



United States Department of State

Washington, D.C. 20520

DEC 15 2009

Dear Mr. Chairman:

The enclosed report is being provided consistent with Section 1606 of the Iran-Iraq Arms Non-Proliferation Act of 1992 (P.L. 102-484) (the "Act"). The Under Secretary of State has determined that the issuance of a license for a proposed export to Iran is "essential to the national interest of the United States." The attached report provides a specific and detailed rationale for this determination. The waiver authority under Section 1606 of the Act will not be exercised until at least 15 days after this report is transmitted to the Congress.

The Department of State is recommending that the Department of Treasury's Office of Foreign Assets Control (OFAC) issue a general license that would authorize downloads of free mass market software by companies such as Microsoft and Google to Iran necessary for the exchange of personal communications and/or sharing of information over the internet such as instant messaging, chat and email, and social networking. This software is necessary to foster and support the free flow of information to individual Iranian citizens and is therefore essential to the national interest of the United States.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard R. Verma".

Richard R. Verma
Assistant Secretary
Legislative Affairs

The Honorable
Carl Levin, Chairman,
Committee on Armed Services,
United States Senate.

Report under the Iran-Iraq Arms Non-Proliferation Act of 1992

This report is being provided consistent with Section 1606 of the Iran-Iraq Arms Non-Proliferation Act of 1992 (P.L. 102-484) (the "Act"). Section 1603 of the Act applies with respect to Iran certain sanctions specified in paragraphs (1) through (4) of Section 586G(a) of the Iraq Sanctions Act of 1990 (P.L. 101-513) (the "ISA"). This includes the requirement under Section 586G(a)(3) of the ISA to use the authorities of Section 6 of the Export Administration Act of 1979 ("EAA") to prohibit the export to Iran of any goods or technology listed pursuant to Section 6 of the EAA or Section 5(c)(1) of the EAA on the control list provided for in Section 4(b) of the EAA, unless such export is pursuant to a contract in effect before the effective date of the Act (October 23, 1992).

Pursuant to Section 1606 of the Act, the President may waive the requirement to impose a sanction described in Section 1603 of the Act by determining that it is essential to the national interest of the United States to exercise such waiver authority. On September 27, 1994, the President delegated his authorities under the Act to the Secretary of State. Subsequently, on January 12, 2007, the Secretary of State delegated these authorities to the Under Secretary for Arms Control and International Security (DA 293-1).

Personal internet-based communications are a vital tool for change in Iran as recent events have demonstrated. However, U.S. sanctions on Iran are having an unintended chilling effect on the ability of companies such as Microsoft and Google to continue providing essential communications tools to ordinary Iranians. This waiver will authorize free downloads to Iran of certain nominally dual-use software (because of low-level encryption elements) classified as mass market software by the Department of Commerce and essential for the exchange of personal communications and/or sharing of information over the internet. The waiver will enable Treasury's Office of Foreign Assets Control to issue a broader general license covering these downloads and related services. This general license will be comparable to exemptions which already exist for the exchange of direct mail and phone calls. The new general license will specifically exclude from its authorization the direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Iran.

The Under Secretary has determined that it is essential to the national interest of the United States to exercise the authority of Section 1606 of the Act not to impose the sanction described in Section 1603 of the Act and Section 586(a)(3) of the ISA and to permit the issuance of a general license for this kind of software.