

to the bill. However, as the legislation is implemented following enactment, I wish to reiterate what I understand the intent to have been in the bill's development and to be at passage with regard to such provisions in the bill not changing or adversely affecting the rights of the San Carlos Apaches.

Mr. Speaker, by way of background, the San Carlos Apaches were among the last to resist what they viewed as the intrusion by outsiders into their homeland. They paid a heavy price for that resistance. Some of their ancestors were held for years as prisoners of war by the United States. Many thousands of acres of some of their most productive lands were deleted from their Reservation for uses by others. Their burial sites, their farms, and their homes were flooded, and they were forced to relocate to make way for the construction of Coolidge Dam. This Tribe faces unemployment of about 75 percent. Water is essential to their future. The Gila River runs directly through this Tribe's Reservation. San Carlos Lake and Reservoir are in the heart of their Reservation. Therefore, a genuinely comprehensive, lasting, and completed Gila River water settlement cannot be achieved until the Congress fairly addresses the needs and rights of the People of the San Carlos Apache Tribe. At the Committee markup of this bill, Chairman POMBO and others of my colleagues expressed their commitment to helping to achieve justice with respect to water rights for the San Carlos Apaches. In connection with passage of this bill today, still others of my colleagues recognized the work yet to be done on behalf of the People of this Tribe.

The Tribe has made substantial progress in recent months toward achieving a Gila River water rights settlement through negotiation with a number of the parties involved. It appears very hopeful that a settlement for the Tribe can be achieved early in the 109th Congress. In pursuit of that effort, I encourage all parties included in this legislation that are relevant to working out agreements with the Tribe to work seriously, vigorously, and in good-faith to complete equitable Gila River water settlements with the Tribe as soon as possible. I will then work with the Chair of the Resources Committee, the Ranking Minority Member, and other colleagues and Senator KYL, the chief sponsor of S. 437, to see that such agreements become ratified through legislation as soon as possible after receiving them next session of Congress.

I will monitor the progress of efforts to negotiate settlements in the coming weeks. I will help in whatever way I can to see that equitable agreements are achieved for the People of the San Carlos Apache Tribe that will help ensure the viability of their Reservation as their homeland now and for the future.

BREAKDOWN OF THE RULE OF LAW IN RUSSIA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 2004

Mr. ENGEL. Mr. Speaker, an undeniable tenant of any democracy is the rule of law. Sadly, this is not the case in Russia today. That country's legal system is taking on the appearance of Czarist Russia and the Soviet

Union, when the legal system and courts were merely instruments of the State. This past year, we have witnessed a series of arbitrary and discriminatory actions, directed by the Kremlin, against select individuals and companies, that are politically motivated and lacking in legal merit, according reputable human rights groups and widely reported in the Western press.

The most notable case is the YUKOS Oil Company, one of Russia's early privatized companies, known for its Western management style and global outlook, that today is under siege by a government clearly intent on destroying or taking control of Russia's largest oil producer. The chairman of YUKOS, Mikhail Khodorkovsky, was arrested and indefinitely detained on charges that are murky and, again, appear to be of a political nature rather than criminal intent.

Our colleagues on the Senate side last year unanimously approved S. Res. 258, which stated, in part, "the law enforcement and judicial authorities of the Russian Federation should ensure that Mr. Mikhail B. Khodorkovsky is accorded the full measure of his rights under the Russian Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done. . . ."

Mr. Speaker, the U.S. Senate spoke out one year ago, and since then the Russian government has levied an \$18 billion tax bill on YUKOS, far beyond its earnings, which is apparently intended to pave the way for a government take over of one of the world's largest oil companies. Mr. Khodorkovsky is confined to a cage on his daily trips to the courtroom, where he is denied the customary rights of a defendant and indeed is facing a verdict that may well be pre-ordained by the Kremlin.

Mr. Speaker, I also call to the attention of my colleagues another example of Russia's crude application of a legal system that denies, rather than protects the rights of the accused and clearly violates the norms and standards of decency and respect for human rights.

Mr. Alexei Pichugin, a former white collar security officer for the YUKOS Company, is currently on trial in Moscow on charges, so it is alleged, of murder. This is another case that is being closely monitored by human rights groups and others because of the bizarre series of actions by prosecutors who appear to be using the formal charges to pressure Mr. Pichugin to testify against his former bosses at YUKOS.

I do not presume to know the guilt or innocence of Mr. Pichugin; that is for a properly conducted court trial and unbiased jury to determine. But I am troubled, as are many of my colleagues, about the politicizing of Russia's legal system and the denial of a just and fair trial because the court itself is not truly independent.

Indeed, the Council of Europe's rapporteur, Sabine Leutheusser-Schnarrenberger, has called the allegations regarding Mr. Pichugin's mistreatment "very serious." She notes: "I cannot myself help worrying about the possibly illicit investigative methods and pressures that Mr. Pichugin could be subjected to at a prison that remains withdrawn from the normal supervisory procedures by the Ministry of Justice."

Just yesterday, the Parliamentary Assembly of the Council of Europe PACE released a re-

port pointing out that Russian authorities continue to violate the principle of equality before the law, based on legal analysis of the facts surrounding the arrests and prosecutions of former YUKOS executives Mikhail Khodorkovsky, Alexei Pichugin and Platon Lebedev.

While the trial of Alexi Pichugin is being conducted in secrecy, the evidence of abuse by the prosecutors and court handling the matter has been widely reported in the press. I, therefore, urge the Administration to refocus its attention on the deterioration of the rule of law in Russia. It would be very unfortunate if while we were striving to establish a democracy in Iraq, one broke down completely in the Russian Federation.

INTRODUCTION OF IRAN NUCLEAR PROLIFERATION PREVENTION ACT

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 2004

Mr. MARKEY. Mr. Speaker, to day I am introducing the "Iran Nuclear Proliferation Prevention Act," a bill to stop the transfer of nuclear equipment and technology to Iran.

This week Secretary of State Colin Powell referred to intelligence that Iran is working to adapt missiles to deliver a nuclear weapon, which would provide further evidence Iran is determined to move forward to become a nuclear weapons state. His comments come on the heels of reports that Iran on the one hand has agreed with three European countries to freeze its uranium enrichment program, and, on the other hand, reports by an Iranian opposition group that Iran may still be pursuing a covert uranium enrichment program at an undeclared location.

The credibility of the United States suffered when we missed the mark so badly in Iraq when the Administration concluded that Iraq had reconstituted its nuclear weapons program. In Iraq the IAEA had the advantage of 250 inspectors on the ground with anytime, anywhere inspection authority to go look wherever they suspected there might be evidence of nuclear weapons activity. The IAEA does not have that advantage in Iran. Instead, both the U.S. and the IAEA are trying to divine the plans of a regime through fragmentary pieces of information gleaned from a variety of sources, much of it subject to widely varying interpretation and credibility. We simply cannot afford to be wrong on a subject as serious as the spread of nuclear weapons.

We know that a variety of foreign countries and companies may have provided assistance to Iran's nuclear program. Some of these countries may also be engaged in nuclear commerce with the United States, or may have received U.S.-origin nuclear technology in the past, or seek access to U.S. nuclear materials or technology in the future. Should we engage in nuclear commerce with countries that are supplying Iran with the wherewithal to move forward with a nuclear weapons program? I don't think so.

Let's take just one example. China is known to have provided support to the Iranian nuclear program in the past. In recent months, there have been press reports that Vice President CHENEY is championing efforts to export

nuclear reactors to China. It just does not make any sense to say that we are against nuclear proliferation in Iran, and then to turn around sell nuclear reactors to China.

The bill I am introducing today will:

Stop the transfer of nuclear equipment and technology to any country that is supporting Iran's nuclear program;

Require the President to report to Congress a complete list of countries who have provided missile and nuclear materials and technology to Iran;

Require the President to report to Congress an estimate and assessment of Iran's efforts to acquire nuclear explosives and their delivery vehicles.

Require the President to give to Congress an assessment of the European-Iran deal.

Require the President to provide to Congress an evaluation of the basis and credibility of a possible secret nuclear facility in Iran.

Require the President to provide to Congress information on whether the U.S. has provided the United Nations and International Agency, IAEA, weapons inspectors with full access to intelligence on Iran's nuclear program.

Require the President to report to Congress on the steps the U.S. is taking to ensure that United Nations and IAEA inspectors have full access to all suspected Iranian nuclear sites and on what steps the U.S. is taking to work with the international community, including the IAEA, to ensure Iran is complying with the Nonproliferation Treaty.

This bill will not:

Apply to radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indicating devices, nuclear detectors, monitoring systems, or equipment to safely store, transport or remove hazardous material.

Apply, with a waiver by the President, if it is in the vital interest of national security.

Apply, with a waiver by the President, if the transfer is essential to prevent or respond to a serious radiological hazard.

Limit the full implementation of the Cooperative Threat Reduction Programs, also known as the Nunn-Lugar program.

While there is legislation in place that provides for sanctions against Iran—the Iran and Libya Sanctions Act or ILSA, this legislation has not proven to be effective. ILSA provides for sanctions against companies that invest \$20 million or more in Iran's energy sector in a single year. Here is what the nonpartisan Congressional Research Service reports about the implementation of the Act:

The Clinton Administration apparently sought to balance implementation with the need to defuse a potential trade dispute with the EU. In April 1997, the United States and the EU formally agreed to try to avoid a trade confrontation over ILSA and the "Helms-Burton" Cuba sanctions law (P.L. 104-114). The agreement contributed to a decision by the Clinton Administration to waive ILSA sanctions on the first project determined to be in violation: a \$2 billion (1) contract (signed in September 1997) for Total SA of France and its minority partners, Gazprom of Russia and Petronas of Malaysia to develop phases 2 and 3 of the 25-phase South Pars gas field. The Administration announced the waiver on May 18, 1998, citing national interest grounds (Section 9(c) of ILSA), after the EU pledged to increase cooperation with the United States on non-proliferation and counter-terrorism. The an-

nouncement indicated that EU firms would likely receive waivers for future projects that were similar.

The Bush Administration has apparently adopted the same policy on ILSA as did the Clinton Administration, attempting to work cooperatively with the EU to curb Iran's nuclear program and limit its support for terrorism. According to the Bush Administration's mandated January 2004 assessment, ILSA has not stopped energy sector investment in Iran. However, some believe the law has slowed Iran's energy development, and Iran's sustainable oil production has not increased significantly since the early 1990s, despite the new investment, although foreign investment has slowed or halted deterioration in oil production. On the other hand, Iran's gas sector, nonexistent prior to the late 1990s, is becoming an increasingly important factor in Iran's energy future, largely as a result of foreign investment.

Since the South Pars case, many projects—all involving Iran, not Libya—have been formally placed under review for ILSA sanctions by the State Department. Recent State Department reports on ILSA, required every six months, state that U.S. diplomats raise with both companies and countries the United States' ILSA and policy concerns about potential petroleum-sector investments in Iran. However, no sanctions determinations have been announced since the South Pars case discussed above.

Clearly, the ILSA sanctions are not working. We need to come up with a sanctions law that can work, and the Iran Nuclear Proliferation Prevention Act is my attempt to forge such a proposal. I urge my colleagues to cosponsor this legislation, which I intend to reintroduce at the beginning of the next Congress.

INTRODUCTION OF THE MEDICARE PPO FAIRNESS ACT OF 2004

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 19, 2004

Mr. CARDIN. Mr. Speaker, I rise today to introduce the Medicare PPO Fairness Act. This bill addresses an urgent problem facing 98,000 Medicare beneficiaries whose legal rights to health care services have been denied. Today may be the last day of the 108th Congress, and so I will reintroduce this measure in January in the hope that members will consider it early next year.

In 2003, the Centers for Medicare and Medicaid Services, CMS, began a Medicare PPO Demonstration to test the efficiency of different types of private health plans in the Medicare program. Preferred provider organizations, PPOs, are forms of managed care that are somewhat less restrictive than health maintenance organizations, HMOs. Generally speaking, in an HMO model, patients are covered only for services rendered by doctors, hospitals and other providers who are "in-network," meaning on the plan's approved list. By contrast, in a PPO, patients are covered not only for services rendered by providers on the approved list, but also for other providers, but they must usually pay additional out-of-pocket costs. For purposes of this demonstration program, Congress gave CMS flexibility with respect to payments to these private plans but not with respect to the benefits that they must provide to seniors.

We have recently learned from the General Accountability Office, GAO, that CMS exceeded its authority. According to a report issued in late September, the Centers for Medicare and Medicaid Services, CMS, improperly gave private health plans permission to limit beneficiaries' access to care from providers who were not in the plans' networks. GAO found that 29 of the 33 PPO plans in the demonstration told seniors that if they sought covered services from providers not in their network they would be liable for all charges. As of this year, more than 98,000 seniors were enrolled in demonstration PPO plans, including 3,000 seniors in my home state of Maryland, so thousands of seniors have been affected by these restrictions.

In the GAO report, CMS Administrator Mark McClellan concurred with GAO's findings and said his agency would instruct all participating plans that they must cover out-of-network as well as in-network care. That is the right thing for Dr. McClellan to do, but it is not sufficient. I remain concerned about the thousands of seniors who for the past two years were told in error that they had no right to see their provider of choice. There are also countless providers who were improperly denied the opportunity to treat beneficiaries—and therefore lost income—simply because they were not on the PPG's provider panel. Finally, I remain concerned about those seniors who paid out-of-pocket for medical care—including routine physical examinations, home health services and skilled nursing care—that Medicare should have covered. It is Medicare's responsibility to reimburse for those services.

The bill that I am filing today would accomplish two things: first, it would ensure that seniors in Medicare PPOs are aware of their rights. It would require the Secretary of HHS to immediately notify each of the approximately 98,000 PPO enrollees that they are entitled to receive services from both in-network and out-of-network providers. I learned about the GAO's findings from the newspapers. Our seniors should not have to rely on the press to learn what benefits they are entitled to from Medicare.

Second, my bill would require the Medicare program to reimburse those beneficiaries in PPOs who erroneously paid out-of-pocket for care from out-of-network providers. Those seniors who enrolled in the Medicare PPO demonstration program deserve to receive all the benefits they are legally entitled to, and they should be made whole. This bill is budget neutral. It provides for all payments for reimbursable services rendered in 2003 and 2004 to be deducted from planned 2005 payments to Medicare PPOs, money that has already been allocated for next year.

Mr. Speaker, I think all members would agree that our seniors should have access to a full range of choices within the Medicare program, and that Congress should ensure that seniors receive all the benefits to which they are entitled. My bill will help guarantee that in the demonstration program now in operation at CMS, seniors get the benefits that Congress intended. I hope this bill will be enacted quickly when the 109th Congress convenes next year, and I urge my colleagues to support this measure.