homegrown ISIS attack on American soil. Now there is Orlando, the worst terrorist attack on America's homeland security since 9/11—so much for ''we have contained them.''

Unfortunately, despite these attacks, President Obama continues to paint an unrealistically rosy picture of our success against ISIS. Emerging from a meeting last week, the President declared that ''we are making significant progress'' in the fight against ISIS. He went on to say, ''ISIL's ranks are shrinking. . . . Their morale is sinking.''

Two days later, however, the President's CIA Director painted a very different picture. Testifying before Congress, CIA Director John Brennan stated: ''Unfortunately, despite all our progress against ISIL on the battlefield and in the financial realm, our efforts have not reduced the group's terrorism capability and global reach.''

Let me repeat that: ''Our efforts have not reduced the group's terrorism capability and global reach.'' That is something the President neglected to mention 2 days earlier.

That is not the only thing he forgot to bring up. The President discussed the anti-ISIS coalition's efforts to target ISIS's funding. But he neglected to mention that those efforts still left ISIS with a robust revenue stream.

The CIA Director noted that ''ISIL . . . continues to generate at least tens of millions of dollars in revenue per month, primarily from taxation and from crude oil sales.''

The President hailed accomplishments on the ground in Iraq and Syria, but he didn't mention that those successes are doing essentially nothing to reduce ISIS's ability to attack abroad.

This is again a quote from Director Brennan:

> The group's foreign branches and global networks can help preserve its capacity for terrorism regardless of events in Iraq and Syria. In fact, as the pressure mounts on ISIL, we judge that it will intensify its global terror campaign to maintain its dominance of the global terrorism agenda.

That, again, is from Director Brennan.

The President noted that ISIS is losing ground in Libya, but he forgot to mention ISIS's Libyan branch is perhaps its most dangerous and poses a real threat to Africa and to Europe. Director Brennan testified again:

> ISIL is gradually cultivating its global network of branches into a more interconnected organization. The branch in Libya is probably the most developed and the most dangerous. We assess that it is trying to increase its influence in Africa and to plot attacks in the region and in Europe.

If there is one thing that Director Brennan's testimony made clear, it is that we are not doing enough to confront the threat posed by ISIS. Unfortunately, that is not something President Obama seems to understand. As his remarks last week made clear, the President is more interested in explaining why he doesn't like the term ''radical Islam'' than he is in offering a concrete plan to actually defeat ISIS.

It is difficult to understand why the President so resolutely avoids this term. The fact is, ISIS and its adherents are driven by their radical interpretation of Islam. How can we hope to confront this terrorist ideology if we can't actually call it by its name?

On the same note, what was the administration hoping to accomplish when it redacted references to ISIS in its initial release of the 911 transcripts from the Orlando attack? Was it hoping to somehow distract from the fact that this was a terrorist attack? Do they want to play down the fact that ISIS is now inspiring attacks in the United States?

Unfortunately, our Commander in Chief's disturbing reluctance to identify our enemy by its name is emblematic of the fundamental lack of seriousness that has characterized the President's foreign policy. The attack in Orlando was a terrorist attack, yet the President's response was a formulaic call for gun control. All the gun control laws in the world are not going to stop a terrorist bent on wreaking havoc in our country. France's strict gun control laws didn't prevent terrorists from slaughtering 130 people last November.

To stop ISIS-inspired attacks, we need to stop ISIS. And to do that, we need a serious, comprehensive plan from the President. What I wish we had heard last week from the President are concrete proposals to counter the threat of homegrown terrorism. He could have talked about ways to make sure our intelligence agencies have the resources they need to track and counter ISIS efforts to communicate with its recruits in the West. He could have discussed ways to address the threat of lone wolf terrorists. He could have talked about ways we can improve our ability to monitor terrorists' communications to disrupt their plans. He could have called on Senate Democrats to support Senator CORNYN's amendment to give the Attorney General the authority to act on probable cause against would-be terrorists while protecting due process to protect Second Amendment rights, but he didn't. Instead, he issued a brief call for gun control and spent a large chunk of his speech defending his refusal to use the term ''radical Islam.''

When President Obama was elected, we were told he would restore America's standing in the world. In fact, he received a Nobel Peace prize in the first year of his first term based solely on people's belief that he would promote peace and bring stability to world affairs. I thought of that when I saw this statement from CIA Director Brennan toward the end of his testimony last week. The Director said: ''I have never seen a time when our country faced such a wide variety of threats to our national security.'' Again, that statement was stated by CIA Director Brennan during his testimony just last week.

President Obama is certainly not responsible for all the unrest in the world today, but the unfortunate truth is, his foreign policy failures have contributed to a lot of it. His politically motivated decision to withdraw our troops from Iraq and announce the timetable to our enemies created the vacuum that ISIS quickly moved in to fill. His decision not to act when Syrian President Bashar al-Assad crossed the redline the President himself had drawn sent a message to tyrants and dictators the world over that America could be ignored at will. The President's nuclear deal with Iran has left that country better equipped to acquire advanced nuclear weapons down the road.

President Obama is nearing the end of his term, but there is still time for him to commit to working with Republicans to take the steps that are necessary to not just contain but to actually defeat ISIS. There is still time for him to focus on controlling our borders so terrorists don't slip across without our knowledge. There is still time for him to take measures to strengthen our counterterrorism capabilities, and there is still time for him to focus on supporting Federal and local law enforcement in their efforts to stop terrorism.

I hope in the coming days, the President will see his way to offering some serious solutions to the danger ISIS poses to our Nation. It is high time that happen.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. FISCHER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN SOVEREIGN IMMUNITIES ACT

Mr. GRASSLEY. Madam President, I rise to speak about the changing nature of globalization. Everyone is aware globalization has changed how economies work. Some people have embraced globalization while others are fighting to slow its effects. In America, most people are familiar with the modern, multinational corporation. These corporations are privately owned by shareholders and operate in countries around the world. However, there is a new trend that is becoming increasingly evident in commerce today. We are now seeing entities that are owned by governments competing with private companies in the automotive, food, and airline industries that represent more traditional commerce.

Over the last several decades, governments, through entities called state-owned enterprises, have become highly involved in international commerce. We have seen state-owned companies and enterprises buy the assets of private companies, such as Smithfield Foods, and start up completely new

companies, such as the new airlines in the Middle East. There is nothing inherently wrong with state-owned enterprises paying a premium on market value to purchase a company. However, the actions of the company and its legal obligations after the transaction is complete are what I intend to focus on today.

In a 2014 report, the United Nations estimated there are over 550 state-owned transnational companies with cumulative assets of over $2 trillion. Many would argue the estimate of $2 trillion in assets under management is a conservative number. There are many differences between state-owned companies and companies that are publicly traded.

First, state-owned companies are not subject to the same transparency requirements as publicly traded companies. Publicly traded companies must adhere to GAAP accounting standards and file quarterly and annual reports, such as 10–Qs and 10–Ks, with the Securities and Exchange Commission.

Second, state-owned enterprises have the implicit backing of the various governments, giving them access to credit oftentimes at cheaper rates than individual private companies could hope to find. The most valuable companies in America, based on market capitalization, are worth between $500 and $600 billion on any given day. While Fortune 100 companies are large, their resources then pale in comparison to government wealth.

Finally, state-owned enterprises report their strategies, profits, and losses to governments. They are not accountable to shareholders in the way publicly traded companies are. Therefore, it is prudent we take time to consider how foreign, state-owned enterprises are participating in this American economy.

In agriculture, state-owned enterprises have started to buy publicly traded American companies. Smithfield Foods was sold to China's Shuanghui in 2013 for $4.7 billion in cash. ChemChina is currently trying to buy the Swiss-based seed and chemical company Syngenta for $43 billion. About one-third of Syngenta's $12 billion in revenue comes from North America, which is what makes this transaction very concerning for me. While some could argue these investments are similar to foreign direct investment, what these foreign, state-owned enterprises are really buying are our resources and expertise in food production, including the intellectual property that fuels development and growth of the agricultural sector. Even if these transactions function seamlessly for the first 10 or 15 years, there are strategic questions we need to consider before approving the sale of any more of our agricultural assets to another government. For that reason, Senator STABENOW and I asked the Committee on Foreign Investment in the United States, commonly referred to as CFIUS, to thoroughly review the proposed Sengenta acquisition with the help of the Department of Agriculture. CFIUS is responsible for reviewing the national security implications of transactions that result in foreign control of U.S. businesses and critical infrastructure. There is a shared sentiment among lawmakers, military officials, and everyday Americans that protecting the safety and resiliency of our food system is core to American national security. The food security of our country is not something we can take for granted, and as I have said before, at any given time we are only nine meals away from revolution.

As I mentioned, I also have concerns about the legal obligations and accountability of foreign, state-owned companies, particularly as they relate to those companies' interactions with American companies and consumers.

Now, I have heard several recent reports noting cases where companies owned by foreign governments have claimed that they are immune to lawsuits by American companies or American consumers in our very own courts.

They have made this claim even when a foreign, state-owned company or one of its corporate affiliates has been engaged in normal commerce with American consumers or other American companies.

In making this argument, these foreign, state-owned companies would try both to take advantage of our market and to avoid the rules and potential liability that every other market actor must face. Of course, that doesn't seem right to me, and it is not the way our laws are set up to work.

It is an age-old rule of international law that one sovereign nation should not subject another country acting in its sovereign capacity to the authority of domestic courts.

Our courts recognized this principle long before Congress wrote it into statute.

The theory developed at a time when personal sovereigns ruled foreign powers rather than democracies. The sovereign was the same as the State. Chief Justice John Marshall acknowledged it in an 1812 Supreme Court opinion when he explained that our courts had no jurisdiction to hear America's claim against France to recover a ship seized by order of Napoleon.

But there have long been important exceptions to the doctrine of foreign sovereign immunity. One of those is the so-called ''commercial activity'' exception. Just 12 years after his opinion about Napoleon's ship, Chief Justice Marshall explained that ''[w]hen a government becomes a partner in any trading company, it divests itself . . . of its sovereign character, and takes that of a private citizen.''

For that reason, over the last several decades, both the State Department and the Supreme Court have recognized that the original purposes of foreign sovereign immunity—respect for the person and governmental acts of a foreign sovereign—are not served when the doctrine is invoked to protect a sovereign's private acts.

This development resulted from the need to ensure stability and predictability in international commerce after state monopolization in industries like transportation and communication.

It is based on the notion that when a sovereign nation enters the competitive marketplace, it no longer acts as a sovereign at all, and it must follow the very same rules as every other market participant.

So in 1976 we codified those principles in statutory law by enacting the Foreign Sovereign Immunities Act, referred to as FSIA. Under the FSIA, foreign sovereign immunity extends not only to foreign sovereigns but also to political subdivisions and even corporate entities owned by foreign sovereigns.

But, importantly, the FSIA also codifies exceptions to the foreign sovereign immunity principle, including—very importantly—the commercial activity exception.

As I said, I have seen reports noting cases where companies owned by foreign governments have claimed that they are immune to suits by American companies or American consumers in our very own courts when they are suspected of doing something wrong. Sometimes, their arguments have succeeded, which raises concerns that the exception may not be working as designed.

Let me give one example. America bought much of the drywall used to rebuild New Orleans after Hurricane Katrina from Chinese manufacturers. Thousands of homes built with that drywall turned out to be uninhabitable because residents said the drywall made them sick.

So these Americans tried to sue the Chinese manufacturers, including a manufacturer's parent company, China National Building Materials Group, or CNBM.

The problem for the consumers is that the Chinese Government is heavily invested in these manufacturers, among many other commercial enterprises.

Under the general principle of foreign sovereign immunity, a foreign government selling Americans a product is not acting as a sovereign but as a market competitor. One would assume that the ''commercial activity'' exception to foreign sovereign immunity applies, but the state-owned manufacturer argued otherwise.

Here is how it works under statute. Foreign companies are sued in our courts all the time. Commonly, these lawsuits, like the drywall case, involve claims of American consumers or companies that the foreign company engaged in some behavior that harmed them.

When a foreign company is sued in one of our courts, it has a chance to show at the beginning of the case that a foreign government owns a majority

of its shares. If the foreign company makes that showing, it then enjoys a presumption of immunity under the FSIA, meaning that the plaintiffs' lawsuit will be dismissed.

But before that happens, the plaintiffs have one more chance to save their case from early dismissal. This is where the ''commercial activity'' exception comes into play. The plaintiffs can defeat the presumption of immunity by showing that the foreign state-owned company was acting as a market participant—that is, engaging in commercial activity that takes place in or affects the United States—when it caused the harm the plaintiffs complained about.

This principle—the ''commercial activity'' exception—saves a case from early dismissal and gives plaintiffs a chance to move forward and try to prove their claims against a foreign, state-owned corporation behaving like a market actor.

But as it turns out, that can be a complicated showing for plaintiffs to make at such an early stage in the case. Here is why. Companies owned by foreign states are often governed through very complicated corporate structure.

Take, for example, the large Chinese insurance company backed by the Chinese state bank in its recent attempt to purchase an American hotel chain. In describing the attempted takeover, the Wall Street Journal described the Chinese company's ownership structure as ''opaque.''

Yet in implementing the FSIA, courts require plaintiffs to meet the commercial activity exception at every level of corporate organization or they must show that various levels of organization acted only as corporate pass-throughs and, therefore, can be ignored.

Here is why I think that may be a problem. Corporate parents can exercise an extraordinary level of control over subsidiaries without concluding that the subsidiary is a mere pass-through.

Requiring plaintiffs to show commercial activity at every level of corporate organization—at such an early stage in the lawsuit—runs the risk of ignoring high-level involvement in the conduct that allegedly hurt the plaintiffs. If plaintiffs don't satisfy this showing against a parent company at an early stage in their case, they may lose the chance to establish their claims.

Now, what this means, as a practical matter, is that this mechanism puts foreign companies that happen to be owned by sovereign states at a distinct advantage over private foreign companies. A private foreign company has no mechanism for early dismissal of a lawsuit on these grounds. A private foreign company would be required to respond to the plaintiffs' allegations, and it would have to produce evidence during the course of the lawsuit relating both to its control over other parts of the conglomerate and also to its involvement in the activities alleged.

As a result of this early dismissal mechanism, the plaintiffs' case in New Orleans could only proceed against one subsidiary, and that happens to be CNBM. The case against CNBM itself was dismissed.

Now, it may be that these plaintiffs still wouldn't have been able to establish liability on the part of CNBM in the end, but they didn't even have that opportunity.

This is something that I want to consider carefully. If a foreign, state-owned company is able to shield parts of its organization behind the FSIA to avoid having to answer a lawsuit entirely in a way that the FSIA doesn't contemplate, when a privately owned foreign company wouldn't enjoy the same luxury, then a fix may be in order.

The point of the commercial activity exception to foreign sovereign immunity is to treat foreign governments like any other market actor when they enter into commerce. Nothing about the principles of foreign sovereign immunity or the FSIA is designed to afford extra early defenses to foreign companies' commercial actions just because the companies happened to be owned by foreign states.

But, currently, foreign, state-owned companies will argue that many of their affiliates don't have to answer the claims of American companies and American consumers, even when it is clear that at some level the company engaged in market activity that may have harmed Americans. Sometimes, like in the New Orleans case, the companies are succeeding.

So I think that may be a problem. That is why I took the time to speak now on the floor of the Senate, and I intend to look at it very carefully and possibly seek legislative remedy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

GUN VIOLENCE

Ms. BALDWIN. Madam President, last week—let's start with last weekend—Americans woke to the news of a horrific mass murder in Orlando, FL. The gunman, a U.S. citizen inspired by terrorists, legally purchased a weapon of war and turned it upon members of the LGBT community on Latin night at a nightclub in Orlando, FL—49 dead, 53 wounded.

Senators returned from their home States last week to express thoughts and prayers and to observe moments of silence. Many of us resolved that while important, those sentiments were not enough and that we needed to follow up those thoughts, those prayers, and those moments of silence with action.

I joined with my colleagues on the floor when Senator MURPHY of Connecticut held the floor for 15 hours to draw attention to two commonsense amendments that would have limited that easy access to a weapon of war by closing a loophole that allows so many of our firearms purchases to occur without a proper background check and to close something we are calling the terror gap, which would allow the FBI the authority to deny gun purchases to people who are on a watch list, suspected of connections with terrorism. Those measures gained a vote in the Senate last night, but both failed to advance.

I don't think we can simply say that we tried and continue to accept shootings like the one in Orlando as the new normal and then move on to other business—especially, I might add, with our procedural posture right now, as the Senate has before it at this period in time the Commerce-Justice-Science appropriations bill, a measure in which we can prioritize our response to this tragedy and the preceding tragedies through amendments perfecting the measure before us. Americans are demanding more. We can't just carry on as usual in the wake of these enormous domestic tragedies. Wisconsinites are demanding more. Just in this last week, I received heartbreaking communications from my constituents asking us to act. I will briefly share two of them.

A young mother wrote to me:

I am a young mother of two young children and every day that they go to school I say a silent prayer that they come home safely to me, that no one decides to walk into their school or onto their bus with a gun and an intent to kill.

Another young person wrote to me:

As a young LGBTQ person, I am devastated by this attack on my community. I am scared that this attack happened in what was supposed to be a safe place, a free space in a world that is often hostile for LGBTQ people. I am scared for my safety and for the safety of my community. I am also angry. I am angry that the United States is the only country where shootings like this regularly occur, and I am angry that our government is not doing enough to prevent this kind of violence.

The attack in Orlando was, as I mentioned, an act that allegedly was inspired by maybe ISIL or other terrorist groups, but it was also an act of hate, a hate crime. I have filed an amendment with my colleagues, Senator MIKULSKI of Maryland and Senator HIRONO of Hawaii, to increase funding to strengthen the prevention of hate crimes and the enforcement of our hate crimes laws and our civil rights laws. The amendment is now cosponsored by 18 other Members of the Senate.

I think it is important to understand what a hate crime is. A hate crime is an underlying criminal act—so it is not about hate thought or hate speech—wherein the victim of the crime or victims of the crime are targeted based on a particular characteristic. Sometimes we hear about hate crimes committed against the LGBT community because of their sexual orientation or gender identity, but hate crimes are often perpetrated against people on the basis of religion, race, ethnicity, or gender. Hate crimes targeted against people based on their characteristics are done