

SENATOR JON KYL

Questions for Treasury

1. The Treasury Department has repeatedly highlighted the role of the Central Bank of Iran, or Bank Markazi in facilitating Iran's illicit activities, including warning international banks to exercise extreme caution in dealing with it. Last month I joined a letter with nearly all of my Senate colleagues urging President Obama to increase economic pressure on Iran and impose sanctions on the CBI. There is overwhelming bipartisan support in Congress for the imposition of sanctions on the CBI. Is the administration moving closer to imposing sanction on the CBI?

U.S. financial institutions are already generally prohibited from doing business with any bank in Iran – including the CBI – under existing sanctions programs. That said, further U.S. action against the CBI, if it attained multilateral support, could further isolate the CBI, with a potentially powerful impact on Iran. As Secretary Geithner said in his August 29th response to the letter referenced above, “all options to increase the financial pressure on Iran are on the table, including the possibility of imposing additional sanctions against the CBI.”

2. Is the Treasury Department working with our allies to ensure that any action by the administration is undertaken jointly to increase the effectiveness of such measures?

Yes. Any action against Iran would be more effective if undertaken jointly. As such, we have engaged with our closest allies on this matter and will continue to do so.

3. Please provide an update on the status of the final rule to implement Section 104(e) of the Comprehensive Iran Sanctions and Divestment Act (CISADA).

On October 11, 2011, the final rule implementing section 104(e) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) and complementing Treasury's ongoing efforts to protect the international financial system from abuse by Iran, was published in the Federal Register. The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) will be issuing a number of information requests to U.S. banks regarding several foreign banks that Treasury has

reason to believe may be engaged in activity that is sanctionable under CISADA.

4. You mentioned in your written testimonies that some foreign countries have failed to implement UNSCR 1373, which requires UN member states to implement sanctions against groups and individuals involved in terrorist activity, regardless of whether such groups or individuals are designated by the UN. Can you elaborate on your comments?

UNSCR 1373 was the global response to the 9/11 terrorist attacks, requiring each member state to adopt and implement laws to identify, designate and economically sanction all terrorist organizations and their support networks, not just those affiliated with al Qaeda and the Taliban. This resolution is one of the most important international coordination mechanisms we have in countering terrorist financing and has the potential for even greater effectiveness in combating terrorist financing if it is better implemented by member states. As noted in the UN's Global Implementation Survey, the vast majority of States have yet to implement an effective procedure for the freezing of terrorist assets without delay, relying for the most part on criminal procedure codes, which take longer to freeze assets since they are tied to a criminal investigation. This is particularly the case with respect to non-al Qaeda related individuals and groups. The UN results are in line with the findings of the Financial Action Task Force (FATF), which sets the international standards for combating money laundering and terrorist financing. FATF has assessed over 39 global financial centers and only nine were determined to have largely met their targeted financial sanctions obligations under UNSCRs 1267 and 1373, and even among the countries that have received positive ratings, questions of effectiveness remain in many instances. We continue to work bilaterally and through various fora, including the UN and the FATF, to help promote greater national implementation and more effective use of the obligations in UNSCR 1373.

5. Are there any particular countries where it would be particular important to see this Security Council Resolution complied with, and which have failed to comply?

Terrorism is a global threat that requires all countries to implement the requirements of UNSCR 1373. It is important for the EU as a whole to improve its implementation of UNSCR 1373 with respect to Hamas. It is also important to see improved implementation in regions where terrorist organizations have cultivated donor support, such as in the Gulf, as well as those in which terrorist organizations are consistently active, such as Pakistan.

6. You mentioned in your written testimony that some European governments have failed to take adequate steps to remove various supposedly charitable fundraising organizations from Hamas's international network — and, as a result, have failed to “dry up” Europe-based financial support for Hamas. Can you elaborate on this statement?

While still significant, the importance of charitable support to Hamas has diminished in recent years relative to Iranian sponsorship, which now constitutes the majority of support. That said, we have been engaged with European partners for a number of years on cutting off financial flows to Hamas. While the European Union has designated Hamas under European Community Regulation 2580/2001, we remain concerned that certain Hamas-affiliated and U.S. designated charities continue to operate, including International Palestine Relief and Development Fund (Interpal) in UK, Al-Aqsa Foundation in Belgium, Comite de Bienfaisance et de Secours aux Palestiniens (CBSP) in France, the Association de Secours Palestiniens (ASP) of Switzerland, and the Palestinian Association in Austria (PVOE). All of these non-governmental organizations are affiliates of the Union of Good. Founded by Hamas in late-2000, the Union of Good acts as a broker for Hamas by facilitating financial transfers between a web of charitable organizations. The U.S. Treasury Department designated Union of Good in 2008.

7. What particular activities are European governments allowing to occur that are problematic?

As stated above, certain Hamas-affiliated charities continue to operate, including International Palestine Relief and Development Fund (Interpal) in UK, Al-Aqsa Foundation in Belgium, Comite de Bienfaisance et de Secours aux Palestiniens (CBSP) in France, the Association de Secours Palestiniens (ASP) of Switzerland, and the Palestinian Association in Austria (PVOE).

8. And which governments in particular have failed to take steps to cut off the flow of money to Hamas?

As stated above, certain Hamas-affiliated charities continue to operate, including International Palestine Relief and Development Fund (Interpal) in UK, Al-Aqsa Foundation in Belgium, Comite de Bienfaisance et de Secours aux Palestiniens (CBSP) in France, the Association de Secours Palestiniens (ASP) of Switzerland, and the Palestinian Association in Austria (PVOE).

9. The Republic of Argentina has received sub-par evaluations on its anti-money laundering and terrorism financing controls by the Financial Action Task Force. Based on Argentina's failure to comply fully with the Task Force's security criteria, Task Force member governments have argued that Argentina should be placed on the Task Force's "black list," along with Iran and North Korea. In light of these circumstances, what is the United States doing either to press Argentina to resolve such problems or to take action if those issues remain unresolved?

The United States is committed to working closely with Argentina to rectify its anti-money laundering and counter-terrorist financing (AML/CFT) deficiencies. In October 2010, the Financial Action Task Force (FATF), of which the United States is a member, expressed disappointment and serious concern regarding Argentina's failure to implement an adequate and effective AML/CFT system. In June 2011, Argentina made a high-level political commitment to work with the FATF to address these strategic deficiencies, which include shortcomings in Argentina's criminalization of both money laundering and terrorist financing. As part of this commitment, Argentina enacted significant amendments to its money laundering law and issued a number of corresponding financial regulations. However, the FATF expects additional progress by the upcoming FATF plenary meeting in late October 2011. In particular, Argentina is expected to present a draft law criminalizing terrorist financing in accordance with international standards and address remaining deficiencies in its money laundering law. If Argentina fails to demonstrate adequate progress, the FATF may escalate pressure on Argentina. The United States has been actively involved in multiple FATF meetings with Argentina in the past several months, and will continue to work with Argentina to improve its AML/CFT regime.

Questions for all witnesses

10. There are several USG departments, agencies, and offices with equities in terrorist and proliferation financing. How do you balance the need to designate and sanction entities or pursue criminal investigations against the intelligence value of additional information that the USG could potentially gather by allowing an entity to continue operating?

One of the central challenges of national security decision-making is to decide on the appropriate response in a given situation. When faced with an illicit financial network, sometimes immediate criminal enforcement action or sanctions is the right course of action. In others diplomatic engagement is preferable, and in still others allowing the network to continue operations as a

means of gathering data on the broader network may be the chosen tactic. A robust interagency process is in place to weigh each stakeholder's equities and determine an interagency consensus as a basis for coordinated USG action. For example, the Counterterrorism Security Group (CSG), chaired by the National Security Staff (NSS) and attended by all interagency stakeholders, coordinates the USG's actions on counterterrorism issues. In the context of Iran, an Interagency Policy Committee process guides the deliberative USG policy. There are numerous sub-CSG and sub-IPC expert-level groups to resolve lower-order questions, as well as the Deputies Committee and Principals Committee process for more significant or unresolved decision points.

11. How do you handle a situation where Treasury believes an entity should be sanctioned for illicit activities, and the FBI believes those sanctions will impede a criminal investigation?

As previously explained, the U.S. Government has an interagency coordination process chaired by the NSS. Treasury works closely with other stakeholders in this process to determine the best means to address the illicit threat, recognizing that sanctions are not always the best solution.

12. What about the role of the State Department?

The State Department participates as an important stakeholder in the interagency process that reviews illicit financial threats and determines the appropriate course of action for a particular threat.

13. Do you face a situation where the State Department argues the imposition of sanctions or the initiation of a criminal investigation will undermine diplomacy?

As stated previously, balancing various equities is a key part of determining the appropriate tool to address illicit finance threats. Disagreements are resolved through an NSC-led interagency consultative process.

14. What mechanism is in place to adjudicate any disputes that arise?

As with any interagency process, there are occasions where the various interagency partners have differing views on the appropriate USG action on a particular issue. A robust interagency process is in place to weigh each stakeholder's equities and determine an interagency consensus as a basis for coordinated USG action. For example, the Counterterrorism Security Group (CSG), chaired by the National Security Staff (NSS) and attended by all

interagency stakeholders, coordinates the USG's actions on counterterrorism issues.

15. Would any of you care to comment on the material support statutes, and what role they have played in denying funds and resources to international terrorist organizations?

I defer to the Federal Bureau of Investigation and the Department of Justice, the agencies primarily responsible for investigations and prosecutions under the material support statutes.

16. Do you agree that it is important to deny all funds to a terrorist organization, regardless of whether a donation purports to be only for the organization's "charitable activities"?

Yes. The provision of charitable services does not excuse a charity's support for a terrorist group. In fact, such charitable services are often used to advance the goals of the terrorist organization.