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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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June 23, 2008

The Honorable Condoleezza Rice
Secretary
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Rice:

The Oversight Committee has received information that the U.S. Ambassador to Albania held a late-night meeting with the Albanian Defense Minister at which the Ambassador approved removing evidence of the illegal Chinese origins of ammunition being shipped from Albania to Afghanistan by a U.S. contractor. The Committee has also received information that State Department officials tried to conceal this information from the Committee.

On June 9, 2008, Committee staff interviewed Major Larry Harrison, the Chief of the Office of Defense Cooperation at the U.S. Embassy in Albania. According to Major Harrison:

- On November 19, 2007, the U.S. Ambassador to Albania and his top aides met with the Albanian Defense Minister to discuss how to respond to a request by the *New York Times* to visit a site in Albania where a U.S. arms contractor, AEY, Inc., was removing Chinese ammunition from its original packaging before sending it to Afghanistan.
- As a result of discussions that went late into the night, the Albanian Defense Minister ordered one of his top generals to remove all evidence of Chinese packaging before the site was inspected the following day. Major Harrison told the Committee: “the Ambassador agreed that this would alleviate the suspicion of wrongdoing.”
- At the time of this meeting, AEY was under investigation for illegal arms trafficking involving Chinese ammunition. Major Harrison told the Committee that he did not agree with the decision to remove the Chinese markings and felt “very uncomfortable” during the meeting.

Moreover, it appears that Embassy officials sought to keep this information from the Committee. The Committee asked the State Department to provide any information concerning

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meetings between Embassy officials and the Albanian Defense Ministry, as well as any information about interventions into AEY's repackaging operation. Although Major Harrison urged Embassy officials to inform the Committee of the November 19, 2007, meeting, Embassy officials omitted any reference to the meeting in their response.

On Friday, the Justice Department announced the indictment of AEY and four company officials for concealing the Chinese origins of the ammunition shipped from Albania to Afghanistan. Although the circumstances are different, the evidence the Committee has received suggests that on at least one occasion, Embassy officials also played a role in concealing the Chinese origins of the ammunition. This evidence raises questions about both the State Department's role in the shipment of illegal Chinese ammunition and the candor of the Department's responses to the Committee. To assist the Committee in its ongoing investigation, I request that several Embassy officials appear before the Committee for transcribed interviews. I also request that you provide relevant documents to the Committee.

Background

On March 25, 2008, the Department of Defense suspended AEY "from future contracting with any agency in the executive branch of the United States Government."¹ The basis for this suspension was evidence that under a \$298 million contract with the Army to provide ammunition to Afghanistan security forces, AEY purchased ammunition in Albania that was "manufactured in the People's Republic of China between 1962 and 1974."² U.S. law prohibits the acquisition of ammunition that was made in China.³

The Defense Department's suspension was also based on evidence that AEY made false statements about the true origin of this Chinese ammunition. On November 25, 2007, the President of AEY, Efraim Diveroli, provided the Department with a certification stating that the manufacturer of ammunition under this contract was MFS 2000, a Hungarian company.⁴ This assertion was one Mr. Diveroli "knew to be false or misleading," according to the Department's suspension and debarment official.⁵

¹ Letter from Robert N. Kittel, Army Suspension and Debarment Official, to Efraim Diveroli, President, AEY, Inc. (Mar. 25, 2008).

² *Id.*

³ Defense Federal Acquisition Regulation Supplement § 252.225-7007, "Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies" (Sept. 2006).

⁴ AEY, Inc., Certificate of Conformance (No. AFG-0002-59) (Nov. 25, 2007).

⁵ Letter from Robert N. Kittel, Army Suspension and Debarment Official, to Efraim Diveroli, President, AEY, Inc. (Mar. 25, 2008).

The Defense Department's suspension of AEY came two days before a lengthy *New York Times* article disclosed publicly that AEY had shipped to Afghanistan "tens of millions of the rifle and machine-gun cartridges ... manufactured in China, making their procurement a possible violation of American law."⁶

Two months after suspending AEY, the Army terminated the Afghan ammunition contract for default, citing AEY's failure to deliver the ammunition in conformance with the contract and AEY's subsequent admission that substantial quantities of ammunition were manufactured in China.⁷ In a letter to Mr. Diveroli terminating the contract on May 23, 2008, the contracting officer stated that AEY delivered ammunition "from a prohibited source and admits substantial quantities of the ammunition were, in fact, manufactured in factories in the PRC."⁸ On June 19, 2008, AEY, Mr. Diveroli, and three other individuals affiliated with AEY were indicted on federal procurement fraud, conspiracy, and false statement charges arising from the procurement of Chinese ammunition under this contract.⁹

The ammunition purchased by AEY was sold by the Albanian Ministry of Defense through the Military Export Import Company of Albania (MEICO). The Albanian Defense Minister at the time of the sales was Fatmir Mediu. According to the *New York Times*, there is evidence that Defense Minister Mediu received kickbacks as part of the AEY ammunition contract.¹⁰ Defense Minister Mediu resigned his position on March 17, 2008, one week before the AEY suspension and the *New York Times* article, and two days after a major explosion at an ammunition plant near the Albanian capital, Tirana.¹¹ The Albanian Prosecutor-General has accused him of "abuse of power" and making an "unfair profit" by improperly favoring a U.S.-Albanian joint venture to dismantle ammunition.¹² The Albanian Parliament has voted to lift his immunity from prosecution.¹³

⁶ *Supplier Under Scrutiny on Aging Arms for Afghans*, *New York Times* (Mar. 27, 2008).

⁷ Letter from Kim M. Jones, Procuring Contracting Officer, U.S. Army Sustainment Command, to Efraim Diveroli, President, AEY, Inc. (May 23, 2008).

⁸ *Id.*

⁹ Indictment, *United States v. AEY, Inc. et al.*, S.D. Fla. (No. 08-20574) (June 19, 2008).

¹⁰ *Supplier Under Scrutiny on Aging Arms for Afghans*, *New York Times* (Mar. 27, 2008).

¹¹ *Albanian Prosecutor-General Accuses Ex-Defense Minister in Ammunition Disposal Case*, *Associated Press* (Apr. 26, 2008).

¹² *Id.*

¹³ *Albanian Army Chief Fired Over Deadly Ammunition Dump Blast*, *Associated Press* (June 16, 2008).

The November Meeting with the Albanian Defense Minister

On June 9, 2008, Committee staff conducted a transcribed interview of Major Larry Harrison. Major Harrison is a Defense Department official working in Albania, where he serves as the Chief of the Office of Defense Cooperation. In this role, Major Harrison is responsible for providing “training and equipment to support the modernization of Albania’s military as well as humanitarian assistance.”¹⁴

The interview with Major Harrison lasted about one hour, at which point he expressed an interest in seeking the advice of counsel, and the Defense Department attorney participating in the interview terminated the session. On June 12, 2008, counsel for Major Harrison informed the Committee staff that it would take at least two weeks for him to prepare for the continuation of Major Harrison’s interview.¹⁵

According to Major Harrison, the Albanian Defense Minister, Fatmir Mediu, called him on November 19, 2007, to request an urgent meeting with the U.S. Ambassador to Albania, John L. Withers, II.¹⁶ Major Harrison stated during his interview that the Albanian Defense Minister was concerned that a *New York Times* reporter planned to inspect the facility at Rinas Airport in Tirana where AEY was conducting its operation to repackage Chinese ammunition before shipping it to Afghanistan, a process that included removing some ammunition from its original Chinese packaging. The reporter’s visit, he said, was scheduled for the following day.¹⁷

According to Major Harrison, the Albanian Defense Minister was “very concerned and requested of me to set up an appointment to see the Ambassador or DCM [Deputy Chief of Mission] about the *New York Times* reporter.”¹⁸ Major Harrison stated that the Defense Minister was worried that the reporter would reveal allegations of corruption against him. According to Major Harrison:

The Minister’s main concern that he brought to my attention was he was concerned that the *New York Times* would write an article about Albanian corruption in the Ministry of

¹⁴ U.S. Embassy, Tirana, Albania, *Embassy Sections* (online at <http://tirana.usembassy.gov/sections.html>) (accessed June 13, 2008).

¹⁵ Telephone call between Andres Vazquez, Judge Advocate General, and Majority Staff, House Committee on Oversight and Government Reform (June 12, 2008).

¹⁶ House Committee on Oversight and Government Reform, *Transcribed Interview of Major Larry D. Harrison* (June 9, 2008).

¹⁷ *Id.*

¹⁸ *Id.*

Defense. And the reason for his concern was ... what this would do for his reputation personally as well as Albania.¹⁹

Major Harrison stated that in response to the Albanian Defense Minister's request, he contacted the U.S. Embassy's Deputy Chief of Mission, Stephen Cristina, who arranged for a meeting to take place at his private residence in Tirana that evening. Major Harrison personally attended the meeting, along with the Albanian Defense Minister, Ambassador Withers, Deputy Chief of Mission Cristina, and the Embassy's Regional Security Officer, Patrick Leonard. According to Major Harrison, the meeting lasted for several hours, ending around midnight.²⁰

Major Harrison told the Committee that during this meeting, the Albanian Defense Minister asked for help from the U.S. Ambassador.²¹ According to Major Harrison, "He made several comments to the effect of how he had been a friend of the U.S., he'd help the U.S. ... He felt the U.S. owed him something."²²

Major Harrison stated that the officials then discussed how to handle the *New York Times* reporter. He stated that his advice was to not allow the reporter to visit the facility, but that his advice was not accepted. Instead, the Albanian Defense Minister called the commanding general of the Albanian military forces and instructed him to remove all Chinese ammunition boxes from the site of the repackaging operation so that "there would be nothing for the reporter to see."²³ According to Major Harrison, "the Ambassador agreed that this would alleviate the suspicion of wrongdoing, if Mr. Wood [the *New York Times* reporter], while he was at Rinas, did not see Chinese ammo boxes."²⁴

Major Harrison stated during his interview that he was "very uncomfortable" with these actions because there was an ongoing criminal investigation of AEY's activities in Albania.²⁵ During his interview with Committee staff, Major Harrison had the following exchange:

Q: So at the time of this meeting between the Defense Minister, the Ambassador, and several other State Department officials, it was clear that you were discussing Chinese ammunition; is that correct?

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

A: That is correct. That is correct.

Q: And it was clear that AEY was the company that was buying it under a U.S. contract?

A: That is correct. ...

Q: And you said, by this time, you had been informed that it was illegal under U.S. law for a U.S. contractor to buy Chinese ammunition. Is that correct?

A: That is correct, yes, sir. ...

Q: And you said also at this time it was clear that there was an investigation ongoing ... Is that right?

A: That is correct, yes, sir.²⁶

When asked whether everyone agreed with the actions taken during this meeting, Major Harrison responded: "once again, I want to say I was very uncomfortable in this meeting. And when I say everyone agreed, personally I didn't agree with what was going on in that meeting, but I had no voice in it."²⁷ According to Major Harrison: "they had asked my advice on what to do. I want to be clear, I was very uncomfortable in this meeting that we were having. But I just made the comment, 'Well, it's a military installation. You don't have to let him on. You don't have to let a reporter on.'"²⁸

The day after the meeting between the U.S. Ambassador and the Albanian Defense Minister, Patrick Leonard, the Regional Security Officer at the U.S. Embassy in Albania, wrote to an assistant in an e-mail: "NY Times just arrived today and might be doing a story on this and it might get ugly. ... Ambassador is very concerned about the case."²⁹

When the *New York Times* story was published on March 27, 2008, it was quickly forwarded around the U.S. Embassy. At 6:06 a.m. that morning, Mr. Leonard sent an e-mail to

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ E-mail from Patrick Leonard, Regional Security Officer, U.S. Embassy, Tirana, Albania, to Matthew Becht, Assistant Regional Security Officer *et al.* (Nov. 20, 2007).

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several Embassy officials, stating that the AEY case “just made front page headlines in the New York Times – 7 pages long. No mention of Embassy involvement – thank God!”³⁰

The Embassy’s Response to the Committee

In addition to obtaining information about the November 2007 meeting between the U.S. Ambassador and the Albanian Defense Minister, the Oversight Committee has also obtained documents that describe how officials at the U.S. Embassy in Albania overruled efforts by Major Harrison to inform the Committee of this meeting and the subsequent removal of Chinese markings.

On March 28, 2008, the Oversight Committee sent the State Department a document request seeking “[a]ll communications related to AEY, its subcontractors, partners, middlemen, brokers, sellers, or transport companies between officials from the State Department, the government of Albania, and any other foreign governments.”³¹ In addition to this letter request, on April 4, 2008, Committee staff requested the following specific information:

1. Information on the US Embassy in Albania’s interactions with AEY or its representatives;
2. Information on the Embassy’s interactions with the Albanian government (Ministry of Defense, MEICO) regarding AEY’s contract and activities; and
3. Information on any intervention in November or December 2007 by US officials (DOD or State) into AEY’s subcontractor’s ammunition packaging operation at the airport near Tirana, perhaps involving shutting down the packaging operation because of violations of US law regarding the country of origin of weapons.³²

The State Department responded to this request on April 9, 2008. In an e-mail to Committee staff, the State Department’s legislative affairs officer forwarded answers she received “from AmEmbassy today regarding post personnel interaction with AEY, DOD, and the Govt of Albania.”³³ In response to the second question, regarding contacts between U.S.

³⁰ E-mail from Patrick Leonard, Regional Security Officer, U.S. Embassy, Tirana, Albania, to Shawn Sherlock *et al.* (Mar. 27, 2008).

³¹ Letter from Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform, to Condoleezza Rice, Secretary of State (Mar. 28, 2008).

³² E-mail from Majority Staff, House Committee on Oversight and Government Reform, to U.S. Department of State Legislative Affairs (Apr. 4, 2008).

³³ E-mail from U.S. Department of State Legislative Affairs, to Staff, House Committee on Oversight and Government Reform (Apr. 9, 2008).

Embassy officials and the Albanian Ministry of Defense, the Embassy made the following statement:

In the context of facilitating the DOD-led investigation into this matter, Embassy representatives met on at least three occasions with GOA [Government of Albania] officials, including representatives of MEICO and the MOD. Embassy reps were there in a support role to the DOD lead investigator.³⁴

In response to the third question, regarding any State Department interventions affecting the AEY repackaging facility, the Embassy responded: "Neither the Embassy official nor the DOD investigator shut down or interfered in any operations at the facility."³⁵

The Embassy's responses do not describe the November 2007 meeting between Embassy officials and the Albanian Defense Minister. Instead, the Embassy asserted in its response to the Committee that it played little or no role with respect to this issue, stating:

We concluded that the Embassy had no proper advocacy role in a standard commercial dispute between a contractor and the host government and we should only get involved if directed to do so through a formal front channel cable with DOD clearance.³⁶

Documents obtained by the Committee show that Major Harrison urged Embassy officials to inform the Committee about the November 2007 meeting, but he was overruled. As Embassy officials prepared a response to the Committee, they circulated a draft that made no mention of the November 2007 meeting. In response, Major Harrison circulated a new draft in which he used the "track changes" function on Microsoft Word to suggest that the November 2007 meeting be included. Major Harrison's draft included the following language:

Do we mention the meeting at Steve's house on 19 November (present was Amb Withers, DCM Cristina, RSO Patrick, and ODC Chief Harrison) where the Amb recommended to Minister to prevent the reporters from seeing the munitions at the airport on the following day and the Minister called MG Spahiu at ... 23:00 to have ... all of the ammunition removed from the airport by 0800 the next morning?³⁷

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ U.S. Embassy, Tirana, Albania, *Information for House Oversight and Government Reform Inquiry* (draft by U.S. Army Major Larry D. Harrison, II, Chief, Office of Defense Cooperation) (undated).

Embassy officials did not accept Major Harrison's suggestion. In the final response, Embassy officials removed Major Harrison's proposed language about the November 2007 meeting and omitted any references to recommendations made by the U.S. Ambassador to the Albanian Defense Minister.

Although the final version of the Embassy's response indicated that it had been "Cleared" by "LHarrison," Major Harrison apparently never approved it.³⁸ After consulting a military attorney with the Judge Advocate General, on April 16, 2008, Major Harrison wrote a memorandum that memorializes his efforts to urge the Embassy to inform the Committee about the November 2007 meeting. That memorandum states:

The list of questions was sent to me via email to provide input to the answers. Although I provided input to the third question, the Political-Economic Officer, the Deputy Chief of Mission and the Ambassador did not accept my input. The answers were forwarded to the committee with my name on the memo as having cleared the memo, or in other words, approved the content.

I did not approve of the content of the answers and I am concerned that information may have been omitted relevant to the question.³⁹

Request for Interviews and Documents

The information obtained by the Committee raises serious issues. If the information is accurate, it appears that senior U.S. Embassy officials in Albania approved of the efforts of the Albanian Defense Minister to conceal evidence of illegal shipments of Chinese ammunition that are now the subject of a criminal indictment. It also appears that information about the incident was withheld from the Committee. It is hard to understand what rationale would justify these actions.

To assist the Committee's investigation into these issues, I request transcribed interviews with the following individuals no later than July 11, 2008:

1. John L. Withers, II, U.S. Ambassador to Albania;
2. Stephen Cristina, Deputy Chief of Mission, U.S. Embassy, Albania;
3. Patrick Leonard, Regional Security Officer, U.S. Embassy, Albania;

³⁸ U.S. Embassy, Tirana, Albania, *Information for House Oversight and Government Reform Inquiry* (final response) (undated).

³⁹ Major Larry D. Harrison, Chief, Office of Defense Cooperation, Albania, Memorandum to ECJ5-E ODC, Albania (Apr. 16, 2008).

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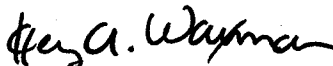
4. Robert Newsome, Economic/Commercial Section, U.S. Embassy, Albania;
5. Paula Thiede, Political/Economic Section Chief, U.S. Embassy, Albania; and
6. Victor Myev, Political Officer, U.S. Embassy, Albania.

In addition, I request that the Department provide by June 30, 2008, all documents relating to AEY, its contract, or any part of its operations that were created or possessed by the U.S. Embassy in Albania or its personnel, including all documents relating to any November 2007 meetings between U.S. Embassy officials and the Albanian Minister of Defense.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. Attachments to this letter provide additional information on the Committee's guidelines for transcribed interviews and on how to respond to the Committee's document request.

If you have any questions regarding this request, please contact Stacia Cardille or Russell Anello with the Committee staff at (202) 225-5420.

Sincerely,



Henry A. Waxman
Chairman

Enclosures

cc: Tom Davis
Ranking Minority Member