

**THE IRAN, NORTH KOREA, AND SYRIA
NONPROLIFERATION ACT: STATE
DEPARTMENT'S NON-COMPLIANCE**

HEARING
BEFORE THE
SUBCOMMITTEE ON
THE MIDDLE EAST AND NORTH AFRICA
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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WEDNESDAY, JUNE 17, 2015

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE MIDDLE EAST AND NORTH AFRICA,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 o'clock p.m., in room 2172 Rayburn House Office Building, Hon. Ileana Ros-Lehtinen (chairman of the subcommittee) presiding.

Ms. ROS-LEHTINEN. The subcommittee will come to order.

After recognizing myself and my good friend, the ranking member of our subcommittee, Ted Deutch of Florida, for 5 minutes each for our opening statements, we will then recognize any other members seeking recognition for 1 minute. We will then hear from our witness. And without objection, the witness' prepared statements will be made a part of the record, and members may have 5 days to insert statements and questions for the record, subject to the length limitation in the rules.

And I would like to say, first of all, I apologize for not having a lot of members here. There is a lot of activity going on right now, and our GOP Caucus is having a big briefing on the pending Supreme Court decision on the subsidies for Obamacare. So I apologize, but you have the best right here.

The Chair now recognizes herself for 5 minutes. As part of this subcommittee's continued efforts to perform our oversight functions of the State Department and of the Iranian nuclear negotiations, we are convening this hearing to take a look at State's compliance with the Iran, North Korea, and Syria Nonproliferation Act, known by its acronym INKSNA.

INKSNA, by State's own admission, is an extremely important and effective tool to address the threat of the proliferation of weapons of mass destruction, WMDs, and ballistic missiles. It could be even more effective if we pass an updated version, like the INKSNA Modernization Act that I authored in 2011, which passed the House overwhelmingly with a vote of 418 to 2.

This law requires the President, who has delegated the authority of INKSNA to the State Department, to provide a report to our committee every 6 months identifying individuals who are believed to have sent or received certain items or technology from Iran,

North Korea, or Syria. These individuals would then be subject to specific sanctions as detailed in the law.

Well, the GAO (Government Accountability Office) was asked by Chairman Royce to examine the implementation of INKSNA by the State Department and to review its reporting process and identify the impact of that process on the imposition of sanctions against the Iranian regime.

What the GAO found was that the State Department has been extremely delayed in providing the requisite reports to Congress. Of the 18 legislatively mandated reports that the Department was to issue to date, only six have been issued. The latest report we received was not only late, it took State almost 3 years to prepare the 2011 report that we received in December 2014—but this report sat awaiting approval on the Deputy Secretary of State's desk for over a year. Can you follow that?

So it took State almost 3 years to prepare the 2011 report. We received it in December 2014. But the report sat awaiting approval for over a year. State reportedly told the GAO that one of the major causes for delay is the vetting process of the individual cases. Each cycle, State has unilaterally made the decision to package cases together—that is the problem—and move them through the process at the same time.

So what ends up happening is if we have one problematic case, well, that case can hold up the process for all of the other cases. Instead of pulling that case aside for processing in the next cycle, State holds up the entire package until all cases have been cleared, thus holding up indefinitely the sanctions on all of these individuals, because, remember, it is not just about the report, we want to know who is being sanctioned.

So while we are waiting and waiting and waiting, no one is getting sanctioned. While we are waiting for an entire group to be processed because of one problematic case, we are allowing these other individuals to continue to help Iran, to continue to help North Korea, to continue to help Syria, and they will skirt sanctions and proliferate weapons of mass destruction.

This is a huge blow to the intent of the sanctions and their effectiveness, as well as a huge blow to our national security. But let us look at the timeline of the last report for a moment. We received the report, as I said, in December 2014. It sat on the desk for over a year. In November 2013, President Obama announced that the P5+1 had reached an agreement with Iran, and we were ready to implement the joint plan of action while they continued to pursue a final agreement.

If we connect the dots, the administration had actionable intelligence and a legal obligation—let us not forget that—to sign off on the report and sanction these individuals. But the administration sat on this. They did not file the report, and the administration did not sanction these individuals.

This flies in the face of all of the times that the President and the folks that we know have said that the U.S. will continue to fully enforce all of the sanctions on Iran while the negotiations were ongoing. That is what the administration says. What they are doing is quite different. Each and every one of these times they knew that this was less than truthful.

The reporting requirements of the law is clear. State is required to submit INKSNA reports to Congress every 6 months, yet the State Department took it upon itself to ignore this requirement. The requirement is not a suggestion; it is the law.

And as the Iran nuclear negotiations continue we are also left to wonder, what other sanctions is the administration not enforcing that it should or that it must? We already had the recent report from the U.N. panel of experts that said that the U.S. and other nations were not reporting Iran's sanctions violations to the Sanctions Committee.

Ambassador Power was here in this very room yesterday and I asked her about that, and she, too, stated the administration has been above water and has been fully enforcing all of the sanctions. But when it comes to the nuclear negotiations and Iran, I am more inclined to believe that the administration is purposely misleading Congress and is in fact not following the intent and letter of the law.

This GAO report should be just the tip of the iceberg, and I commend Director Melito and his team for their hard work in putting together this report.

Thank you.

And now I yield to the ranking member of the subcommittee, my good friend Mr. Deutch.

Mr. DEUTCH. Thank you, Madam Chairman, for holding today's hearings. I want to thank the chairman for her continued legislative efforts to strengthen the Iran, North Korea, and Syria Non-proliferation Act. You have been tireless in your efforts to keep focus on the nexus between these three regimes and their quest for weapons of mass destruction.

As we heard in our hearing on Iran's ballistic missile capabilities last week, the relationship between Iran and North Korea with respect to illicit procurement is vital to the Iranian regime's efforts to circumvent international sanctions. We know that the Iranian regime has been unabated in its support for Assad over the past 4 years, and the potential transfer of sensitive technologies or weapons to this murderous regime that has shown it is more willing to use and continue to use, despite its obligations under the Organization for Prohibition of Chemical Weapons Agreement, chemical weapons that it is willing to use against its own people.

INKSNA was enacted and subsequently amended to shut down illicit procurement and transfers. And, first, let me say that I appreciate the GAO's work on this work, and I appreciate the State Department's willingness to make comments on GAO's findings and accept the GAO recommendation. We know that building and enforcing a sanctions regime is complex, and I commend the work that State has done to enact punishing sanctions on bad actors over the years.

The ongoing nuclear negotiations with Iran is a prime example of the effect sanctions can have, although I would respectfully note that the purpose of sanctions is to change behavior, not simply to come to a negotiation.

However, it is clear from GAO's investigation that there has been a failure to comply with the particular 6-month reporting requirement in INKSNA. And while I respect and appreciate the time that

it takes to adequately verify sensitive intelligence and to work through the interagency process, I am concerned that State Department's decision to issue annual reports instead of every 6 months is causing a lag time in the imposition of sanctions.

Again, I know that it often takes quite a bit of time to meet the requirements for a sanctions determination, but I agree with the GAO that finding that one outstanding determination should not delay an entire report. Isn't there a process in which State can issue its 6-month reports to Congress while denoting an unfinished investigation?

Further, I would like to understand more as to why GAO found that the longest delay in the issuance of a report seems to be at the Deputy Secretary level. How does this reporting requirement differ from those in other sanctions legislation, and are those requirements being met?

Finally, and perhaps most concerning, is that the INKSNA process seems to differ from other sanctions determinations in which sanctions are not levied until a report is issued to Congress. I would be interested to hear if, in your interviews with the State Department, any discussions took place with respect to potential legislative changes to the underlying law.

In cases where sanctions have been imposed, the majority of the sanctioned persons have been located in China, Sudan, Iran, and Syria. Strikingly, 17 of the 82 sanction entities have had sanctions imposed on them more than once. Understanding that INKSNA sanctions need to be renewed every 2 years, I would be interested to hear more from State as to why there are repeat offenders. Is the lag time between the issuance of reports, which then can trigger a sanctions designation, allowing these actors to continue to engage in sanctionable activity?

Now, Mr. Melito, I appreciate you being here today to explain GAO's findings, and it is my hope that we can work to implement whatever changes in process are necessary to ensure that we are acting as quickly as possible to impose sanctions on those who aid and abet the world's most dangerous actors.

And with that, Madam Chairman, I will yield back the balance of my time.

Ms. ROS-LEHTINEN. Thank you very much, Mr. Deutch, for that excellent statement.

Mr. Trott, you are recognized.

Mr. TROTT. Thank you. I want to thank the chairwoman and ranking member for calling this hearing to focus on the administration's failure to comply with the reporting requirements of the Iran, North Korea, and Syria Nonproliferation Act.

INKSNA is supposed to provide the United States Government with an important and flexible tool to achieve its nonproliferation objectives and a method by which to impose sanctions to accomplish this important goal. Unfortunately, due largely to political concerns with Iran, the administration has failed to comply with INKSNA, which has only heightened concerns in Congress with the ongoing nuclear negotiations.

Continued reluctance to enforce these sanctions significantly compromises our credibility and nullifies INKSNA's effectiveness

as a tool in helping to curtail the proliferation of weapons of mass destruction.

I urge the administration to comply with INKSNA, as failure in this regard will mostly certainly result in the proliferation of weapons of mass destruction. Not only does non-compliance with this act put the United States at risk, but it also threatens our friend, Israel.

I look forward to examining the reporting history with respect to INKSNA and trying to better understand why the delays—why there have been delays in the reporting and what impact the delays have had on the proliferation of weapons of mass destruction.

I yield back.

Ms. ROS-LEHTINEN. Thank you very much, sir.

Mr. Clawson of Florida is recognized.

Mr. CLAWSON. Yield back.

Ms. ROS-LEHTINEN. Thank you.

And now we are pleased to recognize our witness. We are so pleased to welcome Dr. Thomas Melito, Director of the International Affairs and Trade team at the Government Accountability Office. He is responsible for the GAO's work on international sanctions and nonproliferation, and has recently completed a review of the implementation of the U.S. and U.N. sanctions on North Korea.

Thank you, Dr. Melito, for being with us here this afternoon, and for the work of all of the folks on your team that helped put this very important document together. And, with that, your written statement will be made a part of the record. Please feel free to summarize and present your findings.

STATEMENT OF MR. THOMAS MELITO, DIRECTOR, INTERNATIONAL AFFAIRS AND TRADE, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. MELITO. Thank you. Madam Chairman, Ranking Member Deutch, and members of the subcommittee, I am pleased to be here to discuss GAO's work regarding State's implementation of the Iran, North Korea, and Syria Nonproliferation Act of 2006, which is referred to as INKSNA.

INKSNA targets the transfer of prohibited items related to weapons of mass destruction. INKSNA requires that State provide Congress with a report every 6 months, and State cannot impose sanctions until it has done so. My testimony is based on a report which is publicly released today.

I will focus on four topics. First, State's timeliness in providing Congress with INKSNA reports; second, State's process for preparing these reports; third, the potential impact of State's reporting timeliness on the imposition of sanctions; and, fourth, GAO's recommendation and State's response.

Regarding the first topic, State has not provided reports to congressional committees in accordance with INKSNA's 6-month reporting requirements. Since 2006, it has provided only six reports covering 2006 through 2011, instead of the 18 reports that INKSNA required. State provided these reports at irregular intervals averaging 16 months. It provided its most recent report in December 2014, 22 months after its prior report.

Regarding the second topic, State's process does not allow it to comply with INKSNA's 6-month reporting cycle. The process is complex and lengthy, involving multiple interagency and internal reviews regarding each group of reportable transfers that first came to its attention in a single calendar year. It then determines whether to impose sanctions on foreign persons associated with those transfers.

Under this process, State does not provide a report to the committee until it has resolved concerns it may have regarding any of the transfers in a particular annual group. As a result, a single problematic case can delay State's provision of a report which may include other transfers that State may be otherwise ready to report.

Moreover, State's process requires officials to begin preparing a new report every December, regardless of whether they have completed and provided all previous reports. As a result, they must manage the preparation of a backlog of multiple draft reports, each addressing a different year.

For example, State data indicate that in the last 6 months of 2014 State officials were simultaneously managing the preparation of three draft reports covering calendar years 2011, 2012, and 2013. State's delays in reporting on transfers have also recently increased, growing from 26 months for the 2010 report to 36 months for the 2011 report.

Regarding the third topic, State's process limits its ability to minimize the time required to impose INKSNA sanctions. INKSNA requires State to identify foreign persons in a report before it can impose sanctions on them. Under INKSNA, State is expected to decide on sanctions between 6 and 12 months after it first obtains credible information of a foreign person's involvement in a reportable transfer.

However, under State's process, the actual interval between the transfer and the opportunity to impose a sanction has been considerably longer. For example, State did not impose sanctions on 23 foreign persons for transfers it first learned of in calendar year 2011 until December 2014, between 36 and 48 months after the fact.

Regarding our fourth topic, GAO recommended that State should reconsider its INKSNA reporting process to ensure that it, one, complies with INKSNA's 6-month reporting cycle; and, two, minimizes delays in its ability to impose sanctions.

State officials concurred with our recommendation. However, in commenting on our findings, they raised some concerns. State officials commented that our report does not take into account the inherent difficulties of meeting what they characterize as the law's tight deadlines and a substantial increase in scope of reportable activity.

In response, we note that INKSNA's scope has not changed since 2006, and that the time required by State to provide the reports to the committee has increased since 2006.

State officials also commented that our report does not place sufficient priority on the need for careful preparation and thorough vetting. We recognize that State must thoroughly vet each INKSNA transfer, and that some transfers may require several

years to investigate. However, our report demonstrates that State should consider a more efficient process for meeting INKSNA's deadlines.

Under its current process, State's practice of reporting transfers in annual groups could allow a single, problematic transfer to delay the reporting of other transfers that State may have already investigated.

Madam Chairman, Ranking Member Deutch, and members of the subcommittee, this completes my prepared statement. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Melito follows:]



United States Government Accountability Office

Testimony
Before the Subcommittee on the Middle
East and North Africa, Committee on
Foreign Affairs, House of
Representatives

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NONPROLIFERATION

State Needs to Establish a
Reporting Process That
Would Minimize the
Delays That May Affect
Sanctions on Trade with
Iran, North Korea, and
Syria

Statement of Thomas Melito, Director
International Affairs and Trade

Chairman Ros-Lehtinen, Representative Deutch, and Members of the Subcommittee:

I am pleased to be here to discuss our work regarding the Department of State's (State) implementation of the Iran, North Korea, and Syria Nonproliferation Act, which is referred to as INKSNA.¹ The United States uses export control regimes and sanctions, such as those found in INKSNA, to combat weapons of mass destruction (WMD) proliferation by restricting exports of sensitive goods, services, and technologies and to punish those persons that violate such restrictions.² According to State officials, INKSNA is an important and flexible tool in their efforts to address the threat of WMD and missile proliferation.

INKSNA requires the President to transmit a report to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs every 6 months in which she or he identifies foreign persons for which there is credible information indicating that those persons have transferred to, or acquired from, Iran, North Korea, or Syria certain WMD or conventional or missile-related items.³ INKSNA also authorizes the President to impose sanctions on foreign persons identified in the reports. The President has delegated INKSNA authorities to the Department of State, and the Deputy Secretary of State is responsible for making sanctions determinations and authorizing delivery to the two cognizant congressional committees. From 2006 to May 2015, State imposed sanctions on 82 foreign persons located in 10 nations, including China,

¹Iran, North Korea, and Syria Nonproliferation Act (Pub. L. No. 106-178, §§ 1-7, 114 Stat. 38, Mar. 14, 2000 [codified as amended at 50 U.S.C. § 1701 note]).

²For purposes of INKSNA, a "person" is (1) a natural person that is an alien; (2) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of a foreign country or has its principal place of business in a foreign country; (3) any foreign government, including any foreign governmental entity; and (4) any successor, subunit, or subsidiary of any entity described above, including any entity in which any entity described in any such subparagraph owns a controlling interest.

³These items include goods, services, or technology listed on four multilateral export control regimes and a treaty, as well as other goods, services, or technology having the potential to make a material contribution to the development of nuclear, biological, chemical, or conventional weapons, or of ballistic or cruise missile systems.

Iran, Syria, North Korea, Sudan, and Russia.⁴ Once imposed, INKSNA sanctions are in effect for 2 years at State's discretion.

My testimony summarizes our May 2015 report on State's implementation of INKSNA.⁵ In this report, we (1) examined State's timeliness in providing INKSNA reports, (2) reviewed State's reporting process, and (3) identified the potential impact of State's reporting timeliness on its imposition of sanctions. To do so, we reviewed INKSNA and related legislation, as well as the six INKSNA reports provided by State to the two cognizant committees between 2006 and the present time. We also obtained documents and interviewed officials from the office within State responsible for producing the reports—the Office of Missile, Biological, and Chemical Nonproliferation in the Bureau of International Security and Nonproliferation (ISN/MBC). All of our work was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our review resulted in the following findings. State is not providing reports to congressional committees every 6 months as required by INKSNA and it has not established a process that would allow it to do so. State's current process limits its ability to minimize the time required to impose INKSNA sanctions.

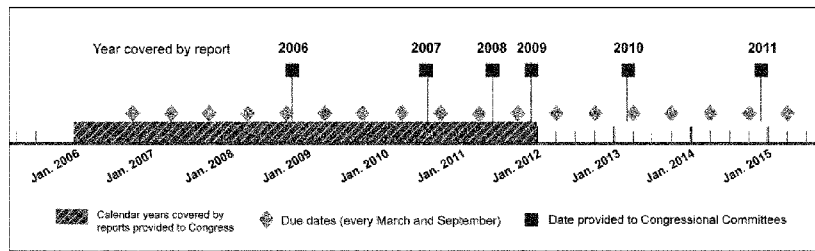
⁴The measures include prohibitions on U.S. government (1) procurement of goods or services from the person and a ban on imports of products produced by that person, except to the extent the Secretary of State otherwise may determine; (2) provision of assistance, except to the extent the Secretary of State otherwise may determine; and (3) sales of any item on the U.S. Munitions List, and the termination of any ongoing sales of any defense articles, defense services, or design and construction services controlled under the Arms Export Control Act.

⁵GAO, *Nonproliferation: State Should Minimize Reporting Delays That May Affect Sanctions on Trade with Iran, North Korea, and Syria*, GAO-15-519 (Washington, D.C.: May 22, 2015).

State Is Not Providing Reports to Congressional Committees Every 6 Months as Required by INKSNA

State is not providing reports to congressional committees in accordance with INKSNA's 6-month reporting requirements. Since 2006, it has provided six reports covering a 6-year period (2006 through 2011), instead of the 18 reports covering a 9-year period (2006 through 2014) required by INKSNA. State provided these six reports at irregular intervals averaging 16 months. It provided its most recent report in December 2014, 22 months after its prior report (see fig. 1).

Figure 1: Timeliness of State's INKSNA Reports, 2006-2015



Source: GAO analysis of State data. | GAO-15-703T

State's Process Requires on Average More than 2 Years to Complete a Report

State has not established a process that would allow it to comply with INKSNA's 6-month reporting cycle. It uses a complex and lengthy process that involves multiple interagency and internal reviews to compile credible information about a group of reportable transfers that first came to its attention in a single calendar year, and to determine whether to impose sanctions on foreign persons associated with those transfers.

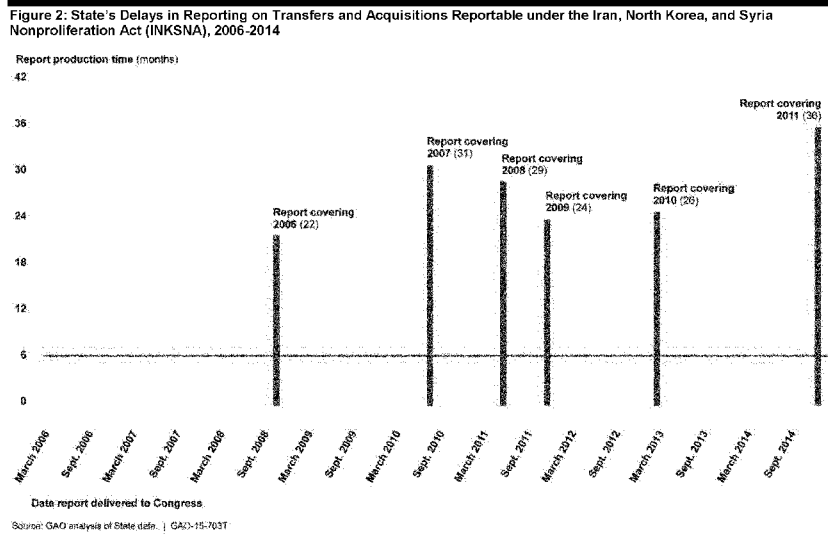
According to officials in ISN/MBC, State's process for implementing INKSNA begins every December, when ISN/MBC, working with other agencies and the Intelligence Community, compiles a list of transfers that first came to the attention of four State-led interagency working groups during the previous calendar year. Next, State provides the list to the Intelligence Community and then to other involved government agencies, who then provide advice at an interagency meeting. Following reviews by

State's geographic and functional bureaus, ISN/MBC sends an action memo to the Deputy Secretary of State for his or her final determination as to which transfers to include in the report and which persons to sanction in connection with those transfers.⁶ State officials then complete the report, provide it to the cognizant congressional committees, and arrange to have sanctions notices published in the Federal Register.

Under this process, State does not provide a report to the committees until it has resolved concerns it may have regarding any of the transfers in the annual group covered in the report and determined whether to sanction persons associated with any of those transfers. As a result, a single problematic case can delay State's provision of a report, which may include other INKSNA-reportable transfers that State may be otherwise ready to report to Congress. Moreover, State's process requires officials to begin preparing a new report every December, regardless of whether they have completed and provided all previous reports. As a result, they must manage the preparation of a backlog of multiple draft reports, each addressing a different year. For example, State data indicate that in the last 6 months of 2014, State officials were simultaneously managing the preparation of three draft reports, covering calendar years 2011, 2012, and 2013. State officials have told us that they sometimes must delay work on one report to work on another.

State's delays in reporting on transfers and acquisitions have recently increased. As shown in figure 2, State provided its report on transfers that first came to its attention in 2010, 26 months after the end of 2010, while it provided its report on transfers that first came to its attention in 2011, 36 months after the end of 2011. State's draft report on transfers it first learned of in 2012 is now in its 31st month of preparation and, as of April 2015, had fallen 9 months behind the pace set by its predecessor.

⁶State also may take other actions, such as sending notices (démarches) or cables alerting countries where the sanctioned entities reside or are located.



The longest stages of State's process largely involve its internal reviews (see table 1). For example, the Deputy Secretary required more than a year to review the action memo for transfers State learned of in 2011 and to make sanctions determinations. As a result, State did not provide the report addressing those transfers until December 2014.

Table 1: Iran, North Korea, and Syria Nonproliferation Act (INKSNA) Report Production Time (months)

Period covered in report	Transfer evaluation and compilation ^a	Intelligence Community fact check and clearance	Transfer package distribution and interagency discussion ^b	State bureaus' review and drafting of action memo ^b	Deputy Secretary review and determination ^b	Report finalized, sent to Congress; sanctions notice published ^b	Total production time
2007	13	3	10	4	3	<1	32
2008	8	3	8	6	4	<1	30
2009	16	2	2	2	1	1	25
2010	10	2	3	6	4	2	27
2011	5	2	10	4	13	5	37
Average, 2007-2011	10	2	7	4	5	1	30

Source: GAO analysis of State data. | GAO-15-703T

Note: Production times have been rounded to the nearest month.
^aReport production step that is wholly or largely within State's internal review process.

State's Process Limits Its Ability to Minimize the Time Required to Impose INKSNA Sanctions

By not complying with INKSA's 6-month reporting cycle, State may have limited its ability to minimize delays in choosing to impose INKSNA sanctions. INKSNA requires State to identify foreign persons in a report before it can impose sanctions on them. INKSNA's time frames would allow State to impose such sanctions between 6 and 12 months after it first obtained credible information of a foreign person's involvement in a reportable transfer. For example, if State decided to sanction a person for a reported transfer or acquisition it had first learned about between January 1 and June 30 of 2011, the sanction would be effective no later than December 2011, if State had identified that person in a report provided to the committees in September 2011—as required by INKSNA. Under State's process, however, the actual interval between the transfer and the opportunity to impose a sanction has been considerably longer. For example, State did not impose sanctions on 23 foreign persons for transfers it first learned of in calendar year 2011 until December 2014. It could not do so earlier because it did not provide its report addressing all 2011 transfers until December 2014, between 36 and 48 months later.

Our Recommendation and State's Response

Our recommendation is that the Secretary of State should reconsider State's INKSNA process to ensure that it (1) complies with INKSNA's 6-month reporting cycle and (2) minimizes delays in its ability to opt to impose sanctions. State officials concurred with our recommendation. However, in commenting on our findings, they expressed three concerns:

First, State officials commented that our report does not take into account the inherent difficulties of meeting what they characterized as the law's tight deadlines and the substantial increase in scope of reportable activity. In response, we note that INKSNA's scope has not changed since 2008 and that the time State's process requires to provide the reports to the committees has increased since 2006. Our report demonstrates that State should consider more efficient processes for meeting INKSNA's deadlines. Under its current process, for example, State's practice of reporting transfers in entire groups could allow a single problematic transfer to delay the reporting of other transfers that State may have already investigated and vetted.

Second, State officials commented that our report does not place sufficient priority on the need for careful preparation and thorough vetting. We recognize that State must carefully prepare and thoroughly vet each INKSNA report and that some transfers may require several years to investigate and vet. Again, we note that State's process can allow a single problematic transfer to delay State's reporting of other transfers that it may have already investigated and vetted.

Finally, State officials commented that our report assumes that State's expedient of reporting annually instead of every 6 months is a key driver of the backlog. Our response is that while the report highlights State's decision to attempt to submit reports annually instead of every 6 months as required by INKSNA, it does not assume that that decision is the key driver of State's growing backlog. The report instead calls attention to State's current process, which could allow a single problematic case in a group to delay its reporting on other transfers within that group.

Chairman Ros-Lehtinen, Representative Deutch, Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments:

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Ms. ROS-LEHTINEN. Thank you very much, and thank you, again to your whole team for the great and difficult work that you do all the time.

Mr. MELITO. Thank you.

Ms. ROS-LEHTINEN. The findings in this report are very troubling, not only from an oversight perspective for us as Members of Congress but for anyone who believes that the laws of the land are indeed meant to be followed, and that no one is above these laws.

And they are also disturbing because of what they tell us about the length that the administration will go to to appease the Iranian regime in its misguided and dangerous quest to reach a nuclear deal with Iran and forge some sort of legacy for President Obama. Those are my words, not yours. I realize that.

But in your report you mention that State officials said political concerns, including international negotiations and foreign relations, can delay the reporting process. Did the negotiations between Iran and the P5+1 factor in the decision to delay the latest report? What were you told?

Mr. MELITO. We can't actually comment in a public setting on that. We are able to talk about the process in a public setting. But when you get into discussions of countries in individual cases, it actually goes to a very high level of classification very quickly.

Ms. ROS-LEHTINEN. Thank you. No worries. The GAO found that State actually ignores the 6-month requirement and focuses on yearly reports, as I said and you verified. Does State decide on its own to submit yearly sanctions reports rather than adhering to the legally required 6-month schedule? Do they do that on their own?

Mr. MELITO. State has created a process that envisions annual reports. And when we asked them why, they thought that was the most efficient way to do it. So it does not envision two reports a year; it only envisions one report a year.

Ms. ROS-LEHTINEN. Did anyone at State acknowledge that they are violating the law with this practice, that until it is changed that is the requirement?

Mr. MELITO. We asked that question several times, and I don't think we ever got a clearly definitive answer on that.

Ms. ROS-LEHTINEN. In response to your report, State assumed that the committees were okay with the reporting process. However, it is extremely odd since in the year 2011 I authored, and the House passed, the INKSNA Reform and Modernization Act and State's failure to meet the requirements of this law, particularly with respect to the reporting cycle, was a part of that effort and has been raised with the Department in multiple instances.

Which specific offices within the State Department did you have access to? Did you ever engage or have sufficient access to the Deputy Secretary's office or those in the State Department who dealt with Iran sanctions generally, such as the Deputy Coordinator for Sanctions?

And, related to that, which offices did you request meetings with? And which offices failed to either get back to you or turn down your request for a meeting?

Mr. MELITO. So we had what I would characterize as highly functional access to the working level, which was the ISN, the Inter-

national Security and Nonproliferation Bureau, which is the bureau responsible for preparing the annual reports.

We did realize, given the nature of what we were finding, that there was a need to engage higher level officials. And we did request a meeting with the Deputy's office, as well as the coordinator's office, and we were not granted that meeting.

Ms. ROS-LEHTINEN. And, finally, the GAO provided State with the opportunity to comment on the report and submit those comments for the record. Department officials, according to your report and the comments, repeatedly cite the difficulties of meeting the tight deadline, and even went through the trouble of boldfacing and underlining the fact that they need time to identify every foreign person in each group.

The GAO also noted that this practice of reporting individuals in entire groups could allow a single problematic case, as we talked about, to delay the reporting of an entire group. Why wouldn't State simply remove the problematic cases allowing the other ones to be processed through, and did you suggest this as a workaround for the State Department? And, if so, what was their response?

Mr. MELITO. We went through our understanding of how it was working with them on multiple occasions. And at what is called the exit conference where we go through our findings, we went through exactly that scenario, where we were seeing single cases holding up the process. And we explored with them their opportunity to maybe revisit the process and change it, and they were quite resistant.

They have had this process for probably 10 years, and they seem to think it works and it is very efficient. But I think the "why" is probably better asked of State Department.

Ms. ROS-LEHTINEN. Thank you very much, Director Melito.

I now recognize Mr. Deutch, the ranking member.

Mr. DEUTCH. Thank you, Madam Chairman. And, Madam Chairman, I apologize, but after my line of questioning I have another committee meeting that I have to run off to.

Mr. Melito, in the course of your discussions with State Department, did they indicate that meeting the 6-month reporting requirement is too difficult and that they needed changes made to the law?

Mr. MELITO. They recognize they have a backlog. They recognize they need to clear that backlog. They also say that once they clear the backlog that they are going to go back to a 6-month reporting cycle. I don't know exactly what changes they have in mind.

So we did ask them whether they thought that 6 months was not reasonable, would you want to explore changing the law, and they said, actually, they wanted to leave the law as it was, because they thought it was working as intended.

Mr. DEUTCH. Well, what did they think the impact on the law was of the 36- to 48-month delay that you referenced?

Mr. MELITO. Well, we bring up that the threat of a sanction may loosen credibility when there is such a long time between the actual observation of a problematic transfer and the actual sanction decision.

They disagreed, and they thought that the—what is going on during this period of time, there is a lot of behind-the-scenes discussions with other governments and trying to forestall other

transfers. And I am confident that that is actually happening, but the actual ultimate result, if you can't succeed, is a sanction. The credibility of the sanction does require some timeliness.

Mr. DEUTCH. And did State give your team any justification as to why they choose to look at potential violations only on an annual basis?

Mr. MELITO. So one tangible thing they have is they have to look at lists of technologies that are possibly not—are controlled. They have international lists, and they have their own internal list.

If they decide in 2010 to add a new item, it can't be retroactive to 2010. It can only move forward. So they are saying that by keeping cohorts together they won't create any confusion on that. But that does seem like something that could be managed.

Mr. DEUTCH. Because you suggested in your testimony that there is a more efficient way to do it.

Mr. MELITO. The most efficient way is to release the cases as they are finished. We agree that some cases are very difficult and should take as long as they are taking. But they acknowledge that when the report comes out some cases have been finished for a long time.

Mr. DEUTCH. All right. So what is the response as to why they shouldn't be reported as they are finished?

Mr. MELITO. If they gave you the answer they gave us, if it is not satisfying it is because it wasn't satisfied.

Mr. DEUTCH. Okay. Did State indicate that the process that it uses to investigate and make determinations for these sanctions differs in any way from the process they use for other sanctions regimes?

Mr. MELITO. So the biggest difference is that the requirement to sanction has to first follow a report to Congress. We have looked at quite a number of Iran and North Korea and other sanction regimes, and there is a very similar deliberative process, both within State and across multiple agencies. Some of the same working groups are involved in other sanction regimes.

All of those, though, culminate with an internal decision by either State or Treasury to sanction. INKSNA seems unique, from my perspective, in that it first requires a report to Congress.

Mr. DEUTCH. So, in all, just to refer back to my friend's comment earlier, in all of the other Iranian sanctions programs, they reach a determination saying if they make a designation sanctions are applied. It doesn't appear that the goal, then, is to appease the Iranian regime.

Mr. MELITO. I really couldn't comment on that one way or the other.

Mr. DEUTCH. Okay. Did the Department acknowledge that it could issue reports that acknowledge in some way that at least that there were investigations that were still pending?

Mr. MELITO. We know that they currently, at the end of 2014, were simultaneously preparing the results of 2012, 2013, and we now—I am sure they are beginning to think about a 2014 report. So there are—we know they are doing what they need to do. They are monitoring activity, and they are preparing case files, and they are discussing this internally in the State Department and across.

It is reaching the final decision. That seems to be what is taking so long.

Mr. DEUTCH. And just getting back to the first question I asked, so they believe that once the backlog is cleared up—the law doesn't need to change, because once the backlog is cleared up, then they can get back to the requirements, meeting the requirements that are set forth. Did they tell you when they anticipate that happening?

Mr. MELITO. They did not.

Mr. DEUTCH. Okay. Thanks, Madam Chairman.

Ms. ROS-LEHTINEN. Thank you. Excellent questions. Thank you, Mr. Deutch.

Mr. Trott is recognized.

Mr. TROTT. Thank you, Madam Chairwoman.

You said a minute ago, sir, that reaching a final decision seems to be the problem. Can you explain why reaching a final decision is so difficult?

Mr. MELITO. I can only tell you in a general sense and what is publicly available. They have to—first, the intelligence community has to determine whether it is publicly possible to report the information, the names of individuals, and they also want to go through the deliberative process of working with other governments, and making sure that they have got a sufficient case file.

So when you are dealing with, you know, overseas entities and trying to make sure you have the right person and you have enough evidence, this can take some time.

Mr. TROTT. So is there any evidence, or do you have any sense that the administration's general indifference and insouciance toward taking action on the world stage is a contributing factor?

Mr. MELITO. I cannot comment on that.

Mr. TROTT. Okay. Is there anything in INKSNA that requires that the State Department review and vet individuals as a group? Could they do it individually?

Mr. MELITO. The law does not state how that should be done. It just says it has to be done every 6 months.

Mr. TROTT. Has anyone suggested maybe that, since they are so backlogged that they develop a different process, or are weapons of mass destruction not a big deal?

Mr. MELITO. I think if they were to implement GAO's recommendation, they would create a new process.

Mr. TROTT. Okay. So the State Department officials told you that they believe that the threat of imposing sanctions can be as effective as the imposition of sanctions in achieving the behavioral changes that sanctions are intended to motivate. Do they provide any information or analysis to support the idea that the threat of sanctions against these three countries could be as effective as actual sanctions?

Mr. MELITO. To get into specifics on that assertion on their part would actually not be possible at a public hearing.

Mr. TROTT. I apologize. Not be possible because of?

Mr. MELITO. In a public hearing.

Mr. TROTT. I see. Okay. So basically they are treating these three countries like we treat England, France, and Australia. Would that be a fair summary?

Mr. MELITO. I—

Mr. TROTT. Okay. I apologize. I will move on.

Actually, that is the extent of my questions. I yield back. Thank you, Madam Chairwoman.

Ms. ROS-LEHTINEN. Thank you very much.

Mr. Higgins of New York is recognized.

Mr. HIGGINS. Yes. Thank you, Madam Chair. I just wanted to focus on the North Korean agreement that was signed back in 1994. And, you know, it seems as though that agreement was fundamentally flawed in the first instance, because of its brevity, because of the lack of inspections, and just a lack of detail in terms of both infrastructure and nuclear material.

What was the stated objective in 2004 in signing that agreement with North Korea?

Mr. MELITO. That is outside the scope of what GAO did. I can talk to you a little bit about how State is implementing sanctions on North Korea, but actually what the State Department was thinking when it signed that agreement I could only—I can only speculate on that.

Mr. HIGGINS. Well, was it to keep North Korea from obtaining nuclear weapons?

Mr. MELITO. I am—that seems like a reasonable expectation.

Mr. HIGGINS. And how many nuclear weapons does North Korea have today?

Mr. MELITO. I know they have more than one.

Mr. HIGGINS. And they have a pretty considerable atomic program? What inspections are in place relative to the North Korean nuclear program?

Mr. MELITO. We reported last month that the U.S. Government's imposition of sanctions on North Korea had been hampered by the need to identify specifically North Korean individuals. And given their closed regime—and we don't have good access—following the Sony hack late in 2014, the President signed a new Executive Order which changed the way sanctions against North Korea are implemented.

Mr. HIGGINS. Right.

Mr. MELITO. Now, if we are confident that an individual is either a member of the Worker's Party or a member of the Government of North Korea, we can sanction. They don't necessarily want to do that just because of those things, but it allows them to have a lower level of evidence before they can actually implement a sanction. So they think that is going to actually help in the months ahead.

Mr. HIGGINS. And how is that going?

Mr. MELITO. Well, it just got implemented.

Mr. HIGGINS. I see. Well, you know, it seems like—I mean, there are some fundamental differences here between North Korea and Iran. I mean, you know, the domestic policies of Iran, or politics of Iran, are that a vast majority of that population is very young and wants to normalize relations with the rest of the world. And that is, you know, fundamental I think to America's leverage in negotiating a deal with Iran, where North Korea, it is almost—they kind of pride themselves on being isolated from everybody.

It just seems to me that, you know, there is a pride in North Korea boasting that its atomic arsenal is enshrined in its constitution. And so it just seems like, you know, this is a weak agreement to begin with, and more cosmetic than it is substantial, which I suppose the good thing is maybe it has influenced or informed the negotiations with Iran, that this has to be a lot more serious than the one with North Korea, because it is almost like we don't have an agreement with North Korea.

Mr. MELITO. There is nothing equivalent to the TPOA with North Korea. That is correct.

Mr. HIGGINS. Yes, yes. Okay.

All right. I will yield back.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Higgins.

Mr. Issa of California.

Mr. ISSA. Thank you, Madam Chair.

Mr. Melito, I am trying to go back to some basics and understand this a little. President Clinton signed a law requiring this report. President Bush twice signed laws requiring this report. Before we get to President Obama, either one of those Presidents make progress on delivering reports in a timely fashion from your looking at history?

Mr. MELITO. We identified some delays in the past, but we focus on INKSNA, so we really focus heavily from 2006 forward.

Mr. ISSA. Okay. So previous Presidents were not perfect. We are not going to give either one a pass. But since 2009 when President Obama came in, you have seen this problem of essentially almost non-compliance, going through the motions, but 3 years seems like not even a close to a semi-annual report. Is that right?

Mr. MELITO. That is correct.

Mr. ISSA. And their statement to you is, "We are going to do better." That is kind of like the guy that owes you money saying he will pay you when his brother straightens out, but then you find out his brother is a hunchback. Okay. You know, he will not straighten out.

This does—I know that is so insensitive. The fact is, this is a problem that is not going to straighten out in the last 18 months of this administration. Isn't that true?

Mr. MELITO. I think—

Mr. ISSA. I know you believe in the redemption of souls, I am sure, but excluding that kind of an event, do you see it happening?

Mr. MELITO. We have given State a possible new process, demonstrated that there is a process that could make this go quicker. And State has sort of acknowledged that they need to do something, so I guess my perspective, I just need to see what happens now.

Mr. ISSA. Okay. So we are back to hope. Okay. Excluding hope for a moment, you earlier said that you were given access, sort of very broad but not very high, that you—up to a point you were given good access, and then after that some of the details, that higher level that would have helped you understand the problem and maybe suggest more, you were denied. Is that correct?

Mr. MELITO. Well, from our perspective, we got the access we needed to complete the work, so that is important to note. And the

focus was on the process. So we spoke with all of the key parts of State that was dealing with the actual creating of the report.

When we recognized, though, that this process and how it is run is probably above the people who are doing it, and the decisions on changing it are not up to them, we thought it would be a good idea to actually seek out some views of the higher level officials. And we did request those meetings, but we didn't get them.

Mr. ISSA. So one thing that Congress could do in appropriation or other appropriate areas is insist that you have that access so that perhaps beyond hope you could also have participation. Is that correct? You are not lobbying; we are asking.

Mr. MELITO. From our perspective, we got the access we needed, because I thought it was actually in State—it would have been to their advantage to have had a meeting. If it actually—if I needed that meeting to complete the work, then I probably would have gone through a more legalistic process. But I did not need that meeting to finish my work, but I thought it would have been helpful if State had had that conversation.

Mr. ISSA. Let me just close—and I know, Madam Chair, this has been said many, many times. But since I alluded to, you know, we are not going to get where we want to be in the next 18 months, you, at GAO, are great at giving corrective action and then advising Congress in your role in our branch on what to do in the future.

If you could take the remaining time, to the extent that you can, and tell us, how could we better write and oversee requirements like this so that we could get and expect compliance? Is it that we need to pre-negotiate? It sounds like they have said 6 months was enough; they are just behind. What is it we could do different? Because I know the chair would like to do better next time, so that we wouldn't be at fault for these reports.

Mr. MELITO. I think the law is quite clear, so I don't know if the law needs to be clearer. So I—

Mr. ISSA. So you are just saying that you need people who will obey the law?

Mr. MELITO. I think there probably would have needed to have been a dialogue between the Congress and State earlier. I mean, these laws—these reports have been delayed for a long time now. So it is possible that they didn't think that they needed to meet the law. I don't know. It is a question they have never really answered, but I think Congress' concerns were not necessarily being received.

Mr. ISSA. Well, you know, the interesting thing is State, in another committee, told us that the reason that Ambassador Stevens didn't get more security is he didn't ask enough. He didn't insist enough. That after asking for and saying things, including on the day he died, that it wasn't a question of if, but when, there would be an attack, he didn't ask enough. I appreciate it, Director, and we will try to figure out how to ask more.

I thank the gentlelady and yield back.

Ms. ROS-LEHTINEN. Thank you, Mr. Issa.

Mr. CLAWSON of Florida.

Mr. CLAWSON. So thank you for coming today. Appreciate it. The process slows almost to a halt. It takes a long time to get the final decision. Then, it takes even longer to get a final decision.

In the meantime, that creates space, time for the State Department to renegotiate deals they don't like anymore, slow down on details, redo—you know, use the threat of the sanction that is out there that we haven't really applied yet because our process is so low—or so slow.

So you kind of have this—you know, and then we blame it on bureaucracy. But if it really is bureaucracy, it kind of helps the State Department and the administration around the intent of the original process, so that they can retrade the deal and do what they really want to do with these folks.

And so it doesn't sound like a bureaucracy problem at all. It sounds like somebody playing on the margins of the law in order to create space, to retrade a deal they don't like anymore, or never did like, and then we are in a position where we have no recourse, unless we want to change the law, which is hard to do because there is a Democrat in the White House that likes retrading these deals.

Did I summarize that correct?

Mr. MELITO. I think GAO provided you the “what.” You are asking me for the “why,” and I can't really give you the “why.” But your narrative is as reasonable as any others I have heard.

Mr. CLAWSON. But I am saying that the focus on procedural delays, when those procedural delays coincidentally help the State Department retrade the deal, I mean, we are—we have got a mish-mash of incentives here that we are not being—you know, the American people deserve clarity. If I am going to sit up on this committee, I am going to speak clear about what is really going on as opposed to yakking around the edges about bureaucracy and steps in the process.

Mr. MELITO. And I understand perfectly. GAO, though, can only really talk about what we can observe, and you are asking about things we could not observe.

Mr. CLAWSON. I have nothing, then, I can add to that. You know, we need to figure out, you know, how to use the power of the purse or the power of change in the law, so that what we do, you know, the process actually reflects reality on what the original intent was.

Thank you. I yield back.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Clawson.

Dr. Yoho, also of Florida.

Mr. YOHO. Thank you, Madam Chair. Appreciate you being here, sir. In their response to the GAO's studies, they stated that “Further challenging the ability of the Department to deliver INKSNA reports within the statutory timeframe, the law has subsequently expanded its scope along its evolution.”

The last time the law was amended was in 2006, adding North Korea. What was State's response to the fact that despite no changes in the scope of the law since '06, the time that State requires to produce a report for Congress has increased? I mean, what was their reasoning?

Mr. MELITO. State mentioned that they thought because of scope changes that that was contributing to it. But we don't think the scope has changed.

Mr. YOHO. Well, they have had since 2006 to get their act in order.

Mr. MELITO. And that is the period of time we are looking at, and we also observed that the time between reports is getting longer, not shorter.

Mr. YOHO. Right. And you have offered, you know, the suggestion of, do we need to expand it to a year, but yet they said no.

Mr. MELITO. They did not think the law needed to be changed.

Mr. YOHO. All right. What do you believe would be the most efficient method for eliminating the current backlog, and also keeping up with the future deadlines?

Mr. MELITO. I think State could implement a 6-month reporting cycle. They could.

Mr. YOHO. Is it a shortage of help? Funds?

Mr. MELITO. They did not say they needed resources, but I think if State—State may want to actually have a conversation with Congress about that, because they—it was at the bureau level. I think that should really be at the deputy level to really decide that.

Mr. YOHO. Who is the person at State, the individual, that is responsible for that study?

Mr. MELITO. It is an individual in the International Security and Nonproliferation Bureau. I would rather not name the name, because—

Mr. YOHO. You don't have to, but there is one person that is held accountable for this.

Mr. MELITO. There is one person, although ultimately it is the Deputy Secretary, because ultimately the Deputy Secretary is the deciding official.

Mr. YOHO. All right. So somebody can be held accountable.

Mr. MELITO. Yes.

Mr. YOHO. And somebody, if they are held accountable and they are not performing their job, in the private sector would be removed from that job. That could happen here, correct?

Mr. MELITO. I assume so.

Mr. YOHO. I would hope so.

And I think that is something, Madam Chair, for another meeting would be wonderful.

Let me ask you this. What is the impact of—what impact has State's delay in reporting had on sanction decisions?

Mr. MELITO. The way the INKSNA law is written, you can't make an INKSNA sanction decision until you first report to Congress. So in December 2014, we get the—we got the decision on 23 cases that were observed in 2011. So between the time the State Department became aware of a problematic transfer and actually sanctioning was between 36 and 48 months later.

Mr. YOHO. And with the critical negotiations where they are at with Iran right now, a period of time delay like that is unacceptable. I mean, it is—you are reporting on something that happened 24 to 30 months ago on today's decisions. And I just—would you feel that would weaken our hand at the negotiating table?

Mr. MELITO. We observe, separate from any of the negotiations. We are concerned about the credibility of the sanctioning process.

Mr. YOHO. I was going to get into that here.

Mr. MELITO. To my mind, the sanctioning process requires relatively timely action.

Mr. YOHO. Yes. I mean, you want it timely. It is like disciplining a child when they are wrong. You don't want to wait until they are 18.

According to your report, State Department officials told GAO that they believe that the threat of imposing sanctions can be effective with what you just brought up as imposing sanctions in achieving the behavior changes sanctions are intended to motivate. However, did they quantify this claim? And if they believe that, they would be reporting quicker, wouldn't you think so?

Mr. MELITO. As to the first part, I think they may have a couple of examples, but any example cannot be done publicly. So I would think that you would benefit from a briefing from them in a classified setting, where they would give you some of those examples.

Mr. YOHO. I have got an example here. Seventeen of the 18 foreign persons that have had sanctions imposed on them have actually had the INKSNA sanctions imposed on them for more than—actually, more than once. That is correct, isn't it?

Mr. MELITO. Yes.

Mr. YOHO. In your opinion, would that undermine State's suggestion that the mere threat of a sanction is just as effective as the imposition?

Mr. MELITO. That is a very fair question.

Mr. YOHO. And, again, you know, you can only threaten so long before you act.

Mr. MELITO. Yes.

Mr. YOHO. Let us see. What is the effect of the administration's failure to implement these nonproliferation sanctions, particularly against Iran? And I think I kind of covered that and you kind of answered that. But in this—

Mr. MELITO. I cannot talk about individual countries.

Mr. YOHO. Okay. I understand.

Mr. MELITO. Yes. So—

Mr. YOHO. Thank you, sir, for your time. And I yield back.

Ms. ROS-LEHTINEN. Thank you, Dr. Yoho.

Mr. Weber of Texas.

Mr. WEBER. Thank you. Director Melito, forgive me if some of this is redundant, because I came late so I didn't hear your remarks. I am looking at your testimony here. According to your testimony, you talk about from 2006 to May 2015 that State imposed sanctions on 82 foreign persons located in 10 nations, including China, Iran, Syria, North Korea, Sudan, and Russia.

Once imposed, INKSNA sanctions are in effect for 2 years at State's discretion. Okay. So there was 82 foreign people in those 9 years that you have identified.

Mr. MELITO. Yes.

Mr. WEBER. So you go in and you look at the process. Is that number, that percentage of people who are identified and sanctioned, is it rising? Is it raising or lowering?

Mr. MELITO. It goes up and down, but their most recent report covering 2011 has the most in any of the years, which is from 2006 to 2011. And 23 was the single largest year.

Mr. WEBER. So that was the largest year. So that kind of answers the doctor's question about, does the statement—even the

threat of sanctions seems to work. If you looked at the numbers, that would kind of be antithetical, wouldn't it?

Mr. MELITO. It seems the activity may be increasing, but I actually don't know that, and that would actually be——

Mr. WEBER. Well, you don't think they just chose those people out of a hat.

Mr. MELITO. We don't know——

Mr. WEBER. I mean, the activity is obviously increasing.

Mr. MELITO. Part of this is actually becoming aware of activity. So some of it may have occurred before 2011. But, again, any of this kind of conversation requires information that cannot be discussed publicly.

Mr. WEBER. So how far—did you go back to 2006?

Mr. MELITO. Yes.

Mr. WEBER. Okay. So did you identify, in 2006, what the first report due—where the problem was? Where did—who was responsible? Where did the buck stop?

Mr. MELITO. We have a table in the statement for the hearing, not for the report, which gives you how long, in months, each of the six steps take, and we——

Ms. ROS-LEHTINEN. Okay.

Mr. MELITO [continuing]. Our general summary is the steps that are inside State's control take the longest. And in the most recent report, the actual final approval by the Deputy Secretary took the longest.

Mr. WEBER. But identifying 2006, that first person, that first step, that never got the ball rolling. I mean, you can do it by a position; you don't have to do it by person's name. Can you do that by position?

Mr. MELITO. So for the—so the report that covers 2007, because we——

Mr. WEBER. Let me restate it this way. Does State have a process whereby they start to put this report together? Have they built that outline?

Mr. MELITO. I guess, and we did review the statements of——

Mr. WEBER. All right. Now we are getting somewhere. In that outline, what is the first office it goes to?

Mr. MELITO. We have a flowchart in the report.

Mr. WEBER. Okay.

Mr. MELITO. In the actual report itself, on page 9, which goes through the 12 steps.

Mr. WEBER. Okay.

Mr. MELITO. It starts—so there are these expert groups——

Mr. WEBER. I don't want to turn to page 9.

Mr. MELITO. But I am going to just say one thing quickly. Their expert groups, which are responsible for missile proliferation, biological/chemical/nuclear, they are meeting every 2 to 4 weeks.

Mr. WEBER. Okay.

Mr. MELITO. They are not meeting just for——

Mr. WEBER. So somebody compiles the report of these expert groups.

Mr. MELITO. Yes.

Mr. WEBER. Help me. Who is that office? What position is that?

Mr. MELITO. That is the International Security and Nonproliferation Bureau of State Department. They are the ones who are responsible for—

Mr. WEBER. Is that same person there now that was there in 2006?

Mr. MELITO. We actually do not know.

Mr. WEBER. You actually do not know.

Mr. MELITO. We didn't ask that question.

Mr. WEBER. Okay. So—

Mr. MELITO. My staff just told me that they think he was.

Mr. WEBER. They think he wasn't there, but now he is there.

Mr. MELITO. They actually—they are telling me that the person who—

Mr. WEBER. He is there.

Mr. MELITO [continuing]. Is running the office now is the same one who was there then, yes.

Mr. WEBER. Do you know the reason why?

Mr. MELITO. I do not know.

Mr. WEBER. Could it be he or she wasn't held accountable?

Mr. MELITO. That is a question for State.

Mr. WEBER. Okay. But you are the GAO. You come in and you weigh in on these things, the process, right?

Mr. MELITO. We actually do not think that that Bureau itself was where the problem was. That Bureau was following the process it was told to follow. We would like the question to go to the Deputy Secretary.

Mr. WEBER. In your testimony, you state, "State's delays in reporting on transfers and acquisitions have recently increased." Why?

Mr. MELITO. The "why" is hard to answer. We can show you which parts of the process it is taking, and it is taking much longer for the Deputy Secretary to approve it. Why it is taking him longer, I cannot tell you.

Mr. WEBER. Okay. So let me ask you this question. I have got 22 seconds left. You don't know—well, you do know who is responsible, and there is—first, you didn't think that person was still there, and now you think that person is still there. So we have a backlog.

So is it a good premise to say, "To fix this problem, let us let the backlog sit for a minute, and let us start today now and get somebody accountable in that process that has got to, say, report in less than 6 months." Is that feasible?

Mr. MELITO. I think it is possible for State to decide this year to start reporting every 6 months, and they would release whatever decisions have already been completed.

Mr. WEBER. Okay.

Mr. MELITO. And those decisions would cover multiple years. And they could do that and I think—and still continue to fully vet the cases that take too long, that take a long time.

Mr. WEBER. Okay. That doesn't make me happy, but, Madam Chairman, I will yield back. Thank you.

Ms. ROS-LEHTINEN. Thank you so much. Those were excellent questions, Mr. Weber.

And if I could just ask one question. Is the State Department taking longer to make these reports and implement the sanctions? If that is what is happening, does this diminish or bolster the credibility of the threatened sanctions? Because if sanctions are not being effectively implemented, and the delays in reporting are hindering their application, how credible is the threat to impose INKSNA sanctions? And did you raise this issue with State? And, if so——

Mr. MELITO. Yes.

Ms. ROS-LEHTINEN [continuing]. How did they respond?

Mr. MELITO. GAO observes in the report that a long period of time between observing a sanctionable action and sanctions probably undermines the credibility of the sanctions. State disagreed with that, but, to my mind, 3 or 4 years after you observe something is too long.

Ms. ROS-LEHTINEN. It is too long. Thank you very much. Director, please give your thanks to your team for excellent work.

Thank you, ladies and gentlemen.

And with that, our subcommittee is adjourned, but we look forward to working with you and making sure that they follow the law.

Thank you.

[Whereupon, at 2:57 p.m., the subcommittee was adjourned.]

APPENDIX



MATERIAL SUBMITTED FOR THE RECORD

SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128

Subcommittee on the Middle East and North Africa
Ileana Ros-Lehtinen (R-FL), Chairman

June 10, 2015

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs, to be held by the Subcommittee on the Middle East and North Africa in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at <http://www.ForeignAffairs.house.gov>):

DATE: Wednesday, June 17, 2015
TIME: 2:00 p.m.
SUBJECT: GAO Report on the Iran, North Korea, and Syria Nonproliferation Act
WITNESSES: Thomas Melito
Director
International Affairs and Trade
Government Accountability Office

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.



COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Middle East and North Africa HEARING

Day Wednesday Date 6/17/15 Room 2172

Starting Time 2:00 p.m. Ending Time 2:57 p.m.

Recesses 0 (to) (to) (to) (to) (to) (to)

Presiding Member(s)
Chairman Ros-Lehtinen

Check all of the following that apply:

- Open Session
- Electronically Recorded (taped)
- Executive (closed) Session
- Stenographic Record
- Televised

TITLE OF HEARING:
GAO Report on the Iran, North Korea and Syria Nonproliferation Act

SUBCOMMITTEE MEMBERS PRESENT:
Chairman Ros-Lehtinen, Reps. Issa, Weber, Yoho, Clawson, Trott, Deutch, Higgins and Meng

NON-SUBCOMMITTEE MEMBERS PRESENT: *(Mark with an * if they are not members of full committee.)*

HEARING WITNESSES: Same as meeting notice attached? Yes No
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*
SFR - Rep. Connolly

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED 2:57 p.m.


Subcommittee Staff Director



Statement for the Record
Submitted by Mr. Connolly of Virginia

Today, the Committee examines a report issued by the Government Accountability Office (GAO) on the Department of State's compliance with reporting requirements contained in the Iran, North Korea, and Syria Nonproliferation Act (INKSNA).

The reporting requirements in this legislation are consequential because sanctions cannot be applied until the person is named in a report issued by State. Therefore, noncompliance with the reporting requirements can actually prevent the U.S. from punishing individuals and companies that have facilitated the transfer of nuclear, biological, chemical or other weapons to or from the countries named in the law.

This could be perceived as an especially egregious act in defiance of Congressional intent, provided that Congress acted three separate times in 2000, 2005 and 2006 to include each of these global bad actors in this nonproliferation measure and construct an effective process by which the President could combat the spread of weapons of mass destruction.

The facts of State's reporting performance are not what Congress expects when it clearly spells out in law the manner in which the Executive Branch will report to Congressional committees. In the case of INKSNA, the statute requires reports on March 14 and September 14 of each year. Further, Congress purposefully established a low threshold for including individuals suspected of illicit activity in the Congressional reports. If anything, this should make investigations less complicated and streamline the initial reporting process.

However, only 6 reports have been submitted to Congress covering transfers of weapons that occurred between 2006 and 2011. Congress received the 2011 report in December 2014, 22 months after the report for 2010 was submitted. The reporting process State has established precludes semi-annual reports, and its decision to place a hold on annual reports until all associated investigations are resolved only exacerbates noncompliance with reporting requirements.

I hope our witness from GAO can shed light on how these practices at State developed, but I expect that only State will be able to answer questions about a path forward. It is in the best interests of the Committee, the Administration, and those we seek to protect with INKSNA to resolve how Congress and State can work together to achieve our shared goal of holding accountable those who would violate nonproliferation regimes through illicit transactions with Iran, North Korea and Syria.

