with Iran. The United States should continue to work with the Security Council on ways to pressure Iran on its nuclear program and with our allies around the world to confront its support for terrorist activities. The Congress should also consider endorsing and funding a high-level special envoy for Iran with the au-

thority to engage in direct bilateral talks in partnership with the international community.

The United States has made some progress negotiating an end to North Korea's nuclear weapons program through direct diplomatic engagement. When it comes to Iran, there is already a framework for cooperation—security talks in Baghdad—and precedent—the United States and Iran cooperated in the past to support democratic governance in Afghanistan. In addition, the Treasury Department has also been successful in convincing European banks to curb their dealings with Iran. This kind of back-channel economic diplomacy with our allies is a much more effective way to influence the behavior of foreign companies than the sledgehammer approach of S. 970.

Finally, let me just say, Mr. Chairman, based on my experience dealing with these programs when I was in the government, I can guarantee you that if this bill is passed it will have serious unintended and unforeseen consequences which will be manifested rather quickly and which would make our efforts to change Iran's behavior significantly more difficult. I strongly urge the committee to reject this approach and instead to endorse diplomatic efforts with our allies and with Iran that are much more likely to result in a positive outcome.

Thank you.

The CHAIRMAN. Thank you, Mr. Reinsch. The materials you referred to will be included in the record.

[The prepared statement of Mr. Reinsch appears in the appendix.]

The CHAIRMAN. Ms. Pletka, welcome to the committee. We were anticipating your arrival.

**STATEMENT OF DANIELLE PLETKA, VICE PRESIDENT, FOREIGN AND DEFENSE POLICY STUDIES, AMERICAN ENTERPRISE INSTITUTE, WASHINGTON, DC**

Ms. PLETKA. Thank you, Mr. Chairman and members of the committee. Thank you for the invitation, and thank you for your forbearance with my late arrival. I left a panel on nonproliferation in the middle of their talk, walked out and left. So, forgive me for my bad organization.

The CHAIRMAN. No, no, no. Fine. We are glad you are able to participate in both forums.

Ms. PLETKA. It is a pleasure for me.

I ask that you accept my full statement for the record, and I will briefly summarize my remarks as well.

The CHAIRMAN. Without objection.

[The prepared statement of Ms. Pletka appears in the appendix.]

Ms. PLETKA. While there are some who have suggested that Iran's intentions regarding its nuclear program are in question, that is not the view of any of the professionals worldwide with whom I have consulted. Iran's record of concealment, pattern of procurement, and unwillingness to agree to even de minimis concessions should inform our opinion about their intentions.

The real question before us is not, what is Iran up to, but how should we react to Iran's weapons programs? Should we rely solely on multilateral sanctions as the only credible, if so far ineffectual,

means of talking Iran off the ledge? Should we weigh options to sharpen our own sanctions, making them more biting and—we hope—more persuasive to those in the Iranian leadership not committed to this nuclear weapons folly? Should we do so notwithstanding the inconvenience to certain ardent trade groups?

Or should we throw these coercive measures out and offer ourselves up to the Iranians for unconditional dialogue, despite the fact that successive administrations have refused unconditional dialogue, despite the fact that our European allies have demanded the same conditions as we for moving forward in discussions with Iran, despite the fact that the Iranian regime clearly believes that an agreement to dialogue without preconditions represents a major concession from the United States?

We can debate these various options and our different philosophies of approaching rogue states, but a few things should be clear. The first is that dialogue too often means negotiation. If we are to negotiate, I ask proponents of negotiation: exactly what do you propose to give away in exchange for Iranian concessions on their illegal nuclear program, and do you propose that, once those concessions that presumably secure a verifiable dismantlement of the Iranian nuclear weapons program are delivered, that we accept Iranian sponsorship of terrorism, or sponsorship of death squads in Iraq, or domination of its region?

Second, we should have no doubt that sanctions do have an impact. Whether they have the desired impact in the desired time frame is another question entirely. But both unilateral and multilateral sanctions imposed by the United States and the international community have bitten hard into the Iranian economy, and into the ease of doing business, into Iranian credit, and into the bank accounts of Iran's corrupt leadership.

Raising the cost of defying the international community is what sanctions are all about, and I think there is clear evidence that we have done so. Interest rates are high for Iran. Despite high oil prices, the economy is in a shambles. Investment in Iran's oil and gas sector has declined. Iran's exports of oil have declined over the last years. In other words, there is a cost to Iran, and that is all to the good.

Finally, there is the question of loopholes in American law. It is hard to argue persuasively that the U.S. is committed to stopping Iran while we subsidize Iran's nuclear trading partners—I mean Russia—and Iran's aide donors—I mean the World Bank. It is hard to argue to foreign companies that we wish them to cease and desist their business with the mullahs when American companies are permitted to use foreign subsidiaries to do that same business.

Some skeptics have argued that sanctions will not achieve their desired effect. I think there is ample evidence to indicate that engagement has also failed abjectly. And while both sanctions and engagement may ultimately fail to bear fruit, American leadership and American conscience dictate that we do our best to achieve our goals without getting into bed with the Tehran regime.

Fewer and fewer companies and banks are willing to do business with the Islamic republic. We are gaining ground. For those who believe we should cede that ground, I remind you—and I had to include this quote because it is so apropos—of Thomas Jefferson's

wonderful letter of 1808 discussing an earlier challenge to American national security. He said, "Three alternatives alone are to be chosen from: one, embargo; two, war; three, submission and tribute. And wonderful to tell, the last will not want advocates."

If economic pressure fails to persuade Iran to change course, we will be left with few options. One is to accept a nuclear-armed Islamic republic, and the other is war. I suggest that an enhanced commitment to persuasive economic measures remains the best option for the moment. This bill is an important step in that direction, and I commend its sponsors and this committee's leadership.

Thank you.

The CHAIRMAN. Thanks, Ms. Pletka.

Frankly, I think everyone in this room agrees that the United States can do more, and should do more to stop Iran's nuclear proliferation. I do not think there is much doubt about that. The real question is what works, what is effective, and what is not effective. I do think probably some unilateral actions are effective. Some may not be effective and have unintended consequences.

I have concerns, frankly, about the provisions in the bill that basically ban products that are substantially transformed in third countries, which I think is WTO-inconsistent. Now, Mr. Kittrick, you alluded that the security exception in the GATT may make this provision consistent with WTO rules. But I am asking a broader question, and that is, what provisions in this bill need to be modified because they otherwise have unintended consequences that are adverse?

I was struck by Mr. Reinsch's point that some of these provisions may have the unintended effect of causing an international debate among allies, among friends. We are getting off the track here, trying to sanction Iran effectively. Anyone who wants to, just pipe up here and tell me what needs to be changed in this bill and how do you change it to minimize unintended adverse consequences that may otherwise be caused by this bill?

Mr. Reinsch, I think you have something in mind, so I will call on you first.

Mr. REINSCH. We have a long list, Mr. Chairman, and it was appended to my testimony. I commented on some of the things. I think that clearly section 6, which relates to Russia's nuclear cooperation, would have a significant adverse impact on our bilateral relationship with Russia.

Let me go back one step. I do not think anybody on the panel disagrees with the seriousness of the problem or the nature of the problem. You are quite right in your comment about that. We certainly do not oppose multilateral sanctions. I think multilateral sanctions, multilateral pressure is the way to get there.

What the debate over this bill is about is the best way to get to a multilateral approach. Our problem with this bill is that it attempts to bring basically the Russians, the Chinese, and the Japanese, and some of the Europeans, the countries that we are talking about here, attempts to bring them along by beating their companies over the head. We do not think that that is a useful way to get their governments to cooperate. Telling Russia that we are blocking Russian accession to the WTO, which is what this provi-



sion would effectively do, unless it stops its nuclear cooperation with Iran, is not an effective way to obtain Russian cooperation.

The CHAIRMAN. Just to give a little discussion on that one point, let me ask Mr. Gordon, as well as Professor Kittrie and Ms. Pletka, to respond to that point about the provision relating to Russia's accession to the WTO.

Mr. GORDON. I think that the administration should take into account what Russia is doing on the Iran issue as it considers whether it would support Russian accession to the WTO. The problem I would have in making this a law and taking away any flexibility from the administration is that there are circumstances in which I could imagine Russia having some nuclear cooperation with Iran, notably on the Bushehr nuclear reactor, that we would want to allow to continue. If Russia was cooperating more broadly on Iran, that should not stop us from having a 123 agreement with Russia or from allowing it into the WTO. The Bushehr reactor we have opposed for a number of years. Russia has gone ahead anyway.

In an ideal world, Russia would not have anything to do with any nuclear reactor in Iran. It does, and even the Bush administration, in the context of the recent Russian agreement to start delivering fuel to Bushehr, noted that this could be a positive tool in our arsenal because it shows Iran that it is possible to have peaceful use of nuclear energy while relying on foreign fuel supplies.

So, if the bill makes it impossible for Russia to continue with that arrangement, it is hard for us to go to Iran and say, you can rely on others for nuclear fuel, you can, as is made clear by the NPT, make peaceful use of nuclear energy, but, by the way, we are going to confirm to you that we are prepared to take it away by denying Russia the ability to provide that fuel. So I think that more flexibility than is in this bill is required on the issue of how to leverage Russian nuclear cooperation with Iran.

The CHAIRMAN. Ms. Pletka?

Ms. PLETKA. I agree with Phil to a certain extent; flexibility is the clarion call of the executive branch no matter who is in power, and we all know that all too well.

I would caution against viewing the idea of a 123 agreement, an agreement for nuclear cooperation with Russia, as somehow an entitlement for the Russians. To the contrary, it has been the policy of every administration, including the Bush administration in an earlier incarnation, that Russian cooperation with the Iranian nuclear program was incompatible with the idea of Russian nuclear cooperation with the United States. And people should understand what the implications of that cooperation are.

It is not just a nice piece of paper that is signed, it is a potential for the export of spent fuel, for example, to Russia which will be a source of enormous—and when I say “enormous” I mean even in the current Russian context—amounts of profit for, likely, the Russian government. So again, we need to think this through very carefully. I think the argument is a little bit more easy to make on the question of trade, and there one wants to argue in favor of flexibility. On the other hand, we have to say that, having given Russia a significant number of incentives, including initialing that self-same 123 agreement last summer and beginning discussions on

WTO, they have proven themselves nothing if not more intransigent in the Security Council.

The CHAIRMAN. I appreciate that. My time has expired. Senator Grassley?

Senator GRASSLEY. Yes, Mr. Chairman. Before my 5 minutes starts, I was going to give Senator Kyl some of my time, but then he got a call. He had to go to meet with other people. So, he will not be here. He wanted me to apologize to the panel, and he is going to submit some questions for answer in writing. He is our Republican leader, so he has a bigger agenda.

The CHAIRMAN. One of them. One of the leaders.

Senator GRASSLEY. That is right. Our assistant leader.

[The questions appear in the appendix.]

Senator GRASSLEY. I am going to start with Mr. Gordon in a little bit different approach than the discussion we just had on Russia, but somewhat close to it, Mr. Gordon.

You testified that we should avoid provoking division in the international community through unilateral sanctions. On the other hand, Russia and China appear to be opposed to applying significant pressure on Iran. If we are forced to choose, which is more important, effective sanctions or keeping Russia and China on board?

Mr. GORDON. Thank you, Senator. I guess I would say I do not think that is the choice. I think we can do two things at the same time. We can, and do, impose a whole range of unilateral sanctions on Iran. We have not traded with Iran for almost 30 years. We do not talk to Iran, we do not invest in Iran. We have frozen the assets of Iranian banks and individuals, and we can continue to do all of those things, and in many cases we should. We would like more Russian and Chinese cooperation, no doubt.

The choice can come in the context of secondary sanctions when we make relations with those countries conditional on what they do towards Iran. That is the context in which I think it can be problematic when we do things that will cost us their cooperation.

The basic principle, again, is, if we are honest with ourselves, our own unilateral sanctions have a very limited impact. I mean, the reality of the modern world is, there are a lot of other countries out there with money, banks, and who buy oil. That is why it is so important, as much as possible, to get countries like Russia and China on board, to the extent our sanctions are designed to limit funds to Iran in order to put pressure on Iran. We cannot buy oil from Iran. We do not. We cannot invest in Iranian energy development. We do not. But especially given the current price of oil, around \$100 per barrel, Iran is making more than \$70 billion more per year from oil exports than it was 8 years ago.

So, we need to understand that what we can do alone as a country is going to have a very limited impact, and in that sense it is in many cases more important to have broad and weak sanctions than very narrow and strong sanctions. That is why I think it is important, as much as possible, to get Russia and China on board. I think it has helped having U.N. Security Council resolutions. It is useful not only in sort of putting the diplomatic squeeze on Iran, but with other countries. It is a lot easier to persuade the Europeans, the Japanese, and the Indians that they should not deal

with Iranian banks when Russia and China have agreed at the Security Council that no one should deal with Iranian banks.

Senator GRASSLEY. All right.

Ms. Pletka, you testified that the sanctions in effect today have done a better job than previous regimes in targeting leadership elements and sources of income without imposing a heavy burden on the Iranian people. Others have asserted that the sanctions have led the Iranian public to question whether nuclear ambitions of the regime are worth the economic cost.

Question: do any of the sanction provisions in our bill run the risk of hurting the Iranian public and thereby causing nationalist backlash?

Ms. PLETKA. It is a difficult question to answer, Senator, for the simple reason that Iran has become, under President Mahmoud Ahmadinejad, so much more of a statist and state-run economy, where there were businesses in private hands under previous governments. Things have been drastically centralized. So on the one hand you can say that sanctions have an impact on the government because so much is, in fact, controlled by the government. The other side of that argument is, because so much is controlled by the government, it has a significant impact on the Iranian people.

I think that there is no doubt that all sanctions have an impact on a population. If I had to look at where sanctions had an impact right now, I would say in terms of their ability to procure consumer goods from Europe, luxury exports. Those kinds of things in Iran have gone up in price, but there should be no doubt that, when you weigh the cost of sanctions on the Iranian people versus the cost of immense economic mismanagement on the part of the regime, that certainly has a heavier burden.

The only comment I would make about the specific provisions of the bill in terms of the Iranian people is the note that Bill Reinsch made, which is that if in fact—and I did not pick up the provision that he mentioned—there is a question on medical devices, then clearly the United States is not interested up to a reasonable point, understanding that lots of medical devices are, in fact, dual use and, if the Iranians are seeking to exploit that loophole in order to get technology for the nuclear program or their missile program, we do need to be particularly vigilant.

Senator GRASSLEY. Mr. Chairman, I am going to submit the rest of my questions for answer in writing because I cannot stay for a second round.

The CHAIRMAN. All right. Thank you very much, Senator, for your comments here, and your questions.

[The questions appear in the appendix.]

The CHAIRMAN. Senator Salazar, you are next.

**OPENING STATEMENT OF HON. KEN SALAZAR,  
A U.S. SENATOR FROM COLORADO**

Senator SALAZAR. Thank you very much, Chairman Baucus and Senator Grassley, for this morning's hearing. Thank you to all the witnesses for your testimony this morning.

I am a co-sponsor of S. 970, along with, I think, 69 or 70 of my other Senate colleagues. I share the concern of those 70 Senators that Iran's continuing violation of its obligations under the Nuclear

Non-Proliferation Treaty is a concern not only to America, but to the world. When you take Iran's nuclear activities, together with Iranian President Mahmoud Ahmadinejad's inflammatory statements concerning the elimination of Israel and his statements against the west, it is clear to me that we need to keep our focus on Iran and try to do everything that we can to make sure that they do not move forward with nuclear armaments.

A nuclear-armed Iran would be a threat to the United States and our allies around the world and would likely function to destabilize the already fragile—very fragile—political situation in the Middle East. I think most of us view that situation as unacceptable.

Let me be clear, however. The U.S. should make every attempt to resolve the Iranian challenge through diplomatic and economic challenges. This includes working with our Security Council partners in the United Nations to ensure Iran cooperates with nuclear weapons inspectors from the International Atomic Energy Agency and, pertinent to this hearing, expanding upon the economic sanctions against the Iranian regime that are already in place.

I believe S. 970 will work effectively to intensify the economic pressure on Iran, as well as any country that assists the Iranians in developing their nuclear sector. The bill provides for new sanctions and expands upon sanctions already in place under the Iran Sanctions Act. It significantly curbs exceptions to current import-export bans, and also provides financial support for the peaceful production of nuclear energy. With the passage of this bill, in my view, the United States would send a clear message to Iran that its pursuit of nuclear weapons will come at a significant cost that they cannot afford.

As we examine issues related to this legislation, I have been very interested in hearing your views on how effective or ineffective our past efforts have been with respect to the Iran nuclear program. I have a longer statement for the record, Mr. Chairman, and I will submit that for the record.

[The prepared statement of Senator Salazar appears in the appendix.]

Senator SALAZAR. But let me ask a couple of questions to our witnesses. When we try to see what is happening in Iran, there have been many of us who have been focused on what is happening with the nuclear program for many years. It seems that we are not being very effective in terms of getting them to cut back on what they are doing. They are moving full speed ahead.

Part of it, I think, has to do, Mr. Gordon, with what you stated, which is that they are making \$70 billion more a year now than they were 5 years ago because of \$105-a-barrel oil. When we look at where the money is coming from, that is, financing the Iranian nuclear enrichment program today, you speak about Russia, you speak about China, you speak about foreign subsidiaries. Do you—any of you—have a breakdown of the quantum for that foreign assistance that is coming to Iran to move forward with its nuclear enrichment program? We will start with you, Mr. Gordon.

Mr. GORDON. Senator, the vast proportion of Iran's revenues are from oil sales, oil and gas sales. More than 85 percent of Iran's government revenues comes from selling oil and gas. That is, again, why our leverage here is so limited, because, for all of the sanctions

we have imposed and for all of the sanctions the international community has imposed, there is not an oil embargo on Iran. It is selling oil. It is fungible. We do not buy Iranian oil, of course, but that does not matter, because they can sell it to someone else. And oil being fungible, as long as there are one or two countries that are willing to buy it, they can sell it and the oil price is the oil price.

Senator SALAZAR. Do we know which of those two countries or three countries—who is buying that \$70 billion of oil from Iran today?

Mr. GORDON. I do not have the list. I think the point I would make is, it does not really matter because very few countries do not buy any Iranian oil at all. But because most do—China, India, and other Gulf States that do not have oil—the oil price is the oil price and Iran gets this tremendous revenue.

Senator SALAZAR. Should we then, as we deal with this issue in this committee and in this Senate, focus in only on the oil issue? Or, when we start bringing in the foreign subsidiary support for the nuclear enrichment program, are we bringing in the wrong target?

Mr. GORDON. Well, the oil issue—in an ideal world we would, and we could, because if you really wanted to pressure Iran economically you would go after their oil exports. That is the only thing, frankly, that would really have a major impact on Iran. The reality is, I think no other country in the world would go along with us in having a total ban on Iranian oil, especially with oil at \$100 a barrel. Iran exports 2.5 million barrels per day. If we were to take that off, oil would go up to, I do not know what, \$10, \$20, \$30 more per barrel.

Senator SALAZAR. Thank you, Mr. Gordon.

Ms. Pletka, I would like to hear from you. I know my time is about up.

Ms. PLETKA. First of all, when we talk about foreign subsidiaries or foreign companies, we are not talking about their support for the specific weapons programs, we are talking about their general support for the economy. I think that Phil is right. Clearly, if there is a silver bullet out there, it is a total embargo of Iranian oil exports. But there are, I think, other important points of weakness. I am speaking quickly because I know your time is limited, as is mine. Iran imports 40 percent of its gas. It actually imports it because its refining capacity is so low. That is a real point of vulnerability for Iran.

Going after that, working with our allies, working with Iran's neighbors that are exporting to it is, in fact, very useful. But also, Iran is inter-linked into the world economy. We have, at AEI, a compilation of all the companies that do business in Iran, including companies that do business with the Iranian government, and specifically with the Revolutionary Guards. There are hundreds of companies, and they do make it possible for Iran to be part of the global economy. That is a point of isolation.

Senator SALAZAR. Ms. Pletka, I would appreciate it if you would get a copy of that list to us, and I will have my staff in contact with you.

My time is up. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Smith?

Senator SMITH. Thank you, Mr. Chairman.

To our witnesses, thank you all for being here. I think your presence here is motivated by the same factors that caused Senator Durbin and I to introduce this bill back over a year ago, now. Obviously we see a sham democracy there, the outrageous anti-Semitism that is expressed in the highest councils of Iranian leadership and their continued flouting of international law in this reckless pursuit of a closed nuclear cycle so that they can weaponize the rockets that have already been sold to them. I think that leads us all here to look for what to do and to get beyond, or at least to a conclusion, as Mr. Jefferson put it. As Ms. Pletka so eloquently stated, the option is embargo, the option is war, or the option is paying tribute. The focus of this is an embargo that is actually meaningful so we can avoid those other two most unacceptable options.

Shortly after I introduced this bill and we began signing up colleague after colleague—16 members of the Finance Committee are co-sponsors of this, 70 members of the U.S. Senate, veto-proof majorities in both bodies—fortunately the administration then reached out to me and said, what does it take to slow this down? I said, implement it. They have substantially implemented many of the features of the bill, and yet we continue to see this onward rush towards a train wreck that is certainly millennialistic, at least as I can imagine it.

But shortly after I introduced it I had a visit from a major European country and its ambassador to the United States who had an earlier posting in Tehran. I posed to him this question. I said, based on your experience among the Persian people, what is this all about? Is this about the Jews in Israel or is this about the Arabs in Arabia? He said, oh, it is no question, it is about the Arabs in Arabia. That is their greater hatred, that is their greater competition. Israel is more the excuse.

I wonder if you have any comment about his conclusion and, if that is true, does this, the weaponizing of these rockets that Iran has, not lead us to a nuclear arms race in the Middle East that we have never contemplated before?

Ms. PLETKA. Senator, I think you are right in appreciating Iran's thinking about these issues, which is not, frankly, restricted to the current leadership but was very much part of the Shah's thinking about his region. We just finished a study just observing what Iran's activities are in its own region, in Syria, in Lebanon, in Afghanistan, and Iraq. What you can see is that Iran is reaching its tentacles throughout the Middle East, throughout its neighborhood, throughout Afghanistan, linking countries into their electrical grid, creating aide dependencies. It is the biggest exporter of electricity in the area. Is that not a little bit strange?

Senator SMITH. Very.

Ms. PLETKA. Again, Iran has very broad ambitions. That is one of the reasons why the Saudis in particular, but other Iranian neighbors, view the program with such trepidation. It is another reason why, as we think about the threat, we should not just think about the bilateral threat but should think about what kind of a nuclear arms race this will trigger. Saudi Arabia's government has

made manifestly clear not just to the United States but to many European leaders as well that if Iran succeeds in developing a nuclear weapon it will procure for itself nuclear weapons.

Senator SMITH. They will just buy it. They have the ability to buy it.

Ms. PLETKA. They will buy it off the shelf. And then who is next?

Senator SMITH. And Egypt is clearly next. Is that your understanding?

Ms. PLETKA. I know that Egypt has expressed interest in it, but we should also worry, frankly, about Syria and other countries as well.

Senator SMITH. I wonder if any of you can speak to this. I mean, obviously what we see is that moderates in Iran are not even allowed to run for public office. The mullahs set the ballot and the Iranian people choose between radicals. How is this debate penetrating on the streets of Tehran? I mean, do the Iranian people understand the cost that they are paying and the cost they may yet pay if they continue this? Do any of you have any sense of Iranian public opinion on that?

Mr. GORDON. Senator, it is hard to get accurate public opinion data in Iran. I think it is probably fair to say that if you had a referendum on the nuclear program in Iran you would have strong support for having a nuclear program. The Iranian people do not understand why other countries are allowed to enrich uranium and they are not.

Actually weaponizing, going to a nuclear weapon, might be a different story. Of course, the government officially says they are not pursuing a nuclear weapon anyway. But just the question of national pride, looking around the world at countries that have considerable use of nuclear energy, and frankly countries that have nuclear weapons.

I think you mentioned this point of pride and nationalism. Iran is a great and longstanding civilization. They look around not only at the five recognized nuclear powers, but Pakistan, India, Israel, and they say, why should we not as well? So I think, unfortunately for us who are trying to persuade them not to, it is a popular thing among the Iranian people.

What may be possible is to get to a point where they are satisfied that they have expressed their right to the peaceful uses of nuclear energy and master the technology of enrichment, but do not move towards a nuclear weapons capability. That, taking it back to your original point, is our job, to convince them that the cost of doing that, as much as they might like to, would outweigh the benefits that they perceive.

Senator SMITH. Mr. Chairman, I notice my time is up. I just want to note as well that Russia, which holds itself out as a leading nation in the civilized world, is not being sufficiently helpful on this issue. They could do a lot. They are not. As long as they are not, they should not be in the WTO, or any other international institutions which assume a certain level of responsibility that they are not demonstrating as it relates to Iran and this cataclysmic event that they are helping to aid and abet.

Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Lincoln?

Senator LINCOLN. Thank you, Mr. Chairman. Thanks for holding the hearing. We appreciate the panel and your wisdom, joining us and trying to come to some conclusion, or at least some action that will work.

I, like my other colleagues here, have come to express the serious challenges to the United States and to our allies that the Iranians pose. Certainly their efforts in seeking to exert greater influence in the Middle East through the funding of extremist groups, supplying weapons to extremists in Iraq, and certainly the continued enrichment of uranium in the face of three U.N. resolutions requiring them to cease doing so, create concern for all of us. That is the reason I, along with many of the others, am a co-sponsor of S. 970, because I believe more has to be done.

We in the Congress and the administration, we have to do more in terms of the pressure on Iran to abandon its pursuit of the highly enriched uranium. More punitive trade sanctions, in my opinion, are an appropriate strategy, but I am not sure it is one that is going to completely work, and you all have expressed that as well, I think.

I also believe in some of what you have expressed, and that is that economic pressures have to be coupled with strategy to work through the kind of diplomatic channels that are necessary in the international community to bring Iran into some compliance with the U.N. resolutions. So I am sure today will not be the last conversation that we have on this, and I hope that you all will continue to offer your insight and opinions as we move forward on what the positive benefits and what the drawbacks of S. 970 would be.

I know that some of the members here on the panel have serious concerns about the implications of passing the legislation. I guess my question to you all would be, what, if any, or what else might the members of the Senate Finance Committee and members of the Congress do in particular to work to change Iran's behavior in pursuit of the highly enriched uranium, recognizing that time is of the essence?

Also, what impacts do you think there will be in terms of the deteriorating relations between the U.S. and Russia? What effects will S. 970 have on that, which targets Russia for its cooperation with Iran? What effect does that have on our U.S.-Russia relations? I do not know if you all have answered that before I got here, and I apologize if I am being redundant.

If we do, as a Congress, pass harsher unilateral sanctions on Iran, does it give the administration, or even the next administration that comes along, greater leverage to influence Iran to cease that nuclear enrichment? I do not see that necessarily as happening. But, anyway, your insight, particularly in terms of our relationship with Russia would be good, and any suggestions you have to us as members of the Finance Committee.

Mr. REINSCH. May I?

Senator LINCOLN. Please.

Mr. REINSCH. This may not be a welcome response, but I have to say, from my point of view—and I do not say this very often about this administration, frankly—this is one area where the



President is doing the right thing, and the best thing the Congress can do is to let him do it. He has perceived in this circumstance that the best approach, because of the peculiar difficulties of the Iranians, which have been very clearly explained by Ms. Pletka and by Mr. Gordon, is multilateral.

How do we get the Russians and the Chinese in particular, and the Japanese who are the ones who are engaging in a lot of economic activity in Iran, along with a number of European countries, to all move in the same direction? The President has concluded that we need to do that, and I think his strategy has been working with not yet 100-percent effectiveness, but clearly making progress in bringing them along. It is a fair point that maybe it is two steps forward, one step backwards, and maybe some months it is the reverse, one step forward and two steps backward. But we are making progress.

We have a number of Security Council resolutions, and the Russians and the Chinese, as Mr. Gordon had pointed out, have begun to evolve in the direction that we want. I think that is the way to get there. One of the things that is required is some degree of patience in allowing the administration to continue to do what it has been doing, because it has been having perhaps not the success you want at this point, but it is making progress.

One of the biggest problems with this bill is that you put into statute things that would remove the President's flexibility and would make it harder for him to do that. The President should be able to, if he sees an opening down the road, engage in some kind of direct contact with Iran, and he should be able to, I think, provide some kind of an olive branch or make some gestures should circumstances warrant.

This bill would effectively preclude that and would lock the President into a framework in which essentially only Congress could remove the sanctions that have been imposed. I think what you need now is flexibility and nuance and not a black-and-white situation. The problem with this bill is that it provides the latter and takes away the former.

Senator LINCOLN. Well, do you think that this President would engage in that?

Mr. REINSCH. Pardon me?

Senator LINCOLN. Do you think that this President would engage in that outreach or contact or negotiation?

Mr. REINSCH. Not now. He may run out of time, under the circumstances. But you are not legislating for this President; you are legislating for the long term.

Senator LINCOLN. No, you are right. So you think it is equally as important to have that flexibility for future administrations as well?

Mr. REINSCH. Yes, ma'am, I do.

Senator LINCOLN. Yes. Anybody else?

Mr. KITTRIE. Yes. I think S. 970 would, on the whole, have a positive impact with respect to Russia. I think it would send Russia a strong message that it cannot both shield Iran and conduct business as usual with the United States. However, it could probably use—and this goes back to a question earlier, I think, from Senator Baucus, to tweak the bill. The formulation of all nuclear assistance

to Iran would appear to cover both the Russian-built Bushehr reactor and also Russian activity under the proposed deal by which Iran would cease its enrichment activity in exchange for Russian enrichment at Angarsk.

As currently written, this provision would mean that, even if Russia voted in the Security Council for much stronger sanctions on Iran and limited its nuclear cooperation with Iran to the current Bushehr arrangement, the U.S. could not enter into a 123 agreement with Russia absent congressional amendment of the provision. So I would say that, in light of developments regarding Bushehr, I would say that S. 970 should be revised to reflect that the foremost Russian obstacle to stopping Iran's nuclear program is Moscow's blocking of strong sanctions in the Security Council. Revision of the provisions, a slight tweak there, would enable the administration to more usefully deploy it as leverage in achieving U.S. goals for Iran-related diplomatic negotiations with Russia.

Mr. GORDON. May I just add, Senator, I did not jump in because I agreed with everything Mr. Reinsch said. But if I might just add a word, I have great sympathy with Congress's desire to do more, which is what you expressed. You are all right to want to do more. Congress has already done a lot. Congress has put great pressure on the administration and on allies. They know how Congress feels.

The risk is overreaching and doing things that would turn what is right now general momentum towards the international isolation of Iran at the Security Council and with our allies in Europe and elsewhere into a spat among allies rather than putting the pressure on Iran. We have been there before. We were there in the late 1990s, we were there in the early 2000s. I think we are in a better place now. You asked, and I agree. I think, to the credit of the Bush administration over the last few years, it has started to implement this approach, and it has had some positive effect.

Since finally agreeing to support the European Union diplomacy with Iran in 2005, they have taken steps to show Iran that there could also be incentives for cooperating on the nuclear dossier, and they have made clear—no, I do not think either that this administration will be ready to talk to Iran, but they have taken a step towards talking with Iran about Iraq. They have said if Iran suspended enrichment they would talk to Iran about the nuclear issue. I would actually suggest going one step further and talking to Iran even without suspension of uranium enrichment.

Last point. I am somewhat more hopeful, even though I agree with the general sentiment that neither engagement nor containment is working particularly well. Iran is not Saddam Hussein's Iraq, and it is not Kim Jong-il's North Korea. It is a much more diverse and vibrant society, with a lot of business people and young people and bloggers and anti-clerical activists. There is a chance that over time, if we do show that this country, under the right circumstances, can be integrated into the international community, I think we have a chance of persuading them that it is in their interests not to cross that threshold and become a nuclear weapons state.

Senator LINCOLN. Can I just follow up on that? You mentioned the middle class and the working class there as really the democracy movement in Iran. How do the sanctions affect them? I mean,

what I am hearing from you from my first question was, just have patience. When I say what can we on this committee do, you are saying, be patient, let things work as they are going. But if this were to become law, what do those sanctions do to pro-democracy?

The CHAIRMAN. Briefly, please. Very briefly.

Mr. GORDON. Very briefly. It cuts both ways. I think there is an advantage of the sanctions because they do frustrate Iranians and they are a signal that the international community is unhappy with their regime, as they should be.

The CHAIRMAN. Thank you.

I would like to focus a little more on the concern that many have, that a provision in the bill expands the import ban to include goods that are substantially transformed in third countries in a manner that may violate the World Trade Organization's rules. In fact, on the surface I think it is pretty clear that it does.

The next question is what to do about that. So my question really is, how can that provision be modified? I think we do not want a big spat among various countries claiming that this is WTO-inconsistent. How can this be modified and still be WTO-consistent? Anybody who wants to respond. Ms. Pletka, I will ask you that question.

Ms. PLETKA. I could see you looking at me, and I was hoping you were not going to call on me. I am not a trade lawyer, and I am not even going to pretend to provide a good answer for you on that.

The CHAIRMAN. All right. Let me turn to anybody else who might want to respond. Mr. Gordon?

Mr. GORDON. I am not a trade lawyer either, but I have an opinion anyway.

The CHAIRMAN. Well, go ahead.

Mr. GORDON. Which is, take it out. I mean, as we have discussed, Iran is making \$100 billion a year in oil revenues. The idea that some marginal tweak that could lead to a huge trade spat with allies in a WTO suit is worth doing in order to cut down by a tiny fraction their revenues, I think that would be out of balance.

The CHAIRMAN. Professor Kittrie, your view on that point?

Mr. KITTRIE. Yes. I would say that, from what I can tell, that particular provision could use a little bit of tweaking. The language there could perhaps be correlated with the language that we use in our Customs law having to do with articles of Iranian origin. I also would note that that provision may go a little bit too far. As Mr. Reinsch mentioned, if in fact the reference there to medicine does not include medical devices, I would support including medical devices which are not dual-use. I also compared that provision last night with the provisions of IEEPA, the International Emergency Economic Powers Act, that I used to implement when I was a lawyer at the State Department.

That comparison reminded me of a few more items that may need to be exempted from section 7 when you mark it up, which include postal letters, informational materials such as publications and films, and, so long as we are going to permit travel between the U.S. and Iran, the importation of accompanied baggage for personal use and such.

So long as such changes are made to the import and export provisions of section 7, it seems to me that it would have a positive

effect in closing off the 200 or so million dollars a year in trade that we currently have with Iran, it would send a message to our allies that we are not being hypocrites here, and also would ensure that S. 970 would not harm humanitarian interests, which was a concern expressed earlier.

Mr. REINSCH. May I comment as well?

The CHAIRMAN. Absolutely.

Mr. REINSCH. Two points. On the last point that Mr. Kittrie made, I want to second that, that this bill stomps all over the Berman amendment, which is the provision in IEEPA that permits the flow of information and books and things like that, and this bill would seriously interfere with that, which would make it harder for us to communicate our message directly to the Iranians.

On the question you asked specifically though, looking at the language—it took me a few minutes to find it—certainly I would prefer Mr. Gordon’s solution, which is to take it out. That is the simplest thing. I think the narrower way to address the WTO program that you described is to simply remove the word “indirectly” and limit the prohibition of imports to direct imports.

The CHAIRMAN. But is that not somewhat of a restatement of current law?

Mr. REINSCH. Well, it is a restatement of current executive order.

The CHAIRMAN. All right.

Mr. REINSCH. And that is the significant difference I was commenting on earlier. I would not be a fan of codifying these things. One of the advantages of being old like me is you remember past cases. I remember when the Congress, in its wisdom, banned the import of coffee from Uganda because of Idi Amin, which seemed at the time like a perfectly sensible thing to do. The only problem was, because it was codified, it took Congress 2 years after Amin had left to repeal the ban.

So at the very time that you wanted to help the Ugandan economy you had locked into place statutory prohibitions, instead of giving the President the flexibility to deal with changing circumstances. That is one of the problems here. But the WTO problem that you have described, I think, would be addressed simply by removing the word “indirectly.” That does not address the other problems.

The CHAIRMAN. Correct.

Before we adjourn, does anybody want to say something that needs to be said? That is, has anybody said something so outrageous it deserves a response, or something that was left unattended to but is very important?

Ms. PLETKA. I do not want to use the time to snipe at my colleagues. I do want to say something that is not said often enough, and it is actually in sympathy to Bill Reinsch who is sitting here by himself ideologically, a little bit. There is a tendency in these sanctions legislations to go after low-hanging fruit. It is always easier to sanction our friends and it is always easier to sanction countries which have transparent systems.

In other words, we know Deutsche Bank is doing business in Iran. We know Commerzbank is doing business. We know USB. Actually, these banks have all since pulled out. We are really not sure about Chinese companies doing business in Iran, and ditto for Rus-

sian companies, ditto for a whole variety of other states where there is much, much less transparency. And because of that lack of transparency, we tend to pay less attention to their transgressions, and that is not right.

So all I would encourage—and I have made this point in the newspapers as well—is that as we move forward in—rightly, I believe—tightening sanctions, in closing the loopholes in our own law about American subsidiaries, is that we pay close attention not just to the easy ones, the Europeans who are selling tankers, or even the South Koreans who are selling tankers, but that we also pay attention to countries like the United Arab Emirates, where most of the money that has been squeezed out of Iran has now gone, and other countries where there is far less transparency. I think that is a very important test, and it is a hard one.

The CHAIRMAN. Good point.

Anyone else? Mr. Kittrie?

Mr. KITTRIE. Yes. I would say, just to add to what Ms. Pletka said, we do know what Chinese companies are doing, and Chinese companies are not being helpful at all. During the week prior to the passage of the first resolution, Resolution 1737, in December of 2006, China's national offshore oil corporation signed a \$16-billion agreement to develop Iran's North Pars Oilfield.

We need to think about the fact that those deals fall smack within the Iran Sanctions Act criteria for sanctioning investments. One disincentive we might use to help influence China's approach would be for the executive branch to consider going ahead and imposing Iran Sanctions Act sanctions on these Chinese companies.

With respect to the bill before us, unilateral sanctions are indeed, as has been mentioned, almost inevitably less effective than multilateral sanctions. We do need to be pushing multilateral sanctions forward at the same time we push forward unilateral sanctions. However, contrary to what Mr. Gordon said, it seems to me that the weak multilateral sanctions imposed thus far in Iran by the Security Council are simply not up to the task of slowing Iran's nuclear program.

The calculus is not going to change unless we make it change, unless we make it clear to foreign countries and companies that the profits to be made in Iran from continuing to do business with Iran will be dwarfed by the profits they will lose in the United States from continuing to do business with Iran. We cannot allow our National security to be held hostage to the lowest common denominator of the U.N. Security Council. S. 970 would help return our fate to our own hands.

The CHAIRMAN. Generally, a response prompts a counter response. I see you raising your hand, Mr. Reinsch.

Mr. REINSCH. Well, I was not going to say anything, but I cannot let one comment that was made pass. I think Ms. Pletka's point about low-hanging fruit and lack of transparency is a good one, and it is an important one. I just urge the committee as it moves forward on this to also remember that, even when things appear to be transparent, they are not always.

Much of what we know about foreign investment in Iran is the product of very visible press conferences in which the deals like the one that Mr. Kittrie just referred to are announced with consider-

able fanfare. If you talk to people at the State Department, as I have, about this, there is a big difference between the announcement of a signing and the announcement of a deal and the actual transfer of any money.

First of all, a number of these deals are announced three or four times for a variety of purposes, even though it is the same deal. A number of them end up not being consummated and end up not having the transaction actually occur. One of the problems that you get into—and Mr. Kittrie, in his original testimony, alluded to naming and shaming—is we end up naming and shaming a lot of people who actually have not done anything because we do not have sophisticated enough techniques to figure out what is actually happening.

So I would urge the committee as it moves forward, to operate on the basis of very clear factual information about what is going on, and I encourage you to work with the State Department in that regard, because they have a lot of information. They may not want to share it with you, but they have a lot of information, and I would encourage you to try to extract it from them.

The CHAIRMAN. I thank you all very much. This bill clearly addresses one of the most important issues of our time, that is, nuclear proliferation in the world, especially in this case, Iran. You all are very thoughtful in your comments and your observations. Again, thank you for taking the time.

The hearing is adjourned.

[Whereupon, at 11:25 a.m., the hearing was concluded.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

---

Senate Finance Committee

“S970: The Iran Counter-Proliferation Act of 2007”

April 8, 2008

Testimony by Philip H. Gordon

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to testify today on the critical issue of U.S. efforts to prevent nuclear proliferation to Iran. An Iranian nuclear weapons capability could embolden Iran as a destabilizing regional actor, threaten U.S. interests in the region, and stimulate further nuclear proliferation throughout the Middle East – increasing the risk of nuclear war and terrorism. I therefore applaud Congress’s efforts to increase the costs on Iran for pursuing this course, in violation of four Chapter VII UN Security Council resolutions. Iran’s development of a nuclear enrichment capability will, in all honesty, be difficult to prevent. But I believe the only way to halt or even limit it involves presenting Iran with an enhanced set of incentives and disincentives to change its cost-benefit analysis of the issue. Some of the measures in the Iran Counter-Proliferation Act (S970) help to advance this goal in constructive ways. I do have reservations, however, about some aspects of the bill (addressed below) and would urge Congress to be particularly careful about measures that could divide the international community or lead to legal challenges from U.S. allies or partners. A major legal clash with allies – at the World Trade Organization or elsewhere – over efforts to contain Iran would divide the international community and undermine, rather than bolster, the recent progress made towards strengthening multilateral sanctions. We must keep in mind that isolating, and thereby influencing, Iran will require broadly supported international efforts.

### **Responding to Iran’s nuclear weapons program**

There can be little doubt that Iran is actively working toward a nuclear weapons capability, even if final decisions on whether to build an actual weapon may not have been made. In this sense the conclusion of the December 2007 National Intelligence Estimate (NIE) that Iran had “halted its nuclear weapons program” was highly misleading. By defining “nuclear weapons program” only in terms of weapons-design and covert uranium enrichment programs, the NIE gave the impression that Iran had ceased to move toward a nuclear weapons capability when in reality the international community’s greatest concern has been Iran’s declared uranium enrichment program. The production of fissile material – not weapons-design – is the most challenging part of the process of building a nuclear weapon. Even using its narrow definition of a nuclear weapons program, the NIE still reported that until just a few years ago (2003) Iran was secretly working on the military aspects of a nuclear weapons program in violation of its Nuclear Nonproliferation Treaty commitments, and that it could accumulate enough enriched uranium for a nuclear weapon within a few years.

Despite UN Security Council resolutions demanding that Iran suspend its uranium enrichment program because of its efforts to hide that program for nearly two decades, Iran continues to enrich uranium. Iran is operating a pilot-scale enrichment plant of some 3,000 P-1 centrifuges (an older, Pakistani model) at Natanz, which, if operated efficiently – no easy task – could generate enough highly enriched uranium (HEU) for a nuclear weapon in about a year. According to recent reports from the International Atomic Energy Agency (IAEA), Iran has also started operating 300 more efficient centrifuges at Natanz (possibly domestically produced IR2s), which could accelerate the process once enough of these centrifuges are installed. Iran is also building an industrial-scale enrichment facility of around 54,000 centrifuges, which, when completed, would be capable of producing enough HEU for several nuclear weapons within weeks. In addition, Iran is building a heavy-water nuclear reactor at Arak, which could give it another path to nuclear-weapons capability through plutonium reprocessing. The lack of transparency, the scale of the projects in the absence of a large-scale nuclear energy program, the willingness to absorb the costs of international isolation, and the historical insecurity that gives Iran a strong incentive to seek a nuclear deterrent all suggest that the Iranian enrichment program is not designed for civil purposes alone but rather to give Tehran a real nuclear weapons option.

Efforts to increase the price Iran must pay for pursuing this program – which is the worthy objective of \$970 – remain the best option, largely because all the other options are so bad. Acquiescing to Iran's activities without responding would tilt Iran's cost-benefit analysis of building a nuclear weapon in favor of doing so. It would suggest that Chapter VII UN Security Council resolutions are meaningless and undermine the value of international law. It would send a message to all potential nuclear proliferators that they may violate the NPT without consequences. The likely result – an overt Iranian nuclear weapons capability and further nuclear proliferation in the Middle East – would increase the prospect that a nuclear weapon will one day be used or that nuclear material or a weapon could fall into terrorists' hands.

The policy option at the other end of the spectrum – military force – is equally unpalatable. Targeted U.S. air strikes probably could destroy many of Iran's critical nuclear facilities and set back the program for a number of months or years. But U.S. intelligence about Iran is far from perfect, and even the known elements of the Iranian program are dispersed at multiple sites around the country, protected by extensive air defenses, often located near civilian areas, and sometimes buried under thirty feet of dirt and reinforced concrete. Air strikes against the nuclear program, therefore, would not be "surgical" but rather widespread, sustained, and likely to kill a number of Iranian civilians. Even more important, a military attack would also have the probable consequence of generating strong public support within Iran for an otherwise unpopular regime – and the Iranian population would then become even more determined to develop a nuclear weapons program, possibly even overtly. Finally, Iran would be certain to retaliate "asymmetrically" against U.S. interests, most likely through its Shiite partners in Iraq and Afghanistan. The costs of a U.S. attempt to thwart Iran's nuclear program with military force could thus be very high and ineffective.



Therefore the best approach to the Iranian nuclear issue remains one that uses all possible political, diplomatic, and economic leverage to convince the Iranian leadership that the costs of defying the international community are greater than the benefits of a nuclear-weapons capability. Iran's current president, Mahmoud Ahmadinejad, seems determined to pursue the nuclear course and is unlikely to be deterred through international diplomacy; some in Iran, like the leaders of the Iranian Revolutionary Guards Corps, may actually have an interest in confrontation with the West, which validates their position as protectors of the Iranian revolution. But Iran is a diverse, vibrant, and dynamic society, very different from Saddam Hussein's Iraq. While anti-Western conservatives currently dominate Iranian politics, public discontent with their leadership and the results of their confrontational policies could conceivably lead to significant political change and a more accommodating stance on the nuclear issue. Serious Western offers to respect Iranian sovereignty and security interests, guarantee its access to civil nuclear energy, and integrate Iran economically and politically in the international community to help it meet the needs of its growing youth population, combined with costly penalties for Iranian defiance, create the best prospects for stopping or containing the Iranian nuclear program.

#### **Pros and Cons of S970**

The merit of the Iran Counter-Proliferation Act is that it is designed to tighten U.S. sanctions on Iran for refusing reasonable compromises over the nuclear issue and to encourage other major international players to do the same. The bill recognizes the reality that only a broad set of diplomatic, political and economic measures – imposed by a wide coalition of states – has any hope of changing Iranian behavior.

Thus I support many of the measures in the bill, including calling on the United States to restrict Iran's ability to conduct international financial transactions; encouraging foreign governments to cease investment in Iran's energy sector and trade with Iran; closing the loophole that allows U.S. firms to do business in Iran via a foreign-based but U.S.-owned subsidiary; increasing funding for the Office of Terrorism and Financial Intelligence of the Department of the Treasury; encouraging U.S. states to divest investments from pension funds in companies that invest in Iran's energy sector; requiring that the Treasury Secretary report any foreign investments in Iran's energy sector and that the President determine whether these investments constitute offenses under the Iran Sanctions Act; calling for expansion of U.S. exchange programs with the people of Iran and additional news broadcasting into Iran; and providing additional funding to be used for the creation of a nuclear fuel bank to guarantee reliable access to nuclear fuel. I believe all of these targeted measures would constructively increase pressure on Iran and encourage political change there and that they would encourage other important international players to do so as well.

At the same time, I have concerns that some measures in the bill may be such blunt instruments that they risk undermining rather than contributing to the goal of increasing international pressure on Iran. The most important of these concern measures – such as the imposition of sanctions on U.S. subsidiaries of foreign companies – that could lead

the countries in which those companies are based to challenge the legislation at the WTO. As we have discovered over the past decade with various challenges to the Iran Sanctions Act, most countries, even among our closest allies, reject the extraterritorial application of U.S. sanctions and they are willing to act to defend the principle that countries may not impose their own foreign policy priorities on other countries by taking action against their firms. Thus any measure in S970 deemed to provide for mandatory secondary sanctions, especially if they limited the President's authority to waive those sanctions, could turn out to be counterproductive. As Deputy Secretary of Treasury Robert Kimmit said to Anti-Defamation League leaders in February 2008, we have learned over the years that sanctions "have their most comprehensive impact when applied cooperatively and collectively."

This is particularly true at a time when the international community has – for a range of reasons that include U.S. pressure but also growing concerns about the Iranian nuclear program and impatience with Tehran's refusal to cooperate – been acting to increase Iran's political and economic isolation. Since July 2006 the United Nations Security Council has passed, almost always unanimously, four Chapter VII resolutions on Iran, the first requiring Iran to suspend nuclear enrichment and the next three imposing sanctions for its unwillingness to do so. Those sanctions have been limited in scope but include bans on the supply of nuclear-related materials and technology; freezes on the assets of companies and individuals related to Iran's nuclear program (specifically named); calls for restraints on arms sales to Iran; bans on dealings with certain Iranian banks involved in proliferation or terrorism (Melli and Saderat); travel bans on certain Iranian officials; and the prohibition of the sale of certain dual-use items.

Bolstered by these UN resolutions, and dismayed by Iranian behavior – its refusal to cooperate on the nuclear issue and the provocations of President Ahmadinejad – a number of countries are taking action against Iran. European banks – including Deutsche Bank, HSBC, Commerzbank and BNP Paribas – have largely stopped doing business with Iran. New German export credit guarantees to Iran have fallen from \$3.3 billion in 2004 to \$732 million in 2007, and German exports to Iran fell by 18 percent in the first half of 2007. Major investments in the Iranian energy sector – such as those planned by France's Total, Spain's Repsol, and the Anglo-Dutch group Royal Dutch Shell – have been delayed repeatedly. Banks in Bahrain, the United Arab Emirates, and Dubai have also begun to limit business dealings with Iran and to stop issuing the letters of credit Iranian companies need to do business. In late 2007, the Financial Action Task Force (FATF), the world's main global organization to deal with money laundering and terrorist financing, confirmed the risk of involvement in proliferation finance represented by Iranian entities and issued guidance to its members on how to implement the financial provisions of the UN resolutions on Iran. These new constraints are having an effect on Iran's already troubled economy and particularly on its ability to make badly needed investments in its energy sector. It is true that in some cases Russian and Chinese firms are stepping in to invest in Iran when other firms step out. Yet Iran has signed only about \$20 billion of energy contracts with foreign companies since 2003, far less than it needs to develop its energy resources.

These positive trends should be reinforced by U.S. diplomatic pressure on other countries, reporting requirements that “name and shame” countries and companies that contribute to Iran’s proliferation activities, and efforts to promote U.S. divestment from Iran and companies that invest in Iran. But we should keep in mind that broad-based international sanctions are more effective than unilateral steps and that legislative as opposed to political efforts to influence other countries can backfire.

The value of some other measures in the bill can also be questioned.

*Russia Nuclear Cooperation.* The bill would prohibit a nuclear cooperation agreement with Russia under section 123 of the Atomic Energy Act unless the President could certify that Iran had ceased all nuclear enrichment-related activities or that Russia had suspended all nuclear assistance and transfers of advanced conventional weapons to Iran. While it makes sense to leverage a 123 agreement with Russia to press it to further isolate Iran, it would be a mistake to take away all the administration’s flexibility in this area. For example, under certain circumstances it might be appropriate to reach a 123 agreement with Russia even while Russia continues to cooperate with Iran over the Bushehr nuclear reactor. The Bush administration has already pointed to that cooperation as an example of how Iran can rely on foreign fuel supplies for energy purposes, and insisting that Russia renege on its agreements at Bushehr would substantiate Iran’s argument that it needs an autonomous enrichment program.

*World Bank Loans.* The bill would require the President to reduce U.S. contributions to the World Bank based on the amount the World Bank disburses to Iran. Especially as the World Bank has not made a new loan to Iran for over two years, such a broad sanction would have very little impact on Iran yet would set a bad precedent that other countries might use to promote their own foreign policy priorities.

*Iranian Revolutionary Guards Corps.* In October 2007, in part in response to pressure from Congress, the Bush administration designated the IRGC under Executive Order 13382 for its proliferation activities. It also designated the IRGC Quds Force a Specially Designated Global Terrorist Organization under Executive Order 13224. S970 calls on the administration to designate the entire IRGC a Specially Designated Terrorist Organization. This designation would have no further policy effect, but the act of deeming all the more than one hundred thousand members of the IRGC part of a terrorist organization might cause an unnecessarily nationalistic backlash in Iran, and inadvertently strengthen the regime.

*Banning all trade with Iran.* In an effort to show good will to the Iranian people, the United States in the 1990s agreed to end its total trade ban with Iran and allow the import of certain foodstuffs (mostly pistachios) and carpets. S970 proposes to re-impose the total trade ban with Iran. With U.S. imports from Iran amounting to less than \$175 million in 2007, this will not have a major impact on the overall Iranian economy yet would impact some Iranian farmers and textile workers. When considering marginal trade sanctions on Iran it is important to remember that energy production accounts for approximately 85 percent of Iranian exports and that high oil prices vastly limit the

relative importance of other trade. With Iran exporting 2.5 million barrels per day of oil, each \$10 per barrel rise in the price of oil provides Iran with over \$9 billion per year. With oil prices up nearly \$80 per barrel since 2000, Iran is earning more than \$72 billion per year more from oil exports than it did eight years ago.

In addition to these concerns, I believe S970 could be strengthened with elements to make clear not only that Iran must pay a price for its refusal to cooperate but that more flexibility on its part would be rewarded. Just as the bill proposes to increase IAEA funding for the creation of a nuclear fuel bank that would help assure countries like Iran that they would have reliable access to enriched uranium for nuclear energy reactors, it would do well to reiterate support for the measures in the August 2006 “EU3+3” (Britain, France, Germany, the United States, Russia and China) revised proposals to Iran. These include the reaffirmation of Iran’s right to develop nuclear energy for peaceful purposes in conformity with its NPT obligations, the commitment to give legally binding, multi-layered fuel assurance to Iran based on partnership in an international fuel facility in Russia; a buffer stock of at least five years of fuel, and reliable access to a potential international fuel bank.

I also believe Congress should express support for direct negotiations between the United States and Iran over the nuclear program – or any other issue. Making such talks conditional on Iran’s suspension of nuclear enrichment has not worked and is unlikely to work. The success of direct talks with Iran is hardly guaranteed either, but such talks should not be seen as a “concession” to Iran, nor would they constitute acceptance of its enrichment program. Any potential benefit to Iran would only come as a result of agreement at the talks, not in the form of the talks themselves.

Pressure from Congress can play a constructive role in making sure that foreign governments and companies uphold their responsibility to help contain the nuclear risk from Iran and in giving the administration leverage to help persuade them to do so. I believe that S970 adds to that pressure in some useful ways, but also that we must take great care not to provoke divisions within the international coalition that has been forming to contain Iran. I hope Members of Congress will keep that principle in mind as they consider how and when to take this bill forward.

Thank you for the opportunity to share my perspectives with you today.

**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**Hearing on S. 970, the Iran Counter-Proliferation Act of 2007  
April 8, 2008**

**Question for Philip Gordon from Senator Baucus**

**Question 1:**

**S. 970 would hold U.S. parent companies liable for actions of its foreign subsidiaries that violate U.S. sanctions laws.**

**A U.S. parent company would be liable even if its subsidiary was established in a country that did not impose sanctions on Iran.**

**In past instances where the United States has imposed sanctions on parent companies, countries in which the foreign subsidiaries operated passed “blocking statutes” that prohibited the subsidiaries from complying with U.S. sanctions laws.**

**Could the parent company liability provisions of S. 970 create a similar problem?**

I would defer to trade lawyers on how this issue could play out, but can say that countries around the world are extremely sensitive to U.S. efforts to apply domestic laws on subsidiaries based within their territory. If the United States sought to do so in the context of S970 one could expect a very similar reaction as in the past.

**Questions for Philip Gordon from Senator Bingaman**

**Question 1:**

**Mr. Chairman, S.970 prohibits the U.S. from entering into a “Section 123” nuclear cooperation agreement with Russia, absent a presidential certification that Russia has suspended all nuclear assistance to Iran and transfer of advanced conventional weapons and missiles to Iran.**

**Nuclear cooperation has been one of the few fruitful areas of U.S.-Russian relations in recent years. In 1992, the U.S. and Russia entered into an agreement suspending U.S. anti-dumping duties on Russian uranium. This was called the “Suspension Agreement.”**

**In 1993, the U.S. and Russia launched the “Megatons to Megawatts” program. Under this program, highly-enriched weapons uranium from Russia is “downblended,” or converted to low-enriched uranium, in Russia and sold by the Russian company OJSC Technobexport to the United States Enrichment Corporation for delivery to U.S. nuclear utilities. In 2007, this arrangement accounted for approximately 37% of low-enriched uranium sold in the U.S. market.**

**This arrangement is an important part of our efforts to ensure that fissile materials are accounted for and are secure – and will not fall into the hands of terrorists.**

**In February of this year, we amended that agreement to allow Russia to sell lowenriched uranium – as opposed to downblended uranium sold under the “Megatons to Megawatts” program – directly to U.S. utilities for the first time. The amended Suspension Agreement is an important milestone on the road to a full-fledged Sec. 123 agreement. At last year’s Kennebunkport Summit, Presidents Bush and Putin agreed to move forward on a Section 123 agreement.**

**I am gravely concerned that passage of S.970 jeopardizes this important progress on U.S.-Russia nuclear cooperation. In your view:**

**• If this legislation were to pass with the Sec. 123 language intact, how would it affect U.S. nuclear cooperation with Russia?**

If S970 passed with the Sec. 123 language intact it would significantly curtail U.S. nuclear cooperation with Russia. The language in the current bill would prevent a 123 agreement unless Iran suspended and “irreversibly dismantled” all enrichment and reprocessing-related facilities and/or unless Russia ceased all cooperation with Iran on nuclear issues and ceased all transfer of “advanced conventional weapons and missiles.” Neither of these are likely to happen in the near term – even under the pressure of this bill – which means that there would be no 123 agreement. Without such an agreement, Russia cannot store nuclear fuel originating in the United States (one of the primary attractions of a 123 agreement) or purchase U.S. civil nuclear commodities.

**• Would the Sec. 123 provisions make Russia more inclined or less inclined to cooperate with the U.S. on a multilateral effort vis-à-vis Iran?**

Although Russia is interested in a 123 agreement with the United States, it is unlikely to increase its cooperation with the United States on a multilateral effort vis-à-vis Iran just to get one. If a 123 agreement were in place, the United States could still use the leverage of the actual nuclear deals made legally possible by that agreement to try to persuade Russia to be more cooperative on Iran.

**• Does the danger that al-Qaida and other non-state actors might obtain fissile materials, with Russia the likely source, outweigh the danger of a nuclear Iran?**

Both of these prospects would pose serious dangers for the United States and require concerted efforts to prevent them. Whereas an Iran with a civil nuclear energy program might not develop a nuclear weapon, and even an Iran with a nuclear weapon could likely be deterred, the possession of fissile materials by al Qaida or other terrorist groups would pose a certain and immediate threat to the United States. Therefore the United States must spare no effort to make Russia’s nuclear arsenal – including nuclear materials – more secure.

**Question 2:**

**Mr. Chairman, as you know, Europe is increasingly dependent on Russian hydrocarbons, especially natural gas.**

**Russia has been aggressively pursuing “energy diplomacy,” by, for example, cutting off gas supplies to key transit countries. Russia also proposes to build the “North Stream” pipeline under the Baltic Sea, directly from Russia to Germany, bypassing transit countries such as Poland. Russia has also proposed to build the “South Stream” pipeline that would deliver Russian natural gas to Italy.**

**The Nabucco pipeline project is an alternative to the South Stream pipeline. Nabucco would deliver natural gas from Turkey to Austria, bypassing Russia. Many experts say that it is economically viable only if feedstock comes from the Caspian littoral states (i.e., Azerbaijan, Kazakhstan, and Turkmenistan), Iraq, and possibly Iran.**

**In your view:**

- Is it in the U.S. national interest to do everything we can to encourage our European allies to diversify their supplies of energy?**

Europe’s dependence on Russian energy supplies – and in particular natural gas, which unlike oil can not be easily provided from alternative sources – gives Russia excessive political leverage over our key allies. Therefore the United States must do everything possible to help Europe diversify its energy supplies – including by supporting pipelines that bring Central Asian gas to Europe.

- Would S.970 make the Nabucco pipeline economically unviable?**

The economic viability of the Nabucco pipeline does not require gas supplied from Iran. The gas for Nabucco would come primarily from Azerbaijan and Turkmenistan. Clearly, importing Iranian gas would help Europeans lessen their dependence on Russia and it would also help Nabucco compete with alternative pipelines such as South Stream (across the Black Sea from Russia) but Iranian gas is not required to make Nabucco economically viable.

**Written Statement****Orde F. Kittrie, Esq.****Associate Professor of Law, Arizona State University  
& Visiting Associate Professor of Law, University of Maryland****Before the United States Senate Committee on Finance****Regarding****S. 970, the Iran Counter-Proliferation Act of 2007****April 8, 2008**

Chairman Baucus, Ranking Member Grassley, and distinguished members of the Committee, thank you for the opportunity to speak with you about S. 970, the Iran Counter-Proliferation Act of 2007. In this testimony I will discuss the following: the grave threat posed to the United States by Iran's nuclear program, the current status of Iran's nuclear program, two examples of how strong sanctions have previously stopped illicit nuclear weapons programs, Iran's vulnerability to sanctions and the current status of those sanctions, and how S. 970 can contribute to increasing the prospects for preventing Iran from acquiring nuclear weapons.

**I. The Grave Threat Posed to the United States by Iran's Nuclear Program**

Iran's nuclear program is a grave security concern. It is also a grave economic concern. Armed only with boxcutters, the nineteen al Qaeda hijackers on September 11, 2001 killed almost 3,000 people and caused tens of billions of dollars in damage to New York City, the Pentagon, and the global economy.<sup>1</sup> This toll would be dwarfed by a "nuclear 9/11." Detonation of a single small, crude nuclear weapon in a city such as New York or Washington, DC could kill more than 500,000 people and cause over one trillion dollars in damage.<sup>2</sup> Such a "nuclear 9/11" attack on America within the next decade is "more likely than not" according to nuclear nonproliferation experts including Graham Allison<sup>3</sup> and Robert Gallucci.<sup>4</sup> The odds of such a devastating "nuclear 9/11" attack on Tel Aviv may be as high or higher.

<sup>1</sup> See, e.g., Charles Meade & Roger C. Molander, Rand Ctr. for Terrorism Risk Mgmt. Policy, CONSIDERING THE EFFECTS OF A CATASTROPHIC TERRORIST ATTACK xvi,6 (2006).

<sup>2</sup> See, e.g., Matthew Bunn, Anthony Wier & John P. Holdren, Nuclear Threat Initiative, CONTROLLING NUCLEAR WARHEADS AND MATERIALS: A REPORT CARD AND ACTION PLAN 15-16, 18 (2003).

<sup>3</sup> Graham Allison, NUCLEAR TERRORISM: THE ULTIMATE PREVENTABLE CATASTROPHE 15 (2004). Allison is former dean of Harvard's Kennedy School of Government and served as Assistant Secretary of Defense for Policy and Plans during the Clinton Administration.

<sup>4</sup> Robert L. Gallucci, *Averting Nuclear Catastrophe: Contemplating Extreme Responses to U.S. Vulnerability*, ANNALS AM. ACAD. POL. & SOC. SCI., Sept. 2006, at 51, 52. Gallucci is current dean of Georgetown University's School of



Where would such a bomb most likely come from? Iran. The Iranian regime's apocalyptic messianism and exaltation of martyrdom may make it impossible to deter Iran from using, or enabling its terrorist proxies to use, nuclear weapons to achieve its avowed aims of destroying the United States and Israel.<sup>5</sup> While mutual deterrence kept the United States and the Soviet Union from attacking each other during the Cold War, significant elements of Iran's leadership may be undeterrable.<sup>6</sup> There would also be a considerable risk of rogue elements within Iran taking it upon themselves to transfer nuclear arms to Iran's terrorist allies. As we saw with Pakistan's A.Q. Khan, who proliferated under the comparatively secular and responsible Musharraf government, one key rogue figure can be sufficient to share an insecure country's nuclear technology with others.

However, even before Iran launches a nuclear attack, and indeed even if it never does, an Iranian nuclear arsenal will make Iran far more dangerous than it is today. The current Iranian government is already the world's leading state sponsor of terrorism.<sup>7</sup> An Iranian nuclear arsenal would serve Iran as a "nuclear umbrella," making countries victimized by Iranian-sponsored terrorism even more reluctant to retaliate against Iran. This would likely make Iran an even more self-confident sponsor of terrorism.

Another danger of Iran acquiring a nuclear arsenal is that many of its neighbors in the Middle East would feel compelled to follow suit. The fear that an Iranian nuclear arsenal will unleash a cascade of proliferation across the Middle East has been heightened by several Arab states beginning in response to accelerate their efforts to acquire nuclear technology.<sup>8</sup> An editorial in the Egyptian government daily newspaper *Al-Ahram* put it as follows: "Iran's nuclear capability . . . will spur many powers in the

---

Foreign Service and served as Assistant Secretary of State for Political-Military Affairs during the Clinton Administration.

<sup>5</sup> See *Iranian Leader: Wipe Out Israel*, CNN.com, Oct. 27, 2005 (quoting Iranian President Mahmoud Ahmadinejad as saying, "God willing, with the force of God behind it, we shall soon experience a world without the United States and Zionism" and Israel "must be wiped out from the map of the world."); *Iran: Tehran's Nuclear Recklessness and the U.S. Response, Hearing before the Subcomm. on Fed. Fin. Mgmt., Gov't Info & Int'l Sec. of the S. Comm. on Homeland Sec. & Governmental Affairs*, 109th Cong. (2005) (testimony of former CIA Director R. James Woolsey) (including the following quote from Hassan Abbassi, chief strategist for Iranian President Ahmadinejad: "We have a strategy drawn up for the destruction of Anglo-Saxon civilization."). Some analysts argue that the international community should not be overly concerned by Ahmadinejad's statements because he does not fully control Iran's nuclear policy. In addition to the Presidency, the major power hubs in Iran are the Supreme Leader, Ayatollah Khamenei, and the Expediency Council, currently chaired by former Iranian President Rafsanjani. Former Spanish Prime Minister José María Aznar has revealed that Khamenei told him in a private meeting that "setting Israel on fire" was a preeminent Iranian goal. Khamenei explained to Aznar "why Iran must declare war on Israel and the United States until they are completely destroyed." Verter, *Aznar: Khamenei Said in 2001 Iran Aimed to 'Set Israel Alight'*, Haaretz, Mar. 15, 2006. Rafsanjani, the chair of the other power hub in Iran, said the following in a speech at Tehran University: "the use of even one nuclear bomb inside Israel will destroy everything. However, it will only harm the Islamic world. It is not irrational to contemplate such an eventuality." *Iran: Rafsanjani warns of high cost of US support for Israel*, BBC Worldwide Monitoring, Dec. 15, 2001.

<sup>6</sup> See, e.g., Bernard Lewis, *August 22: Does Iran Have Something in Store?*, WALL ST. J., Aug. 8, 2006, at A10 (in which Lewis, a leading expert on Islam, describes "the apocalyptic worldview of Iran's present rulers" and asserts that "[f]or people with this mindset, MAD [mutual assured destruction] is not a constraint, it is an inducement").

<sup>7</sup> See, e.g., U.S. DEPARTMENT OF STATE: COUNTRY REPORTS ON TERRORISM: 2006 (finding that "Iran remained the most active state sponsor of terrorism.").

<sup>8</sup> See, e.g., Richard Beeston, *Six Arab States Join Rush to Go Nuclear*, TIMES (London), Nov. 4, 2006.

region to develop a nuclear program.”<sup>9</sup> Such a cascade of proliferation in the Middle East would likely lead to the worldwide collapse of the already tottering nuclear non-proliferation treaty (NPT) regime.<sup>10</sup> In addition, the proliferation of nuclear weapons in the Middle East tinderbox, with its border disputes, religious fanaticism, ethnic hatreds, unstable governments, terrorist groups, and tendency for conflicts to spiral out of control, seems likely to result in a nuclear war that would be exceedingly costly in both human life and economic terms.

## II. Current Status of Iran’s Nuclear Program

The international community has thus far responded with remarkable passivity to the grave dangers posed by the Iranian nuclear program. As a result, there is at present nothing but time standing between the Iranian regime and a nuclear arsenal.

Two weeks ago, I addressed a seminar in Vienna, Austria at which leading nuclear nonproliferation experts and senior representatives to the International Atomic Energy Agency from countries including the United States, Russia, China, the United Kingdom, Germany, and Sweden came together, under the aegis of two non-governmental organizations, for a discussion of possible compromise resolutions to the dispute over Iran’s nuclear program. Some of the proposals presented, such as one developed by two experts from MIT, would involve far-reaching concessions to Iran. The Iranians were also invited to participate in the seminar. They sent two junior staffers who simply took notes and said nothing. There seemed to me to be a very grim sense among the Western (and even the Russian) participants, a sense that it is clear sailing ahead for the Iranian nuclear program, with the rest of the world having insufficient leverage to get the Iranians to stop their prohibited enrichment program or even perhaps to get the Iranians to agree to a proposal, such as some of those floated in Vienna, that would involve far-reaching concessions to Iran and relatively few concessions by Iran.

This grim sense is borne out by both developments on the ground in Iran and Iranian President Ahmedinejad’s consistently uncompromising rhetoric.

The United Nations Security Council, in three Security Council Resolutions including Resolution 1737 of December 2006, has issued an order, binding under international law, that “Iran shall without further delay suspend” various “proliferation sensitive nuclear activities” including “all enrichment-related and reprocessing activities, including research and development” and “work on all heavy water-related projects,

<sup>9</sup> H. Avraham, Middle Eastern Media Research Institute, *Inquiry & Analysis Series – No. 277, Arab Media Reactions to Iran’s Nuclear Project*, May 23, 2006 (quoting editorial in AL-AHRAM, Apr. 16, 2006); see also Roe Nahmias, *Mubarak Hints: We’ll Develop Nukes*, ynetnews.com, Jan. 5, 2007 (stating that Egyptian President Mubarak hinted that if Iran proceeds to attain nuclear weapons, Egypt will follow suit).

<sup>10</sup> The U.N. Secretary-General’s High-Level Panel on Threats, Challenges and Change warned of “the erosion and possible collapse of the whole [nuclear nonproliferation] Treaty regime,” explaining “We are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation.” The Secretary-General, *Report of the Secretary-General’s High-Level Panel on Threats, Challenges and Change*, at 39-40, U.N. doc. A/59/565 (Dec. 1, 2004).

including the construction of a research reactor moderated by heavy water.”<sup>11</sup> Rather than comply with this legally binding Security Council mandate to cease the production of nuclear fuel by enrichment and other methods, Iran has openly and admittedly accelerated its enrichment activities. On April 9, 2007, exactly one year ago tomorrow, Iranian President Ahmadinejad announced, in a ceremony accompanied by chants of “death to America,” that Iran had made a dramatic leap forward in its nuclear program by beginning to enrich uranium on an industrial scale.<sup>12</sup> In November 2007, Ahmadinejad announced that Iran was operating 3,000 uranium-enriching centrifuges.<sup>13</sup> Both steps are explicitly prohibited by Security Council Resolution 1737. In recent days, Iran has reportedly responded to Security Council Resolution 1803 of March 3, 2008 – the latest reminder from the Council of Iran’s legal obligation to suspend all enrichment related activities – with the installation of 300 additional uranium-enriching centrifuges, including some that are more advanced than those Iran already had in operation.<sup>14</sup> The additional centrifuges were reportedly installed to comply with a directive from President Ahmadinejad that a significant nuclear achievement be displayed on April 8, today, a date Iran has marked as National Nuclear Technology Day.<sup>15</sup>

As Iran’s enrichment-related and other nuclear activities have progressed, President Ahmadinejad and other Iranian officials have consistently declared that they are not interested in negotiations over their nuclear activities. For example, less than a week ago, President Ahmadinejad said that he would reject any new incentives offered by the international community in return for suspending uranium enrichment. Ahmadinejad was quoted as telling Japan’s Kyodo News Agency: “This is a non-negotiable subject. Iran is a nuclear country and has no reason to give up the technology.”<sup>16</sup>

We all know that the National Intelligence Estimate (NIE) in December 2007 concluded that Iran had halted nuclear weaponization research in 2003 and probably had not restarted it as of the middle of 2007. For the following reasons, that NIE conclusion should give us little comfort and must not dissuade us from ramping up sanctions pressure on Iran:

- Leading U.S. intelligence officials have recently been stepping back from that conclusion. For example, CIA Director Michael V. Hayden said on March 30: “Why would the Iranians be willing to pay the international tariff they appear to be willing to pay for what they are doing now if they did not have, at a minimum . . . the desire to keep the option open to develop a nuclear weapon and, perhaps even more so, that they have already decided to do that?”<sup>17</sup> Director of National Intelligence Michael McConnell testified on February 5 before the Senate Select Committee on Intelligence that Iran could have restarted work on a nuclear

<sup>11</sup> S.C. Res. 1737, U.N. Doc. S/RES/1737 (Dec. 3, 2006).

<sup>12</sup> Robert Tait & Julian Borger, *Iran Raises Stakes with Claim of Nuclear Leap*, Guardian (London), April 10, 2007, at 1; Nazila Fathi, *Iran Says It Can Enrich Uranium on an Industrial Scale*, N.Y. TIMES, April 10, 2007, at A3.

<sup>13</sup> Keith Bradsher, *China Urges Iran ‘Respond Positively’ on Arms*, N.Y. Times, Nov. 9, 2007, at A16.

<sup>14</sup> Mark Heinrich, *Iran Installs Advanced Nuclear Centrifuges*, Reuters, April 4, 2008.

<sup>15</sup> Mark Heinrich, *Iran Installs Advanced Nuclear Centrifuges*, Reuters, April 4, 2008.

<sup>16</sup> *Iran Nuclear Drive ‘Non-Negotiable,’* IRNA, Apr. 4, 2008.

<sup>17</sup> Greg Miller, *CIA Chief Says Iran Still Pursuing Nuclear Bomb; Hayden Asserts that Contrary to a Report Last Year, Tehran Hasn’t Given Up its Effort*, L.A. TIMES, March 31, 2008, at A3.

warhead without U.S. intelligence officials being aware of it, testifying of Iran's nuclear weapons design program that "We assess with moderate confidence that Tehran had not restarted these activities as of mid-2007, but since they comprised an unannounced secret effort which Iran attempted to hide, we do not know if these activities have been restarted."<sup>18</sup> McConnell also said of the NIE during his testimony that, "In retrospect, as I mentioned, I would do some things differently."<sup>19</sup> On February 26, McConnell told a radio interviewer, "Our estimate is they intend to have a nuclear weapon."<sup>20</sup>

- Our leading European allies assert that Iran intends to acquire nuclear weapons. For example, after the NIE was issued, France's President, Nicolas Sarkozy, said, "Notwithstanding the latest elements, everyone is fully conscious of the fact that there is a will among the Iranian leaders to obtain nuclear weapons." "I don't see what we should renounce sanctions," Sarkozy added. "What made Iran budge so far has been sanctions and firmness."<sup>21</sup> Britain's Ambassador to the United Nations stated in February that "the NIE gave a rather, if I may put it this way, some false reassurance about Iranian intentions."<sup>22</sup>
- While designing and manufacturing a warhead is obviously a critical element of developing a nuclear weapon, it is also the least technically difficult and least time-consuming of the three critical elements. Iran is openly proceeding with the other two critical elements: producing fissile material (enriched uranium or plutonium) to fuel a bomb and producing a delivery system (such as a missile warhead). Director of National Intelligence Michael McConnell testified in February that nuclear weapons design is "probably the least significant part" of Iran's nuclear weapons program<sup>23</sup> and that Iran could "probably" produce enough fissile material for a nuclear weapon by as early as 2010.<sup>24</sup> Iran's missile program is sufficiently advanced that its Shihab missiles are already capable of striking Europe.<sup>25</sup> Even if the NIE was correct in its assessment that Iran halted its weaponization program in 2003 and has not resumed it, this would have relatively little impact on the length of time it would take Iran to field a nuclear weapon once it has produced fissile material and a delivery system. Assuming Iran had not already accomplished most of the steps needed for weaponization by the time it took a break in 2003, it would still take less than a year – based on the plans Iran is known to possess – to assemble a workable bomb, fuel it with fissile material, and mount it on a delivery system.

<sup>18</sup> J. Michael McConnell, *Statement for the Record, Annual Threat Assessment of the Director of National Intelligence for the Senate Select Committee on Intelligence*, Feb. 5, 2008.

<sup>19</sup> Mark Mazzetti, *Intelligence Chief Says Al Qaeda Improves Ability to Strike in U.S.*, N.Y. TIMES, Feb. 6, 2008, at A1.

<sup>20</sup> William J. Broad and David E. Sanger, *Vienna Meeting on Arms Data Reignites Iran Nuclear Debate*, N.Y. TIMES, March 3, 2008, at A1.

<sup>21</sup> Katrin Bennhold, *Despite Report, France and Germany Keep Pressure on Iran*, N.Y. TIMES, Dec. 7, 2007, at A6.

<sup>22</sup> *U.S. Intelligence Report Complicates Iran Debate*, National Public Radio Weekend Edition, February 9, 2008.

<sup>23</sup> Mark Mazzetti, *Intelligence Chief Says Al Qaeda Improves Ability to Strike in U.S.*, N.Y. TIMES, Feb. 6, 2008, at A1.

<sup>24</sup> J. Michael McConnell, *Statement for the Record, Annual Threat Assessment of the Director of National Intelligence for the Senate Select Committee on Intelligence*, Feb. 5, 2008.

<sup>25</sup> See, e.g., William J. Broad and David E. Sanger, *Vienna Meeting on Arms Data Reignites Iran Nuclear Debate*, N.Y. TIMES, March 3, 2008, at A1.

- The February 22, 2008 IAEA report on Iran included information about Iranian explosives testing and development activities “which the Agency believes would be relevant to nuclear weapon R&D” and Iranian work on modifications to the Shihab-3 missile which would make it “quite likely to be able to accommodate a nuclear device.”<sup>26</sup> The IAEA report urged Iran to be more forthcoming in response to this information, which the report said was “a matter of serious concern and critical to an assessment of a possible military dimension to Iran’s nuclear programme.”<sup>27</sup>
- On February 25, IAEA Deputy Director Olli Heinonen presented to diplomats evidence of sophisticated research by Iran that Heinonen said was “not consistent with any application other than the development of a nuclear weapon.”<sup>28</sup> The evidence, which includes a video showing work done on designing a nuclear warhead capable of fitting atop Iran’s Shihab-3 missile,<sup>29</sup> suggests that Iran’s nuclear weaponization work continued for at least some time after the NIE said it was suspended.<sup>30</sup>

### III. Examples of Strong Sanctions Stopping Illicit Nuclear Weapons Programs

The sanctions imposed on Iran thus far – including by the United Nations Security Council, the European Union and the United States – have obviously thus far failed to dissuade Iran from continuing to pursue its nuclear program. It could be tempting to conclude from this experience that sanctions can under no circumstances succeed in stopping Iran’s nuclear weapons program. Such a conclusion would be both unfortunate and incorrect.

The international community has learned in recent years that strong sanctions can stop both illicit nuclear weapons programs and terrorism. For example, it was discovered, in the wake of the U.S. occupation of Iraq, that strong U.N. Security Council sanctions had destroyed Iraq’s nuclear weapons program and succeeded in preventing Saddam Hussein from restarting it between the Gulf War in 1991 and the coalition occupation of Iraq in 2003.<sup>31</sup> The sanctions helped discourage Saddam from rebuilding his nuclear weapons program, contained his ability to rebuild it by blocking the import of key materials and technologies, and provided the UN with critical leverage to ensure Iraqi

<sup>26</sup> Int’l Atomic Energy Agency, *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006) and 1747 (2007) in the Islamic Republic of Iran*, Report by the Director General, IAEA Doc. GOV/2008/4 (Feb. 22, 2008).

<sup>27</sup> *Id.*

<sup>28</sup> William J. Broad and David E. Sanger, *Vienna Meeting on Arms Data Reignites Iran Nuclear Debate*, N.Y. TIMES, March 3, 2008, at A1.

<sup>29</sup> William J. Broad and David E. Sanger, *Vienna Meeting on Arms Data Reignites Iran Nuclear Debate*, N.Y. TIMES, March 3, 2008, at A1.

<sup>30</sup> Joby Warrick and Colum Lynch, *U.N. Says Iran May Not Have Come Clean on Nuclear Past*, WASH. POST, March 2, 2008, at A16.

<sup>31</sup> See Central Intelligence Agency, COMPREHENSIVE REPORT OF THE SPECIAL ADVISOR TO THE DCI ON IRAQ’S WEAPONS OF MASS DESTRUCTION (Sept. 30, 2004 and March 2005 addenda); George A. Lopez & David Cortright, *Containing Iraq: Sanctions Worked*, FOREIGN AFF., July/Aug. 2004.

cooperation with UN inspections and monitoring.<sup>32</sup> Rolf Ekeus, chief UN weapons inspector in Iraq from 1991 to 1997, put it as follows: “Keeping the sanctions was the stick, and the carrot was that if Iraq cooperated with the elimination of its weapons of mass destruction, the Security Council would lift the sanctions. Sanctions were the backing for the inspections, and they were what sustained my operation almost for the whole time.”<sup>33</sup>

Strong UN Security Council sanctions also induced Libya’s government, a regime that had become synonymous with international terrorism, to forsake terrorism and completely and verifiably relinquish its nuclear, chemical, and biological weapons programs. Libya ceased its support for terrorism following the Security Council’s imposition on it of strong sanctions in 1992 and 1993.<sup>34</sup> In exchange for removal of the Security Council sanctions, Libya, in August 2003, formally accepted responsibility for the bombing of Pan Am Flight 103 and paid \$2.7 billion in compensation to its victims.<sup>35</sup> In addition, Libya announced on December 19, 2003, that it had decided “to get rid of [weapons of mass destruction] materials, equipment and programs, and to become totally free of internationally banned weapons.”<sup>36</sup> Libya proceeded to allow a team of British and American government experts to enter the country and completely dismantle its WMD infrastructure by April 2004.<sup>37</sup>

The sanctions on Libya both contained Qaddafi’s ability to develop WMD and ultimately coerced Qaddafi, including by threatening his grip on Libya. The sanctions’ impact on Libya’s ability to purchase replacement parts for its most sophisticated machinery crippled the Libyan air force<sup>38</sup> and eventually ground down Libya’s petroleum extraction industry.<sup>39</sup> Production by Libya’s oil industry declined from a peak of 3.3 million barrels a day in the late 1970s to 1.1 million in 1999.<sup>40</sup> The World Bank estimated that the UN sanctions cost Libya eighteen billion dollars in oil revenue,<sup>41</sup> and during this period the Libyan economy entered a long recession, resulting in thirty-percent unemployment and a fifty-percent inflation rate.<sup>42</sup> The Qaddafi regime, which “depended for its survival on buying the population’s acquiescence,” became the target of demonstrations, “at least two military coup attempts and an Islamic insurgency.”<sup>43</sup> As with Iraq, the sanctions also reduced Libya’s ability to develop WMD, including by

<sup>32</sup> George A. Lopez & David Cortright, *Containing Iraq: Sanctions Worked*, FOREIGN AFF. (July/August 2004).

<sup>33</sup> *Id.* (quoting Rolf Ekeus).

<sup>34</sup> Bruce W. Jentleson and Christopher A. Whytock, *Who “Won” Libya?*, 30 INT’L SECURITY 47, 68 (Winter 05/06).

<sup>35</sup> Felicity Barringer, *Libya Admits Culpability In Crash of Pan Am Plane*, N.Y. TIMES, Aug. 16, 2003, at A6.

<sup>36</sup> *Libyan Call Against Arms*, N.Y. TIMES, Dec. 20, 2003, at A10 (text of Libyan government statement).

<sup>37</sup> Judith Miller, *Gadhafi’s Leap of Faith*, WALL ST. J., May 17, 2006, at A18.

<sup>38</sup> Stephen D. Collins, *Dissuading State Support of Terrorism: Strikes or Sanctions? (An Analysis of Dissuasion Measures Employed Against Libya)*, 27 Stud. Conflict & Terrorism 11 (2004).

<sup>39</sup> Milton Viorst, *The Colonel in His Labyrinth*, FOREIGN AFF., Mar.-Apr. 1999, at 71–72 (quoting Hammouda el-Aswad, head of Libya’s National Oil Corporation).

<sup>40</sup> Patrick E. Tyler, *Libyan Stagnation a Big Factor in Qaddafi Surprise*, N.Y. Times, Jan. 8, 2004, at A3; Viorst, *supra* note 39, at 71–72 (quoting Hammouda el-Aswad, head of Libya’s National Oil Corporation).

<sup>41</sup> Collins, *supra* note 38, at 12.

<sup>42</sup> *Id.*

<sup>43</sup> Ray Takeyh, *The Rogue Who Came in from the Cold*, FOREIGN AFF., May/June 2001, at 65.

making the process more time-consuming and forcing Libya to import “shoddy merchandise at exorbitant prices.”<sup>44</sup>

#### IV. The Current Sanctions on Iran

The sanctions imposed on Iran by the international community thus far are much weaker than the sanctions which stopped the Iraqi and Libyan nuclear weapons programs. Security Council Resolution 687 of April 1991 imposed comprehensive economic sanctions on Iraq. Security Council Resolutions 731 and 748 of 1992 and Resolution 883 of 1993 imposed with respect to Libya mandatory sanctions including a ban on flights destined for or originating in Libya; a ban on the supply of aircraft, aircraft parts, or servicing to Libya; an arms embargo; a freeze on various Libyan assets abroad; and a prohibition on the export to Libya of oil pumping, transport, and refining equipment. In contrast, the mandatory sanctions imposed with respect to Iran by Security Council Resolutions 1737, 1747, and 1803 include merely 1) restrictions on the export to Iran of certain specified nuclear and ballistic missile items, materials, equipment and technology; 2) a freeze of overseas assets of various named Iranian officials and institutions; 3) a ban on the export of arms by Iran; and 4) a ban on overseas travel of a handful of Iranian officials.

Due to its ideology, the value to the Iranian regime of engaging in nuclear proliferation and sponsoring terrorism is particularly high. Yet, the price the international community has exacted from the Iranian regime for its violations has thus far been remarkably low. Security Council Resolutions 1737, 1747, and 1803 are too weak to coerce Iran into compliance, contain Iran’s ability to advance its nuclear weapons program, or deter other states from following Iran’s lead and developing their own nuclear weapons program. This is unfortunate, because Iran’s heavy dependence on foreign trade leaves it highly vulnerable to strong economic sanctions. For example, Iran depends on other countries to refine forty percent of the gasoline it needs for internal consumption.<sup>45</sup> Notwithstanding its oil wealth, Iran’s economy has been so mismanaged that the living standard of the average Iranian today is lower than it was at the time of the Islamic Revolution in 1979.<sup>46</sup> Inflation in Iran is at nineteen percent and over twenty percent of Iranian young people are unemployed.<sup>47</sup> Many Iranians have strongly criticized the Iranian government for endangering its economy and international relationships over the nuclear issue, and sanctions-induced further weakening of the Iranian economy could strengthen the hands of these opposition figures.

Why are the Security Council sanctions on Iran so weak? In considerable part because Russia and China, which have vetoes over Security Council sanctions, are prioritizing the short-term profits to be gained from business as usual over the long-term security to be gained by forcing Iran to stop before it succeeds in developing nuclear

<sup>44</sup> Judith Miller, *Gadhafi’s Leap of Faith*, Wall St. J., May 17, 2006, at A18.

<sup>45</sup> Bret Stephens, *How to Stop Iran (Without Firing a Shot)*, Wall St. J., May 16, 2006, at A15.

<sup>46</sup> Bernard Gwertzman, Council on Foreign Relations, *Takeyh: Iran’s Populace Largely Opposes Nuclear Program*, Mar. 2, 2005, <http://www.cfr.org/publication/7885/takeyh.html>.

<sup>47</sup> *Iran’s Bleak Economic Picture*, VOA News, April 2, 2008.

weapons. Indeed, the weakness of the sanctions imposed by the Security Council stands in stark contrast to major Russian and Chinese transactions with Iran that were unaffected by the sanctions and thus represent leverage lost. For example, Russia was, at the very time of the vote on Resolution 1737, in the process of delivering to Iran 29 Tor-M1 anti-aircraft missile systems purchased by Iran for \$1.4 billion dollars.<sup>48</sup> The anti-aircraft systems are, by the way, being stationed around Iran's nuclear sites.<sup>49</sup> The Bushehr nuclear reactor which Russia is building in Iran and was exempted from the sanctions is an \$800 million project.<sup>50</sup> In addition, during the week prior to the passage of Resolution 1737, China's national oil corporation signed a \$16 billion agreement to develop Iranian gas fields.<sup>51</sup>

In the months since passage of Resolution 1737, Russia and China have consistently worked to both delay and water down additional sanctions. The European Union has played a more constructive role, both at the Security Council and in imposing EU sanctions that are somewhat broader than those imposed by the Council. However, the EU could do much more. If the EU, which supplies one-third of Iran's imports (including a high proportion of Iran's sophisticated machinery needs),<sup>52</sup> were to follow the US lead and impose a nearly comprehensive embargo on Iran, it might quickly succeed in coercing Iran to cease its nuclear weapons program. But there is no sign that the EU plans to impose such vigorous additional sanctions against Iran.

#### V. How S. 970 Can Help Prevent Iran from Acquiring Nuclear Weapons

S. 970 can contribute to increasing leverage over Iran and thus improving the prospects for preventing Iran from acquiring nuclear weapons. S. 970 would tighten U.S. sanctions against Iran. S. 970 would also encourage other countries and businesses to tighten their sanctions against Iran. Sanctions, including S. 970, are not a substitute for diplomacy. Rather, they are a tool to increase leverage over Iran in a situation where the leverage is currently clearly insufficient to convince Iran to step back from the nuclear brink. There are two types of leverage in international relations: carrots and sticks. In June 2006, the so-called "Permanent Five Plus 1" (the U.S., Russia, China, France, Britain, and Germany) offered Iran a generous package of incentives if it were to permanently and verifiably curb its nuclear program.<sup>53</sup> Security Council Resolution 1803 of March 2008 confirmed that the June 2006 offer still stands. In conjunction with the June 2006 offer, Iran was also reportedly threatened with various sanctions if it did not agree to curb its nuclear program.<sup>54</sup> Despite Iran's failure to negotiate seriously and notwithstanding Iran's persistence with its nuclear program in defiance of international

<sup>48</sup> *Russian Anti-aircraft Weapons Sales to Syria, Iran on Schedule*, AGENCE FRANCE PRESS, Jan. 2, 2007.

<sup>49</sup> *Id.*

<sup>50</sup> Colum Lynch, *Sanctions on Iran Approved by U.N.*, WASH. POST, Dec. 24, 2006, at A1.

<sup>51</sup> R. Nicholas Burns, Under Sec'y for Political Affairs, U.S. Dep't of State, Conference Call on UN Sanctions Resolution 1737 (Dec. 23, 2006), available at <http://www.state.gov/p/us/rm/2006/78246.htm>

<sup>52</sup> European Commission Bilateral Trade Relations: Iran, [http://ec.europa.eu/trade/issues/bilateral/countries/iran/index\\_en.htm](http://ec.europa.eu/trade/issues/bilateral/countries/iran/index_en.htm).

<sup>53</sup> See, e.g., Kenneth Katzman, *CRS Report For Congress: Iran: U.S. Concerns and Policy Responses*, Jan. 30, 2008, at 20.

<sup>54</sup> *Id.*



law, few of those threatened sanctions have thus far been imposed on Iran. While the incentive package may need to be revisited in light of subsequent developments, negotiators with Iran will need to keep in mind the moral hazard risk of rewarding Iran for complying with its international legal obligations. For this reason, and in light of the apparently high value to Iran of its nuclear program, an increase in leverage over Iran will inevitably need to include a dramatic strengthening of the sanctions currently imposed on Iran.

In light of Iran's advancing nuclear program, a failure by the West to quickly improve its peaceful leverage over Iran will inevitably leave us with a terrible choice: taking military action to stop Iran's nuclear weapons program or allowing Iran to obtain a nuclear arsenal.

S. 970 would not likely in and of itself bring an end to Iran's nuclear program. It is impossible to know what measure would be the tipping point that would convince Iran's regime that the price for its nuclear program has become too high, that the risk from sanctions to the regime's survival has become so great that the regime is better served by halting its nuclear program rather than further risking its grip over the Iranian people. In light of the gravity of the danger posed to the United States by the Iranian threat, we must take every possible economic, political and diplomatic measure that might reasonably contribute towards reaching that tipping point. Passage of S. 970 will immediately move us closer to achieving that tipping point. By providing an example to the rest of the world, S. 970 will also likely encourage others to soon contribute towards achieving that tipping point.

As I mentioned earlier, Russia, with its Security Council veto, has been a key obstacle to imposing strong sanctions on Iran. S. 970 would send Russia a strong message that it cannot both shield Iran and conduct business as usual with the United States. In doing so, S. 970 would remind Russia of the several benefits it would receive, or more likely receive, from the United States were it to play a more constructive role in stopping Iran's nuclear program. These benefits include U.S. support for Russian accession to the World Trade Organization and conclusion of a 123 agreement for civil nuclear cooperation between the United States and Russia. However, in light of developments regarding Bushehr, including the spent fuel return arrangement, the language of S. 970 should be revised to reflect that the foremost Russian obstacle to stopping Iran's nuclear program is Moscow's blocking of strong sanctions in the Security Council. Revision of these provisions would enable the Administration to more usefully deploy them as leverage in diplomatic negotiations with Russia.

S. 970 also includes several provisions that address direct U.S. sanctions against Iran. For example, S. 970 includes a sense of Congress provision encouraging administrators of federal and state pension plans to divest all assets or holdings from foreign companies and entities that have invested or invest in the future in Iran's energy sector. S. 970 would also require the Federal Retirement Thrift Investment Board to report on any investment in entities that invest in Iran. I would like to see these provisions strengthened. As a former federal employee who still has considerable

pension funds invested with the federal thrift savings plan, I am appalled that my pension may be invested in companies that do business with Iran. Divestment of federal pension funds from such companies could be accomplished by incorporating in this bill language akin to that in H.R. 1357.

I would also encourage amending S. 970 so as to incorporate language – akin to that in the Iran Sanctions Enabling Act (H.R. 2347) which has passed the House and is pending in the Senate – that would authorize and facilitate state and local pension fund divestment from certain foreign companies doing business in Iran. State and local pension fund divestment can contribute significantly to discouraging foreign companies from investing in Iran. The threatened withdrawal from such companies of billions of dollars of state and local pension fund investment provides such companies with a strong incentive to withdraw from the Iranian market. Florida, California, Illinois, and New Jersey, among others, have already passed legislation to divest their state’s pension funds from foreign companies doing business with Iran. Passage by Congress of Iran divestment enabling legislation would encourage more states to take that positive step.

S. 970 would also usefully close most of the remaining exceptions to United States imports from and exports to Iran. In 2006, the U.S. imported from Iran \$157 million worth of goods including pomegranate juice, pistachio nuts, and caviar, and exported to Iran \$85 million worth of goods including tobacco products.<sup>55</sup> President Clinton had in 1995 banned all U.S. trade with Iran.<sup>56</sup> However, the U.S. had in 1999 and 2000, in a gesture to the relatively moderate Iranian President Khatemi, eased the trade ban to allow U.S. commercial sales of food to Iran and exports from Iran to the U.S. of Iranian nuts, dried fruits, carpets and caviar.<sup>57</sup> In light of the radical nature of the current Iranian regime, it is past time to re-close most of the remaining exceptions to United States trade with Iran.

Some will argue that S. 970 is wrong because it is unilateral, or because it runs afoul of our international trade commitments, or because it will have an inappropriate humanitarian impact. None of these is correct.

The weak multilateral sanctions imposed thus far on Iran by the United Nations Security Council are simply not up to the task of slowing Iran’s nuclear program. Nor is there the prospect of sufficiently stronger U.N. or other multilateral sanctions if things proceed as at present. Each of the three binding Security Council resolutions in response to Iran’s nuclear program has requested a report from the IAEA Director General on whether Iran has complied. The resolutions have also stated that in the event that the report shows Iran has not complied, the Council will “adopt further appropriate measures . . . to persuade Iran to comply.” The idea has been to slowly ramp up the pressure on Iran. This race between Iran’s advancing nuclear program and tightening Security Council sanctions is a race Iran is clearly winning. Even in the face of Iran’s explicit defiance, the resolutions have been too slow in coming and each has added incrementally

<sup>55</sup> Kenneth Katzman, *CRS Report For Congress: Iran: U.S. Concerns and Policy Responses*, Jan. 30, 2008, at 8.

<sup>56</sup> *Id.* at 50.

<sup>57</sup> *Id.*

less tightening than the one before. The net result thus far is sanctions far weaker than those which stopped the Iraqi and Libyan nuclear weapons programs. Indeed, the Iran sanctions are thus far weaker than the sanctions imposed by the Security Council on South Africa in response to apartheid, on Liberia and Cote D'Ivoire during their civil wars, Sierra Leone in response to its May 1997 military coup, the Federal Republic of Yugoslavia during the Bosnian crisis, and Haiti in response to its 1991 military coup. Were Liberia, Cote D'Ivoire, Sierra Leone, and Haiti greater threats to international peace and security than Iran is today? No, there was simply less profit to be made from those countries than there is to be made from Iran today. That calculus is not going to change unless we make it change, unless we make it clear to foreign countries and companies that the profits to be made in Iran from continuing to do business with Iran will be dwarfed by the profits they will lose in the United States from continuing to do business with Iran. We cannot allow our national security to be held hostage to the lowest common denominator of the United Nations Security Council. S. 970 would help return our fate to our own hands.

The U.S.'s recent successes with unilateral banking sanctions, about which the Committee heard from Under Secretary Levey just last week, show that unilateral sanctions can be very effective in both directly impacting the target country and persuading third countries to lessen their ties to the target country. S. 970 would help build on those successes.

S. 970 would not run afoul of our international trade commitments. Article XXI ("Security Exceptions") of the General Agreement on Tariffs and Trade (GATT) states:

Nothing in this Agreement shall be construed

. . .

- (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
  - (i) relating to fissionable materials or the materials from which they are derived;
  - (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
  - (iii) taken in time of war or other emergency in international relations; or

. . .

U.S. actions, such as those in S. 970, which would be taken to protect our essential security interests from Iran's fissionable material program, which is clearly an emergency threat to international peace and security, fall well within the exceptions provided by Article XXI of the GATT. As the Committee knows, the U.S. and EU made certain political commitments to each other in 1998 in an effort to resolve a dispute over the reach of the Helms-Burton and Iran Libya Sanctions Acts, and especially the former.

Any decision by the Administration to impose sanctions on European entities pursuant to the Iran Sanctions Act will, as a diplomatic matter, need to take those understandings into account. But neither passage of S. 970 nor the imposition of sanctions pursuant to the Iran Sanctions Act would violate U.S. legal obligations under the GATT.

With respect to the allegation that S. 970 might harm humanitarian interests, I am frankly puzzled. Neither current U.N. nor current U.S. sanctions deprive Iran of either food or medicine. Neither will S. 970 deprive Iran of either food or medicine. Section 7 of S. 970, which would re-close most of the exceptions to the U.S. trade embargo on Iran, explicitly exempts “exports to Iran of food and medicine.” If the people of Iran are not as prosperous today as they would like to be, it is because the Iranian regime has mismanaged the Iranian economy and chosen to isolate itself from the international community by persisting in its nuclear program in explicit defiance of three legally-binding U.N. Security Council Resolutions. Whatever inconvenience the Iranian people might incur from a tightening of sanctions attributable to S. 970 would pale in comparison to the humanitarian costs to the United States and its allies of an Iranian nuclear arsenal, including the greatly increased risk of stepped-up terrorism under an Iranian nuclear umbrella, a likely cascade of nuclear proliferation in the Middle East tinderbox, and the greatly increased risk of a nuclear 9/11 – costing more than half a million American lives per detonated nuclear weapon.

#### VI. Conclusion

Iran’s nuclear program is a grave threat to U.S. national and economic security. The international community has thus far responded with remarkable passivity to Iran’s dangerous insistence on developing its nuclear capabilities in explicit violation of three mandatory U.N. Security Council resolutions. As a result, there is at present nothing but time standing between the Iranian regime and a nuclear arsenal. The international community presently has insufficient leverage to persuade Iran to halt its nuclear program.

In light of Iran’s advancing nuclear program, a failure to exert American leadership in quickly improving our leverage over Iran will inevitably leave us with a terrible choice: taking military action to stop Iran’s nuclear weapons program or allowing Iran to obtain a nuclear arsenal. In light of the gravity of the danger posed to the United States by that Iranian threat, we must take every possible economic, political and diplomatic measure to convince Iran’s regime that the price for its nuclear program has become too high, that the risk from sanctions to the regime’s survival has become so great that the regime is better served by halting its nuclear program rather than further risking its grip over the Iranian people.

S. 970 can contribute to increasing leverage over Iran and thus improving the prospects for preventing Iran from acquiring nuclear weapons. S. 970 would tighten U.S. sanctions against Iran. S. 970 would also encourage other countries and businesses to tighten their sanctions against Iran.

Stronger U.S. sanctions on Iran would impose costs on U.S. business. Stronger multilateral sanctions would impose costs on Russia, China, Europe and other sanctioning countries. But sanctions are investments in protecting against the far higher price of a nuclear 9/11 – more than half a million lives and over \$1 trillion in economic cost per nuclear bomb detonated in a U.S. city.

Thank you.

**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**Hearing on S. 970, the Iran Counter-Proliferation Act of 2007  
April 8, 2008**

**Question for Orde Kittrie from Senator Grassley**

**Question 1:**

**Mr. Kittrie, you testified today that China's focus on short-term profits is one of the factors impeding an effective Iran sanctions program.**

**Are there steps we can take to create more of an incentive for China to engage more constructively?**

China's engagement with Iran and reluctance to impose sanctions is driven in large part by China's increasing thirst for energy resources. Helping China to conserve and to diversify its energy supply, including through increased use of non-petroleum resources such as proliferation-safe nuclear power and renewable energy sources, will help it to play a more constructive role. The United States and China both share an interest in energy efficiency. Perhaps there should be an initiative to promote cooperative research in that sphere. In addition, perhaps we could work with the World Bank, the Asian Development Bank, and Persian Gulf countries concerned about Iran to develop energy resources and connections for China that reduce its dependence on Iran.

I would note that experienced former officials such as Dennis Ross have suggested that we encourage Saudi Arabia and other Gulf states to explain their concern about Iran's nuclear program to China, so that China will better understand the dangers that Iran could pose to Gulf stability.

We must work hard to persuade China that their willingness to cooperate with us in heading off an Iranian nuclear bomb will serve both our interests and also China's. A more responsible Iran and more stable and secure Gulf will ultimately facilitate long-term Chinese investment in the Gulf, including Iran, and the acquisition by China of additional oil from the Gulf, including Iran.

**Questions for Orde Kittrie from Senator Bingaman**

**Question 1:**

**Mr. Chairman, S.970 prohibits the U.S. from entering into a "Section 123" nuclear cooperation agreement with Russia, absent a presidential certification that Russia has suspended all nuclear assistance to Iran and transfer of advanced conventional weapons and missiles to Iran.**

**Nuclear cooperation has been one of the few fruitful areas of U.S.-Russian relations in recent years. In 1992, the U.S. and Russia entered into an agreement suspending U.S. anti-dumping duties on Russian uranium. This was called the “Suspension Agreement.”**

**In 1993, the U.S. and Russia launched the “Megatons to Megawatts” program. Under this program, highly-enriched weapons uranium from Russia is “downblended,” or converted to low-enriched uranium, in Russia and sold by the Russian company OJSC Technobexport to the United States Enrichment Corporation for delivery to U.S. nuclear utilities. In 2007, this arrangement accounted for approximately 37% of low-enriched uranium sold in the U.S. market. This arrangement is an important part of our efforts to ensure that fissile materials are accounted for and are secure – and will not fall into the hands of terrorists.**

**In February of this year, we amended that agreement to allow Russia to sell lowenriched uranium – as opposed to downblended uranium sold under the “Megatons to Megawatts” program – directly to U.S. utilities for the first time. The amended Suspension Agreement is an important milestone on the road to a full-fledged Sec. 123 agreement. At last year’s Kennebunkport Summit, Presidents Bush and Putin agreed to move forward on a Section 123 agreement.**

**I am gravely concerned that passage of S.970 jeopardizes this important progress on U.S.-Russia nuclear cooperation. In your view:**

**• If this legislation were to pass with the Sec. 123 language intact, how would it affect U.S. nuclear cooperation with Russia?**

S. 970 would not prohibit any current U.S. nuclear cooperation with Russia, including the purchase of LEU from Russia. Several types of peaceful nuclear cooperation by the U.S. with a foreign country, including a broad range of technical assistance in such areas as nuclear safety, are possible outside the framework of an agreement for cooperation. Examples include imports of nuclear material and equipment into the United States; exports from the United States of nuclear components (other than four major reactor components) under licenses issued by the Nuclear Regulatory Commission; nuclear technology (as information) approved for export by the U.S. Department of Energy pursuant to 10 CFR Part 810; and exports of nuclear-related dual-use items such as simulators, detectors, analytic equipment, and many types of pipes, valves and other parts licensed by the U.S. Department of Commerce. Consistent with this, a limited amount of peaceful nuclear cooperation between the U.S. and Russia has for many years taken place under agreements including the U.S.-Soviet Agreement on Scientific and Technical Cooperation in the Field of Peaceful Uses of Atomic Energy, which was signed by Presidents George H.W. Bush and Mikhail S. Gorbachev in Washington, D.C. on June 1, 1990.

**• Would the Sec. 123 provisions make Russia more inclined or less inclined to cooperate with the U.S. on a multilateral effort vis-à-vis Iran?**

As you know, Congress has several options with respect to the proposed US-Russia 123 agreement, including 1) doing nothing and watching it enter into force, 2) passing a resolution of disapproval, 3) passing a resolution to approve with conditions (as was done in P.L. 99-183, the Joint Resolution Relating to the Approval and Implementation of the Proposed Agreement for Nuclear Cooperation between the United States and the People's Republic of China), or 4) passing separate legislation (such as a modified S. 970) that would impose conditions on transactions undertaken pursuant to the 123 agreement once it enters into force.

I favor the latter two options (i.e., the 123 agreement entering into force subject to certain conditions). U.S. nonproliferation interests could in some ways benefit from the opportunities created by a U.S.-Russia 123 agreement. Russia's posture with respect to Iran's nuclear program is more constructive than it has been in the past.

However, Russia continues to be the foremost obstacle to imposing strong Security Council sanctions on Iran. In addition, Russia continues to provide Iran with advanced conventional weapons including anti-aircraft missile systems being installed around Iranian nuclear facilities. Furthermore, there is significant doubt that Russia has ended all nuclear cooperation with Iran that violates UNSCR 1737. Finally, Russian energy companies are reportedly continuing to invest in Iran inconsistently with the Iran Sanctions Act.

A 123 agreement subject to conditions would send Russia a strong message that so long as it continues to shield Iran's nuclear program, conduct illicit nuclear commerce with Iran, and support Iran's lucrative petroleum sector, there will be a price to be paid in Russia's nuclear cooperation with the United States. A conditioned 123 agreement would enable the U.S. to benefit from those aspects of 123-enabled cooperation that promote nonproliferation while both the Executive Branch and Congress maintain enhanced leverage to discourage unhelpful Russian activity with respect to Iran's nuclear program.

There are several potential ways to structure the conditions. One option would be to require that some or all licenses under the agreement be submitted to Congress. Another option, that could be done instead of or in addition to requiring license submission to Congress, would be to require Administration certification [either prior to the 123 agreement entering into force or on an annual basis] 1) that Russia is not serving as an obstacle to effective Security Council sanctions in response to Iran's nuclear program, 2) that Russia is not providing Iran with advanced conventional weapons [or some subset of such], 3) that Russia has ended all nuclear cooperation with Iran that violates UNSCR 1737, and 4) that Russian energy companies are no longer investing in Iran [over the Iran Sanctions Act threshold]. I would support a Presidential waiver for at least some of these.

I believe the passage of a modified S. 970 or other congressional action to condition the implementation of a 123 agreement will make Russia more inclined to cooperate with US and multilateral efforts vis a vis Iran. By allowing the agreement to move forward, potential projects worth billions of dollars to Russia would move forward, giving Russia a tangible incentive to cooperate, while the conditionality would retain helpful leverage.



It is also important to note that proceeding with a US-Russia 123 agreement was during the Clinton Administration and the first half of the current Administration linked to Russian cooperation on Iran. Implementing the US-Russia 123 agreement now without securing such cooperation or maintaining strong conditionality will be seen in Russia and around the world as a sign of U.S. retreat on the Iranian issue and may jeopardize existing cooperation.

**• Does the danger that al-Qaida and other non-state actors might obtain fissile materials, with Russia the likely source, outweigh the danger of a nuclear Iran?**

S. 970 will not negatively impact efforts to secure Russian nuclear materials. S. 970 would in no way prohibit any current U.S. nuclear cooperation with Russia, including the Nunn-Lugar and related programs.

**Question 2:**

**Mr. Chairman, as you know, Europe is increasingly dependent on Russian hydrocarbons, especially natural gas.**

**Russia has been aggressively pursuing “energy diplomacy,” by, for example, cutting off gas supplies to key transit countries. Russia also proposes to build the “North Stream” pipeline under the Baltic Sea, directly from Russia to Germany, bypassing transit countries such as Poland. Russia has also proposed to build the “South Stream” pipeline that would deliver Russian natural gas to Italy.**

**The Nabucco pipeline project is an alternative to the South Stream pipeline. Nabucco would deliver natural gas from Turkey to Austria, bypassing Russia. Many experts say that it is economically viable only if feedstock comes from the Caspian littoral states (i.e., Azerbaijan, Kazakhstan, and Turkmenistan), Iraq, and possibly Iran.**

**In your view:**

**• Is it in the U.S. national interest to do everything we can to encourage our European allies to diversify their supplies of energy?**

Support for the diversification of Europe’s energy supplies should be an important policy of the U.S. government. The Nabucco pipeline can play an important role in achieving this goal by enabling natural gas from Turkey and the Caspian region to reach Europe. U.S. Deputy Assistant Secretary of State Matthew Bryza recently described American policy as follows: “The U.S. supports the Nabucco pipeline as a way for Europe to help diversify supplies of natural gas, this means new sources – but not from Iran.” Iran should only be allowed to contribute gas to the pipeline after concerns with its nuclear program and support for terrorism have been addressed. In the meantime, the possibility of involvement with the pipeline can be held out as an incentive to Iran to act

responsibly. Construction of the pipeline is not slated to start until next year with completion in 2012.

- **Would S.970 make the Nabucco pipeline economically unviable?**

S. 970 does not directly address the issue of the Nabucco pipeline. The pipeline will be constructed outside of Iran and therefore is also not subject to the provisions of the Iran Sanctions Act.

**Statement for the Record of Senator Jon Kyl  
Senate Finance Committee Hearing on S. 970  
April 8, 2008**

Mr. Chairman and Ranking Member Grassley, I want to thank you both for holding this hearing on S. 970, the Iranian Counter-Proliferation Act. I'd also like to thank this distinguished panel for taking the time to share their expertise on this vital legislation.

If we are to prevent the acquisition of nuclear weapons by Iran, the full extent of American economic and diplomatic resources must be brought to bear soon. This legislation is a critical component of our economic options.

The intelligence information is clear that Iran is moving ahead with its nuclear programs. For example, the latest National Intelligence Estimate clearly stated that Iran continues apace on its illegal nuclear enrichment programs. These are precisely the programs it could use to weaponize enriched uranium for weapons of mass destruction.

The most recent IAEA report on Iran's illegal nuclear program noted that, in addition to questions about its illegal nuclear enrichment activity, Iran needs to answer questions about its development of ballistic missile technology, particularly missile reentry vehicles. This kind of hardware could deliver nuclear weapons when and if the Iranians are allowed to take the product of their illegal enrichment activities and weaponize it.<sup>1</sup>

As the Director of National Intelligence, Admiral McConnell, recently noted, "there are three parts to an effective nuclear weapons capability: (1) production of fissile material, (2) effective means for weapons delivery, and (3) design and weaponization of the warhead itself."<sup>2</sup> It is clear that Iran is moving ahead on all three.

Iran has protested that its programs are peaceful. The Director of the CIA, General Michael Hayden, has what I think is an excellent point in response to that claim:

"Why would the Iranians be willing to pay the international tariff they appear willing to pay for what they're doing now if they did not have, at a minimum, at a minimum, if they did not have the desire to keep the option open to, to develop a nuclear weapon and perhaps even more so, that they've already decided to do that? It's very difficult for us to judge intent, and so we have to work back from actions. Why the continuing production of fissile material, and Natanz? They say it's for civilian purposes, and yet the, the

---

<sup>1</sup> Report by the Director General. "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006) and 1747 (2007) in the Islamic Republic of Iran. February 22, 2008.

<sup>2</sup> Annual Threat Assessment of the Director of National Intelligence for the Senate Select Committee on Intelligence. February 5, 2008. Page 11.

planet, the globe, states around the world have offered them fissile material under controls so they can have their, their, their civilian nuclear program. But the Iranians have rejected that. I mean, when you start looking at that, and you get, not just the United States, but you get the U.N. Security Council imposing sanctions on them, why would they go through that if it were not to develop the technology that would allow them to create fissile material not under international control?"<sup>3</sup>

In addition to Iran's illegal nuclear program, the annual report by the Intelligence Community on Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Convention Munitions noted that "Iran continues to pursue development, production, and deployment of an array of ballistic missiles with foreign assistance and has proliferated some of the missile-related technologies it has already mastered."<sup>4</sup>

The DNI's Annual Assessment, which I quoted from earlier, sheds light on Iran's motives: "Iran also is enhancing its ability to project its military power – primarily ballistic missiles and naval power – with the ultimate goal of dominating the Gulf region and deterring potential adversaries."<sup>5</sup> Its ballistic missile programs are thus a sine qua non of its efforts to establish at least a regional dominance.

General Trey Obering, the head of our missile defense program was recently in Europe, trying to lock in support for the Third Site, reminding our friends there that Iran is within two or three years of producing a missile that could reach their capitals.<sup>6</sup> There is, of course, no reason for Iran to be devoting so many of its resources to developing these long range missiles, and ultimately ICBMs, to carry only conventional warheads.

That is why it is so important that the Bush Administration recently obtained a third resolution from the United Nations Security Council. While this resolution is not as strong as it should have been, it is important that the world community has again spoken with one voice that Iran must immediately halt this activity.

With this new resolution in place, the United States has the opportunity to move forward with its own sanctions to reach the Iranian regime where it will do the most good, by targeting the banks that make possible Iran's terrorist and proliferation activities.

A key part of that effort is for the Departments of State and Treasury to recommend for U.S. sanctions an appropriate list of banks that continue to maintain business ties with sanctioned Iranian banks. There are ample options: the DBS Bank, Overseas-Chinese Banking Corporation and the Commerce International Merchant Bankers, all operating in Malaysia. According to

<sup>3</sup> Response to a Question, General Michael Hayden, USAF, Director of the Central Intelligence Agency. Meet The Press. March 30, 2008.

<sup>4</sup> Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 January to 31 December 2006." Pg. 3. Author: the Deputy Director for National Intelligence for Analysis.

<sup>5</sup> Annual Threat Assessment of the Director of National Intelligence for the Senate Select Committee on Intelligence. February 5, 2008. Page 23.

<sup>6</sup> Murphy, Kim. "U.S. Warns Europe of Iran Missiles." Los Angeles Times. February 29, 2008.

press reports, all of these banks are maintaining their ties with sanctioned Iranian banks thus enabling Iran's circumvention of United Nations and United States sanctions.

But, the reason the Committee is here today is to discuss what may be the most efficacious opportunity for action by the Congress to further pressure the regime in Tehran. S. 970 provides a robust set of tools. It would:

- o condition U.S. nuclear cooperation with Russia;
- o urge Foreign Terrorist Organization Designation (FTO) of Iran's Islamic Revolutionary Guard Corps (IRGC), which would include a much needed criminal penalty for anyone caught offering material support to the IRGC;
- o urge that Iranian banks be denied access to the U.S. banking system;
- o tighten and expand existing U.S. sanctions laws to include increased penalties on U.S. parents of foreign subsidiaries that conduct business with Iran;
- o nearly double funds authorized for combating terror financing; and
- o urge divestment from Iran.

The provision in the bill dealing with possible U.S. nuclear cooperation with Russia is especially timely. Despite U.S. opposition, Russia has provided technical know-how and even nuclear material to Iran for its Bushehr nuclear power plant. There are those who say that Bushehr is a proliferation-resistant reactor. I am not convinced.

According to a report of the Nonproliferation Policy Education Center (NPEC), the contention that light water reactors, of which the Iranian Bushehr reactor is one, are not proliferation dangers is simply incorrect.<sup>7</sup> Consequently, while the United States is leading the rest of the world to ensure Iran does not become a nuclear weapons state, the Russian action in facilitating the completion of this Iranian light water reactor undermines that policy. I am left to ask why some advocate rewarding Russia with a civil nuclear agreement, a so-called 123 Agreement. The 70 Senate cosponsors of S. 970, and the 297 House Members who voted for H.R. 1400, both of which strictly condition such an agreement, clearly believe that such an agreement is inappropriate.

Again, Mr. Chairman, thank you for holding this hearing today. S. 970 is critical legislation. As I've stated, it has been cosponsored by 69 of our colleagues, including the distinguished senior Senator from Montana, the Chairman of this Committee, and 12 of our colleagues on this Committee. Further, it has a companion bill, H.R. 1400, which passed the House of Representatives on a 397 to 16 vote last September. I look forward to working with you to ensure that the Senate follows the good example of the House and passes this legislation as soon as possible.

---

<sup>7</sup> Nonproliferation Policy Education Center (NPEC), "A Fresh Examination of the Proliferation Dangers of Light Water Reactors." October, 22, 2004. ([http://www.npec-web.org/1\\_says/20041022-GilinskyEtAl-LWR.pdf](http://www.npec-web.org/1_says/20041022-GilinskyEtAl-LWR.pdf))

*American Enterprise Institute for Public Policy Research*



Hearing on S. 970, The Iran Counter Proliferation Act of 2007  
Testimony of Danielle Pletka,  
Vice President, Foreign and Defense Policy Studies  
The American Enterprise Institute  
April 8, 2008

Mr. Chairman, Members of the Committee, thank you for including me in this hearing on S. 970, the Iran Counter Proliferation Act.

The question of what to do about the Islamic Republic of Iran's nuclear weapons aspirations has challenged the United States through several administrations. Indeed, the discussion about how to confront Khamenei, Ahmadinejad and their predecessors has so entered the rote of foreign policy debate that arguments for and against a particular set of policies have become cliché. Worse still, the familiarity of the threat set – for how long have we warned of Iran's nuclear ambitions? – has itself become familiar enough to have lost its menace.

Yet the reality remains: Iran is driving toward a nuclear weapon and self sufficiency in the production of highly enriched uranium. The international community is convinced of Iran's intentions. I have met with officials from each of the five permanent members of the Security Council, and each has averred bluntly that it is their government's private view that Iran seeks nuclear weapons. And while the Director General of the International Atomic Energy Agency, Mohamed ElBaradei, has suggested he is not convinced, his deputies – to a one – are persuaded of Iran's intentions.

That leaves the civilized world with the question of what to do. Some have already announced that we can live with a nuclear Iran, speculating that when Mahmoud Ahmadinejad and others proclaim their commitment to the destruction of Israel and America that they are not serious. Others have come to the reluctant conclusion that a military strike will be the only effective means of slowing Iran's nuclear program. Still others believe the Tehran regime can be removed if there is enough support for the majority of Iranians who loathe their system of government and leadership.

This is not a new debate. In November of 1808, Thomas Jefferson mused on the question of an embargo of Great Britain, then threatening the United States and harassing shipping, in a letter. He wrote: "three alternatives alone are to be chosen from: 1, embargo; 2, war; 3, submission and tribute. And, wonderful to tell, the last will not want advocates."

Some will suggest that submission and tribute are not options for the United States and its allies. I would argue that the modern day equivalent contemplates accepting what was heretofore unacceptable: allowing Iran enrichment (sometimes described as "limited enrichment"), "containing" an Iranian weapon, tolerating Iranian domination of its region, ignoring Iranian support for terrorism, bribing Iran to take steps that will not verifiably end its program, and worse.

The other option, war, is not very attractive for a variety of reasons that have been ably debated in other fora. Certainly, serious analysts are not persuaded that there is any silver bullet in a military conflict or limited strike on the Islamic Republic. However, those who rule out war in any circumstance should recognize that the prospect of military action is what prompts Iran's leadership to take seriously the sanctions now on the table. More importantly, it is obvious that the limited multilateral sanctions now in effect will

not have their desired effect. Then what? If war is off the table, submission and tribute will remain.

This leaves us with the hope that harsher and more effective economic sanctions can raise the cost to Iran of pursuing nuclear weapons and change the calculus of decision-makers in Tehran.

There are three United Nations Security Council resolutions now in effect addressing Iran's nuclear program and its violations of its safeguards obligations. Depending on your viewpoint, these resolutions are a triumph of international solidarity in the face of an outlaw or a lame attempt to discover the least common denominator that will unite a divided Council. The truth is probably somewhere in the middle.

Without U.S. leadership, it is unlikely the Council would have acted. And without pressure from France and the U.K., it is unlikely that the Security Council would have agreed upon a third resolution, particularly in the face of Russian and Chinese apologia for Iran. Yet, against some odds, we have three resolutions and a moderately robust set of international sanctions. In addition, the European Union has used the authority of the resolutions to impose a set of slightly broader sanctions on Iran. And the United States has also imposed its own set of unilateral sanctions, some of which have been in place for many years.

Although there seems little doubt that the mood in Congress has shifted since the Iran Libya Sanctions Act (ILSA) first passed in 1996, it is important to underscore that the U.S. Congress has always been at the forefront of confronting Iran (as it has been in confronting the worst state sponsors of terrorism and the worst proliferators). It is a principled position that should be a source of pride for members of both parties. I have no doubt that legislation like ILSA (now the Iran Sanctions Act), the Iran Non-Proliferation Act (now the Iran, North Korea and Syria Nonproliferation Act), and the Iran-Iraq Non-Proliferation Act have slowed Iran's ability to attract capital, material and technical support for its programs.

Over the years, as different pieces of legislation have been introduced and passed, there have been some who have continued to suggest that sanctions don't work in general, and that unilateral sanctions are particularly ineffective. I agree that multilateral sanctions are always more desirable than ad hoc or unilateral sanctions. However, the argument that unilateral sanctions are wrong, ineffective and otherwise to be avoided is also incorrect, and offensive in the sense that such arguments too often come from self-serving members of industry whose sole interest is in making the world safe for untrammelled trade.

On consistency grounds alone, those who oppose unilateral American foreign policy sanctions against terror sponsors and proliferators should be challenged to also oppose economic sanctions against foreign companies dumping cheap goods into the U.S. market. After all, if sanctions are good enough punishment for making a cheap television set, presumably they are good enough for terrorists trying to make a nuclear weapon.



More importantly, even the threat of unilateral sanctions has been effective as recently as last year. As state after state has ramped up efforts to divest pension funds from companies invested in Iran, and as S. 970, the Smith-Durbin Iran Counter-Proliferation Act has garnered support in the Congress, American companies like General Electric, Halliburton, and Baker Hughes with subsidiaries operating in Iran have rethought the wisdom of doing business with one of our nation's most dangerous enemies. And as the United States has contemplated additional unilateral banking sanctions on Iran, banks across Europe have ratcheted back their exposure to the Islamic Republic, with some pulling out entirely.

Reviewing the impact of sanctions to date, it is clear that both unilateral and multilateral sanctions are taking a toll on Iran's economy, much of which is state controlled. The sanctions in effect today have done a better job than many previous sanctions regimes in targeting leadership elements and sources of income without imposing a heavy burden on the Iranian people. Even a brief glance at the impact reveals that Iran is now having difficulty underwriting its oil products (and the regime's own oil minister admitted as much). Financing is hard to come by, and the cost of money has gone up significantly. The OECD has lowered Iran's credit rating. Letters of credit are now difficult to obtain, and as a result, investors have pulled out of a variety of important oil and gas deals. In other words, what you are doing works. We may not all agree on the exact provisions, but Congressional leadership in the use of means other than war to persuade the Iranian regime to slow down its nuclear program has undoubtedly had a positive effect.

Mr. Chairman, Could life be more difficult for Iran's leaders? Certainly. Could our friends and allies, particularly in China, Russia and the Persian Gulf, do more to isolate Tehran? Without a doubt. I would like to see the various Emirates shut down the Iranian bank accounts that have flourished since Iran's banking sector came under pressure. I would also like to see nations like the United Arab Emirates do more to ensure they are not the pass-through of choice for Iranian imports and exports, legal and illegal.

We could also do more to reassure those in Iran's neighborhood that we are serious about the threat Iran poses to the region. Last year's disingenuous and politicized National Intelligence Estimate undercut America's position and worried the very leaders we have sought to reassure about America's constancy in the fight against terrorism and proliferation.

Overall, however, we should remember Mr. Jefferson's admonition. There are only a few choices before us: Imagination, perseverance, pressure and vigilance are the watchwords that should guide us. Submission is unacceptable, and war only a last option when no other offers the hope of preserving our national security.

+++

Regarding the specific provisions of S. 970, and without speaking to every section, one of the key provisions is Section 6 on Russia Nuclear Cooperation. Last July, Presidents

Bush and Putin initialed an agreement for nuclear cooperation, a so-called 123 agreement, launching a new era in nuclear cooperation between Moscow and Washington. While Russia has long been eager for such an agreement, successive administrations had refused to move forward, arguing that Russia's willingness to cooperate with Iran and build reactors for the Islamic Republic have precluded cooperation with the U.S.

The Bush administration reversed its own previous position and that of the Clinton administration, which had refused to begin negotiations on a 123 agreement while Russia continued to assist the Iranian nuclear program. It is not clear to me why the Bush Administration made its move. Certainly, the benefits of the administration's decision are hard to pinpoint, as Russia has been the main roadblock in toughening United Nations sanctions on Iran.

Section 6 of S. 970 will take the initiative away from the Executive Branch and underscore the fact that nuclear cooperation with the United States – and the vast attendant potential profits – will not be available to Russia for as long as Russia continues to work with the Iranian nuclear program and supply advanced conventional weapons to the Islamic Republic's military.

Section 7 closes the loophole that was reopened by former Secretary of State Madeleine Albright which allows US imports of Iranian goods, particularly carpets and pistachios – important foreign exchange earners for the regime. That decision sent an unhelpful mixed message to Iran's leaders, and underscored American weakness in confronting Iranian threats. There is no demonstrable evidence that the step was anything other than a PR move.

Section 8 closes a loophole that has been exploited by a number of U.S. companies to use subsidiaries in foreign countries to do what would otherwise be prohibited work in Iran. The companies in question did so in full cognizance of the fact that their actions undermined the spirit and intention of U.S. law and executive orders. And while most have now, to the best of my knowledge, ceased doing new business in Iran, I have little doubt that in another climate that work would quickly resume.

Regarding the World Bank and World Bank lending to Iran, the facts are simple. Since 2000, the World Bank has extended more than \$1.2 billion in loans to the Islamic Republic. And other than a December 2005 Multilateral Investment Guarantee Agency (MIGA) credit line of \$122 million which clearly aids Iran's petrochemical sector, the loans are hardly remarkable in and of themselves. However, each penny frees up millions then available to the regime to use as it sees fit. And we have a good idea what Ahmadinejad sees fit.

The lending is a political disgrace. From an economic standpoint, Iran is one of the most mismanaged economies in the Middle East. It is the only OPEC nation that has defied the spike in crude prices to run a budget deficit. Economic rationalism alone should dictate that the World Bank hold Tehran at arms' length. In addition, a nation that

expends untold billions fueling an insurgency in Iraq, sponsoring the dictatorship in Syria, underwriting Hezbollah, Hamas and other terror groups and arming itself with the best conventional weaponry and missiles available from Russia and North Korea, not to speak of funding an expensive clandestine nuclear program, does not bear scrutiny as a responsible fiscal custodian.

However, the United States, the single largest World Bank contributor, is forced by World Bank rules to subsidize the regime. No new loans have been extended since 2005, but existing loans are still being paid out. The U.S. taxpayer should not bear a penny of this cost, and this bill remedies the problem.

There are several other important provisions to this bill, including reporting requirements about federal thrift savings investments related to Iran, companies operating in the United States that do business with Iran and more. These reports will shine a much needed light onto Iran's friends, suppliers and enablers. At that point, it will be unnecessary to mandate particular steps. People and governments will begin to vote with their pocketbooks, investing in companies that choose to do business in less threatening parts of the world. In this instance, choice is key, and information makes such choices possible.

Finally, a brief comment on the creation of an international fuel bank. I am happy to defer to those who have more knowledge of the details of uranium enrichment, reprocessing and safeguards on the basic question of the wisdom of such a fuel bank. However, the provision demands some logical scrutiny: What kind of country needs a nuclear fuel bank? Presumably a country that depends on foreign sources of nuclear fuel and is worried that it may be cut off by its suppliers. Why would a country worry about being cut off by its suppliers? In the nuclear area, the most likely reason would be because it has misbehaved—for example, by detonating a nuclear explosive device. So are we going to set up a fuel bank that addresses this concern by promising to deliver fuel even to countries that do such things as engage in nuclear proliferation? I certainly hope not. But if the fuel bank doesn't address that concern, what makes anyone think that a country like Iran is going to be satisfied to give up its ongoing nuclear enrichment program in order to join the fuel bank?

My point is not that a fuel bank is a bad idea. It is simply that I think it gives undue credit to the professed concerns of a country like Iran. We should be under no illusion that this is a tool that is likely to induce Iran to give up nuclear enrichment. Thank you for your attention, and for your continued vigilance. President George W. Bush once suggested that as threats gather, responsible leaders cannot sit idly by. This bill ensures that the U.S. Congress is leading our nation to confront one of the most potent threats facing us.

**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**Hearing on S. 970, the Iran Counter-Proliferation Act of 2007  
April 8, 2008**

**Question for Danielle Pletka from Senator Baucus**

**Question 1:**

**Ms. Pletka, existing U.S. sanctions against Iran contain exceptions that permit the President to license certain U.S. exports for direct or indirect export to Iran.**

**In 2006, the President granted a license permitting the indirect export of civilian aircraft spare parts to Iran.**

**This decision was consistent with U.S. Government efforts to assure international flight safety standards.**

**But the export ban in S. 970 would prohibit the exportation of these products.**

**Do you think the bill should give the President discretion to approve export of certain products, such as these aircraft spare parts, for humanitarian purposes?**

The problem with this discretion is that it is being used for political purposes to provide incentives to Iran for changes in behavior. These incentives are offered, and often delivered without the necessary changes from the Tehran regime. Exceptions to sanctions must be only in case of danger to human life.

**Question for Danielle Pletka from Senator Grassley**

**Question 1:**

**Ms. Pletka, you've testified that multilateral sanctions are more desirable than unilateral sanctions.**

**Are we doing everything we can to persuade the international community to pursue a course of multilateral sanctions?**

I believe the United States has not only done enough to persuade the international community to sign on to sanctions, we have gone too far. The nature of multilateral actions is by definition one of a lowest common denominator. The question that confronts the United States is: what must we give up in order to sign more nations up for a "multilateral" front. If what is given up is more than what is gained, then we face a serious problem. Too many forget that multilateralism is a tool, not an end. Our end is the elimination of the illegal Iranian nuclear program.

**What more can we do?**

We must always work with our allies, but also contemplate the wisdom of ad hoc coalitions. Where Russia and China enjoy a veto, the United States will not succeed in achieving successful sanctions.

Questions for Danielle Pletka from Senator Bingaman

Question 1:

**Mr. Chairman, S. 970 prohibits the U.S. from entering into a “Section 123” nuclear cooperation agreement with Russia, absent a presidential certification that Russia has suspended all nuclear assistance to Iran and transfer of advanced conventional weapons and missiles to Iran.**

**Nuclear cooperation has been one of the few fruitful areas of U.S.-Russian relations in recent years. In 1992, the U.S. and Russia entered into an agreement suspending U.S. anti-dumping duties on Russian uranium. This was called the “Suspension Agreement.”**

**In 1993, the U.S. and Russia launched the “Megatons to Megawatts” program. Under this program, highly-enriched weapons uranium from Russia is “downblended,” or converted to low-enriched uranium, in Russia and sold by the Russian company OJSC Technobexport to the United States Enrichment Corporation for delivery to U.S. nuclear utilities. In 2007, this arrangement accounted for approximately 37% of low-enriched uranium sold in the U.S. market. This arrangement is an important part of our efforts to ensure that fissile materials are accounted for and are secure – and will not fall into the hands of terrorists.**

**In February of this year, we amended that agreement to allow Russia to sell lowenriched uranium – as opposed to downblended uranium sold under the “Megatons to Megawatts” program – directly to U.S. utilities for the first time. The amended Suspension Agreement is an important milestone on the road to a full-fledged Sec. 123 agreement. At last year’s Kennebunkport Summit, Presidents Bush and Putin agreed to move forward on a Section 123 agreement.**

**I am gravely concerned that passage of S.970 jeopardizes this important progress on U.S.-Russia nuclear cooperation. In your view:**

- If this legislation were to pass with the Sec. 123 language intact, how would it affect U.S. nuclear cooperation with Russia?**

I believe the relevant question is whether it is appropriate that the United States enter into nuclear cooperation agreements with nations that are themselves engaged in sales of destabilizing conventional weapons and missile technology to avowed US enemies. A nuclear cooperation agreement has the potential to be very valuable to Russia; if Moscow continues to block meaningful action against Iran in the United Nations and denigrates natural U.S. and European concerns about Iran’s intentions, perhaps it is not an appropriate nuclear partner at this time.

**• Would the Sec. 123 provisions make Russia more inclined or less inclined to cooperate with the U.S. on a multilateral effort vis-à-vis Iran?**

Russia is clearly uninclined to help, even as it enjoys the prospect of a 123 agreement with the United States. If Russia is able to secure major advances in its relationship with the United States in spite of its efforts to derail meaningful action to contain and sanction Iran, Moscow will be rewarded for its intransigence. This is hardly a proper incentive structure.

**• Does the danger that al-Qaida and other non-state actors might obtain fissile materials, with Russia the likely source, outweigh the danger of a nuclear Iran?**

If the suggestion is that somehow Russia, denied a 123 agreement with the U.S., would become a proliferator to terrorist entities – this is more than troubling. If Russia is insufficiently constrained by its own laws and the norms of civilized nations that such a transfer could take place, then clearly it should not, must not, be a candidate for nuclear cooperation with the United States.

As for weighing these two options, both are unacceptable.

**Question 2:**

**Mr. Chairman, as you know, Europe is increasingly dependent on Russian hydrocarbons, especially natural gas.**

**Russia has been aggressively pursuing “energy diplomacy,” by, for example, cutting off gas supplies to key transit countries. Russia also proposes to build the “North Stream” pipeline under the Baltic Sea, directly from Russia to Germany, bypassing transit countries such as Poland. Russia has also proposed to build the “South Stream” pipeline that would deliver Russian natural gas to Italy.**

**The Nabucco pipeline project is an alternative to the South Stream pipeline. Nabucco would deliver natural gas from Turkey to Austria, bypassing Russia. Many experts say that it is economically viable only if feedstock comes from the Caspian littoral states (i.e., Azerbaijan, Kazakhstan, and Turkmenistan), Iraq, and possibly Iran.**

**In your view:**

**• Is it in the U.S. national interest to do everything we can to encourage our European allies to diversify their supplies of energy?**

I am not an energy expert, though it is clear that diversity in energy supplies is highly desirable for all consumers.

**• Would S.970 make the Nabucco pipeline economically unviable?**

I don't know.

**Questions for Danielle Pletka from Senator Kyl**

**Question 1:**

**Ms. Pletka, as you know, the Congress passed the Iran Sanctions Act some years ago to halt investment in the Iranian energy sector.**

**The State Department has suggested that this Act has been effective, despite the fact that no company has actually been sanctioned under ISA.**

**Do you agree with the State Department's position?**

Certainly, the ISA has been effective insofar as it has had a chilling effect on investment in Iran. Has it been as effective as it might have been? No. The Department's failure to implement the law, using loopholes to force delays in decisions about sanctionable acts, has been an all too typical, but nonetheless troubling circumvention of law and congressional intent.

**Question 2:**

**Ms. Pletka, the Congressional Research Service in a report titled "The Iran Sanctions Act" lists about \$27.9 billion in investment in Iran's energy sector.**

**Do you believe that any of this investment activity violates the Iran Sanctions Act?**

Yes.

**Do you believe that sanctioning companies for violating this Act would have a positive effect on United States' efforts to deter investment in Iran's energy sector?**

There is a fine line to draw in any sanctions regime. For the first time in many years, many European nations have come to grips with the threat posed by Iran. Because of that, and because more and more European governments have begun to discourage investment by their national companies in Iran, I do not believe that now is the right moment for a crackdown on European companies. Iran desires little more than to drive a wedge between the US and Europe now that our cooperation is beginning to actual tighten the screws.

Could the Europeans do more? Yes. Are they doing more now than ever before? Absolutely. Rather, we must consider action against companies in nations that have gotten off scot free, nations such as China, Malaysia and others, that continue to invest in Iran without fear (apparently) of US action.

# USA\*ENGAGE



**Testimony of William A. Reinsch**  
 President, National Foreign Trade Council  
 & Co-Chairman of USA\*Engage  
 Before the Senate Committee on Finance

**S. 970, "The Iran Counter-Proliferation Act of 2007"**  
**Tuesday, April 8, 2008**

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify today. My name is William Reinsch, and I am the President of the National Foreign Trade Council. Along with our USA\*Engage coalition, my organization supports economic, humanitarian and diplomatic engagement and multilateral cooperation as the most effective means of advancing U.S. foreign policy interests and American values. I am here today to express serious concern about the approach to sanctions contained in S. 970, the Iran Counter-proliferation Act.

There is no question that Iran's behavior poses grave concerns for the United States and our allies. Iran's pursuit of a nuclear program is deeply troubling, and its documented support for terrorist organizations is unacceptable. These are serious problems that require the sustained attention and involvement of the United States.

But it is important to consider which approach is most likely to change the behavior we all want to see changed. By picking fights with our allies and limiting the ability of this and future Presidents to negotiate directly with Iran, legislation like S. 970 would make it more difficult for the United States to address the threats posed by Iran.

Members of this Committee, as well as the Committee on Banking, Housing and Urban Affairs, must balance the need to stand strong against Iran's unacceptable behavior against the risk of doing something counterproductive in an effort to address it. Passing S. 970 would come at a heavy price.

**Unilateral sanctions will not change the equation**

As a general matter, unilateral sanctions rarely achieve U.S. foreign policy goals. The Peterson Institute for International Economics has concluded that unilateral U.S. sanctions in place from 1970-2000 were effective only 19 percent of the time, and most successes came where a modest policy change – like release of a political prisoner – was sought. Moreover, sanctions may make the problems they are intended to address worse by providing an excuse for the targeted government to blame its failures on outside pressures and to rally support for its regime.

In the case of Iran, our ability to change behavior through future sanctions is further limited because the United States already maintains comprehensive restrictions on trade. Given that the regime has learned how to survive through decades of sanctions, more pressure by the United States alone is very unlikely to convince Iran to change its behavior.



Instead, the best hope of altering Iran's behavior is through vigorous and unified multilateral pressure in concert with our allies and Security Council partners, combined with direct diplomacy with Iran.

Unfortunately S. 970 – and other legislation such as HR 1400, which has been referred to the Banking Committee – would make it more difficult to unify our partners behind further multilateral measures and would also impede efforts by this and future Presidents to conduct direct diplomacy with Iran.

#### **S. 970 would endanger multilateral diplomacy**

Section 8 of S. 970 would expand current unilateral U.S. sanctions to foreign companies by making a parent company liable for the actions of its foreign subsidiaries. This bill would draw international attention away from the core problem: Iran's threatening behavior in seeking nuclear weapons. Instead, the bill would effectively penalize entities and individuals in the very countries whose cooperation we need to effectively counteract Iran's behavior. These other governments could draw on already-existing blocking statutes (e.g. the EU) or implement new measures to counteract the threat of U.S. penalties.

If enacted, this provision would over-ride and preempt provisions of the 17 Executive Orders issued over a 28 year period that provide legal authority for the current sanctions. This effort is a dramatic departure from current policy. The last time the United States attempted to sanction foreign companies in this way, in the 1980s, it caused a major rift with our allies, leading President Reagan to halt his initial attempt. The simple fact is extraterritorial sanctions are more likely to cause a trade war than they are to change Iran's behavior.

Adequate authority exists in current U.S. law for the United States Government to target sham corporations that exist to circumvent domestic sanctions. Simply put, if a subsidiary is independent and legitimate, it should not and cannot be held to U.S. law for conduct that remains outside the United States. If it is not independent and legitimate, then the U.S. government already has adequate enforcement authority.

#### **S. 970 would limit U.S. diplomatic efforts with Iran**

S. 970 would also limit the ability of the President to conduct diplomacy. Section 7 of the bill would codify existing Executive Order prohibitions on all exports except those of food and medicine to Iran and would prohibit the import from Iran of any good. Codifying these prohibitions would remove the ability of a U.S. President to offer incentives or to respond to positive developments in Iran in a timely fashion. For example, in the 1990s, the United States allowed imports of caviar and rugs in response to what was perceived then as a political opening in Tehran. It is essential that future Presidents have the same tools available to them, even if there are no present plans to employ them.

In addition, the prohibition on U.S. exports would appear to disallow transactions that are encouraged under current law. Under the current wording, this provision would seem to prohibit the export of medical devices to Iran and could hinder the ability for NGOs or news organizations to operate in Iran.

**This approach presents a number of humanitarian concerns**

I want to speak briefly about how this legislation could affect the people of Iran. As noted, Section 7 (b)(2) would prohibit all exports to Iran except for food and medicine. Banning the export of medical devices to Iran could compromise the basic medical treatment of Iranian citizens. It also seems unwise from a humanitarian standpoint to prohibit the export of civil aviation parts, which are currently permitted under license because they are directly related to air safety. Further, this provision could inhibit the ability for NGOs, international organizations such as the United Nations and news bureaus of the U.S. press from working on humanitarian activities.

In a broader sense, sanctions often end up hurting ordinary people while having little impact on the government leaders we are trying to influence. In the case of Sudan, poorly drafted state laws have discouraged American business activity in southern Sudan at the same time the federal government is trying to encourage it. In the case of Cuba, dissidents like Oswaldo Paya oppose U.S. economic sanctions because they provide an excuse for the Cuban government's failings.

These are just some of the problems with S. 970. USA\*Engage has compiled a list of concerns with the legislation, which are attached to my testimony and which I would ask be submitted for the record.

**Diplomacy and multilateral pressure are better approaches**

We believe that the best way to change Iran's unacceptable behavior is through an approach that emphasizes multilateral pressure and direct talks with Iran. The United States should continue to work with the UN Security Council on ways to pressure Iran on its nuclear program and with our allies around the world to confront its support for terrorist activities.

The Congress should also consider endorsing and funding a high-level special envoy for Iran with the authority to engage in direct bilateral talks in partnership with the international community. The United States has made some progress negotiating an end to North Korea's nuclear weapons program through direct diplomatic engagement. When it comes to Iran, there is already a framework for cooperation – security talks in Baghdad – and precedent – the United States and Iran cooperated in the past to support democratic governance in Afghanistan.

In addition, the Treasury Department has also been successful in convincing European banks to curb their dealings with Iran. This type of back-channel economic diplomacy with our allies is a much more effective way to influence the behavior of foreign companies than the sledgehammer approach of S. 970.

Finally, despite your best efforts, I will guarantee you that if S. 970 is enacted it will have serious unintended consequences which will be manifested rather quickly, and which would make our efforts to change Iran's behavior significantly more difficult. I strongly urge the Committee to reject this approach and instead to endorse diplomatic efforts with our allies and with Iran that are much more likely to result in a positive outcome.

**Comments on Specific Provisions of S. 970**

Section 5 would make the United States more vulnerable to international commercial complaints and damage U.S. global financial leadership by greatly expanding the universe of entities subject to sanctions to include insurers, creditors and foreign subsidiaries. The United States would undoubtedly face complaints and lawsuits from our trading partners questioning their legality if sanctions were imposed on these entities.

Section 6, Russia Nuclear Cooperation could undermine U.S. multilateral efforts to stop Iran from developing nuclear weapons -- for which Russia's cooperation is indispensable. The Bush administration's decision to negotiate a Section 123 agreement with Russia was reached based on the fact that Russia had already taken important steps to prevent Iranian proliferation. These steps included Russia's insistence that Iran return all plutonium-laden spent fuel from the Bushehr reactor to Russia and Moscow's support for three UN Security Council resolutions sanctioning Iran's nuclear activities. Indeed, President Bush supported Russia's provision of nuclear fuel to Bushehr on the basis that guaranteed fuel supplies undermine Iran's assertion of the need to enrich its own uranium.

A Section 123 Agreement provides the legal basis for the U.S. to enter into nuclear cooperation with another country and outlines the terms and conditions for cooperation. It does not comprise a commercial contract and does not relieve a country of the need to obtain U.S. export licenses for equipment, material, and technologies. Such an agreement does not remove continuing leverage over our nuclear partners, both through licensing and possible legislation.

The United States should certainly seek greater Russian cooperation on Iran, but S.970 is counterproductive in terms of achieving that cooperation. The most likely outcome of this provision would be to weaken Russia's willingness to cooperate with the United States in blocking Iranian nuclear efforts.

There are also other advantages to allowing a US-Russian 123 Agreement to enter into force. Nonproliferation experts have noted that a 123 Agreement between the U.S. and Russia could yield important nonproliferation benefits such as providing the international community with greater access to Russia's civil nuclear facilities. A 123 Agreement could also lead to increased efforts to secure and dismantle Soviet-era nuclear weapons. A 123 Agreement could also open tech transfer in critical areas from Russia to the United States and encourage Russia's Participation in the U.S. led Global Nuclear Energy Partnership (GNEP). Such an agreement could be important in its own right.

Section 7 (b)(1), Prohibition on Imports – would prohibit the import from Iran of any good. Codifying these prohibitions would remove the ability of a U.S. President to offer incentives or to respond to positive developments in Iran. For example, in the 1990s under the leadership of President Bill Clinton and Secretary of State Madeline Albright, the United States allowed the import of caviar and rugs in response to what was perceived then as a political opening in Tehran. It is essential to provide those same tools to future U.S. Presidents, even if there are no present plans to employ them.

Section 7 (b)(2), Prohibition on Exports – While the prohibition here is not as explicit as it is in Section 203 of HR 1400, it is clear that this would prohibit export of civil aviation parts, which is

a matter of air safety. If American companies can provide civil aircraft parts that would prevent an Iranian airliner from going down over Iran – or, for that matter, over Europe – it is reasonable to allow such sales to take place. In addition, the prohibition on U.S. exports would seem to disallow transactions that are encouraged under current law. Current wording would seem to prohibit the export of medical devices to Iran and could hinder the ability for NGOs or news organizations to operate in Iran.

Section 7(b)(3), Accession to the WTO orders USTR to take no action that would extend preferential trade treatment or lead to accession to the WTO of a country “engaged in nuclear cooperation with Iran.” Russia’s accession to the WTO would be tremendously beneficial for the United States and the global trading system. It is the largest economy outside of the WTO and is an important market for a range of U.S. industry from manufacturing to agriculture. Welcoming Russia into the WTO would level the playing field for American workers and businesses, and would allow us to compete on more equal footing with local and foreign firms. Holding up this unrelated and beneficial economic process is inappropriate.

Section 8 proposes that the existing unilateral U.S. prohibitions of trade and investment with Iran by U.S. persons and entities be expanded to apply to certain overseas entities and citizens of other countries by making the parent company liable for the actions of its subsidiaries that are domiciled in foreign countries. If enacted, this provision would over-ride and preempt provisions of the 17 Executive Orders issued over a 28 year period that provide the legal authority for the current sanctions. This effort is a dramatic departure from current policy, which is an outgrowth of past experience.

During the Soviet invasion of Afghanistan in the early 1980s, the U.S. sought to ban participation in the Siberian pipeline project by European subsidiaries of U.S. companies. In response to the U.S. sanctions on the pipeline project, the U.K., France, and other countries passed blocking statutes, requiring the subsidiaries to honor existing contracts and disobey the U.S. sanctions, thereby putting the subsidiaries and their parents in the impossible position of not being able to obey both U.S. and applicable foreign law at the same time.

Under considerable pressure from European governments and American corporations, the Reagan Administration withdrew the extraterritorial measures to avert adverse rulings in multiple pending legal cases in both U.S. and overseas courts. Beginning with the regulations implementing sanctions on Libya in 1986, the U.S. has repeatedly limited investment and trade prohibitions to U.S. based companies.

In targeting our allies for penalties, this bill would draw international attention away from the core problem: Iran’s threatening behavior in seeking nuclear weapons. Instead, the bill would penalize entities and individuals in the very countries whose cooperation we need to effectively counteract Iran’s dangerous behavior. These other governments could draw on already-existing blocking statutes (e.g. the EU) or implement new measures to counteract the threat of U.S. penalties.

At the same time, adequate authority exists through existing U.S. law for the United States Government to target phony or sham corporations that exist to circumvent domestic sanctions. U.S. law already sets parameters to determine the nature of a subsidiary and its relationship to its parent. If U.S. companies are operating sham foreign subsidiaries, then the U.S. government

already has authority to investigate and prosecute such cases and enforce current regulations. Simply put, if a subsidiary is independent and legitimate, it should not and cannot be held to U.S. law. If it is not independent and legitimate, then the U.S. government already has adequate enforcement authority. S. 970 would establish overreaching extraterritorial legal definitions for international business relationships and complicate legitimate trade and investment and reigniting the firestorm that ensued in the Siberian gas pipeline case.

Section 10: would reduce U.S. contributions to the World Bank proportional to the amount the Bank provides for projects in Iran. Such a move would damage U.S. credibility within the institution and across the multilateral institutions, which would undermine our broader development agenda. It is important for the U.S. to live up to its multilateral obligations.

**FINANCE COMMITTEE QUESTIONS FOR THE RECORD**

**Hearing on S. 970, the Iran Counter-Proliferation Act of 2007  
April 8, 2008**

**Question for William Reinsch from Senator Grassley****Question 1:**

**Mr. Reinsch, you testified today that unilateral sanctions often have little impact on the target regime, and you mentioned the examples of Sudan and Cuba.**

**On the other hand, we heard Mr. Kittrie discuss the positive effect of sanctions in the cases of the Iraqi and Libyan nuclear programs.**

**What's your reaction to Mr. Kittrie's testimony?**

In both cases – Libya and Iraq – Mr. Kittrie indicated that “strong UN Security Council sanctions” helped halt illicit nuclear programs. It is clear that strong multilateral sanctions have the best chance of deterring Iran from pursuing nuclear weapons. However, unilateral sanctions of the kind contained in S. 970 are likely to be counterproductive and impede agreement on new, tougher multilateral sanctions at the United Nations. Attempting to apply U.S. sanctions extraterritorially to companies located in Russia, China and Europe would make it more difficult to gain the support of those countries for a stronger multilateral regime.

In addition, Mr. Kittrie fails to mention that Libya and Iraq were only welcomed back into the community of nations as a result of either war or diplomacy. In the case of Iraq, we went to war against Saddam Hussein. In the case of Libya, the British and U.S. Governments held direct talks with the Libyans in the wake of military action against Iraq. Sanctions alone cannot substitute for diplomacy.

**Question 2:**

**Mr. Reinsch, does the potential cost of a nuclear Iran outweigh the cost of unilateral sanctions in this case?**

There is no question that avoiding a nuclear Iran should be a top priority of the U.S. Government and of the international community. The difficulty with the current unilateral sanctions under consideration in Congress is that, since the proposals target European and Asian companies for penalties, they make it more difficult to achieve further multilateral agreement on pressuring Iran from other UN Security Council members. Passing legislation like S. 970 makes it *less likely* that we can achieve our shared goals of avoiding a nuclear Iran.

**Questions for William Reinsch from Senator Bingaman**

**Question 1:**

**Mr. Chairman, S.970 prohibits the U.S. from entering into a “Section 123” nuclear cooperation agreement with Russia, absent a presidential certification that Russia has suspended all nuclear assistance to Iran and transfer of advanced conventional weapons and missiles to Iran.**

**Nuclear cooperation has been one of the few fruitful areas of U.S.-Russian relations in recent years. In 1992, the U.S. and Russia entered into an agreement suspending U.S. anti-dumping duties on Russian uranium. This was called the “Suspension Agreement.”**

**In 1993, the U.S. and Russia launched the “Megatons to Megawatts” program. Under this program, highly-enriched weapons uranium from Russia is “downblended,” or converted to low-enriched uranium, in Russia and sold by the Russian company OJSC Techsnabexport to the United States Enrichment Corporation for delivery to U.S. nuclear utilities. In 2007, this arrangement accounted for approximately 37% of low-enriched uranium sold in the U.S. market. This arrangement is an important part of our efforts to ensure that fissile materials are accounted for and are secure – and will not fall into the hands of terrorists.**

**In February of this year, we amended that agreement to allow Russia to sell lowenriched uranium – as opposed to downblended uranium sold under the “Megatons to Megawatts” program – directly to U.S. utilities for the first time. The amended Suspension Agreement is an important milestone on the road to a full-fledged Sec. 123 agreement. At last year’s Kennebunkport Summit, Presidents Bush and Putin agreed to move forward on a Section 123 agreement.**

**I am gravely concerned that passage of S.970 jeopardizes this important progress on U.S.-Russia nuclear cooperation. In your view:**

- If this legislation were to pass with the Sec. 123 language intact, how would it affect U.S. nuclear cooperation with Russia?**

Passage of the Sec. 123 language in S. 970 would have an extremely negative effect on U.S. nuclear cooperation with Russia and would constitute a major political setback to U.S.-Russian relations. This provision would undo a significant amount of time, effort and political capital invested by the Bush administration on this issue. It would also remove a key leverage point the President has with Russia in negotiations over Iran.

- Would the Sec. 123 provisions make Russia more inclined or less inclined to cooperate with the U.S. on a multilateral effort vis-à-vis Iran?**

Passage of the Sec. 123 provisions would make Russia much less inclined to cooperate with the United States on a multilateral effort vis-à-vis Iran. The provision would be a

setback to the bilateral relationship and would undermine – rather than support - the April 6 Sochi declaration by the United States and Russia, in which Russia’s cooperation on the Iran nuclear issue was formalized in the context of a larger framework for strategic cooperation.

**• Does the danger that al-Qaida and other non-state actors might obtain fissile materials, with Russia the likely source, outweigh the danger of a nuclear Iran?**

This is not an either-or scenario. The fact is the risk that Russia is the source of fissile materials to BOTH al-Qaida and Iran diminishes the closer the United States cooperates with Russia. Attacking the Sec. 123 agreement with Russia is exactly the wrong thing to do – it is likely to lead to less cooperation between the United States and Russia and make it more likely that Russia could be the source for groups like al-Qaida or countries like Iran.

**Question 2:**

**Mr. Chairman, as you know, Europe is increasingly dependent on Russian hydrocarbons, especially natural gas. Russia has been aggressively pursuing “energy diplomacy,” by, for example, cutting off gas supplies to key transit countries. Russia also proposes to build the “North Stream” pipeline under the Baltic Sea, directly from Russia to Germany, bypassing transit countries such as Poland. Russia has also proposed to build the “South Stream” pipeline that would deliver Russian natural gas to Italy. The Nabucco pipeline project is an alternative to the South Stream pipeline. Nabucco would deliver natural gas from Turkey to Austria, bypassing Russia. Many experts say that it is economically viable only if feedstock comes from the Caspian littoral states (i.e., Azerbaijan, Kazakhstan, and Turkmenistan), Iraq, and possibly Iran. In your view:**

**Is it in the U.S. national interest to do everything we can to encourage our European allies to diversify their supplies of energy? Would S.970 make the Nabucco pipeline economically unviable?**

Generally, it is in the U.S. national interest to encourage diversification of energy supplies so that none of our allies are vulnerable to pressures such as Russia’s “energy diplomacy.” Beyond that, I am not an energy expert and cannot comment on whether S. 970 would make the Nabucco pipeline economically unviable.

**Questions for William Reinsch from Senator Kyl**

**Question 1:**

**Mr. Reinsch, please provide a list of the economic sanctions legislation that your groups (USA Engage and the National Foreign Trade Council) have taken positions on in the last 10 years.**



**Please note whether these organizations have supported or opposed these bills in each case.**

USA\*Engage and the National Foreign Trade Council generally oppose unilateral sanctions on the grounds that they are ineffective and can be counterproductive when it comes to achieving U.S. foreign policy goals or promoting American values and interests. For these reasons, the organizations have expressed concern with approaches taken by legislation in the 110<sup>th</sup> Congress including S. 970, HR. 1400, S. 831, H.R. 3890, H.R. 2347, H.R. 180, and H.R. 957. In the 109<sup>th</sup> Congress, the organizations expressed concern with bills including S. 333 and H.R. 282.

For the same reason, the organizations have supported bills in the 110<sup>th</sup> Congress such as S. 1673, "Promoting American Agricultural and Medical Exports to Cuba Act," and H.R. 654, "Export Freedom to Cuba Act," as well as bills in the 109<sup>th</sup> Congress such as S. 2787 and H.R. 5353.

USA\*Engage and the National Foreign Trade Council have also consistently championed legislation that would mandate common-sense rules for new U.S. sanctions legislation, first introduced by Senator Richard Lugar and former Congressman Lee Hamilton in 1997.

USA\*Engage and the National Foreign Trade Council have also consistently supported congressional calls to improve diplomatic efforts and strengthen multilateral responses to conflicts in places like Burma and Sudan.

For the views of USA\*Engage and the National Foreign Trade Council on other sanctions legislation since 1997, please see the organizations' press release archive which can be found at [www.usaengage.org](http://www.usaengage.org).

**Question 2:**

**Mr. Reinsch, does your organization have a policy requiring that members and their subsidiaries not be in business with terror sponsoring states?**

**If so, what is that policy?**

The NFTC encourages its members to adhere to U.S. laws, regulations and policy guidance. In this regard, U.S. law specifically permits the export by U.S. companies of food, medicine and medical devices, under license, to countries like Cuba and Sudan. U.S. law also allows for the sale and maintenance of products and services to support air safety.

**Question 3:**

**Mr. Reinsch, in reading your prepared remarks, it is unclear if it is your position that U.S. economic sanctions on Iran have not accomplished anything.**

**Could you please clarify this?**

U.S. sanctions undoubtedly have had some effect on Iran, including driving up the cost of doing business, making it more difficult to obtain needed technologies and disrupting financing and logistical support for Iranian industry. At the same time, U.S. sanctions have not deterred Iran from pursuing a nuclear program with some success or from selling its oil to the world, and U.S. sanctions have not led to a more pluralistic society or democratic government in Iran.

Indeed, U.S. sanctions and official government assistance in support of regime change arguably make it more difficult for independent civil society elements to operate in Iran and can harm individuals and entrepreneurs in Iran that the United States should wish to encourage. When foreign banks restrict operations in Iran, it hurts not only large Iranian government concerns but also small independent businessmen and women who rely on financing to maintain their operations. Sanctions also provide an excuse for the economic failures of the Iranian government as well as an opportunity for the Iranian government to rally its citizens against the United States.

**Question 4:**

**Mr. Reinsch, did either of the two organizations that you represent state a position when the State and Treasury Department invoked unilateral sanctions on the Islamic Revolutionary Guard Corps (IRGC) and the IRGC Qods forces earlier this year? If so, please state what that position was.**

The following statement was released by USA\*Engage and the National Foreign Trade Council in response to the announcement of sanctions on Iran's Revolutionary Guard Corps:

“There is no question that Iran’s effort to develop a nuclear capability poses a threat to peace and stability, but the approach announced today by the administration may move us farther away from our goal of getting Iran to actually change its behavior.

“These sanctions are extraterritorial, and as such are likely to worsen relations with our allies. Given their sweeping nature, they may ultimately end up targeting hundreds of foreign companies that are doing business legally under their national laws. Their reach is so broad that they pose real challenges when it comes to connecting the dots with other companies and entities both inside and outside Iran.

“The most unfortunate element is that the Bush administration is framing this as a diplomatic initiative. In fact, they are sanctions intended to punish Iran, though their primary effect may well be on companies in third countries. As a result they are unlikely to lead to a positive diplomatic outcome. Real diplomacy means utilizing direct diplomatic channels to the government in Iran, and it means working with our allies on concerted multilateral efforts.”

**Question 5**

**Mr. Reinsch, your prepared statement suggests that passing S. 970 amounts to “picking fights with our allies.” Do the provisions in S. 970 only apply to our allies? What about other countries that are not allies of the United States and are**

**maintaining business relationships with Iran, thus allowing Iran to circumvent the multilateral sanctions you state you support. Would those nations not be susceptible to the additional economic sanctions S. 970 would provide the current and future administrations?**

Rather than providing leverage to this and future U.S. administrations, S. 970 would harm the ability of any executive to advance U.S. foreign policy interests by mandating that the President impose sanctions that would affect companies located in countries in Europe and Asia, including Russia and China. Our allies in Europe as well as Russia and China would likely react in a way that would make it more difficult to gain their cooperation for additional multilateral pressure on Iran. Imposing sanctions like those contained in S. 970 would refocus international attention away from Iran's behavior and highlight disagreements with U.S. trading partners, including the members of the UN Security Council, over the extraterritorial application of U.S. sanctions.

My fellow witness at the hearing, Philip Gordon, put it best when he said that "we need to understand that what we can do alone as a country is going to have a very limited impact, and in that sense *it is in many cases more important to have broad and weak sanctions than very narrow and strong sanctions*. That is why I think it is important, as much as possible, to get Russia and China on board." (Emphasis added.)

**OPENING STATEMENT  
SENATOR KEN SALAZAR  
FINANCE COMMITTEE HEARING  
“S. 970, the Iran Counter-Proliferation Act”  
Tuesday, April 8, 2008**

Thank you, Chairman Baucus and Ranking Member Grassley, for holding this morning’s hearing. Along with several of my colleagues on the Committee, I am a cosponsor of this legislation, I am a cosponsor of S.970, the Iran Counter-Proliferation Act of 2007, and I am pleased you have brought the Committee together to discuss it this morning.

I would also like to welcome our distinguished panel of witnesses. I appreciate your time and your expertise, and look forward to your testimony.

I am deeply concerned by Iran’s continuing violation of its obligations under the Nuclear Non-Proliferation Treaty. Taking these clandestine nuclear activities together with Iranian President Mahmoud Ahmedinajad’s inflammatory statements regarding Israel and the West, it is clear this emerging challenge deserves our attention. A nuclear-armed Iran would be a threat to the United States and our allies around the world, and would likely function to destabilize the already-fragile political situation in the Middle East. I view this as unacceptable.

Let me be clear, however: the United States should make every attempt to resolve the Iranian challenge through diplomatic and economic channels. This includes working with our Security Council partners in the United Nations to ensure Iran cooperates with nuclear weapons inspectors from the International Atomic Energy Agency, and, pertinent to this hearing, expanding upon the economic sanctions against the Iranian regime that are already in place.

I believe S.970 will work effectively to intensify the economic pressure on Iran as well as any country that assists the Iranians in developing its nuclear sector. The bill provides for new sanctions, expands upon sanctions already in place under the Iran Sanctions Act, significantly curbs exceptions to current import/export bans, and also provides financial support for the peaceful production of nuclear energy. With the passage of this bill, the United States would send a clear message to Iran that its pursuit of nuclear weapons will come at a significant cost.

As we examine issues related to this legislation today, I am especially interested in hearing from our witnesses about their views on why the sanctions currently in place have not effectively dissuaded Iran from continuing to pursue nuclear weapons. I would also like to hear more about what unintended effects these sanctions have had, and how we might address those effects.

Finally, I am hopeful that we can work to address any outstanding issues with respect to the bill’s compliance with the rules of the World Trade Organization so that we may move forward in a manner that is consistent with our obligations to our trading partners.

I recognize that there are strong feelings on both sides of this issue, but I think we can all agree that it is in our interest and the interests of the world community to show strong, responsible leadership in addressing Iran’s nuclear ambitions. I look forward to our discussion of this very important issue.

Thank you Mr. Chairman.