

**Statement of
David W. Mills
Assistant Secretary of Commerce for Export Enforcement**

before the

**Committee on Banking, Housing and Urban Affairs
United States Senate**

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

I welcome the opportunity to appear before the Committee today to discuss the Department of Commerce's role in implementing the "Comprehensive Iran Sanctions, Accountability, and Divestment Act" (CISADA), as well as the wider issue of enforcing United States' sanctions on Iran. My Department has a key role in administering and enforcing U.S. dual-use export control policies towards Iran. We also work closely with our colleagues at the Departments of State, Homeland Security, and the Treasury, as well as other agencies, to implement and enforce our sanctions regime effectively.

I wish to extend my thanks to the Congress for conferring permanent law enforcement authority on our agents last year as part of CISADA. The Office of Export Enforcement in our Bureau of Industry and Security (BIS) is the only federal law enforcement agency solely constituted to conduct dual-use export investigations. Permanent authority allows our agents to focus on their law enforcement mission without the necessity of annual renewal of their authority as Special Deputies of the U.S. Marshals Service, and removes the potential that their authority may be

questioned in a courtroom. It was one of many steps we are taking to strengthen our export control system as part of the Administration's export control reform initiative.

Over the course of the last year, our agents have been utilizing this authority to investigate a variety of export violations, but Iranian violations continue to be a primary area of focus. Iran continues to engage in widespread efforts to illegally acquire U.S.-origin commodities and technology. In fact, the majority of our criminal investigations now 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, South and East Asia.

The Bureau of Industry and Security employs a variety of criminal and administrative tools against these illicit Iranian procurement activities. I want to share with you some illustrative examples of these enforcement efforts.

BIS aggressively investigates U.S. companies doing business with Iran directly and through their foreign subsidiaries, as demonstrated by the following recent case. Just last month, we imposed a civil penalty totaling \$2.5 million against Flowserve Corporation and ten of its foreign affiliates to settle 288 charges related to unlicensed exports and reexports of pumps, valves and related components subject to the Export Administration Regulations (EAR) to Iran, Syria and other countries. Flowserve is headquartered in Irving, Texas, and is a supplier of goods and services to the oil, gas, chemical, and other industries. Six of Flowserve's foreign affiliates caused the transshipment of items to Iran and/or the reexport of items to Syria without the

required U.S. Government authorization. Flowserve and a number of its foreign affiliates also exported or reexported items controlled for reasons of chemical and biological weapons proliferation to China, Malaysia, Singapore, Venezuela and other countries. In addition to the civil penalty, Flowserve and a number of the Flowserve affiliates will be required to conduct external audits of their compliance programs and submit the results to BIS. BIS pursued these administrative charges in concert with the Department of the Treasury's Office of Foreign Assets Control (OFAC). Flowserve also agreed to pay a \$502,408 civil penalty to resolve related OFAC charges. Cooperation between BIS and OFAC on Iranian cases has been critical to maximizing the impact of U.S. laws against violators.

In recent years, export enforcement at BIS has also made extensive use of the BIS Entity List to disrupt a range of overseas procurement networks, most importantly involving investigations of the procurement of components for improvised explosive devices by Mayrow General Trading and related entities, resulting in the addition of over 190 new foreign entities to the Entity List. Most recently, on August 15, 2011, BIS added 15 persons, including aircraft leasing operations in Ukraine and Greece, to the Entity List for involvement in the lease, transfer, and operation of commercial aircraft subject to the EAR, without requisite licenses, for use in Syria and Iran.

The use of the Entity List highlights our focus not only on sanctions directed at the listed enterprises, but also the prevention of violations, and the public naming of individuals and entities that are involved in or that pose a significant risk of engaging in illicit export activity. This widely used list of parties of concern 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 here and abroad from doing business with

targeted entities and the procurement networks they represent, and prevents resellers and other parties in the United States and overseas from doing business with them.

BIS has also made effective use of its authority to issue Temporary Denial Orders, or TDOs, to prevent imminent violations of the Export Administration Regulations. A significant recent case involved Anvik Technologies of Malaysia and Hong Kong. Anvik used a worldwide network of “virtual offices” to procure items for ultimate shipment to Iran. “Virtual Offices” are organizations that provide a variety of services to clients which create the impression that the entity is operating from a particular facility when in fact it is somewhere else. In this case, one of the “virtual offices” was in Chicago, which provided the impression to U.S. vendors that they were shipping to a U.S. entity, when in fact the items would be forwarded outside the country, and ultimately to Iran.

This case demonstrates an important trend in international trade: the development of a global order management, payment, and delivery infrastructure that can be easily accessed and used for a very wide range of items. The problem is that it can be exploited by bad actors to divert items in violation of the law. We continue to seek creative ways to attack this sort of illicit activity.

On August 21, 2011, BIS renewed a TDO against Mahan Air of Iran and related parties. This TDO, originally issued in March 2008, has been used to successfully block several attempts by Mahan to acquire or use U.S.-origin commercial aircraft. In its efforts to obtain access to additional capacity, Mahan has employed a variety of front companies, complex lease arrangements and proxies. BIS special agents continue to identify and unravel these

transactions, denying Iran unauthorized access to U.S.-origin goods and technology. In the most recent renewal and modification of this order, BIS named two European companies that Mahan was using to register Airbus aircraft with U.S.-origin engines or other components and fly them into and out of Iran using European tail numbers.

Administrative tools such as the TDO have been critical in furthering our criminal investigations into Iranian procurement activities. The TDO issued against Mahan Air originally included Balli Group in the U.K. That TDO was critical in preventing additional violations of the EAR and furthering our investigation into Balli Group's involvement in obtaining Boeing 747 aircraft for Mahan Air. On May 11, 2010, Balli Aviation was sentenced to a \$2 million criminal fine and corporate probation for five years. On February 4, 2010, Balli Group PLC and Balli Aviation entered a civil settlement with BIS and OFAC, under which Balli agreed to pay a \$13 million civil penalty over the course of approximately two years, coupled with an additional \$2 million suspended civil penalty designed to deter future violations by Balli and to encourage its timely payment of the underlying \$13 million. BIS takes the conditions of these suspensions very seriously, and when Balli did not make a timely penalty payment, we revoked the suspension of the \$2 million civil penalty. This total civil penalty of \$15 million-- the largest civil penalty imposed under the EAR to date -- has been collected in full.

I would now like to say a few words about the Administration's efforts on Export Control Reform, and how that will affect enforcement activity. Last November, the President signed an Executive Order creating a central element of reform as it applies to export enforcement, the Export Enforcement Coordination Center (EECC).

The EECC will be a permanent center with dedicated staff intended to ensure that BIS, the State Department, the Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement and other relevant agencies more efficiently coordinate their activities. It will enable U.S. agencies to better leverage their resources without duplicating or undermining each other's efforts in the field, and will allow all relevant agencies to approach investigations as full partners.

No element of the export control reform initiative is intended to impede or weaken strict enforcement of the U.S. embargo on Iran. The exact opposite is true. I have already spoken about the Entity List. This is but one list administered by the three departments represented here today against which exporters are required to screen transactions. Most of these lists include Iranian entities or entities involved with Iran. The U.S. Government has created a single, consolidated electronic list that exporters can download and easily search. It includes almost 24,000 entries. This enhances the effectiveness of the various lists and facilitates compliance, especially for small- and medium-sized companies who may not have the resources to stay current with all the various lists.

As part of CISADA, the Administration and Congress also harmonized our criminal export control penalties to a standardized maximum of up to \$1 million per violation and up to 20 years in prison, or both. In one of the statutes used by my colleagues at the Treasury, the criminal penalty for convictions for Iran was only up to \$10,000 and no jail time. No longer are criminal export control violations merely the cost of doing business.

The licensing mechanisms we are putting in place for close U.S. allies and our multilateral export control partners will improve the interoperability with these allies by liberalizing some

licensing requirements but at the same time adding more robust compliance and enforcement provisions that will help ensure that products and technology are not diverted to Iran or elsewhere.

As an example, the notification and certification requirements of the new license exception, the Strategic Trade Authorization, not only ensures that information on the control status of U.S.-origin items is passed along to resellers and customers, but that an auditable chain of custody is established.

In the final or Phase III of Export Control Reform, we envision the creation of a single licensing agency that would include the administrative enforcement functions of BIS and the Department of State. The Administration also plans to seek legislation to consolidate BIS's criminal enforcement functions into U.S. Immigration and Customs Enforcement, which has a separate unit dedicated to enforcement of the export control and embargo laws. This consolidation plan will ensure that the fully synchronized export control system stays that way, and it is good government.

As Iran is a top enforcement priority, we fully intend to press forward with our efforts to combat illegal diversion of sensitive products and technology there. Likewise, our success at filling more than 50 enforcement positions, as well as our initiative to prosecute culpable individuals as well as companies, while not restricted to Iran, will greatly assist in our enforcement efforts involving Iran.

We stand ready to work with the Committee and the Senate to maintain an aggressive and

effective export enforcement program.

Summaries of Recent Commerce Enforcement Cases involving Exports or Reexports to Iran

- On August 12, 2011, Davoud Baniameri, an Iranian national who maintained a residence and business in California, was sentenced to 51 months in federal prison after pleading guilty in May to two felony charges stemming from his efforts to illegally export missile components and radio test sets from the United States to Iran, via the United Arab Emirates. Co-defendant Andro Telemi, a naturalized U.S. citizen from Iran, is awaiting trial in Chicago. A third defendant, Majid Mousavi, an Iranian citizen living in Iran, remains a fugitive and is believed to be in Iran.
- On July 20, 2011, six overseas companies were added to the BIS Entity List. Biznest Ltd. and Yeraz Ltd. in Hong Kong, and Micro Power Engineering Group, Narinco Micro Sarl, Serop Elmayan and Sons Lebanon, and Serpico Offshore Sarl, all located in Lebanon, were placed on the Entity List based on evidence that they have engaged in actions that are contrary to the national security or foreign policy interests of the United States. The companies purchased electronic components from foreign subsidiaries of U.S. firms and then resold the components to persons in Iran and Iraq. The same components were later found in Iraq in unexploded improvised explosive devices and related materials.
- On June 24, 2011, Hamid Seifi was sentenced to nearly five years in prison for his role in a conspiracy to illegally export military components for fighter jets and attack helicopters from the United States to Iran, via the United Arab Emirates and France. Another defendant and his company have admitted their illegal conduct and also pleaded guilty in the investigation. A total of seven individuals and five corporate entities based in the United States, France, the United Arab Emirates, and Iran have been indicted for their alleged roles

in the conspiracy. On June 23, 2011, based on evidence that they have engaged in actions that could enhance the military capability of Iran, eight of the defendants were added to the BIS Entity List.

- On April 21, 2011, Jeng Shih and his company Sunrise Technologies and Trading Corporation, as well as Massoud Habibion and Mohsen Motamedian and their company Online Micro LLC, were indicted on charges of illegally exporting computer-related equipment worth millions of dollars from the United States to Iran via the United Arab Emirates. The indictment charges Shih and his company with one count of conspiracy; 13 counts of violating the International Emergency Economic Powers Act (IEEPA); and 13 counts of making or causing to be made false statements to the United States. If convicted, Shih faces a maximum sentence of 20 years in prison and a \$1 million fine for each of the IEEPA counts and five years for each false statement count.