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TRANSSHIPMENT AND DIVERSION: ARE U.S. TRADING PARTNERS DOING ENOUGH TO PREVENT THE SPREAD OF DANGEROUS TECHNOLOGIES?

HEARING

BEFORE THE

SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION AND TRADE

OF THE

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HOUSE OF REPRESENTATIVES

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TRANSSHIPMENT AND DIVERSION: ARE U.S. TRADING PARTNERS DOING ENOUGH TO PREVENT THE SPREAD OF DANGEROUS TECHNOLOGIES?

THURSDAY, JULY 22, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TERRORISM,
NONPROLIFERATION AND TRADE,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:11 a.m., in room 2172, Rayburn House Office Building, Hon. Brad Sherman (chairman of the subcommittee) presiding.

Mr. SHERMAN. I want to thank our witnesses and ranking member for being here. This is the seventh or eighth hearing this subcommittee has had this Congress regarding export controls. It is long past time that Congress reauthorize the EAA. My own philosophy is that we need a taller fence around a smaller field, but obviously anything we do in the area of export controls can be rendered meaningless by transshipment, and that is why we are having this hearing today, to focus on transshipment and diversion and review U.S. efforts to keep American and other sensitive Western technologies and equipment out of the hands of those who can use them to threaten our national security.

Most importantly, this hearing is about preventing lax export controls and policies in countries that trade with the West from allowing technology and equipment relevant for the development of nuclear weapons to reach Iran, Syria, North Korea, and similar states.

In 1998, Pakistan conducted its first nuclear test, having developed its weapons far before then. Pakistan had gained that capacity through international deception in part, whereby the true end user of various equipment was obscured through clandestine procurement networks. We now see similar networks on behalf of other states that either are trying to develop nuclear weapons or have done so illegally. These proliferation techniques need countries to be the transshipment hub in the supply chain. Technology and equipment in countries with high tech manufacturing can go to those hub countries, and then on to the prohibited country. These hub countries have weak or nonexistent export controls, ineffective custom and law enforcement officials, and most importantly, little or no political will to do anything about this critical problem.

In addition, large trade volumes at major transshipment ports can help camouflage the illicit shipment of diverted goods. In 2004, the U.N. Security Council adopted Resolution 1540, which obligates member states to enact and enforce measures that would prevent proliferation of weapons of mass destruction to non-state actors. Efforts under this resolution generally include strategic trade controls. And many countries are enacting or strengthening such laws to reach compliance with that U.N. Security Council resolution.

I would like to highlight the record of three countries that despite having made some strides still serve as transshipment and diversion hubs and generally do not effectively control exports to Iran and other countries of proliferation concern. The first of these is the UAE, one of the largest transshipment hubs. For two decades, it was a major hub through which traffickers of nuclear technology and dual-use material have routed their illegal commerce to countries including Iran, Iraq, and Libya. Pakistani scientist A.Q. Khan operated key parts of his smuggling ring out of the Emirates.

Nuclear traffickers shipped via the UAE because the UAE lacked significant export control laws and made the UAE one of the easiest places in the world to mask the real destination of cargo. Although the UAE has cracked down on smugglers in recent years by acting to interdict suspect shipments and by closing down some Iranian front companies, the Emirates still have not issued regulations or created an enforcement agency for their export control law, which was passed in 2007. So those seeking to ballyhoo cooperation with the UAE pointed to the statute. Three years later, no enforcement agency, no regulations.

Another concern is the UAE governing structure, where each emirate is semi-independent and retains some national power. Well, eventually, their Federal Government will enforce export controls. Currently, any enforcement is the purview of each emirate. Particularly noteworthy is the emirate known as RAK—that is Raz Al Khaimah—because of its close proximity to Iran, the depth of Iranian investments in that emirate, and its remoteness from the center of the emirates.

Malaysia is the second country I want to highlight. It got an inadequate record of preventing the diversion of weapons-related technology shipments. Malaysia's lack of export controls has allowed arms traffickers to ship sensitive materials to pariah nations such as Iran and North Korea. Shipments have included parts for bombers and items sent to firms linked to Iran's nuclear ballistic missile program. Reportedly, as a condition for the prime ministerial invite to the nuclear security conference here in April, Malaysia enacted a strategic trade act this year.

Prior to the enactment of this legislation, Malaysia didn't even have significant export controls on its books. However, as we have seen with the Emirates, just having a law on the statute books is insufficient. We must make it clear that we cannot be faked into acting as if Malaysia has acted appropriately by enacting a statute if they fail to move forward expeditiously toward regulations, enforcement regimes, et cetera.

Finally we have China. The Chinese legislation regulation concerning the control of sensitive technologies is more mature than the other countries I have mentioned, but the political will to en-

force these regulations remains lacking. U.S. designation lists are littered with Chinese entities, yet Chinese authorities are unwilling to meaningfully control strategic trade. In one example in The Washington Post, a North Korean businessman used his Beijing office to facilitate the transfer of nuclear technology to Syria.

I should mention Iran at this point. Earlier this month, the U.N. Security Council took a step in the right direction by imposing another round of sanctions. Just 3 weeks ago, Congress further reinforced and went beyond the U.N. sanctions by passing the good first, but not sufficient, step, comprehensive Iran Sanctions, Accountability and Disinvestment Act, which imposes an array of new economic policies aimed at persuading Iran to change its behavior. However, as our experience with Pakistan's nuclear program demonstrated, export control laws will be of little value unless we can properly control the flow of global cargo at transshipment hubs. And when I say 'we,' I mean not only the United States, but those countries cooperating with us.

The United States has offices and law enforcement agencies that work to keep sensitive goods out of the hands of weapons proliferaters and terrorists. One such office is the Department of State's Export Control Cooperation, ECC, which provides assistance related to strategic trade control systems and prevents illicit transfer of weapons-related technology materials. A major component of this office is the Export Control and Border Security program, EXBS, which provides foreign assistance for the development and implementation of trade controls.

In addition, the Department of Commerce's Bureau of Industry and Security's, BIS, transshipment country export control initiative is tasked with strengthening trade compliance and export control systems with those countries and companies that continue to act as transshipment hubs. I think it is important that we provide aid to countries that have the political will to prevent diversion, and at the same time the State Department has to advise Congress and be frank with regard to those countries where the lack of political will is a reason for us to reevaluate other aspects of our relationship with that country.

Finally, and perhaps most importantly, the Iran sanctions legislation I referenced moments ago includes a title I introduced here in the House, championed by Senator Dodd in the Senate, that would create a new export control category for countries that are of transshipment or diversion concern and have taken ineffective steps to rein in this problem. A country slapped with this designation will be denied critical U.S. technology, including technology needed for the development of their manufacturing in high tech sectors.

I know it is early, but I hope at this hearing, we will highlight the need for a vigorous implementation of Title III of the Iran sanctions bill. And I want to hear how your agencies will do just that. I thank my colleagues for their indulgence, as I have gone over time. And again, I hope this hearing will provide us with a greater understanding of transshipment threats and our ability to effectively minimize such threats to our national security.

Now I will recognize the gentleman from California, Mr. Royce.

Mr. ROYCE. Thank you very much, Mr. Chairman. Thank you for this hearing and the work that we have done on this issue. The diversion and transshipments of sensitive U.S. technology are very significant security threats around the globe, and keeping these items out of the wrong hands is an increasing challenge as global trade of dual-use items just keeps increasing.

There is no more determined violator of this—I think you and I agree, Chairman—than Iran. Its regime very aggressively, cleverly and effectively targets advanced technology for its nuclear program and some of its other weapons programs. Frequent targets of this are American companies, so checking Iran's procurement network has to be a top priority.

Another critical country on this front is China because its manufacturing sector has very weak export controls, which makes it a key target. China's notorious record as a WMD proliferater demands that it be given very close scrutiny. In the '90s, we did work on this committee calling attention to the transfer of ring magnets from China to Pakistan and into the hands of A.Q. Khan's network. So I am a skeptic on China's commitment to export controls given its past behavior, and certainly given its nonchalance about nonproliferation in general. Its planned sale just announced of two nuclear reactors to Pakistan, and its multibillion-dollar investment in Iran's energy sector are additional cases in point in terms of the way China behaves in this regard. And I think Beijing's pressure on the Obama administration to loosen export controls is concerning.

There are some positive developments, and you hit on several of them, Chairman. The UAE has made progress, especially in checking shipments to Iran. The UAE recently stopped a North Korean vessel carrying arms to the Islamic Republic. So they have moved in the right direction. More is needed.

There are reports that transshipment and diversion activities may now be shifting elsewhere in the region. Malaysia passed an export control law in April, as you mentioned. That is a good start. It is only a start, and certainly Malaysia was a past hub of activity for A.Q. Khan as well. So any steps in Malaysia have to be in the right direction since there was no real focus on it prior to this law.

Our export control system certainly needs reform, and we agree on this. And I am interested in determining if the administration's reform proposals would strengthen our security by effectively reducing transshipments and reducing diversion. And I think the other point I would make is that this hearing is really an opportunity to look at the Obama administration's implementation of the Iran sanctions legislation, the conference committee of which you and I served on, Mr. Chairman, that was signed into law last month. And I would like to be clear here.

I think that legislation was a disappointment, a big one. As I said when the conference report passed, good sanctions were weakened by delays, half measures, and waiver after waiver. And that was at the administration's insistence. That is too bad. But on Iran, with the waivers that the administration negotiated, the decisions are now in the administration's court. Will it actually sanction foreign companies doing business with Iran? The fact that the administration hasn't imposed a single sanction on an Iranian trad-

ing partner points to more inaction, just what we can't afford toward Iran.

I hope I am wrong. I suspect I am right, and I yield back, Mr. Chairman.

Mr. SHERMAN. Thank you. Would you like an opening statement? I recognize the gentlemen from Illinois for 5 minutes.

Mr. MANZULLO. Thank you, Mr. Chairman, for calling this very important hearing to examine and discuss the issues of diversion and transshipment of sensitive export control technology. Our Government must establish an export policy based upon clearly defined national security and foreign policy priorities that also recognizes the realities of a global supply chain and encourages legitimate trade.

It is clear that overly broad controls are detrimental to U.S. national security interests as well as our overall global competitiveness, to which the United States has gone 50 years ago from a 50-percent market share in machine tools in the world, to 18 years ago 13 percent, and now we are at 7 percent. And because, in many cases, of our export controls, we are losing our technology because the American manufacturers have made it very difficult—the government has made it very difficult for them in many cases to export their precision machinery, and foreign nations have taken that over.

It makes little sense to impose controls on widely available products that detract our enforcement personnel from more significant threats to our national security. As part of this goal to double the exports by 2015, President Obama ordered a broad-based interagency review of U.S. export control regulations. The results of that review are now being put into motion. Defense Secretary Gates outlined four goals for the administration's export control reform initiative back in April: An overhaul of the structure of the control lists, efficient licensing policies and practices that account for the realities of innovation and production, better coordination in our enforcement measures, and a unified IT infrastructure.

I truly believe that if we strive to meet these goals, we will produce a more predictable, efficient, and transparent system that benefits not only our national security, but our global competitiveness. And as we continue to discuss proposals to modernize our export control system, it is imperative that we remain mindful of diversion and transshipment risks. I have long been an advocate for tougher penalties that justly target those who flout our export control laws and regulations. The Export Control Improvement Act, H.R. 3515, which I introduced last year with this subcommittee's chairman, my friend Brad Sherman, and another good friend, Adam Smith of Oregon, would address several problems with the current system by expanding enforcement authorities for BIS and also mandating updates to the computerized automated export system, AES.

The bill would strengthen our current trade controls by requiring the Federal Government to modernize the AES, update it continually, making the filing process for shipments abroad more thorough and significantly reducing unintentional illegal exports. The bill also authorizes an accountability system for export inter-

mediaries and enhances prosecution of exporters who attempt to circumvent electronic blocks.

I know that the Bureau of Industry and Security regularly accesses AES data to verify compliance with the Export Administration regulations and to support its investigative functions. For example, AES data contributed to a BIS investigation that led to the identification of a major diverter of U.S.-origin aircraft parts to Iran. I hope our proposals, aimed at strengthening the statutory requirements for the AES, will be included in any rewrite of the Export Administration Act.

The second half of that bill focuses on enforcement measures and addresses transshipment, re-exportation, and diversion of controlled items by providing guidelines and consequences for designation of a country as a destination of diversion concern or of possible diversion concern. Some of these changes were incorporated into the Iran sanctions bill recently signed into law. Specifically, Title 3 of H.R. 2194 included much of the language we introduced in H.R. 3515. These new mandates should provide another set of tools for our Government to combat diversion and transshipment of sensitive technologies.

Chairman, I greatly appreciate the opportunity to share my views and concerns. I look forward to continuing to work with you and other colleagues on the committee in crafting legislation that will improve our national security by reforming our export control system. I thank you again for having this hearing.

Mr. SHERMAN. Thank you, Mr. Manzullo. I will now recognize Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. It is a pleasure to be with you. And let me join you in welcoming our distinguished witnesses. The topic of today's hearing is one that is particularly relevant in light of the recent situation and our sanctions on Iran, that this committee, with the leadership of Chairman Berman and others, was able to push through this legislative chamber, which the President has now signed into law.

The Iran Sanctions Act, the strongest sanctions we have placed on the Islamic Republic, have already begun to have immediate effect in pressuring and punishing international companies who do business with Iran. Now we have got to ensure that in conjunction with these economic sanctions that we address and prevent the trade of dangerous technologies from into the hands of rogue states like Iran and terrorist organizations.

The United States and its trading partners must be ever-vigilant about the trade and smuggling of dual-use technologies into Iran, into China, into North Korea, and others whose interests are in direct opposition to the United States and our friends and allies. One particular trading partner I would like to address is the UAE. Dubai has been working to improve its image, for sure. And the reality has a venue for such counterproductive trade. They have in fact clamped down on financial flows to suspected terrorist organizations following the September 11th attacks.

However, Dubai in 2003 was also known as the base of operations for front companies working for the Pakistani scientist A.Q. Khan and his nuclear procurement network. Very dangerous business. Today, the UAE says that it is taking action to maintain nu-

clear security and counter threats. It has closed down 40 international and local firms as part of a crackdown on violators of the sanctions that were also passed by the United Nations. And this is a good thing.

Earlier this year, the UAE and the United States signed an agreement for the installation of equipment at UAE ports for the detection of nuclear materials. This is another good thing. These good things, these steps, are steps in the right direction, but we must go further.

In 2007, the UAE enacted a new export control law, which included license requirements for the export or re-export of sensitive goods. In 2008, the law was amended to toughen its implementation. And in 2009, the UAE cabinet formed a committee to improve compliance and enforcement.

So the fundamental question we have got to answer today regarding the UAE is this. What is the status of the implementation of the UAE export control law, and how is the United States involved in its implementation and oversight?

So again, Mr. Chairman, thank you for giving venue to explore how the administration has led in this way and continues to do so, and I look forward to the witnesses.

Mr. SHERMAN. Thank you for that opening statement. Our ranking member does have a good excuse for not being here. He is questioning Chairman Bernanke, so I am sure Assistant Secretary Wolf and the Acting Assistant Secretary will not be offended. And I will ask my questions in the first round after other members. That way, if they are not suitably entertained here, they can leave after they ask their questions. On the other hand, I would hope that they would stay for the grand finale, which of course will be my own questioning of the witnesses.

First, I would like to introduce the Honorable Kevin Wolf. Mr. Wolf was sworn in to his current post as Assistant Secretary of Commerce for Export Administration in February 2010. Prior to joining the Bureau of Industry and Security in the Department of Commerce, he was a partner in the Washington, DC, office of Bryan Cave. From 1996 to 1997, Mr. Wolf was the Special Assistant Counsel to the House Committee on Standards of Official Conduct.

In any case, welcome back to the House. But before you begin your remarks, it is also my pleasure to introduce and welcome back Vann Van Diepen. Mr. Van Diepen has been the principal Deputy Assistant Secretary of State for International Security and Nonproliferation since June 2009, and now is the Acting Assistant Secretary. From 2006 to 2009, he was a national intelligence officer for Weapons of Mass Destruction and Proliferation in the Office of the Director of National Intelligence. Prior to that, Mr. Van Diepen directed the State Department's Office of Missile Threat Reduction.

Mr. Wolf, please proceed.

STATEMENT OF THE HONORABLE KEVIN J. WOLF, ASSISTANT SECRETARY FOR EXPORT ADMINISTRATION, BUREAU OF INDUSTRY AND SECURITY, U.S. DEPARTMENT OF COMMERCE

Mr. WOLF. Chairman Sherman, Ranking Member Royce, and distinguished members of the committee, thank you for the oppor-

tunity to testify before the Terrorism, Nonproliferation and Trade Subcommittee regarding the work the Department of Commerce is doing to prevent the diversion of controlled goods through transshipment areas.

The dual-use export control system is a vital tool on the front line to fight the effort to protect national security of the United States against a diversion of threats our nation faces. The department's Bureau of Industry and Security, or BIS, administers and enforces the Export Administration regulations, known as the EAR, to further U.S. national security, foreign policy, and economic security interests.

The commodities, software, and technology that are subject to the EAR are generally referred to as dual-use items and are for supposed civilian use, but also may have a range of military applications or are controlled for other foreign policy reasons. In administering and enforcing the EAR, BIS works closely with a number of other agencies, including the Departments of Defense, Energy, Homeland Security, Justice, State, Treasury, and the intelligence community. And since arriving at BIS, I have placed a particular emphasis on interagency cooperation.

BIS employs a variety of methods to prevent diversion of items subject to the EAR to unauthorized destinations and uses. These methods include interagency review of export license applications, identification of high-risk foreign parties, extensive outreach to the business community, end use checks, and reviews and analysis of export data from various sources. BIS controls the export, re-export, and transfer of all items subject to the EAR. Last year, BIS processed approximately 20,000 export license applications. The value of those applications was about $60 billion—with a b—for items subject to the EAR.

The Commerce Department, along with the Departments of Defense, Energy, and State, have the opportunity and generally do review all aspects of a proposed export to evaluate the risk of diversion either in-country or to a third country, or to evaluate any other national security or foreign policy risks. The entity list is one tool increasingly used to address the diversion issue. BIS places on the entity list individuals and companies based on specific facts that the entities have been involved, are now involved, or pose a significant risk of becoming involved in activities contrary to the national security or foreign policy interests of the United States. It is a fairly broad standard.

The expanded entity list has proven to be an extremely effective tool against diversion and has significant consequences for the listed entities that I will be able to describe later. BIS also imposes restrictions on exports and re-exports through the issuance of temporary denial orders. These TDOs deny the export privileges of a company or an individual to prevent an imminent export control violation.

Vigorous enforcement is a critical aspect of addressing transshipment concerns. The bureau's Office of Export Enforcement conducts end-use checks to confirm the bona fides of a foreign entity to ensure that sensitive items are not used in ways that threaten national security interests of the United States, and for other reasons.

There is a group of people who work with the Office of Export Enforcement, special agents and export compliance officers, whose principal mission is to ensure that items on the EAR entering the regions and the countries where they work are used in accordance with U.S. export control laws and regulations.

The bureau also conducts research and analysis of open source, intelligence, financial, statistical, and other information, including export data from the automated export system, to identify trends in controlled trade, including with regard to transshipment, and develop productive end-use checks and actionable law enforcement leads.

BIS maintains a constructive cooperation relationship with the U.S. business community on specific diversion threats through targeted industry outreach, which focuses on specific goods and technologies that illicit proliferation networks actively seek to acquire. BIS contacts U.S. manufacturers and exporters of these goods and technologies to apprise them of acquisition threats and solicit their cooperation in identifying and responding to suspicious foreign purchase requests.

We also have significant outreach activities, and as we will describe later, we support the Department of State in its EXBS program that Vann will describe later, in which we participated considerably in the last year. And in general, I want to thank you for the opportunity to discuss these issues with you and the tools the Department of Commerce has and uses to protect the national security of the U.S. against the diverse threats our country faces.

[The prepared statement of Mr. Wolf follows:]

Testimony by Kevin J. Wolf
Assistant Secretary for Export Administration
Bureau of Industry and Security
U. S. Department of Commerce

Before the Terrorism, Nonproliferation and Trade Subcommittee
House Foreign Affairs Committee for a Hearing on
"Transshipment and Diversion: Are U.S. Trading Partners Doing Enough to Prevent the Spread of Dangerous Technologies?"

July 22, 2010

Introduction

Chairman Sherman, Ranking Member Royce, and distinguished members of the Committee, thank you for the opportunity to testify before the Terrorism, Nonproliferation and Trade Subcommittee of the House Foreign Affairs Committee, regarding the work the Department of Commerce is doing to prevent diversion of controlled goods through transshipment areas.

The Department's Bureau of Industry and Security (BIS) administers and enforces the Export Administration Regulations (EAR) to further U.S. national security, foreign policy, and economic objectives. Commodities, software, and technology subject to the EAR are generally "dual-use" items that are for civilian use but also may have a range of military or terrorist applications or foreign policy implications. In administering and enforcing the EAR, BIS works closely with a number of other agencies, including the Departments of Defense, Energy, Homeland Security, Justice, State, and the Treasury, and the intelligence community.

Transshipment and Diversion

BIS employs a variety of methods to prevent diversion of items subject to the EAR to unauthorized destinations and uses. These methods include interagency review of export license applications, identification of high-risk foreign parties, extensive outreach to the business community, end-use checks, and review of export data.

Export Licensing

BIS, pursuant to its legal authorities, controls the export, reexport, and transfer of all items subject to the EAR. Control levels vary depending on the level of technology, the destination, and the end-use. In Fiscal Year 2009, BIS processed 20,351 export license applications valued at approximately $62.4 billion for items subject to the EAR

The licensing process provides BIS and the Departments of Defense, Energy, and State the opportunity to review all aspects of the proposed export to evaluate the risk of diversion either in-country or to a third country and to evaluate any other national security or foreign policy risks. Under Executive Order 12981, Defense, Energy, and State can review all license applications submitted to BIS.

BIS frequently revises the EAR with the concurrence of the Departments of State and Defense and other agencies as appropriate, to ensure that the list of controlled items (the Commerce Control List), the licensing requirements, and policy for items subject to the EAR are current and effective.

Restricted Parties

In addition to controls based on technology level, BIS has export, reexport, and transfer restrictions on a range of foreign persons, in a variety of countries. These persons include those that have not cooperated with end-use checks, those that have made or seek to make unauthorized exports, reexports, or transfers of items subject to the EAR, those involved in weapons of mass destruction programs in specified countries, or those that act in other ways contrary to the national security or foreign policy interests of the United States.

The Entity List is one tool that is increasingly used to address the diversion issue. The Entity List, found in Supplement No. 4 to Part 744 of the EAR, notifies the public of license requirements for the export, reexport, and transfer of items subject to the EAR to listed entities. In coordination with the interagency End-User Review Committee, BIS places entities on the Entity List based on specific facts that the entities have been involved, are involved, or pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Entities acting on behalf of such entities may also be added to the Entity List.

While the Entity List initially targeted foreign entities involved in weapons of mass destruction programs, BIS now includes foreign entities engaged in a range of activities contrary to U.S. national interests. Since its expansion, BIS has added 192 entities to the Entity List. The expanded Entity List has proven to be an extremely effective tool against diversion and has significant consequences for the listed entities BIS has received numerous inquiries from entities seeking to be removed from the list. The entities

seeking removal state that their placement on the Entity List severely limits business opportunities and leads to financial problems, sometimes including bankruptcy. Their suppliers do not want to do business with them for fear of being added to the list. Several entities have cooperated with U.S. enforcement agencies to facilitate removal from the list. The Entity List is constantly updated and currently includes over 200 specific entries, including individuals, companies and government organizations. BIS published six revisions to the Entity List in the Federal Register in 2009 and four revisions thus far in 2010.

In addition to its specific Entity List entries, the EAR also imposes export, reexport, and transfer controls on certain persons included on lists maintained by other U.S. Government agencies, including the Specially Designated Nationals List maintained by the Department of the Treasury and the Debarred List administered by the Department of State.

BIS also imposes restrictions on exports and reexports to certain persons through the issuance of Temporary Denial Orders (TDOs) that are published in the Federal Register. TDOs are issued by the Assistant Secretary for Export Enforcement and deny the export privileges of a company or individual to prevent an imminent export control violation. These orders are issued ex parte for a renewable 180-day period and cut off not only the right to export from the United States, but also the right to receive, participate in, or benefit from exports from the United States. In addition, once a TDO is issued, it

becomes a violation of the EAR for other persons to participate in export or reexport transactions involving the denied person.

Outreach Activities

In addition to enforcement activities, BIS participates in various outreach events with the public and private sector to provide training on how to prevent the diversion of items subject to the EAR. In Fiscal Year 2009, BIS conducted 42 domestic export control outreach seminars in 18 states. The BIS seminar program provides information for both new and experienced exporters about the requirements of the EAR and how to comply with those requirements, and includes information on how exporters should act when "Red Flags" suggest that a violation is about to occur in connection with their intended transaction. BIS also works with a wide range of public and private-sector organizations, such as freight forwarders and national forwarding associations, to introduce audiences in specific business and technology sectors to BIS's mission and services. These partnerships provide BIS with additional insights into technology and market developments in key sectors of the economy.

Export Enforcement

Vigorous enforcement is another critical component to addressing transshipment concerns. The BIS Office of Export Enforcement (OEE) conducts end-use checks to confirm the *bona fides* of a foreign entity, and to ensure that sensitive items are not used in ways that threaten the national security interests of the United States. BIS also employs Export Control Officers (ECOs) at U.S. embassies in Beijing, China; Abu Dhabi, the United Arab Emirates; New Delhi, India; Moscow, Russia; and at the U.S Consulate in

Hong Kong. BIS is also stationing an ECO in Singapore this fiscal year who will be responsible for end-use checks in East Asia, including Malaysia and Indonesia.

The ECOs' principal mission is to ensure that items subject to the EAR entering their regions are used in accordance with U.S. export control laws and regulations. The ECOs conduct pre-license checks and post-shipment verification visits to verify that items will be, or are being, properly used and have not been diverted to unauthorized users or uses within the country or illegally transshipped to another country. In countries that are not covered by ECOs, end-use checks are conducted either by OEE Special Agents deployed from the United States through BIS's Sentinel Program or by embassy personnel.

BIS also conducts data analysis and research to combat the illegal transshipment and diversion of items subject to the EAR to uncover possible violations. The Bureau conducts research and analysis of open source, intelligence, financial, and statistical information, including export data from the Automated Export System, to identify trends in controlled trade, including with regard to transshipment, and develop productive end-use checks and actionable law enforcement leads. The Office of Enforcement Analysis coordinates with other federal agencies and counterparts in the intelligence community to uncover illicit procurement networks.

BIS maintains a constructive and cooperative relationship with the U.S. business community on specific diversion threats through targeted industry outreach, which focuses on specific goods and technologies that illicit proliferation networks actively seek to acquire. BIS contacts U.S. manufacturers and exporters of these goods and

technologies to apprise them of acquisition threats and to solicit cooperation in identifying and responding to suspicious foreign purchase requests.

One example of a diversion case conducted by a BIS Special Agent involved controlled items being shipped through the United Arab Emirates. On March 27, 2009, a federal judge in the Eastern District of Virginia ordered the forfeiture of eight vibration test systems and eight humidity chambers that were detained and seized by the Office of Export Enforcement and Customs and Border Protection. These items were seized after a Canadian company attempted to export them to Syria via the United Arab Emirates. A review of the technical specifications for the items contained in this shipment was conducted by the OEE. Technical experts within BIS assessed that the vibration test equipment and the environmental humidity chambers, used in combination, can be used to test ballistic missile components and that an export license was required for these items if destined for Syria. OEE determined that there was a significant risk that U.S. origin items would be shipped to Syria and to an unknown Syrian end-user. OEE intercepted the shipment in the UAE and redirected the items back to the United States.

BIS Support of State Department Efforts

BIS also works with a variety of countries to develop and strengthen those countries' export control systems. As the agency responsible for administering and implementing dual-use controls in the United States, BIS may share first-hand experience and expertise regarding the establishment of a robust and effective export controls regime. Through funding from BIS, as well as the Department of State's Export Control and Related Border Security (EXBS) program, BIS provides legal experts to help countries develop

export control laws and regulations, compliance experts to help countries reach out to domestic industry and foster adherence to their laws and regulations, technical experts to help countries identify and classify dual-use items, develop control lists, and institute licensing review mechanisms, and enforcement experts who provide advice on conducting investigations, including screenings and inspections, and methodology for developing and prosecuting export control violations.

BIS led or participated with the Department of State, in 28 meetings with foreign governments in Fiscal Year 2009. These bilateral exchanges allow U.S. government experts to work with their foreign counterparts in addressing the diversion risk of items to unauthorized destinations or uses.

Conclusion

Thank you for giving BIS the opportunity to discuss this important issue with you.

I would be pleased to answer any questions you have.

Mr. SHERMAN. Mr. Van Diepen.

STATEMENT OF MR. VANN H. VAN DIEPEN, ACTING ASSISTANT SECRETARY, BUREAU OF INTERNATIONAL SECURITY AND NONPROLIFERATION, U.S. DEPARTMENT OF STATE

Mr. VAN DIEPEN. Thank you. Mr. Chairman and members of the subcommittee, thank you for giving me the opportunity to testify on the diversion of sensitive items in transshipment and the State Department's efforts to address this challenge. I ask that you include my prepared testimony into the record of today's hearing.

As you have noted, Mr. Chairman, major transshipment hubs with weak regulatory controls represent an important vulnerability in preventing proliferation-related trade. In these hubs, brokers, front companies, and middlemen can facilitate proliferation-related activities, hiding their transactions among large volumes of fast-moving commercial goods. In order to stop them, a strong regulatory structure is necessary. And through intensive diplomacy, the State Department is taking a leading role in building such a structure.

Our efforts are apparent in several U.S. Security Council resolutions requiring countries to exercise greater authority over transshipment and to prevent proliferation-rated transfers. As you noted in 2004, U.N. Security Council Resolution 1540 established binding obligations to take and enforce effective measures against the proliferation of WMD, their means of delivery, and related materials, including controlling the transshipment of WMD-related items. Additionally, the U.N. has adopted several resolutions on North Korea's and Iran's nuclear and missile programs that call upon countries to stop proliferation-related transactions. These resolutions identified states' authorities to search, seize, and dispose of items destined for proscribed programs. The most recently adopted resolution on Iran, U.N. Security Council Resolution 1929, further expanded these authorities.

In building international support, State also works directly with other countries to detect and halt specific proliferation-related transactions. We alert these countries to a potentially proliferant transaction and request that they investigate and take necessary measures to stop any proliferation. These interdiction efforts are greatly facilitated by the Proliferation Security Initiative, the PSI, a global effort to stop the trafficking of WMD. Many key transshipment centers, including the UAE and Singapore, are partners in the PSI.

The department also meets regularly with various countries bilaterally to discuss proliferant procurement, export and transshipment control, the implementation and enforcement of proliferation-related U.N. Security Council resolutions, proliferation finance, and other relevant issues. These dialogues have proven to be an effective way to improve overall cooperation.

We also work to ensure that the multilateral export control regimes address the risk of diversion during transshipment. Both the missile technology control regime and the Australia Group, which controls chemical and biological items, have taken steps in this area. And we are continuing to improve the regulation and enforcement of transshipment controls by key countries via the export con-

trol and related border security assistance program, EXBS, the premiere U.S. Government initiative in this regard.

During the past 24 months, EXBS has delivered 98 bilateral trainings to 37 countries on transit and transshipment related topics. EXBS convenes a global transshipment conference every year, providing a forum for supplier countries and transshipment hubs to collectively discuss challenges and solutions. EXBS succeeds by assisting foreign governments to establish and implement effective export control systems that meet international standards.

In conclusion, the department is employing a number of tools to help counter the challenge posed by diversion of sensitive items in transshipment, and I look forward to discussing these issues with the subcommittee. Thank you.

[The prepared statement of Mr. Van Diepen follows:]

Testimony of Mr. Vann H. Van Diepen

"Transshipment and Diversion: Working Diplomatically to Reduce the Risks Posed to International Trade and Security"

House Foreign Affairs Committee

Subcommittee on Terrorism, Nonproliferation, and Trade

22 July 2010

Introduction

Thank you, Mr. Chairman for the opportunity to speak on behalf of the Department of State about the important diplomatic efforts we are undertaking to address the risks to international trade and security posed by the diversion of sensitive items in transshipment. As Congress is keenly aware, this diversion poses a risk to our national security. We recognize this as a major weakness in trade security and therefore have been working for many years--and on many fronts--to properly address this problem and minimize the risk. We have had some success, but more work is necessary.

Let me begin by describing the problem. Major transshipment hubs with weak controls on imports, exports, and reexports represent an important vulnerability in the global framework of trade controls aimed at preventing illicit proliferation-related trade. In these hubs, brokers, front companies, and middlemen can facilitate proliferation-related activities, often operating from free

trade zones that are subject to few or no legal restrictions. Without proper regulation of such activities, these hubs present a high risk of contributing to the diversion of items to an unauthorized end use or end user. The A.Q. Khan network demonstrated how transshipment hubs could be abused to support the proliferation of the most sensitive nuclear technology. It is a good example of why it is important for countries to closely regulate transshipment-related activities.

Transshipment hubs typically have substantial commercial, logistical, and financial infrastructures, but poor regulatory controls. This gap provides an opportunity for proliferators to hide their relatively small number of proliferation-related transactions -- most of which involve dual-use items -- within a very large volume of fast-moving commercial goods. In order to prevent the concealment of such goods and stop such activities, a strong regulatory structure is necessary.

Our diplomatic engagement in this area is geared toward promoting global export control standards. We also work with countries to interdict specific proliferation-related shipments. Additionally, we conduct bilateral export control dialogues; through our membership focus on transshipment in multilateral export control regimes; and provide concrete assistance to countries to adopt and fully implement strong export control laws. Such assistance enables countries to develop strong enforcement and prosecution authorities to punish violators and deter future illicit activities.

Part of the challenge is a lack of political will to implement and enforce export and transshipment controls. This is due to the misperception that such controls are bad for legitimate business and this is particularly common in countries reliant on revenue from port operations. Therefore, we work hard to convince countries that trade controls encourage a secure trading environment that ultimately makes a transshipment hub more attractive to investors. The record speaks for itself. Hong Kong is a good example of a vibrant economy with an extensive export and transshipment control system in place for over a decade.

The Role of the State Department

Let me now turn to the approach the Department of State is taking to combat illicit transshipment and diversion. We have worked long and hard to reduce this vulnerability through various policy and programmatic efforts so as to build international support for controlling trade in proliferation-sensitive items, to encourage suppliers to play a greater role in preventing illicit transshipment, and to improve the regulation and enforcement of transshipment controls of key partners.

The United Nations Security Council's adoption of several Security Council resolutions aided our efforts by requiring countries to prevent transfers, including by transshipments through their seaports and airports, of prohibited items.

In April 2004, the UN Security Council adopted UN Security Council Resolution 1540. For the first time, this resolution established binding obligations on all UN Member States under Chapter VII of the UN Charter to establish domestic controls to prevent the proliferation of WMD, their means of delivery and related materials, including establishing export and transshipment controls over such items. This resolution spurred many countries to reconsider the adequacy of their transshipment controls and provided us with an avenue for increased engagement.

Additionally, the UN Security Council adopted a series of resolutions on both North Korea and Iran's nuclear and missile programs that require countries to prevent transfers of specified WMD and ballistic missile-related items and that contain provisions calling upon countries to exercise greater authority over suspected shipments of such items. This includes granting countries the authority to seize and dispose of items destined for proscribed programs, within their jurisdiction or and in cooperation with the nation under whose jurisdiction the good or items may fall. As a result, many countries are more willing, given these new authorities, have a basis in international law to take action to stop proliferation-related transactions. The recent adoption of UNSCR 1929 also notes that States, consistent with international law, may request inspections of vessels on the high seas with the consent of the flag State, and calls on all States to cooperate

in such inspections, similar to UNSCR 1874's approach for the DPRK. UNSCR 1929 also authorizes Member States to dispose of cargo that they have seized pursuant to the resolution, and was thus more specific about what Member States could do than comparable provisions in previous UN resolutions UNSCR 1929 also extends the asset-freeze requirements of UNSCR 1737 to the designated entities of the Islamic Republic of Iran Shipping Lines (IRISL) and to any person or entity acting on their behalf or at their direction, and to entities owned or controlled by them, or determined by the Committee or the Council to have assisted them in evading sanctions or in violating the UNSCRs, while also singling IRISL out for cargo inspection vigilance when there is reason to believe its business could contribute to proliferation-related activity. IRISL, its various front companies, and its affiliates have long been a proliferation concern. The company was reported to the UNSCR 1737 Committee twice over the past two years for violations of UN resolutions. Therefore, UNSCR 1929 provides an important new tool to limit Iran's ability to ship dangerous goods with impunity, while further spotlighting Iran's use of private companies to further its proliferation goals.

We also work with other countries to halt specific proliferation-related transactions. As we have done for years, we approach relevant countries to request that they investigate and take necessary measures to stop transactions of concern. We also routinely approach other countries to alert them to activities by entities

within their borders that may be involved in the transaction, such as brokers, intermediaries, transportation companies, and financers. Transshipment countries have often played key roles in stopping proliferation-related transactions.

These interdiction efforts are greatly facilitated by the Proliferation Security Initiative (PSI), a global effort that aims to stop trafficking of WMD, their delivery systems, and related materials to and from states and non-state actors of proliferation concern. PSI partner countries agree to the PSI Statement of Interdiction Principles, which commit them to interdict shipments of WMD and related materials, as allowed under applicable domestic and international law, and to cooperate with other PSI partners. They also commit to build their capacity to conduct interdictions through training and exercises, sharing best practices, and strengthening interdiction authorities.

Many key transshipment countries are PSI partners. For example, Singapore hosted Exercise Deep Sabre II, a PSI maritime interdiction exercise, last October. Last January, the UAE co-hosted with the United States the maritime interdiction exercise Leading Edge. These exercises send a strong message to proliferators that PSI partner countries are actively seeking to halt the illicit trafficking of WMD and related materials through major transshipment hubs. For those transshipment countries that have not endorsed the PSI Statement of Interdiction Principles, we will continue to encourage them to do so. President Obama strongly supports the

PSI. In his 2010 National Security Strategy and in his address on April 5, 2009 in Prague, the President reiterated the importance of making PSI a "durable international effort."

The Department of State also leads dialogues with key suppliers and transshipment states to discuss and expand our bilateral nonproliferation and export control activities. We meet regularly with various countries to discuss procurement by proliferants, export and transshipment control, the implementation and enforcement of proliferation-related United Nations Security Council Resolutions, proliferation finance, and other relevant issues. We encourage our partners to take practical steps during these dialogues and to send strong signals about the importance of countering proliferation. These dialogues have proven to be effective way to improve overall cooperation. Given these benefits, we are seeking to establish more such dialogues with emerging transshipment countries.

Additionally, for many years the multilateral export control regimes have taken steps to address the risk of diversion during shipment. For instance, in 2006, the Missile Technology Control Regime (MTCR) Partners decided "that the risk of diversion during transit or transshipment, including the application of effective export, transit, and transshipment controls in intermediary states, be taken into account as appropriate in the evaluation of transfer application of Annex items."

The Australia Group (AG)--which controls chemical and biological related materials, equipment and technology--incorporated similar language into a best practices paper. The AG also publishes a manual for the enforcement officers of participating countries that explains transshipment concepts and provides a list of indicators of diversion during transit or transshipment. As this remains a critical issue, we will continue to work within the export control regimes to raise awareness of the risks of diversion and encourage suppliers to take greater responsibility in ensuring that controlled items are not diverted to unauthorized end users.

Additionally, the Export Control and Related Border Security Assistance (EXBS) program is the United States Government's premier initiative to help other countries improve, or, as appropriate, develop their export control systems. The EXBS program is designed to help prevent the proliferation of WMD, their delivery systems, advanced conventional weapons, and related items. The EXBS program does this by assisting foreign governments in the establishment and implementation of effective export control systems that meet international standards. The EXBS program has been focused on the threat to national security posed by illicit transshipment and diversion for years.

For instance, from 2001-2004, EXBS funded the Transshipment Export Control Initiative (TECI). Through this initiative the U.S. worked with its counterpart trade and export control agencies in key transshipment hubs to assist them in the adoption of export and trade control regimes tailored for their transshipment-oriented economies. Within TECI, we worked with nine key transshipment hubs and several close allies towards establishing best practices for transshipment hubs.

After 2004, EXBS modified TECI to make it broader in scope and participation. TECI ultimately evolved into an annual Global Transshipment Conference. This conference provides a forum for supplier countries and transshipment hubs to collectively discuss challenges and solutions. We are planning to have the next Global Transshipment Conference this winter.

Additionally, in the past 24 months, EXBS delivered 98 bilateral trainings to 37 countries on transit- and transshipment-related topics. Such trainings included Targeting and Risk Management, Cargo Interdiction, International Seaport Interdiction, and legal and regulatory guidance on the development of transit and transshipment controls. In the next 24 months, EXBS has scheduled over 70 such bilateral trainings with 39 countries. EXBS will also continue to update existing training curriculum and will create new approaches over time to address transit and transshipment concerns as they emerge.

Finally, the Office of Export Control Cooperation, which administers the EXBS Program, chairs an Interagency Working Group on export control and related border security that encompasses all key U.S. Government agencies that provide capacity-building assistance related to transit and transshipment. This forum is used to encourage coordination of long term assistance plans and funding levels. It is also used to coordinate new U.S. Government-wide transshipment efforts.

Conclusion

In summary, the Department of State has for some time recognized the threat to international trade posed by the diversion of sensitive items in transshipment. We have developed many important tools and programs to help counter this threat. Many of these programs and initiatives have been notable successes, but we are always considering new ways to tackle this problem. The Department of State looks forward to working with Congress, other U.S. government departments and agencies, and our international partners as we continue to counter this threat.

Thank you.

Mr. SHERMAN. Mr. Klein, if you want to go first?

Mr. KLEIN. No.

Mr. SHERMAN. Done? Okay. Mr. Manzullo.

Mr. MANZULLO. Thank you, Mr. Chairman. The current U.S. export policies are negatively impacting our high technology industrial base, as I mentioned in my opening statement. We have European countries that are advertising that they are ITAR-free. The United States is becoming known as an unreliable supplier. We worked last year with Mr. Sherman and Mr. Crawley and Mr. Blumenauer 2 years ago on changing section 17(c) of the Export Administration Act that has resulted in billions of dollars more of aircraft parts that are being exported.

But one in four people in the majority of the district that I represent are directly involved in manufacturing. Rockford, Illinois used to be known as the machine tool center of the world. And I am very concerned that this country has lost its cutting edge in machine tool technology. Now, I know today's topic is transshipment, and I don't think we have too many examples of transshipments of machine tools. They just copy them, and so that takes care of that.

But my question to both of you in the broadest sense is how do we strike that balance on national security, and at the same time try to encourage exports of many machine tools that have been commoditized around the world and as to which we have archaic rules, such as if it is over four access in some cases, you need a license, and some countries you can't ship to at all. It is an open question.

Mr. WOLF. No. Thank you. It is a good question. First, as a general principle, I don't view export controls as a balancing of national security against economic interests. They are national security controls. And then it comes to the issue of how you define what national security is. And if you don't have a healthy industrial base, and if you have export rules that motivate companies to offshore their work, or if you have rules that are so complex that no one understands, you are harming your national security and your economic base. And so as very well laid out by Secretary Gates and then later by General Jones, the reform plan clearly takes those issues into account with this, as generally described, as earlier described, a smaller yard with a higher fence, so that we can review the lists of things that are controlled now so that we can put more resources and more emphasis on the things that really matter without harming the industrial base.

So the points that you have made are already being contemplated and considered. I mean, it is a general answer to a general question. I would be happy to go into more detail on this or transshipment-specific topics, as you like.

Mr. VAN DIEPEN. The only thing I would add to what Kevin has said is that one of the things that we do at State to try and ameliorate this problem is to promote multilateral implementation of export controls. To the extent to which export controls are not unilateral, not only are they more effective, but it helps the commercial playing field, so to speak. And so the work that we have done to expand the membership of the international nonproliferation regimes to promote countries who are not members unilaterally ap-

plying the same standards, the requirements of U.N. Security Council Resolution 1540 for all countries to have proliferation-related export controls, is another way in addition to the internal business of export control reform of trying to address some of the concerns that you have mentioned.

Mr. MANZULLO. The reason I mention that is we have a unique situation in Rockford, Illinois. When Ingersoll Machine Tool, the giant company, went into bankruptcy, it got split into four parts. One part, just prior to the bankruptcy, was sold—the tool cutting division was sold to an Israeli company. I am sorry. The cutting tool division was sold to an Israeli company. The machine tool division was sold to an Italian company. And the production line was sold to a Chinese company that is wholly owned by the Chinese Government, Dalian. And that is the Ingersoll production line. And we have a unique situation where if they actually wanted to manufacture high end machines, they may not be able to ship those machines to China, even though the Chinese Government owns that American company.

And yesterday, we had a tariff act, a tariff relief act, where we charged tariffs to manufacturers on items that are not even available domestically. And the reason I raise that is that appears to be no focus on this country—and I am not being critical—no focus as to the impact on manufacturing of all the various agencies that are involved, except to the extent that we have lost this huge market share around the world on it. And I know we have talked to both of you, and I know of your sensitivities and your desire to make sure that you do everything possible to maintain our industrial capacity.

But I am just really, really concerned. And as much as I admire my friend Mr. Royce, we do have some differences on the extent to which these controls have actually hurt us. But I just wanted to raise that as a point of thought, and I appreciate your comments on it. And thank you for coming today.

Mr. SHERMAN. Thank you. I would just comment that on those occasions when we do not allow an export, not only are we not helping build the industrial base of the United States, we are helping build the industrial base in whatever country that does get the order. With that, I would like to recognize the gentleman from Florida for 5 minutes.

Mr. KLEIN. Thank you, Mr. Chairman. And, gentleman, thank you for being here today and giving us your insight on this. Obviously, there is a balance of interests, as has been mentioned by Mr. Manzullo and the chairman. We have an interest in our industrial base and creating jobs in the United States. We also have an interest in our national security and the nonproliferation, and the proliferation security initiative, which obviously has good goals.

What I would like to focus on for a second is the recognition—I think it has already been said, but just to reiterate this—that when other countries are not participating, and there is a free flow of these goods or these components or products, obviously as a world interest in national security, we are not getting to the endpoint or the end goal.

Specifically, China. China is not a signatory, correct, to the proliferation security initiative?

Mr. VAN DIEPEN. Correct.

Mr. KLEIN. They are not. Okay. Very large economy, very industrious at this point, and very much pushing itself out into all parts of the world. The significance of China not being a participant of this initiative, what does it mean, in your opinion, to the effectiveness of this international effort to control these components? And what are we doing about it as the United States reacting to this or using our efforts to reach out to them or get other countries to reach out to them engage them in this?

Mr. VAN DIEPEN. Right. I think that the presence or absence of their subscription to PSI, I think, is less significant than the extent to which China is effectively preventing proliferation-related transfers from coming out of its economy in its territory. I mean, if things were under a good control, but they weren't a member of PSI, I am not sure that would be a particularly problematic situation. Likewise, if they were a member of PSI, but we saw the continued levels of activity that we are seeing coming out from Chinese entities, that would still be quite problematic.

Really, what we have been trying to do over a number of administrations over more than 20 years is to try and persuade the Chinese to put on and more effectively enforce controls on Chinese entities to keep them from getting involved in proliferation-related activity. We have done a good job over the years, I think, in getting them committed to the right standards. They are now members of the right treaty regimes. They support Security Council resolutions like U.N. 1540, which could not have passed without China's vote, that set the right standards. They have on paper a pretty good set of domestic export controls. But our most persistent problem over these past 20 years has been the fact that individual Chinese entities continue to engage in proliferation-related activity, and that is despite repeated imposition of U.S. sanctions against those entities under a variety of different laws and authorities, despite repeatedly bringing this up diplomatically with the Chinese. So this is a——

Mr. KLEIN. So as to your assessment of where we are at today versus 5 years ago?

Mr. VAN DIEPEN. Is that we are—things are a lot better in terms of some of the details of what is being shipped. And we can get into some of that in a classified setting. But overall, there is still much too much proliferation-related activity going on from Chinese entities, and it is our continuing challenge to try and push that into a better direction.

Mr. KLEIN. Mr. Wolf, any different opinion?

Mr. WOLF. No. I agree.

Mr. KLEIN. I mean, I think, Mr. Chairman, as we all know, this is obviously a huge issue because to the extent we are preventing our companies in the United States from producing—and we understand the importance of doing it. We are doing the right thing in the United States. But if we are punishing, you know, American companies and other companies from producing things, and we don't have the real controls, and other companies are supplying components of WMDs to terrorist organizations or whatever, it is a very—the outcome is no different. And that is a big problem. So I think there really does have to be—and I appreciate the effort. And I am in agreement with you. Once you signed a piece of paper,

if you are not following it through, it doesn't really matter. We may have the worst case scenario, where they haven't signed it, and they are not really putting the necessary controls in place.

We want to do whatever we can to get the necessary controls and get other countries that engage in commerce with China to make this a high priority issue, that this is a matter of international national security, not just the United States. This isn't just our game. This is everybody's game in terms of making sure that these products don't get into the hands of the wrong people for development.

Thank you, Mr. Chairman.

Mr. SHERMAN. Thank you. Members are reminded that immediately after this open hearing, we will go into a classified hearing in another room, and hear the real answers to all these questions. With that, Mr. Royce.

Mr. ROYCE. Thank you, Mr. Chairman. Let me ask Deputy Assistant Secretary Van Diepen a question. The Obama administration hasn't imposed sanctions on any Iranian trading partner. It was clear to me, I think, and to others involved in the sanctions legislation on the conference committee that the administration really doesn't want to sanction foreign companies. The new sanctions law is full of waivers, unfortunately. So I was going to ask you, what is going to be different now. Will there be a willingness to sanction, and what role will your office play in making decisions on bringing sanctions?

Mr. VAN DIEPEN. Well, Mr. Ranking Member, first of all, I am not quite sure what was meant by Iranian trading partners, but during the time of this administration entities who have engaged in various proliferation-related activities with Iran have been sanctioned. In fact, we just recently sanctioned——

Mr. SHERMAN. If I can interrupt the witness, the gentleman from California was referring to the Iran Sanctions Act, and those companies who invest in the Iranian oil sector.

Mr. VAN DIEPEN. Thank you. I appreciate that clarification. Now in terms of the new sanctions legislation, the portion of it that is really directly relevant to the work of the Nonproliferation Bureau, is Title 3, dealing with potential countries of diversion concern. And, you know, we will be part of the State Department's part of dealing with the consequences that will flow from the report that the DNI is supposed to be doing under that legislation that talks about potential such countries. So, you know, this will become part of the normal policy implementation process.

Mr. ROYCE. Let me ask you another question. China has a long history of proliferation. I spoke in my opening statement about some of that past activity, especially providing those critical components to Pakistan's capability originally, A.Q. Khan's network and their ability to bring an atomic weapon online. China now appears determined to sell Pakistan two nuclear reactors, and that is certainly against the norms of the Nuclear Suppliers Group. What is the administration's position on the sale by China to Pakistan of these reactors?

Mr. VAN DIEPEN. Based on the facts that we are aware of, it would appear to us that that sale would not be able to occur consistent with NSG rules unless the NSG were to give it a specific exemption, which, of course, China does not currently have for

that. So if they were to proceed with that sale without such an exemption, it would be contrary to NSG guidelines.

Mr. ROYCE. I would ask you—well, then what will our position be at the—we have input. Will you advance the position in opposition?

Mr. VAN DIEPEN. Yes, sir. I mean, by definition, we don't support any activity that is inconsistent with the guidelines of these various regimes that——

Mr. ROYCE. So you will raise that.

Mr. VAN DIEPEN. And have, yes.

Mr. ROYCE. And we will have the ability to block that.

Mr. VAN DIEPEN. Well, what we can block is giving the exemption, but if China decides to go ahead without the exemption and violates the rules, the group per se can't block the sale. But we can certainly make clear our opposition and try and take steps to persuade them to do otherwise.

Mr. ROYCE. In April, The Wall Street Journal reported that an Iranian procurement firm obtained critical valves and vacuum gauges made by a French company that until December was owned by a U.S. firm. Allegedly, the valves moved through an intermediary representing the Chinese company that was based outside of Shanghai. The story reported that an investigator said that Iran has made ten attempts to acquire valves used in uranium enrichment, and they did that over the last 2 years. That is the tenacity that we are up against.

What could you tell us about this case?

Mr. VAN DIEPEN. I am not familiar with the details of that particular case. We would be happy to provide you with more information on that subsequently.

Mr. ROYCE. Okay. I am going to ask you lastly about authority to interdict here. Assistant Secretary Van Diepen, you said in your testimony that the most recent U.N. sanctions on Iran single out the Islamic Republic of Iran's shipping lines for cargo inspection vigilance when there is reason to believe its business could contribute to proliferation-related activity. What does vigilance actually mean? Do you have authority to interdict with this vigilance? The administration sought a more aggressive mandate at the U.N., reportedly seeking to blacklist this firm. What action would that outcome have allowed for or required, and right now what action can be taken, in your opinion?

Mr. VAN DIEPEN. In terms of what would have been permitted prior, I think it is better for us to get that to you definitively in writing so I don't get it wrong. In terms of the current situation under the vigilance, I think the key thing it does is it provides those countries that are willing or can be persuaded to take action a better basis to act. It doesn't go as far as we would have liked because there is no mandatory quality to it. So if there is a country that takes what we would regard as the wrong course and chooses not to act in that situation, they would not technically be in violation of a U.N. Security Council resolution in doing so.

But because of the language in the resolution, we would have a better basis to pressure that country to try and do the right thing, but it would not be required to do the right thing.

Mr. ROYCE. Let me ask you one last question. Reportedly, Microsoft recently provided the source code of some of its biggest products to Russia's Federal security bureau. Reportedly, similar deals have been done with China by Microsoft, who provides the operating system for 90 percent of the world's computers, including our Government's. As I understand it, source code that is relevant to specific products like a missile or night vision goggles is controlled under U.S. export control laws.

However, operating system source code used in commercially available computers or servers is generally not controlled. Given the increased emphasis on protecting U.S. national security and commercial infrastructure from cyber attacks, should such code be controlled under U.S. export control laws? Do you think this is a valid concern? I would appreciate your opinion, and ask that of Assistant Secretary Wolf.

Mr. WOLF. Sure. I won't comment on any particular export or license application here because of statutory prohibitions on public, but with respect to the general principle about software and source code and operating code, there is a Commerce control list which identifies a wide variety of different types of software for the production, development, and use of end items and software that contains different degrees of encryption controls that are controlled for export from the U.S.

You know, we would have to go down into the weeds about what the particular issues are of concern, but there are already significant controls in a variety of types of software. And the extent to which additional types should be controlled, that is part of the reform and the review effort now.

Mr. ROYCE. But to finish the point, at the U.S.-PRC's Strategic and Economic Dialogue held this past May in Beijing, the administration reported that both countries would be working to expand high tech trade. China has long complained about U.S. export controls and the administration is promoting export control reform. So the question is, are plans afoot to relax export controls on China?

Mr. WOLF. The reform effort is not country-specific. We are not attempting to change the China military end-use rule. We are not trying to change the prohibitions that are specific to China as part of the reform effort. We are not considering issues with respect to any particular country. So to the extent that there is reform and a license is no longer required for a particular item because its export would no longer present a threat, what would go for China would go for any other country in that same group of countries.

So no, we are not focusing on trying to relax trade or export controls with China per se.

Mr. ROYCE. Thank you very much, Mr. Wolf. Thank you, Chairman.

Mr. SHERMAN. I thank the ranking member. And perhaps he would want to co-sponsor the bill I will introduce next week to 6 months after the enactment of such bill in MFN for China. It is time to cut the Gordian Knot. Mr. Van Diepen, the ranking member went through a number of specifics. I will go through a number of specifics. But is China absolutely confident that everything they have done in this area does not put at risk at all their access to

U.S. markets and does not put at risk at all America's policy of not encouraging or helping Taipai move in a nuclear direction?

Mr. VAN DIEPEN. Well, Mr. Chairman, that sort of requires a degree of insight into the Chinese mind.

Mr. SHERMAN. Let me put it like this. Are you aware of anything the State Department has done that would lead the Chinese to believe that they are at any risk of a change of either of those two policies?

Mr. VAN DIEPEN. Well, I assume related to at least the first one is the fact that, you know, we have sanctioned many, many Chinese firms for engaging in——

Mr. SHERMAN. No. I am asking about their access to U.S. markets in general for civilian goods. I am talking about Most Favored Nation (MFN) status for each and every one of their consumer products.

Mr. VAN DIEPEN. I guess I would say that is sort of out of my lane in the department.

Mr. SHERMAN. Let me ask something more specific. In late 2009, British naval forces intercepted a ship from China near Dubai containing nuclear components intended for the Iranian firm Kalaye Electric. The firm was designated by the U.S. and the U.N. as an entity involved in Iran's proliferation-sensitive nuclear activities. In April 2010, The Wall Street Journal reported that a firm associated with that Iranian firm had acquired special hardware for enriching uranium from a French company via a Chinese trading group. And I will just use initials for that group, ZOT Corp.

What are we doing to address Iran's acquisition of nuclear components from Chinese companies or via transshipments from China, Mr. Van Diepen?

Mr. VAN DIEPEN. Through a whole host of measures, we have been trying to work on that problem. Those include direct engagement with the Chinese to try and get them to improve their export controls, and more importantly, the implementation and enforcement of those controls; going to them to stop specific transfers where we have got releasable intelligence that we can use with the Chinese; sanctioning Chinese entities involved in these activities; our work in transshipment areas like the UAE——

Mr. SHERMAN. Okay. So we begged China to not sin again, and we sanctioned entities. Can you identify the total amount of dollar exports that are prevented by our sanctions? Or are we just sanctioning front companies or companies that don't even export to the United States?

Mr. VAN DIEPEN. There is a mix. In some cases, we are sanctioning——

Mr. SHERMAN. Can you for the record provide a dollar value of what those companies were exporting before the sanctions and how much that was reduced after the sanctions on those individual companies? Are we talking about millions of dollars here or billions of dollars? And does China in any way cooperate with us in preventing front companies or telling us that front companies have been created? With the cooperation of a government you can create as many front companies as you want. Does China provide any cooperation in the enforcement sanctions against proliferating companies?

Mr. VAN DIEPEN. Yes, but not enough. There have been concrete cases where we have gone to the Chinese on specific transactions and specific entities, and the Chinese have in fact taken action. But there are——

Mr. SHERMAN. No, no, not taken—but, I mean, do they help us impose a sanction? Do they say, "Here are the 19 other names by which the sanctioned company goes by—they have asked us to create 19 other company names, and here are the new 19 names."?

Mr. VAN DIEPEN. Not directly. However, they have been doing that as part of the U.N. Security Council process that develops lists of entities to be subject to designation.

Mr. SCOTT. They have put their own companies on the U.N. list?

Mr. VAN DIEPEN. Not that I am aware of.

Mr. SHERMAN. Okay. Mr. Wolf, in 2007, Mr. Padilla, Assistant Secretary of Commerce for Export Administration under the Bush administration, gave us testimony before this very subcommittee that the Commerce Department had published regulations that would expand the entity list to target suspect end users. Two years later, in July 2009, Arthur Shulman of the Wisconsin Project, testified before this very subcommittee that his organization had provided Commerce's Bureau of Industry and Security with concrete proposals for updating the entity list, but that none of the proposals had been implemented. He further argued that the list remained unclear, and that it was not a useful tool for exporters.

What is the status of revisions to the entities list?

Mr. WOLF. Thank you for the question. I disagree that it is not a useful tool. It has, since we have expanded the scope of the entity list in 2007, become a critical tool in focusing on the end use and end user based aspects of export controls. As we move away from controls that can't really be accomplished through country-specific sanctions, the key is to focus on those entities, those people, for which we have reason to believe—and it is a very open standard—have been involved in activities that we don't like, proliferation-related activities, for example.

Mr. SHERMAN. You are aware of the Wisconsin Project's helpful suggestions to your department?

Mr. WOLF. I am. And if they or you or anyone else has suggestions about additional information about also-known-ases or doing-business-ases for any particular companies that we have listed, send it to me, and we will review it. There is an agency-driven process.

Mr. SHERMAN. And did you respond or has your bureau responded to the suggestions they made in July 2009, which I realize was before your time.

Mr. WOLF. It was before my time. I will have to check into that.

Mr. SHERMAN. I would like and hope that you would check that. Until recently, the Commerce Department had only one individual stationed in the UAE to carry out end user verifications. These verifications are obviously critical in our efforts to uncover illicit transshipments. Has the U.S. placed additional resources in the UAE to conduct end user unifications and investigate illicit export schemes? How many people have you got on the ground in the UAE?

Mr. WOLF. There is one person full time who has an export compliance officer. You are correct. But the work of that export compliance officer is augmented from time to time by direct visits from other agents and from foreign commercial service officers. So yes, there is one employee.

Mr. SHERMAN. So we have got one guy, and if somebody from the State Department happens to have some extra time, is looking for more work to do to help the U.S. Government, they are allowed to chip in?

Mr. WOLF. Well, I wouldn't view it quite that way. To the extent that there is an opportunity to send agents or other officials to the UAE to participate in end user checks, that is done. And it is not——

Mr. SHERMAN. People are sitting around Commerce and State saying, "I don't have enough work on my desk. Send me to the UAE. I would like to work there for a couple of weeks." Okay. With all this help, are we up to 1.1 full time equivalents, or are we still at 1.0001 full time equivalents?

Mr. WOLF. There is one full time——

Mr. SHERMAN. There is one person, okay. Next question. On January 23, 2009, the Commerce Department issued a temporary denial order to prevent the imminent violation of the Export Administration regulations related to the shipment of a U.S. manufactured high performance motor boat from South Africa to Iran for use by the Iran Revolutionary Guard Corps. The next day, a ship owned by the Islamic Republic of Iran Shipping Lines left Durban, South Africa with that very boat. Obviously, the denial order failed to prevent the export.

I have a number of questions about this. Why did the system fail in this instance, and what is Commerce doing to prevent similar occurrences in the future? Did the U.S. contact the South African Government seeking to prevent the export of that boat? Why don't you go with those two questions. I will come up with some others.

Mr. WOLF. Sure. That also was in fact before my time. What I know about it generally, though, is that there has been significant amount of follow-up with respect to sanctioning particular entities that were involved in that transaction. And I know from my past life and my current life that the imposition of a sanction against a company is significant. Being identified as an entity effectively works as a blacklist in that companies in the U.S. and others actually outside the U.S. don't want to do business with listed companies, and we know that that has an impact because companies do come back to us and ask for relief under that. So I will just leave it at that.

Mr. SHERMAN. I have gone over time, with the indulgence of the vice chair of the committee, who is now recognized. Let me do a second round.

Mr. SCOTT. All right. Thank you, Mr. Chairman. First, let me get your assessment and opinions of the A.Q. Khan procurement network. What is your assessment of it now? How is it? How dangerous is it? Where is it operating? And what do we have to fear from it?

Mr. VAN DIEPEN. The network, as far as we understand, is basically defunct. Because of the efforts taken in a number of countries

against the constituent parts of that network, we think that network is basically defunct. I think the relevance of the A.Q. Khan network now is that it shows that there can be such a thing as a non-state procurement network, and so we are on the lookout for sort of the next A.Q. Khan network, so to speak. And, of course, we have done a lot of work in a number of the countries where the network was able to operate more freely because there were not export controls in place. And so as the chairman noted in his opening statement, for example, the UAE and Malaysia are places that we focused on to get them to put in place export control legislation that had it been in place would have made illegal what the network was doing, and hopefully will help prevent either a resuscitation of the network or the creation of a new network.

Mr. SCOTT. Is that your opinion, too, Mr. Wolf?

Mr. WOLF. Yes.

Mr. SCOTT. Are there any remnants of it? Is there any indication that—you said it has been disbanded. I think that is what you said, or words similar to that. But there is no evidence of it operating anywhere? There is no remnants of it? There is no shoot-off organization of it?

Mr. VAN DIEPEN. I think to go beyond the we assess it is defunct, we need to get into a classified——

Mr. SCOTT. All right. We don't want to do that. We will wait for the classified point. Now, continuing with that in terms of the UAE, what is the status of the implementation of the UAE export control law now? They have gone through a process of putting it in and an implementation, setting up a committee. What is your assessment of that now?

Mr. VAN DIEPEN. As we understand it, they are continuing to staff up the implementation office that would oversee implementation of the law. Now, it is not the enforcement arm. That already exists. It is being enforced by the existing customs and law enforcement services, intelligence services, so on and so forth. But the people who would oversee the implementation of the law, that office is still being staffed up. Our understanding is that implementing regulations have been drafted, but they have not yet been approved by the senior levels of the UAE Government that are required to do that.

In addition, the Federal level has been reaching out to the authorities and the various constituent entities of the UAE, the various sheikdoms that constitute the UAE, to help them get up to speed because a lot of the actual on-the-ground implementation will actually be done at that level rather than at the Federal level.

Mr. SCOTT. And how are we, meaning the United States, involved in its implementation and oversight?

Mr. VAN DIEPEN. Our export control and related border security program is providing a lot of training to the UAE, again both at the Federal level and in some of the key sheikdoms. We assisted them in the drafting of the legislation. We have given them advice on the implementing regulation. We also have a continuous engagement at the export control policy level. We once or twice a year have interagency consultations between the two countries that specifically deal with these export control implementation issues and nonproliferation issues. And so there is a lot of both assistance and

follow-up. And, of course, over all of this, we are watching what is going on through intelligence and other means to, you know, get a sense of is the problem moving in the right direction.

Mr. SCOTT. Very good. The UAE has been under some degree of security and scrutiny as an alleged transshipment point for military and dual-use exports, particularly to Iran, as a hub of operations for weapons proliferaters. What is your assessment now of the current situation in the UAE? And are these laws effective?

Mr. VAN DIEPEN. First of all, it is very clear to us that the UAE Government, at the highest levels and also broadly throughout their interagency, you know, has internalized and understands the importance of nonproliferation and of dealing with the proliferation problems through effective action. And the UAE has taken a lot of very important steps, not just passing legislation, but in terms of stopping specific shipments, shutting down companies, dealing with specific individuals. A lot of concrete, real-world activities have been engaged in by the UAE to really do things in the real world that matter.

I mean, obviously, it is very important that they have a good export control system in effect. But what really matters is the extent to which bad things are affected, and they are taking important, concrete steps that in a very tangible way are having an impact on the problem. And again, we can go into some of the details on that later.

Mr. SCOTT. Okay. Very good. Finally, if I may, Mr. Chairman, as you know, I am very much involved with making sure we maintain excellent relationships with all of our allies, and we have all of our allies who are very important. But certainly strategically Turkey is extraordinarily important. Our friendship and our partnership is long. But I do want to get your analysis of something relative to this, particularly as recently we have seen Turkey—or some elements of it seem to be waltzing closer and closer into the orbit of Iran on some issues. But let me just ask you to comment on this, if you are aware of this.

Earlier this year, the Institute for Science and International Security issues a report detailing evidence and allegations against a former Iranian diplomat who sought to smuggle U.S.-made military equipment to Iran. Are you familiar with that?

Mr. VAN DIEPEN. Not that specific case.

Mr. SCOTT. All right. Well, according to this report, Istanbul was originally chosen as the transshipment point for the equipment from the United States. But in January 2006, one of the Iranian agents allegedly involved in this scheme cited potential difficulties posed by the Turkish Government as a reason to change the transshipment location. Now the reason analysis of this is so important is because I think it indicates that Turkey is not a destination of diversion concern, if this is the case, and that robust enforcement by Turkey has deterred any would-be weapons smugglers.

Would you say that is an adequate statement? I mean, if you are not familiar with the case just from my mentioning it——

Mr. VAN DIEPEN. Well, again, I am not able to comment on the specific case, but more broadly, I mean, Turkey is a country that is a member of all the multilateral nonproliferation regimes. It has worked with us on specific proliferation-related cases. But no coun-

try, including the United States, is in a position to say that, you know, we have definitively stopped all bad activities from going on. And given the fact that Turkey shares a border with Iran, it is certainly a place where, as you noted in your example, Iranians might consider trying it. But Turkey is also a place that, you know, has in place and tries to enforce the right kinds of controls and works cooperatively with us to try and thwart those efforts. But it is difficult to keep yourself entirely from being abused by proliferaters, but they are certainly taking a lot of the right steps.

Mr. SCOTT. Good. So I want to get on the record. This is a good report and a good sign from the standpoint of Turkey is concerned. I think that what you are saying is that this example works to support the fact that Turkey is very strongly working to make sure that this kind of activity does not happen in that region. But I am little bit concerned about some of the other countries in the Black Sea and the Central Asian region, which may pose diversion concerns. Are there any? Is that region fairly safe? Particularly as countries such as the UAE and Malaysia tighten their export control regimes.

In other words, if you tighten something here, and it opens up something here, what we want to make sure of is that if we tighten here, that this stays tight, too.

Mr. VAN DIEPEN. No. And we are very concerned about that as well. And in fact, if you look at the past history of this, even the UAE didn't come up—wasn't originally a big place for this sort of thing. But business tended to gravitate there because other places got restricted, and so we fully expect that as the UAE starts to crack down, proliferaters will go elsewhere.

Now, in terms of Central Asia, really that was one of the earliest places that we started operating in our export control assistance activities because we recognized with the breakup of the Soviet Union there was going to be a loss of centralized control. And given the geographic proximity of those countries to places like Iran and other interesting destinations, you know, early on we sought to try and head that phenomenon off. And so we have been very actively involved in all of those key countries, helping them put laws in place, given them enforcement equipment and training, X-ray machines, nuclear radiation detectors, that sort of thing. And so there is a fairly substantial effort in place to try and keep that from becoming the next place that folks again.

But again, given that there is a geographic proximity, given that that is a region where smuggling of all types has been endemic for centuries, there will always be a potential threat there. But we have been doing a lot in cooperation with those governments to try and make sure that we have got as good a handle as we can get.

Mr. SCOTT. Very good. Well, thank you very much. I appreciate it, Mr. Chairman.

Mr. SHERMAN. I am going squeeze in a couple of questions, and then we will go to the classified briefing. Continuing with our discussion of the speedboat, the IRISL, the shipping line, has been sanctioned by the United States for its support of Iran's proliferation efforts. Why have no sanctions been issued against any of that entity's front companies, and why have no front companies been identified by the State Department?

Mr. VAN DIEPEN. I think I will have to——

Mr. SHERMAN. Did I say State? Excuse me, by the Commerce Department.

Mr. WOLF. Right. Well, there is the entity list that I was referring to earlier, where many of the companies that are associated with that network that you were just describing either are in the process of being listed, which would result in the prohibition on exports of items subject to the EAR to those entities. So——

Mr. SHERMAN. Let me get this—okay. In January 2003, this incident occurred.

Mr. WOLF. Right.

Mr. SHERMAN. As it happened, a front company was used in that instance, and here we are, 1½ years later, and you are in the process of listing your first front company for the shipping line.

Mr. WOLF. No, no. Some entities already have been listed. I can send you the information on——

Mr. SHERMAN. So you have issued sanctions against front companies, and you have identified front companies, of the Islamic Republic of Iran Shipping Lines.

Mr. WOLF. With respect to—I believe so. I will confirm, but I believe so.

Mr. SHERMAN. Okay.

Mr. WOLF. And to the extent that we get new information on names and addresses that are the same entity, we will——

Mr. SHERMAN. Well, one would expect that the first thing you would do is look at the ship that left Durban, see who it is registered to, and say, well, if we have said that that ship was carrying a speedboat, a power boat, to the Revolutionary Guard, then whoever owns that ship needs to be listed on the list or as a front company on the list.

In March 2008, the Bureau of Industry and Security issued a temporary denial order against Iran Mahan Air and several additional entities after it was discovered that three Boeing aircraft had been exported to Iran by use of Mahan Air, and an additional three aircraft were in the process of being exported. Despite the denial order, Mahan Air has continued to seek and acquire aircraft with substantial U.S. components to add to its fleet. And, of course, these planes can be used for military and transport purposes.

Likewise, Air Iran has acquired several aircraft that required a U.S. export license. What steps is the Commerce Department taking to crack down on illicit acquisition of U.S. aircraft and aircraft with substantial U.S. components by Iran and by Mahan Air?

Mr. WOLF. Well, through the aggregation of information gathered during the licensing process, enforcement activities, intel, tips from private sector companies, we listed and continue to list the companies that you are referring to as denied entities. And, you know, it is part of the regular listing and the review of the process activity of those companies that are involved in exports and re-exports to Iran.

Mr. SHERMAN. So has anyone been sanctioned as a result of the fact that Iran has gotten both U.S.-made planes and planes with substantial U.S. components?

Mr. WOLF. The reason I am hesitating a little bit is because these are topics probably better left for the closed session.

Mr. SHERMAN. Okay. I hope that during the closed session you will be able to show me that companies with substantial U.S. business interest have suffered a significant penalty for this. But I would comment that Congress is also at fault here. We have allowed the export to Iran of airport parts or airplane parts. I realize it is a safety issue for the planes that Iran acquired many decades ago, and our proper response is to tell Iran ground your planes until you ground your nuclear program. Instead, Congress is allowing those Boeing parts to go to Iran, showing that we screwed up, too.

So we now have votes, I believe, and then immediately after those votes, we will—wait, do we have votes? We do not have votes? Okay. Then we will move to the classified session, and then we will be interrupted by votes.

[Whereupon, at 11:35 a.m., the subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515-0128

SUBCOMMITTEE ON TERRORISM, NONPROLIFERATION AND TRADE
Brad Sherman (D-CA), Chairman

July 14, 2010

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Terrorism, Nonproliferation and Trade, to be held in **Room 2172 of the Rayburn House Office Building (and available live, via the WEBCAST link on the Committee website at http://www.hcfa.house.gov)**:

DATE: Thursday, July 22, 2010

TIME: 10:00 a.m.

SUBJECT: Transshipment and Diversion: Are U.S. Trading Partners Doing Enough to Prevent the Spread of Dangerous Technologies?

WITNESSES: The Honorable Kevin J. Wolf
Assistant Secretary for Export Administration
Bureau of Industry and Security
U.S. Department of Commerce

Mr. Vann H. Van Diepen
Acting Assistant Secretary
Bureau of International Security and Nonproliferation
U.S. Department of State

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON *Terrorism, Nonproliferation, & Trade* MEETING

Day *Thursday* Date *7/22/2010* Room *2172 RHOB*

Starting Time *10:11am* Ending Time *11:35am*

Recesses (_____ to _____)

Presiding Member(s) *Subcommittee Chairman Brad Sherman*

CHECK ALL OF THE FOLLOWING THAT APPLY:

Open Session [✓]
Executive (closed) Session [ ]
Televised [✓]

Electronically Recorded (taped) [ ]
Stenographic Record [✓]

TITLE OF HEARING or BILLS FOR MARKUP: *(Include bill number(s) and title(s) of legislation.)*
Transhipment and Diversion: Are U.S. Trading Partners Doing Enough to

SUBCOMMITTEE MEMBERS PRESENT:
Subcommittee Chairman Brad Sherman, Ranking Member Royce, Rep. Manzullo, Rep. Scott, Rep. Klein

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not Members of HFAC.)*

HEARING WITNESSES: Same as meeting notice attached? Yes [✓] No [ ]
(If "no", please list below and include title, agency, department, or organization.)
Vann Van Diepen, Kevin Wolf

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*
(Witness statements)

ACTIONS TAKEN DURING THE MARKUP: *(Attach copies of legislation and amendments.)*

RECORDED VOTES TAKEN (FOR MARKUP): *(Attach final vote tally sheet listing each member.)*

Subject	Yeas	Nays	Present	Not Voting

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED _____

Subcommittee Staff Director