

# Iran Sanctions:

## The German Control Problem

Jun 26, 2009



### Brief Analysis

**T**his week, news reports suggest that the Iranian regime is using technology obtained from Siemens, the German energy and engineering giant, and its partner Nokia to crack down on internet access, cell phone use, and Twitter accounts of protesters and dissidents. This disclosure highlights once again German technology's critical role in furthering the regime's activities -- and ultimately its survival. Despite some progress over the past several years, the German government remains lax in enforcing existing sanctions against Iran, and Germany remains Iran's most important trading partner in the West.

### Ineffective "Discouragement Strategy"

As U.S. and international attention has focused on Iran's troubling behavior and its violation of UN Security Council resolutions, German chancellor Angela Merkel has attempted to tighten the screws on the flourishing German-Iranian economic relationship. In 2008, Merkel introduced a so-called discouragement strategy -- an approach that does not include financial or political penalties, and instead relies solely on moral persuasion -- to try and persuade German companies not to do business with Iran. Merkel adopted this strategy in the wake of reports that Hartmut Schauerte, a member of parliament and state secretary for the Federal Ministry of Economics and Technology, improperly peddled his influence to secure a deal worth more than 100 million euros for a company in his electoral district to build three plants in Iran for compressed natural gas production.

Unfortunately, Merkel's ethical appeal to German companies to avoid business deals with Iran has flopped; trade between Germany and Iran totaled almost four billion euros in 2008, a 10.5 percent increase over the previous year, and Germany appears to be on track in 2009 to maintain its role as the leading EU trade partner with Iran.

At present, more than five thousand German firms actively do business with Iran. But more important than the overall numbers is the key role Germany plays in sustaining Iran's infrastructure. According to the former president of the German-Iranian Chamber of Industry and Commerce in Tehran, "Some two-thirds of Iranian industry relies on German engineering products." An Iranian specialist at Jane's Information Group said that the Iranians distrust Russian technology because it is neither cutting-edge nor reliable. Consequently, the often heard argument from German corporations and parliament members that the Iranians will turn to Chinese and Russian technological know-how and sophisticated equipment is not plausible.

Although Berlin has reduced its disbursement of export credit insurance guarantees (the so-called Hermes-Burgschaften), in 2008 the government provided 133 million euros to insure firms engaged in business with Iran. According to some media reports, the federal subsidy could be as high as 250 million euros. For example, the profitable Linde engineering company is developing a project with National Iran Oil to liquefy natural gas. Although the company earned 91 million euros in revenues from Iran in 2008, Linde was awarded 16.5 million euros to support its Iranian trade relationship.

### Deficient Export Control System

To illustrate the limits of Merkel's discouragement strategy, at the same time the chancellor was attempting to persuade German companies to scale back business with Iran, her own government's export control office, the BAFA, was approving numerous contracts for dual-use items. According to a BAFA official, thirty-nine dual-use contracts with Iran were approved in 2008. The economics ministry has refused to provide details about the nature of the merchandise and names of the companies involved in dual-use exports. Due to the lack of transparency at BAFA, it cannot be determined if Siemens simply ignored the export office or secured a permit to supply Tehran with "monitoring centers" and "intelligence platform" systems -- devices used against persecuted minority groups and political dissidents in Iran, according to the investigative journalist who broke the recent story on Iranian-Siemens trade.

Another major problem is the ineffectiveness of German border control agencies. The German press reported in May that a German-Iranian businessman commissioned roughly eighty trucks per month to deliver merchandise from Germany to Iran. According to the report, the German customs department failed to inspect the freight. The president of the Federal Treasury Police Union has over the years sharply criticized the porous export control system and, specifically, the finance minister, who oversees the customs agency, for impeding stricter controls in airports and on the borders. The businessman allegedly worked with Iran's Defense Industries Organization -- an entity designated by the U.S. government for proliferation-related activity -- and sold technical equipment to firms controlled by the Iranian regime.

More broadly, Germany's ability to prosecute export control cases took a serious blow earlier this year with a series of German federal court decisions in January and March. These rulings have gutted a provision in Germany's Foreign Trade Act addressing trade that can adversely affect German foreign relations. Although the act's nebulous phrase -- "significantly threaten German's foreign relations" -- has been invoked to prosecute cases involving violations of unlawful trade with Iran, including supplying technology for Iran's nuclear program, criteria for defining a threat to Germany's foreign relations have never been outlined.

In the decisions, the court rejected the government's contention that the publication of two articles -- a Wall Street Journal Europe editorial and a Haaretz investigative piece on illegal German-Iranian trade -- was sufficient to adversely affect Germany's foreign relations. The court opined that limited critical media coverage in the United States and Israel did not meet the legal threshold. On the other hand, Chancellor Merkel declared in a March 2008 speech to the Israeli Knesset that Israel's national security interests are an essential component of Germany's national interest -- a contention apparently disregarded by the court. These recent decisions by the courts have created formidable hurdles for meeting the standard of jeopardizing Germany's foreign relations.

#### Next Steps

The current strife in Iran has vexed key foreign leaders, including U.S. president Barack Obama and Chancellor Merkel. What the United States and Germany should be doing, or even saying publicly, is far from clear, both in terms of positively influencing the outcome of the domestic unrest and leaving the international community in a strong position to negotiate with Iran on its nuclear program once the current standoff ends.

What is more clear is that Washington and Berlin face a common problem in Iran and need to focus on ensuring that the two countries are working in unison. Given Germany's role as Iran's most important Western trading partner, German cooperation on this issue is particularly critical to the success of the overall effort.

The United States may find that the German government is more willing to move forward now in the aftermath of the Iranian regime's very public brutal treatment of its own citizens. The German people are often more animated by human rights issues than by the latest developments in Iran's nuclear program. The current situation might well be an opportunity for the Obama administration and Germany to develop a more cohesive strategy on this vital issue.

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