

Statement of
Eric L. Hirschhorn
Under Secretary of Commerce for Industry and Security

before the

Committee on Banking, Housing and Urban Affairs
United States Senate

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Mr. Chairman, Senator Crapo, Members of the Committee:

I welcome the opportunity to appear before the Committee today to discuss the Department of Commerce's role in administering and enforcing U.S. export control policies towards Iran. Commerce and its Export Administration Regulations (EAR) play an important role both in enforcing and administering U.S. export controls against Iran. We also work closely with our colleagues at the Departments of State, Homeland Security (DHS), Justice, and the Treasury, as well as other agencies, to implement and enforce the U.S. export restrictions on Iran effectively.

Commerce investigates possible exports or reexports to Iran in violation of the EAR. In most instances an export or reexport of an item subject to the EAR without Treasury authorization will constitute a violation of the EAR.

The Bureau of Industry and Security's (BIS) Export Enforcement (EE) unit has approximately 100 federal law enforcement agents in nine field offices throughout the United States supported by investigative and intelligence analysts at BIS headquarters. The field offices are located in Boston, New York, Miami, Chicago, Dallas, Los Angeles, San Jose, Houston, and the Washington, D.C. area. EE is on the front lines of the effort to prevent illicit transfers of U.S.-origin items which would do us harm if they fell into the wrong hands. EE is the only federal law enforcement body solely dedicated to investigating and enforcing violations of U.S. export controls.

In addition, BIS has seven Export Control Officers (ECOs) stationed in six foreign locations – Abu Dhabi, Singapore, Beijing, Hong Kong, New Delhi and Moscow. These ECOs are BIS enforcement agents temporarily assigned to the U.S. & Foreign Commercial Service. They have regional responsibility for end-use monitoring of U.S. exports in twenty-eight countries.¹ The ECOs conduct pre-license checks and post-shipment verifications to confirm that U.S.-origin items will be, or are being, lawfully used. The ECOs also confirm that the items have not been diverted to prohibited end users or end uses within the country or illegally transshipped to

¹ The twenty-eight countries covered by BIS ECOs are: Bahrain, China, Cyprus, Egypt, India, Indonesia, Iraq, Israel, Jordan, Kuwait, Lebanon, Malta, Oman, Pakistan, Qatar, Malaysia, the Philippines, Russia, Saudi Arabia, Singapore, South Korea, Syria, Taiwan, Thailand, Turkey, the United Arab Emirates, Vietnam, and Yemen.

another country, such as Iran. In fiscal year 2012, BIS conducted 994 end-use monitoring visits in fifty-three countries based on concerns identified by Commerce and its interagency partners. The focus of these visits is to uncover unauthorized transshipments or reexports to restricted destinations such as Iran. The end-use monitoring coverage provided by these ECOs is augmented by U.S. Embassy personnel in other overseas locations as well as targeted “Sentinel Program” visits led by domestically-based BIS Special Agents. In addition, as part of the Export Control Reform effort to transfer less sensitive munitions items (e.g., certain parts and components of U.S. Munitions List (USML) end items) to the Commerce Control List (CCL), BIS and State, under its Blue Lantern program, are working together to coordinate end-use checks where USML and CCL items are co-located, so that both organizations can expand the number of overall end-use checks conducted by the U.S. Government.

When a foreign party is determined to be an unreliable recipient of U.S.-origin commodities and technology through end-use monitoring, BIS may take a variety of actions, such as screening future license applications involving that party, referring a lead for further investigation by EE field offices, or taking an administrative action, including designation on the Entity List or Unverified List. In FY 2012, BIS’s Office of Enforcement Analysis (OEA) issued 160 leads to Office of Export Enforcement (OEE) field offices (a 46 percent increase over FY 2011) to identify suspect transactions and parties. More than 65 percent of these leads focused on Iranian procurement efforts. OEA already has exceeded this number of leads in the first seven months of FY 2013. These leads, based on intelligence, export data, and other information available to EE, allow Special Agents to detect, prevent, interdict, and enforce illicit diversions by front companies.

OEE agents investigate a variety of export violations and diversion of U.S.-origin items to Iran is a major focus. Iran continues to engage in widespread efforts to illegally acquire U.S.-origin commodities, software and technology. In fact, 300 of the OEE’s 749 open cases (40 percent) involve Iran as the ultimate recipient of diverted items. Much of our enforcement activity and analysis is focused on stopping the diversion of such items to Iran via transshipment hubs in the Middle East and Southeast Asia.

BIS aggressively investigates violations of the EAR involving Iran and employs a variety of tools to prevent and punish such violations, including criminal fines and imprisonment, civil penalties, temporary denial orders (TDOs), the BIS Entity List, and asset forfeitures.

BIS is very concerned with the prohibited sale, export, reexport, supply or diversion of U.S.-origin censorship and monitoring hardware to regimes such as Iran. BIS has launched a number of investigations related to this issue and many are still ongoing. On May 30, 2013, the U.S. government issued a General License to authorize the export of a variety of personal communications equipment and software, as well as related services, from the United States or by U.S. persons to Iran. However, for activities that fall outside the purview of that General License or are contrary to its purpose to facilitate access to safer communication tools for Iranians, BIS has worked to prevent the diversion of U.S.-origin telecommunications and networking equipment to Iran, which may use such equipment to repress their citizens. While I cannot comment on any specific investigation, such investigations remain a priority for BIS.

Another priority for BIS, and an area where my agency has effectively applied the full range of enforcement tools available, is the illicit diversion of U.S.-origin aircraft and components to Iran. For example, BIS has also made effective use of its authority to issue Temporary Denial Orders, or TDOs, to prevent diversion of U.S.-origin items to Iran. Temporary Denial Orders prohibit the participation of targeted parties in any export, reexport, or transfer involving items subject to Commerce's jurisdiction, and are issued for renewable periods of 180 days to prevent imminent export violations. In addition to TDOs, BIS may deny export privileges for longer periods of time in conjunction with other civil and administrative penalties.

In 2012, BIS issued two notable TDOs to prevent illicit diversion to Iran. In April, BIS issued a TDO against Sayegh Aviation Group and related parties involved in the acquisition of Boeing 747 aircraft for use by Iranian entities.² As a result of this action, BIS believes all aircraft involved are now located in the UAE and that Sayegh Aviation is complying with U.S. export regulations. In December, BIS issued a TDO against Delfin Group USA LLC and related parties to prevent the diversion to Iran of polymers and lubricating oils, including aviation engine lubricating oils.

Another example of successful use of a TDO involved Mahan Air. In 2008 BIS issued a TDO against Mahan Air, an Iranian airline sanctioned by the Treasury Department, for using its commercial aircraft to funnel weapons and personnel to Syria. Through the use of this TDO, which remains in effect today, BIS has prevented the delivery or use of over \$100 million in aircraft, engines, and spare parts. Additionally, in 2010 the United Kingdom-based Balli Group, which was involved in obtaining Boeing 747 aircraft for Mahan Air, received a \$2 million criminal fine. Balli also entered into a civil settlement with BIS and OFAC involving a \$13 million civil penalty, coupled with an additional \$2 million suspended civil penalty. When Balli did not make a timely penalty payment, BIS revoked the suspension of the \$2 million civil penalty, and the total civil penalty of \$15 million – the largest civil penalty imposed under the EAR to date – has been collected in full.

Another powerful tool BIS has employed to prevent the unauthorized export or reexport of U.S.-origin commodities and technology to Iran is the Entity List. The Entity List generally prohibits entities acting contrary to the national security or foreign policy interests of the United States from receiving items subject to the EAR. Because companies and banks worldwide screen against this list, publicly naming entities involved in illicit export activity helps prevent export violations by discouraging resellers and other parties from doing business with targeted entities and the procurement networks of which they are a part.

Since October 2009, BIS has added eighty persons located in countries including Belarus, China, Germany, Hong Kong, Lebanon, Malaysia, Norway, Singapore, South Africa and the United Arab Emirates to the Entity List based on evidence that they were involved in diversion of U.S.-origin items to Iran. For example, in September 2012, BIS added Seyed Mousavi and his company, Seyed Mousavi Trading, located in the UAE and Iran, to the BIS Entity List. Mousavi and his company knowingly acquired U.S.-origin items for transshipment to Iran through the

² http://www.bis.doc.gov/news/2012/aban_air_TDO_04232012.pdf

UAE and Hong Kong. Further, the exports to Iran included shipments to a person on the Denied Persons List.

Last year, BIS added a company to the Entity List that may be unlawfully diverting U.S.-origin items to Iran. As a result of this listing, BIS received an industry tip from a company that discovered through routine compliance screening that a proposed customer was possibly related to the listed entity. BIS is investigating this related company and has detained several shipments to prevent possible diversion to Iran. This example demonstrates the power of the Entity List in enlisting industry assistance to enforce the EAR and disrupt the transshipment of U.S.-origin items to Iran. BIS is also working to strengthen the Unverified List to increase U.S. government insight into potential transactions of concern involving foreign parties whose *bona fides* (i.e., suitability and reliability as recipients of U.S. exports) BIS has been unable to verify. This action will provide more clarity to exporters on how to address “red flags” involving transactions with foreign parties where BIS has been unable to complete an end-use check.

In addition, the EAR incorporate by reference certain persons on OFAC’s restricted parties’ lists. Examples include Weapons of Mass Destruction Proliferators and their Supporters, Specially Designated Terrorists, Specially Designated Global Terrorists and Foreign Terrorist Organizations. The EAR license requirements supplement those of the other U.S. Government agencies.

BIS also maintains a consolidated list of persons sanctioned by the State Department and OFAC. The consolidated electronic list is free for exporters, reexporters and transferors to use to ensure that transactions do not involve proscribed parties. The consolidated list now includes almost 27,000 entries. In 2012, the monthly average number of views on the Consolidated List Link on export.gov/ECR was 21,388. There were 256,600 views in CY 2012. In addition, more than 12,000 companies have signed up for free automatic email feeds whenever the consolidated list is updated.

The consolidated list facilitates compliance, especially for small- and medium-sized companies who may lack the resources to stay current with all the lists. Moreover, this widely used list takes advantage of the automated name screening infrastructure that exists in banks, trading companies and manufacturing enterprises worldwide. This approach discourages resellers and other parties from doing business with targeted entities and the procurement networks they represent. It also prevents resellers and other parties from doing business with the targeted entities unless they seek a license from BIS, which in most cases will be denied.

Finally, asset forfeitures are an important enforcement tool. For example, in October 2012 a BIS investigation resulted in the sentencing of Mohammad Reza “Ray” Hajian to four years in prison, one year of supervised release, and the forfeiture of \$10 million. Between 2003 and 2011, Hajian conspired with others to unlawfully export sophisticated, enterprise-level computers and related equipment from the U.S. to Iran. In fiscal year 2013 to date, BIS investigations, including joint investigations with other federal agencies, have resulted in monetary forfeitures totaling over \$600 million.

Commerce implements the “export sanction” when chosen in the context of imposing sanctions pursuant to the Iran Sanctions Act of 1996 (ISA), the missile sanctions law contained in the Arms Export Control Act (AECA) and Export Administration Act (EAA) of 1979, the Iran, North Korea, and Syria Nonproliferation Act (INKSNA), as amended, of 2006, amended. When the Secretary of State determines, in consultation with other agencies, that a person has engaged in sanctionable activities and decides to impose a ban on exports as a sanction, Commerce denies export license applications for items on the CCL to that person.

Commerce also provides input to the Office of the Director of National Intelligence’s (ODNI) annual report on countries of diversion concern mandated by CISADA Title III. If the President designated a country as a destination of diversion concern, BIS would require a license for the export, reexport, transit or transshipment of that category of items through the designated country. Any license application would almost certainly be denied.

Additionally, Commerce cooperates closely with the Department of State to address diversion concerns in key transshipment hubs around the globe. In addition to leveraging national compliance and enforcement authorities to address the diversion of U.S.-origin commodities and technology to Iran, BIS engages with international partners, including important transshipment hubs, to secure bilateral trade.

I would like to conclude by briefly addressing the Administration's efforts concerning Export Control Reform initiative, and how that will affect our administration and enforcement of the export restrictions against Iran. As part of this initiative, the Administration has established the Information Triage Unit (ITU), which is housed at the Department of Commerce, with the participation of the Departments of State, Defense, Energy, Treasury, and ODNI. The ITU is responsible for assembling and disseminating relevant information, including classified information, from which licensing agencies can make informed decisions on proposed exports requiring a U.S. Government license. This multi-agency screening unit coordinates the review of separate processes across the government to ensure that all departments and agencies have a full data set from which to make decisions on license applications. In its first year, the ITU produced more than one thousand products supporting the most sensitive transactions, including those undergoing higher level interagency review. This ensures that licensing officers and policymakers are fully informed about the *bona fides* of proposed exports in deciding whether to approve license applications.

Likewise, the Export Enforcement Coordination Center (E2C2), established by the President under Executive Order 13558, is a central element of the Export Control Reform initiative. A permanent center with dedicated staff, the E2C2 is responsible for enhanced information sharing and coordination among law enforcement and intelligence agencies regarding possible violations of U.S. export control laws. The E2C2 is housed in and led by the Department of Homeland Security with the participation of eighteen federal agency partners, and it enables these agencies to better deploy their resources without duplicating or undermining each other's efforts. The Director of the Center is from the Department of Homeland Security, and BIS and the Federal Bureau of Investigation (FBI) provide the E2C2’s two Deputy Directors.

Additional resources would increase BIS's operational effectiveness. The President's Fiscal Year 2014 budget requests \$8.3 million to augment BIS enforcement capabilities. These include additional analysts, Special Agents, and three new ECOs, two of which would be dedicated to conducting end-use checks in Turkey and the UAE, countries proximate to Iran.

We stand ready to work with the Committee and the Senate to maintain an aggressive and effective export enforcement program.