

## Written Statement

**Orde F. Kittrie, Esq.**

**Associate Professor of Law, Arizona State University  
& Visiting Associate Professor of Law, University of Maryland**

**Before the United States Senate Committee on Finance**

**Regarding**

**S. 970, the Iran Counter-Proliferation Act of 2007**

**April 8, 2008**

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

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

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

---

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

#### IV. The Current Sanctions on Iran

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

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

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

---

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

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

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

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



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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

Nothing in this Agreement shall be construed

. . .

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

. . .

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

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

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

## VI. Conclusion

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

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

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

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

Thank you.