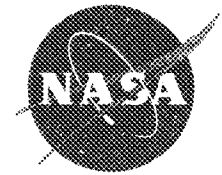


National Aeronautics and  
Space Administration  
**Office of the Administrator**  
Washington, DC 20546-0001



October 6, 2005

The Honorable Bart Gordon  
Ranking Democrat  
Committee on Science  
House of Representatives  
Washington, DC 20515

Dear Mr. Gordon:

The President has requested that NASA respond to your letter of August 22, 2005, inquiring into the Administration's rationale behind its proposed amendment to the Iran Nonproliferation Act of 2000 (INPA) (P.L. 106-178). As you know, the Administration is committed to ensuring that any amendment to the INPA sustains the Act's key nonproliferation objectives while addressing the operational requirements of the International Space Station (ISS) Program.

Per your request, the following information is provided in response to your first series of questions regarding the Administration's decision not to utilize certain existing provisions of the INPA:

1. *The Presidential determination contained in Sec. 6(b) in the Act. [I understand that the answer to this may require a classified communication to the Committee].*

The Administration is prepared to provide you with a classified briefing on this matter, at your convenience.

2. *The exception in Sec. 6(f) for crew safety, i.e., "to prevent imminent loss of life by or grievous injury to individuals aboard the International Space Station..."*

While Section 6(f) of the INPA allows "extraordinary payments" to "prevent the imminent loss of life by or grievous injury to individuals aboard the International Space Station," the wording of Section 6(f)(2)(B) makes it clear that the safety exception was not intended to be used repeatedly to address the same issue. Moreover, Congress had previously voiced to NASA its displeasure at the Agency's broad interpretation of the word "imminent" during a House International Relations Committee hearing on the *International Space Station and the Iran Nonproliferation Act of 2000*, on October 12, 2000. Therefore, the crew safety exception is of limited use and would not address the fundamental issue of crew return.

**3. *The exception in Sec. 6(g) for maintenance of the Service Module.***

Section 6(g) of the INPA allows “extraordinary payments” for the “construction, testing, preparation, delivery, launch, or maintenance of the Service Module.” (It also allows payments to Russian entities for hardware needed to build a U.S. propulsion module. The propulsion module was developed only to mitigate against the risk of failure/late delivery of the Russian Service Module. The propulsion module was not completed due to the successful delivery of the Service Module to orbit.) The only remaining operative part of this exception is the maintenance provision. INPA Section 6(g)(2) further defines allowed maintenance as activities which cannot be performed by NASA, and for which there is no alternate source for environmental control, life support, and orbital maintenance functions. Given the intentional redundancy designed into the U.S. and Russian segments for these vital functions, the Service Module exception could only be used for extremely limited purposes. Moreover, like the crew safety exception, it does not address the fundamental immediate issue of crew return.

In addition, the following information is provided in response to your second set of questions regarding “other potential means” to acquire goods and services in support of the ISS:

- 1. *Energia, the entity that manufactures the Soyuz, has produced documentation that it asserts shows that it has not been an organization or entity under the control of the Russian Aviation and Space Agency as defined by Sec. 7(5) of the Act, and thus it would not be governed by the conditions of Sec. 6(b)(3).***

The Administration determined that accepting this argument would conflict with the spirit, if not the letter, of the INPA. Moreover, recent government action to secure greater control over the management of Energia makes the fine legal distinction that this argument rests on even more problematic. Moreover, if the Administration were to make use of such an argument, this would undermine the principle of cooperating primarily on a government-to-government basis. While NASA has contracted directly with Russian industry for certain services, given the history and relationships in Russia, it was determined that a significant NASA-to-Energia relationship would be highly inadvisable.

2. *The 1996 Balance Agreement, which predates the INPA, has been identified as a potential mechanism for obtaining the needed ISS-related goods and services by means of an amendment of that Agreement.*

The Administration's decision to seek a legislative solution to INPA stems from Congressional concerns voiced to date, including a letter, dated March 17, 2005, from International Relations Committee Chairman Hyde and Science Committee Chairman Boehlert to Secretary of State Condoleezza Rice and Acting NASA Administrator Frederick Gregory, where the Chairmen stated:

"... We do not believe any legitimate interpretation of the IN[P]A (including an interpretation allowing further amendments to the Balance Agreement) would allow the U.S. to continue to use Soyuz spacecraft after Russia fulfills its crew rescue obligations under the Balance Agreement, which is expected in April 2006. We urge the Administration to address the barriers raised by the INPA head-on, by proposing legislative language."

Therefore, the Administration has made no determination regarding possible amendment of the Balance Agreement in the event no legislative action is taken.

3. *The United States and Russia could reach an agreement that needed ISS-related goods and services will be provided to NASA at no cost as part of a broader cooperative arrangement pertaining either to the overall ISS partnership or to U.S.—Russian science and technology cooperation.*

NASA has followed this course of action, reaching agreements with Russia for them to provide services on a no-exchange-of-funds basis or as a quid pro quo under existing agreements. Since the enactment of the INPA, Russia has demonstrated a commitment to the ISS Program, and U.S.-Russia cooperation in space has met and even exceeded expectations, particularly following the loss of the Space Shuttle Columbia. Nevertheless, Russian officials have been unequivocal in their position that they require monetary compensation for any services provided beyond the specific commitments made in the existing ISS agreements.

At present, NASA has expended available "quids" as well as the goodwill previously built up with its Russian counterparts. Moreover, NASA's authority to negotiate for "new" programmatic content that might be the basis of a quid pro quo is problematic in light of the INPA's proscription against "in cash or in kind" payments in Section 6(a).

We appreciate your continued leadership as we continue to work to develop a path toward a legislative solution for the INPA. We would be pleased to discuss our rationale in greater detail, at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D. Griffin", with a long horizontal flourish extending to the right.

Michael D. Griffin  
Administrator