

**WEAPONS OF MASS DESTRUCTION:  
STOPPING THE FUNDING—THE OFAC ROLE**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON  
OVERSIGHT AND INVESTIGATIONS  
OF THE  
COMMITTEE ON FINANCIAL SERVICES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

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## **WEAPONS OF MASS DESTRUCTION: STOPPING THE FUNDING—THE OFAC ROLE**

**Thursday, February 16, 2006**

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON OVERSIGHT  
AND INVESTIGATIONS,  
COMMITTEE ON FINANCIAL SERVICES,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:06 a.m., in room 2128, Rayburn House Office Building, Hon. Sue W. Kelly [chairwoman of the subcommittee] presiding.

Present: Representatives Frank, Kelly, Kennedy, Price, Davis, Gutierrez, Cleaver, and Scott

Chairwoman KELLY. This meeting of the Oversight and Investigations Subcommittee will come to order. Today's hearing is on the role of the Treasury Department's Office of Foreign Assets Control (OFAC) in fighting the proliferation of weapons of mass destruction.

The spread of WMD, particularly nuclear weapons, poses the greatest threat to the security of the United States and the peace of the world. We know, then, that countries such as Iran must be dealt with. We have all heard the hateful and ominous rhetoric from the president of Iran, and we should all recognize the grave threat posed by their possession of weapons of mass destruction.

If Iran is successful, other nations will likely follow its example, and Iran itself could become a base for proliferations of WMD to enemies of the United States, including terrorist groups such as Hezbollah and Hamas. Acquisition of WMD, particularly nuclear weapons, is an activity that states cannot easily undertake without assistance from nations that already possess this technology. Even the United States' own Manhattan Project, the first successful nuclear project weapons program, required the technical skills not only of our own country, but of industry from the British empire, and the best minds of Germany, who were forced to flee because of Nazi persecution.

Recognizing the key role foreign industry plays in WMD proliferation, President Bush signed Executive Order 13382, blocking property of weapons of mass destruction proliferators and their supporters. Under this order, 18 companies have been designated as supporters of proliferation, including 6 companies in Iran, 11 in North Korea and 1 in Syria. This order strikes at proliferation by stopping these companies from having any access to the U.S. financial system.

This Executive Order is a powerful weapon to be used against WMD proliferators. It can only work to the extent that financial institutions and other government agencies cooperate with it. Unfortunately, there have been reports that one of the largest financial institutions in the world, ABN AMRO, had a deliberate policy of not reporting transactions with Iran to OFAC. There is a possibility that these transactions going back to 1997 may have allowed Iranian companies now listed under E.O. 13382 to access the U.S. economy.

Evasion of sanctions regimes by financial institutions endangers the United States and our allies and must be treated in a way that reflects the severity of the crimes that are facilitated. A recent article in *The Wall Street Journal* reported that more than seven major financial institutions were withdrawing from trade with Iran because of increased regulatory monitoring. Several of them are under investigation, according to filings with the SEC, for possible violations of OFAC regulations while they did business with Iran.

This country should never tolerate businesses making money from hostile regimes that are working to develop weapons of mass destruction. We must make sure the system that we have in place for addressing that is not easily circumvented. OFAC has an important responsibility in protecting our national security, and I look forward to receiving the testimony of Director Werner and working with him to strengthen his agency.

I turn now to Mr. Gutierrez.

Mr. GUTIERREZ. Thank you, Chairwoman Kelly, for calling this hearing, the first oversight hearing of 2006. We've worked together on many issues and presided over many hearings, particularly on today's subject; combatting the financing of terrorist activities.

I want to welcome Director Werner here this morning. The last time I recall receiving testimony from OFAC was in June of 2004. At that time, Mr. Werner's predecessor indicated just how much OFAC had grown—from 10 employees to 144—administering 27 economic sanctions programs.

I see from the first page of your testimony that you currently have 125 employees handling 30 programs. I know that not everything can be evaluated in terms of numbers, but at the appropriate time I will ask you, Director, if that means that you have 20 vacancies currently at OFAC since the last time, which was June of 2004, you had 134 employees, and if you're working to fill those positions, and whether that work that the people were doing was vital.

Recently, the front page of *USA Today* had a story called, "Fewer Terror Assets Frozen. Lack of Urgency Feared in the Front." I would ask unanimous consent to place this article in the hearing record.

Chairwoman KELLY. So moved.

Mr. GUTIERREZ. Again, while I don't believe that the numbers tell the complete story, and certainly immediately after 9/11, there was a lot of low-hanging fruit which artificially inflated the number of assets frozen at the time, I'm concerned about some issues raised in that article as well as in the report by the GAO last October.

The GAO report indicated a number of problems in the overall efforts to combat terrorist financing, many of which were directly

linked to turf battles between Treasury and State. While some of those issues are beyond the scope of OFAC's activities, and are better addressed by others at Treasury, many of your activities require OFAC, as in your opening statement again, to work very closely with the State Department.

Therefore, I'm interested in learning what steps OFAC has taken in the face of that report to improve its working relationship with State and how the roles, responsibilities, and procedures are defined when agencies working together on designations and blocking.

Finally, there is a point mentioned both in the USA Today article and the GAO report which falls squarely within your purview. The GAO recommended that Treasury provide more complete information on the nature and extent of asset blocking in its annual terrorist assets report to Congress. That's us.

I was shocked to see that Treasury's reply to the recommendation was that the agency objected and instead wanted the GAO to recommend discontinuing these reports. When I read the GAO report, it said this is what we recommended, this is what they responded, and I guess they wrote everything in the report. That's what I read. As a Member of Congress, particularly a member of the Oversight Subcommittee, I want the reports. I understand we should receive the next one in April.

As I said earlier, I'm not hung up on numbers, but I think we need a way to measure effectiveness. If these snapshots do not provide us with that ability, please help us figure out how to assess your performance and include additional information to place the numbers in context. I think that's what the GAO report—we said we needed more numbers to place it in context.

Thank you very much, and I look forward to the Director's testimony.

Chairwoman KELLY. Mr. Price, have you an opening statement?

Mr. PRICE. Thank you, Madam Chairwoman. I also want to join my colleague in thanking you for calling this hearing and welcoming the Director. I look forward to your testimony. I would also be interested in your assessment of whether or not Congress is getting the kind of information that it needs. There's some indication, as Mr. Gutierrez said, that we're not, and I would appreciate your comments about that.

I also am interested in whether or not you are able to interact with any other nations who have similar concerns in terms of WMD and assisting in limiting the amount of resources that are going to folks who are interested in developing that, and I haven't seen that in your report. I look forward to your testimony and welcome you.

Chairwoman KELLY. Thank you. And we're joined by the ranking member of the Full Committee, Barney Frank.

Mr. FRANK. Thank you, Madam Chairwoman, for this. And I appreciate the way you and the ranking member have worked together to make the Oversight Subcommittee an effective part of our work.

Mr. Werner, I'm troubled by something that is not your responsibility personally. You may be a victim of it, but you're here as a representative of the Treasury Department. And I read the GAO

report. I should say that I don't usually get to come to this subcommittee's hearings. I think the chairman and ranking member work very well together. They do an excellent job on oversight. And with the responsibilities of ranking member of the Full Committee, with all of the subcommittees, it's hard to get to them all.

But I was so appalled when I read the GAO report on terrorist financing that came out in October, that I had to come here. What the GAO says is that there is a major turf battle going on between Treasury and State. Shame on us. This is an extraordinarily important issue, terrorist financing, and we have a State-Treasury dispute, according to the GAO. State says it's the lead agency. Treasury says, no you're not. Justice says they don't agree with either. And the fact that a dispute of this sort goes on and isn't resolved is appalling to me.

So one question I have is, why hasn't this been brought to the National Security Council, which I assume would be the appropriate place to mediate a serious interdepartmental dispute, and have it resolved? The report, from pages 16 to the end, talks about serious disagreements and says that this hurts our efforts.

Let me read in the report just the headings. "State and Treasury officials also disagree on procedures and practices for the delivery of counterterrorism financing, training and technical assistance." "State and Treasury officials disagree on the use of OTA funding and contractors." "State, Justice and Treasury officials disagree on whether it is appropriate for U.S. contractors to provide assistance in the legislative drafting efforts." "Treasury and State officials disagree on the use of confidentiality agreements between contractors and the foreign officials they advise." "State and Treasury officials disagree with the procedures for conducting assessments of countries' needs for training and technical assistance."

This is appalling. And I really would hope you will tell us, do these disagreements persist? This is a report issued in October. Do these disagreements persist? What efforts have been made? You know, have any of these six or seven disagreements now, have we come to agreement? Maybe you can bring the U.S. Trade Representative in and he can negotiate a treaty here. He doesn't seem to be doing too well in Dubai. He may have some extra time.

Have these been resolved? If not, what's going on to resolve them? Has this gone to the White House? Has it gone to the National Security Council? I would think this is what you have a National Security Council for. And apparently, you know, I should say there may be some Congressional problem here. This reports cites some statutes that aren't explicit about some of these things. But that's what you have a White House coordination body for. And this kind of three-way disagreement is a serious problem.

Now, I also think it does not do, frankly, to ignore problems. You make one reference here to the State Department and how you work with the State Department in your statement, and that's a good thing, but frankly, when you read this GAO report, you have to question the kind of bland notion of things about how you work together. And as I say, these are not simply jurisdictional issues with no substance. These are substantive issues.

And so I will be asking you, do these disagreements listed in the GAO report persist? If so, what efforts are being made to resolve

them? Is there some interagency procedure that is set up to deal with them? The persistence of disputes. I mean, I've got to say, this is so dysfunctional. I listened to what GAO reports, and what Treasury and State think, and I think I'm seeing one of these kinds of major disagreements like between, you know, I don't know, between the head of FEMA and the head of Homeland Security. I mean, we're talking about apparently a serious disagreement about how to function, and on something that is so important, terrorist financing.

For the Treasury and State Departments to be in prolonged disagreement and for the White House not to have resolved it is a serious problem. Some problems you can't fix in the world. But I would think these kinds of disagreements over who's in charge and what procedures to follow between two American governmental departments ought to be solvable if the Administration simply had its attention called to it.

Thank you, Madam Chairwoman.

Chairwoman KELLY. I thank you. And, Mr. Frank, I would be delighted if you are still here that you ask questions, but if you are not here, if you want to submit those in writing, we will accept them and put them in the record.

Mr. FRANK. Thank you, Madam Chairwoman. I'm going to try and stay.

Chairwoman KELLY. Thank you. I also would like unanimous consent to put a statement from Chairman Oxley in the record. So moved.

And we'll turn now to Mr. Davis.

Mr. DAVIS. Thank you, Madam Chairwoman. I think in the age of the global economy where countries, economies, corporations, people, and groups around the world become increasingly interconnected, many of our traditional governmental mechanisms that we've used for regulation and oversight are not as effective as they once were.

And as we look at this problem, the seriousness of it, I see tremendous opportunities for the Treasury and State Departments to come into a new type of hybrid relationship dealing with these issues at the root.

And particularly as somebody who's watched the emergence of Iranian nuclear capability very, very closely, one of the ironies that I have found in that and other purveyors of weapons of mass destruction, that some of the very countries that are trying to prevent or deter Iran's emergency in the nuclear world actually had corporations and businesses who had a tremendous vested interest in selling components or supporting elements, technologies, providing services, infrastructure and construction, that contributed to this problem in the long run. So in a sense, it facilitated creation of it and now we're trying to solve that problem.

And I think one of the things that we would hope to hear about, and to help you with in any way from our perspective, is bringing to account these entities in countries with whom we do a tremendous amount of business, have a tremendous amount of trade, to prevent and deter them at the root from continuing these relationships in the long run.

And with that, I yield back.

Chairwoman KELLY. Thank you, Mr. Davis. Our witness today is Robert Werner, Director of the Office of Foreign Assets Control, U.S. Department of the Treasury. Director Werner has led OFAC since October of 2004. Prior to then, he served as chief of staff of FINCEN. He has also served in the U.S. Attorney's Office, the Connecticut Attorney General's Office, and has clerked for two U.S. Supreme Court justices. He is a graduate of New York University School of Law, Columbia University, and Amherst College.

We welcome you here this morning and look forward to your testimony. You may proceed, Mr. Werner. I assume that you understand our light system for the timing. I will extend to you as much courtesy as I can, depending on how long you go. But because this is a busy place, I tend to try to keep people within the 5-minute rules. The green light means there's 5 minutes. The yellow light means there's 1 minute, and please sum up, and the red light obviously means that we're out of time.

Please—we're very interested in this topic, so please proceed. Thank you.

**STATEMENT OF ROBERT W. WERNER, DIRECTOR, OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY**

Mr. WERNER. Thank you very much. Chairwoman Kelly, Ranking Member Gutierrez, and distinguished members of the subcommittee. Thank you for this opportunity to discuss the Administration's efforts to combat the financial underpinnings of the proliferation of weapons of mass destruction.

I also thank you for your long-standing leadership and support in fostering an ongoing dialogue on this and other issues concerning national security that affect all Americans.

OFAC is dedicated to carrying out the complex mission of administering and enforcing U.S. economic and trade sanctions based on U.S. foreign policy and national security goals. We currently have approximately 30 such programs, including residual enforcement actions related to programs that have been lifted. These programs target rogue nations as well as particular groups, entities, and individuals.

I also note, Madam Chairwoman, that all of the programs we administer require that we work closely with a broad range of government agencies and private sector industries. We are presently making efforts to expand and improve our communication with our diverse constituencies, ranging from the financial and service sectors to manufacturing and agricultural industries. In turn, the cooperation we receive from U.S. businesses in complying with sanctions is generally exceptional.

I would now like to turn to the primary reason we are gathered here today. In the aftermath of the September 11, 2001, attacks, the horrifying prospect of WMD falling into the hands of terrorist or rogue regimes has become all the more real to us. Recent events involving the nuclear programs of North Korea and Iran demonstrate the challenge we face.

Prior to the President issuing the new WMD order, the U.S. Government had imposed a variety of other sanctions with respect to proliferation of WMD. For example, Executive Order 12938 author-

izes the Secretary of State to impose procurement assistance and import bans against foreign entities and individuals determined to have contributed materially to the proliferation efforts.

In examining the existing arsenal of financial sanctions tools to combat proliferation, however, the President and others, such as the members of the Silverman-Robb WMD Commission, believe that more could be done. On June 29, 2005, as you noted, the President took an additional step by issuing Executive Order 13382. This order adds powerful tools, a transaction prohibition and an asset freeze, to the array of options available to combat WMD trafficking. The strong new blocking provisions imposed by the President apply to property and interests in property of entities and individuals designated under the order.

By prohibiting U.S. persons from engaging in transactions with entities and individuals targeted by the order, we can effectively deny proliferators and their supporters access to the U.S. financial and commercial systems, cutting them off from the benefits of our economy.

At the same time the President issued Executive Order 13382, he also designated eight entities in North Korea, Iran, and Syria. The entities designated by the President based on evidentiary packages developed by OFAC investigators in close cooperation with colleagues in various agencies reflect some of our government's primary proliferation concerns.

The risks of WMD proliferation associated with North Korea, Iran and Syria are of tremendous concern to all of us. By publicly designating entities and individuals that engage in proliferation activities and those that support them, we aim to first expose their illicit activities. Through public designation, we intend to inform third parties who may be unwittingly facilitating proliferation through what they believe to be legitimate business activity of their association with WMD proliferators. We also mean to isolate these proliferators financially and commercially by denying them access to our system, and to disrupt and impede the operations of the WMD proliferators and their supporters.

While the public designation of these entities by the President which exposes their illegitimate activities to the light of public scrutiny is very important, OFAC's continuing role as part of administering the sanctions program is to look behind these entities. For our investigators, the entities named by the President represent a starting point as we seek to unravel the support networks that enable these entities to function.

In addition, the subsequent designation of any entity or individual serves as an additional basis for aggressive investigation by OFAC in pursuit of designating additional parties. We refer to these as derivative designations, and it is this approach, targeting the broader support networks, that has over time proved to be a determining factor behind successful designations. With decades of experience in administering and enforcing dozens of economic sanctions programs, one lesson is clear to OFAC: True success is based not on isolated designation actions, that is, actions undertaken only once with no follow-up. Quite to the contrary, our greatest areas of success have been based on sustained aggressive action over time

that evolves and adapts to match the ever-changing methods of our adversaries.

As we apply the designation criteria of the order to strike our adversaries again and again, we disrupt their attempts to disguise their illicit activities in the stream of illicit commerce. In the context of the new order, this means we target not only the missile or bomb maker, but also the procurement funds, the brokers and middlemen, the logistical apparatus used to move dangerous weapons to market, and the financiers that provide the financial mechanisms that facilitate proliferation activities. And we've tried to visually display that on the slide above, because that's very, very important and key to how we approach our designations.

I should also emphasize that interagency coordination is clearly a critical part of the designation process, because we have to ensure that our public designation of entities and individuals comprising a network do not jeopardize the ongoing operations of our colleagues in law enforcement, with the intelligence community, and are consistent with our government's foreign policy and national security objectives and interests.

Finally, I also think it is important to highlight that this new sanctions program underscores the President's commitment to work with our international partners to foster cooperative efforts against WMD proliferation, including those undertaken through the Proliferation Security Initiative.

In addition, we hope that this program can provide a model for other nations to draw upon as they develop their own laws to stem the flow of financial and other support for proliferation activities as called for in the United Nations Security Council Resolution 1540 and the Gleneagles statement of the G-8. In that regard, a number of agencies, including Treasury and State, have been engaging in active outreach across the world.

Once again, I thank you for the opportunity to discuss OFAC's role in this important program, and I would be pleased to answer any questions you have.

[The prepared statement of Mr. Werner can be found on page 28 of the appendix.]

Chairwoman KELLY. Thank you so much, Director Werner. You're doing very important work. And also thank you so much for the slides that you have shown us.

I've got a couple of questions. First is a question about whether or not the United States is concerned that ABN AMRO was laundering WMD money for Iran through Dubai. Are you concerned?

Mr. WERNER. I'm very concerned by the kind of activity that the ABN AMRO case demonstrated may have been going on. We know what was going on with ABN AMRO, and that activity is a real threat to OFAC programs, which is why we were so pleased to be able to join with the Federal Reserve in taking very, very significant action against that bank for what, as you said, Madam Chairwoman, was really a very intentional, systemic program to strip information out of transactions and thereby deny U.S. persons the ability to understand what sort of transactions were flowing through the United States.

Interestingly enough, what we saw in that case was some of the transactions that they're shipping information out of the United

States were, with respect to the underlying transactions, not illegal. They were U-turn transactions, which are permitted by the Iran program. But other transactions we do see landed in the United States. They were not U-turned and clearly violative of our programs. And more importantly, the practice of stripping that information, while U-turns may be okay in Iran, they're not okay in other programs. And that very practice was really, really troubling to us.

We were pleased to be able to make a very strong statement with the ABN AMRO action, and we intend to continue to look at other situations that may involve other international banks involved in that kind of conduct, because as you know, it's WMD, it's terrorism, it's narcotics trafficking. It's everything that our programs are aimed at that can really be circumvented by that kind of systemic program.

Chairwoman KELLY. Americans now know that Dubai was a financial center for Al Qaeda prior to the attacks of 9/11. Would Americans be wrong to think that now Iran may be running some of its WMD acquisition program through the banks in Dubai?

Mr. WERNER. Dubai is an area, because it is such a growing transit point for trade, that is of tremendous concern to us, and it's an area that we will continue to try and work on with the UAE and with other industries that we regulate, to make sure that we can understand what sort of activities are going through the ports there and what are the vulnerabilities that we face.

Chairwoman KELLY. Has Treasury ever raised the concerns about WMD proliferation and the massive Iran sanctions busting with Dubai?

Mr. WERNER. We have; in fact, my Deputy Director just got back from a trip to the UAE with an interagency team where the issue of proliferation and developing joint ways of addressing that was raised.

Chairwoman KELLY. Were these issues raised when Treasury as the head of the Committee on Foreign Investments in the United States reviewed and recently approved a Dubai company, Dubai Ports World, taking control of six major U.S. ports, including the ports of New York and New Jersey?

Mr. WERNER. Madam Chairwoman, I know that's an issue of concern to you. It's both outside of my responsibilities at OFAC and outside of my knowledge base. I'm unable to address that.

Chairwoman KELLY. Mr. Werner, would you be able to get me an answer for that, please?

Mr. WERNER. I will take your question back to Treasury.

Chairwoman KELLY. What would you say to suggestions that Dubai should be a candidate for designation as a jurisdiction of primary money laundering concern?

Mr. WERNER. Again, that's outside of the specific OFAC role. It's a significant policy issue. I think that while there's no question that we have to pay a lot of attention to the kinds of activity that may be flowing through the ports in Dubai, and my experience has been that our outreach to the UAE is well received by them, and that they're anxious to engage in a dialogue with us.

And so again, others would decide whether to designate them as a primary money laundering concern. But what I can say is I agree

with you that it's an area that we have to pay attention to. On the other hand, my own feeling is that they're striving to work with OFAC on our issues.

Chairwoman KELLY. Of course they're going to appear to strive, simply because they want to buy six major ports. But I would hope that you can come back to me with an answer on that question I asked about the ports. But I also understand that perhaps a bit of cynicism on our part from Treasury in dealing with these people might be beneficial.

I am very concerned about Dubai and their role in what we know was funding and passing the money through from Al Qaida prior to 9/11.

I want to ask you another question. Last year, a man was indicted in Connecticut for allegedly selling prohibited equipment to a branch of the Iranian government which is involved in producing ballistic cruise missiles. The indictment alleged that he hid the deal using an Iranian bank with a branch in the UAE.

The indictment quoted a fax this individual sent to this Iranian weapons agency, and I'm going to read a quote from that fax. The quote is, "All transactions between our firms can be handled through Bank Saderat, Dubai, main branch, by directly depositing the funds to our account to avoid tracing of foreign agencies."

Is the Bank Saderat an entity of specific concern? And if not, why not?

Mr. WERNER. Well, Bank Saderat, which is an Iranian-controlled bank, is actually under our current Iranian sanctions program. No U.S. person is permitted to deal directly with that bank. So, yes, Bank Saderat is an entity of concern under our existing sanctions programs.

Again, Madam Chairwoman, you're raising an excellent point. The whole issue, though, of front companies and the possible use of UAE incorporated companies by Iranian entities or citizens is an issue of concern for us. It's a challenge in all of our programs, from the narcotics trafficking program to the terrorist program to WMD, which is that as people strive to use the formal financial commercial system, they've developed very creative ways of creating entities that appear innocent but aren't. And that is one of the areas in which we've attempted to target our resources. It's very labor intensive. The more transparency we can get in our system—as well as in the systems of other countries—the more that will facilitate our ability to trace people as they create these front companies.

Chairwoman KELLY. Well, clearly, this gentleman felt that all he had to do was be at Bank Saderat in a Dubai branch, which raises the concern of how carefully OFAC is looking at branches, international branches of banks.

I'm interested in knowing whether or not Bank Saderat used money for other groups like Hezbollah and Hamas. Should the British be concerned about the fact that Bank Saderat has a very large office in London?

Mr. WERNER. I think as the Director of an entity that spends a lot of time administering the Iran sanctions program, I'm concerned about any Iranian bank and the branch of any Iranian bank. I would suggest that other countries should be as well.

We know that one of the things we need to do is engage in very robust international outreach, and OFAC does some of this, but other parts of Treasury and State are also engaged in this, because we're only as good as our weakest link. And the fact of the matter is, without really gaining international consensus on these issues, it's very, very difficult to completely disrupt the flow of finances. And so, these are issues of concern.

Chairwoman KELLY. I would hope that they would be addressed. The Wall Street Journal reported last year that the United States suspects the Bank of China of laundering North Korean money. I'd like to know whether you feel this is true; has that issue ever been raised with the Chinese; and has the bank become another candidate for Treasury Department designation like Banco Delta Asia was?

Mr. WERNER. Madam Chairwoman, I apologize. I can't comment on any specific examples that may or may not be under investigation, but what I can tell you is that we are constantly as a general matter looking at major financial centers and major banks to see if there's facilitation in any of the areas that we administer our programs, whether it's WMD, terrorism, narcotics trafficking, or even our country programs.

And I think in that respect, the ABN AMRO action is a good example of that, where the result of that action is a major bank that is completely reforming the way that it operates internationally, including beginning to use the OFAC list to screen all currency transactions, not just U.S. dollar transactions. Therefore, I'm in complete agreement with you that OFAC, with the resources it has, needs to stay vigilant and keep track of all these institutions and take aggressive action wherever we find systemic violations.

Chairwoman KELLY. Since you brought up ABN AMRO, I have one last question about that. A Wall Street Journal article indicated that the chairman of ABN AMRO, Chairman Grunick, ordered the destruction of an internal review of the bank's dealings with Iran and Libya. He apparently rescinded this order, but he had ordered it. Has OFAC seen the document? And if so, can you characterize it for us?

Mr. WERNER. I have not seen that document.

Chairwoman KELLY. Is that something—you are aware of the document?

Mr. WERNER. I would need to go back and review what parts of the record that OFAC has that are open source versus not open source.

Chairwoman KELLY. Perhaps, Mr. Werner, you could get an answer for me on that one also?

Mr. WERNER. I will be happy to do that.

Mr. WERNER. Thank you very much. I turn now to Mr. Gutierrez.

Mr. GUTIERREZ. Hi. I'd ask unanimous consent, Madam Chairwoman, to yield my time and turn to the ranking member of the Full Committee, Congressman Barney Frank. Thank you.

Mr. FRANK. I thank the ranking member. I appreciate it. Let me say, Mr. Werner, none of this may be your fault, and some of it may not be your responsibility, but it is so important, I'm going to ask you to comment, and if you can't give me the answer, then you can go back and get it.

You do mention in here that you work with State, although I must say a little more optimistically than I would have thought after reading this. First point of disagreement. There were six separate disagreements. I'm going to ask you about each one, the status of it.

In the report that came out in October—maybe things got cleared up:

Treasury does not accept State's position that State needs all U.S. counterterrorism financing, training, and technical assistance. Disagreements continue between some Treasury and State officials concerning the Terrorist Financing Working Group. According to State, State leads the U.S. effort to provide counterterrorism financing, training, and technical assistance to all countries the U.S. Government deems vulnerable. According to Treasury, State's role is limited to coordinating other U.S. agencies' provisions of counterterrorism financing, and there are numerous other efforts outside of State's program.

Does that disagreement persist?

Mr. WERNER. Congressmen, none of the issues on technical assistance do fall within OFAC's purview. Those involve other components of Treasury. What I can tell you is, because I'm very proud of it, is that our cooperation with not just the State Department but the Commerce Department and other agencies that we have to deal very closely with on our programs, is excellent.

We work closely with the State Department not only in designations that our investigators are working on, but also in very significant—

Mr. FRANK. Does that mean, then, that the Secretary of the Treasury or whomever is in charge of this overall, could learn from you how to play well with the others and maybe give that instruction to your colleagues?

Mr. WERNER. I don't believe that Treasury agreed—or State agreed that the disconnect that was in the GAO report accurately reflects the state of play between Treasury and State.

Mr. FRANK. Well, you think these disagreements are wrong. Is there a disagreement between—does Treasury accept the fact that State is the leader of all counterterrorism financing, training, and technical assistance or does State no longer believe that?

Mr. WERNER. Congressman, I think I'd have to bring your questions back to the people at Treasury.

Mr. FRANK. All right. Well, then, I agree with that, but if you don't want to answer, or if you're not able to answer, that's okay. But then you shouldn't answer. I mean, if you can't answer, okay. But then don't—I'm troubled if you tell me you can't answer but then there's no real problem, because that's an answer. And then I will have to try and probe that.

Now, let me ask you this. Yes, this talks about OTA that it's not true, but it says State, Justice, and Treasury disagree on whether it is appropriate for U.S. contractors to provide assistance in the legislative drafting efforts on anti-money laundering and counterterrorism financing.

Does that involve you at all, drafting of anti-money laundering and other legislative proposals?

Mr. WERNER. Congressman, I'm going to take your advice and tell you that I can't answer.

Mr. FRANK. Are you not involved in the legislative drafting of money laundering?

Mr. WERNER. I am not involved in that, and OFAC does not provide that sort of technical assistance.

Mr. FRANK. Okay. Well, I would then ask, Madam Chairwoman, perhaps we could write to the Secretary, and to the Secretary of State. There are from pages 14 through 18, 6 separate disagreements listed, and I would ask that we ask both State and Treasury about that and maybe ask people to come and have a hearing, and maybe we could even approach, because we ought to set a good example about turf, our colleagues, our counterparts at the International Relations Committee, and maybe we could have a joint hearing with both State and Treasury, and it might be I think a useful thing for us to be able to help resolve this.

Chairwoman KELLY. I think that sounds like a good idea. Actually, this committee's staff has been working with OFAC staff to see if we could have a hearing on the broader aspects of this, possibly in March.

Mr. FRANK. I appreciate that, and I yield back.

Chairwoman KELLY. Thank you. Mr. Price.

Mr. PRICE. Thank you, Madam Chairwoman, very much. Mr. Werner, I won't give you any instructions about how to answer, for fear that you might not answer.

I appreciate your testimony. I am struggling a bit, though, because I think there's a disconnect between your report and certainly the GAO report, and I'm struggling as to whether or not to probe the process that you're going through or whether or not to ask questions about specific incidents.

But I do want to point to the GAO report for a couple of the conclusions that they reach. One is that OFAC reports on the nature and extent of terrorists' U.S. assets don't provide Congress with the ability to assess your achievements. Do you agree or disagree with that statement?

Mr. WERNER. That is an OFAC issue, and I would agree with that statement, and we were working on new metrics during the time that the report was being formulated.

In addition, the TAR Report, which was historically never intended to be a performance-based report, was looked at as well and we saw that the way it was formatted was not as informative as it could be. So that's why the submission of that report is delayed, because we are working on reformatting that information so that it also will be more useful.

Mr. PRICE. Your testimony to us would lead me to believe or would lead one to believe that we're doing very well, that we're tracking what we need to track, and that we're having a positive effect. But I'm not certain that I can sit here with all confidence and say that, yes, in fact that's what's occurring. Are you able to give me any greater confidence or give us greater information which would give us that confidence?

Mr. WERNER. I would note that the 9/11 Commission gave terrorist financing an A-minus, so hopefully that was some indication that we were on the right track. But beyond that, it's easier to

measure things with numbers, and so people tried to grab things that had quantitative aspects, and freezing assets was one of them. And again, right after 9/11, there was a lot of low-hanging fruit, and there were a lot of assets that were frozen.

But, frankly, that's just not a good measure of the overall success of a program, because the assets we freeze are only one component of what we do. What we're really trying to do is disrupt the network. And, frankly, whether they have assets within the United States or not, a designation that disrupts their ability to transact business in the international economy is disruptive and effective. And we have indications that is the case. We see other countries beginning to work with us on our various programs and joining us in freezing assets.

We see them excluding business from their jurisdictions. We also begin to see banks voluntarily pulling their business out of Iran or other jurisdictions. Even when they're outside of our jurisdiction now, they're telling us they're going to use the OFAC list to screen transactions, even transactions that are not in U.S. dollars.

Those are all indications to me that our programs are being effective, not only in terms of asset freezing and not only in terms of disruption and exclusion from the U.S. economy, but in creating awareness and exposing and isolating terrorists and drug traffickers and proliferators internationally.

And so, while some of these things are anecdotal, and we have to collect information over time, I do believe that we're seeing positive results. We can always do better. We can always do more. We're allocating the limited resources we have as best we can. But I would say that I can assure you that our programs have a positive effect, and they're meeting objectives that we set in terms of disruption and isolation and exposure.

Mr. PRICE. Thank you. I appreciate that. The subcommittee here has found the task of tracing the assets of foreign leaders, and has been somewhat stymied with bank secrecy laws. And so the relative lack of transparency that exists in many other nations, how can you ever know whether front companies anywhere are working with terrorist financing?

Mr. WERNER. Congressman, you've hit on an excellent issue, a very difficult issue. In some countries, for example, in Colombia, our narcotics trafficking program is very effective because we've been able to work with the Colombian government on their corporate laws and their transparency. And as they've become more transparent, working together, our two countries have become much more effective in tracking front companies and networks.

In other places where there isn't that kind of transparency, it's very difficult. And I would add, in the WMD program, it's particularly difficult because we're dealing not just with private entities. In many cases, we're dealing with governmental entities, and their ability to impact the official records that would lead you to be able to trace corporate entities makes it even more challenging. So this is a very, very significant challenge for us.

As we administer these programs, we're going to hopefully learn how to get around that or work within it, but it's going to require a lot of international outreach. It's why we do need to work closely with the State Department. It's why OFAC needs to rely very heav-

ily on other elements of TFI as they do outreach through FATF and through the G-8 and other international bodies; it's critical in order for us to be effective in the way we administer these programs.

Mr. PRICE. My time has expired, but I do want to commend you for what you're doing. And I know that you know that your work is incredibly vital to each and every American citizen, and I appreciate what you're doing and ask you to view us please as partners and allow us to assist you if there's anything that we can do to help you accomplish your efforts.

Mr. WERNER. I appreciate that. Thank you, sir.

Chairwoman KELLY. Mr. Gutierrez.

Mr. GUTIERREZ. Let me ask you a question about the GAO report. Maybe you can answer this question. I hope you can. Why did Treasury ask the GAO to recommend the discontinuation of your annual terrorist assets report to Congress? Do you feel it should be discontinued? And why or why not? I understand the next one will be ready in April.

Mr. WERNER. I'm a little bit confused by that question, because I was not aware that we had asked for the elimination of that report. I know that there's another report that Treasury was responsible for being involved in that I think Treasury did maybe seek to have eliminated.

Mr. GUTIERREZ. Okay. And given the lack of time and the confusion between what I understood the GAO report to say and what you're testifying the GAO report might have said, could you report back to us on just what it was Treasury asked the GAO you should discontinue? There's no disagreement that there was a discontinuation of something.

Mr. WERNER. I'll have to get back to you on that. I don't want to misstate something. And I'm not really sure.

Mr. GUTIERREZ. Just get back to us and tell us what annual report it was that the GAO report actually was correct or incorrect about when Treasury asked that it be discontinued.

Mr. WERNER. Sure.

Mr. GUTIERREZ. Okay. The decline in OFAC's staff from 144 in June to 125 today. I see your testimony provides for 10 additional employees to implement Executive Order 13382, and 15 additional positions.

Will this simply bring up your numbers to 2004 numbers? Or are there vacancies present? And how are you doing more work with fewer employees? Is that okay? Or you just need to hire people? What's going on?

Mr. WERNER. What happened there is that a component of OFAC, the Foreign Terrorist Division, was transferred into the new Office of Intelligence and Analysis that was established in 2004, and there was a transfer of about 23 analysts.

The reason that was done is that they were all working on the terrorist targeting programs, which were very, very heavy intel-related programs. And it was believed, and I think it's proven to be true over the last year, that moving those analysts into the Office of Intelligence and Analysis headed by an Assistant Secretary that was an intel professional, would enhance their ability to do their work. And I think we've seen that.

I remain a customer, because the designations are still done under my authority, and we still administer and enforce the programs. But that was why OFAC went from the 144, went down. This year actually we've got an additional 10 FTE's that have been allocated. Next year, under the President's budget, we're requesting an additional 25 positions or 15 FTE's. But those are really—

Mr. GUTIERREZ. So you sent people over to another division, and you still get the information, but they're working under another system?

Mr. WERNER. That's correct.

Mr. GUTIERREZ. That clears up the mystery. I just wanted to make sure if you needed any help or what was going on, maybe if people weren't getting hired.

I want to ask you a question. Do you agree with former Under Secretary Guru's comments in USA Today? Specifically, he said, a lack of urgency is hurting efforts to block terrorist financing. Is OFAC a priority within Treasury? Is your work a priority for this Administration? What about the former Under Secretary's comments, that a lack of urgency is hurting the blocking of terrorist funding?

Mr. WERNER. I don't agree with those comments. I don't understand what they're based on.

Mr. GUTIERREZ. Did you read the article?

Mr. WERNER. I did.

Mr. GUTIERREZ. Okay.

Mr. WERNER. I know when I see our investigators working all hours of the day and night, the motivation and enthusiasm in which not only Treasury approaches the work we do, but in the interagency, I see no lack of urgency. This is complicated work. Terrorist financing in particular is very, very difficult, because as you all know, you're taking good money and turning it into bad. The amount of money you need to involve yourself in terrorism is small compared to other areas. For example, in WMD, you're usually dealing in large volumes of money. It is very difficult to detect and track. There are a lot of other sensitivities, operational, law enforcement, and others, that impact the way designations go forward.

And I see no lack of urgency at all. In fact, to me it's impressive that people day after day, month after month, year after year, have been able to sustain the sort of effort that they're currently engaging in.

Mr. GUTIERREZ. Let me ask you one last question then, Director. The GAO noted that turf battles with State have hurt your ability to coordinate efforts within our own government. Do you agree or disagree with that statement?

Mr. WERNER. I can only speak to my experience as the Director of OFAC.

Mr. GUTIERREZ. Speak to your experience as best you can.

Mr. WERNER. My experience is that interagency cooperation on the programs we administer is excellent. I meet monthly with my counterpart from EB. Our staffs are interacting constantly. State is involved in foreign policy guidance on the licenses we issue. We participate in numerous interagency working groups involving the State Department. I have daily contact with someone from the

State Department on at least one of our programs. And I actually am very impressed that it's as good as it is, because bureaucracies often don't interact well. We seem to have a system where we understand each other's roles and responsibilities, and we coordinate very well.

Mr. GUTIERREZ. Thank you, Mr. Director.

Chairwoman KELLY. Thank you very much. Mr. Cleaver.

Mr. CLEAVER. Thank you, Madam Chairwoman. Mr. Werner, thank you for being here. On a scale of one to ten, ten being the highest, where are we in terms of detecting and interrupting the flow of funds to terrorist organizations?

Mr. WERNER. It's a hard question to answer, because even though you've given me a one to ten scale, it's not clear what it's relative to.

Mr. CLEAVER. One to five.

Mr. WERNER. Rather than give you a number, I'd rather give you a narrative, because I think we're still learning. It's a very, very complicated, difficult area. What I can tell you is I believe that we continue to improve. The effort is high.

We're seeing success in areas—what we're beginning to see is that there are overlaps in some of our programs. WMD and terrorism are a good example of two programs that can complement each other. And my sense is as we gain increasing international cooperation and sophistication so that other countries pass laws that support our efforts and they gain expertise in how to implement programs like ours, that we're having increasing success.

At the end of the day, we're only as strong as the weakest link. I know you've all heard that many times, but it's true. So that to really be successful from an economic terrorist financing perspective, we do need international consensus cooperation and implementation.

Mr. CLEAVER. Let me ask the question another way, and you may have hit on it at the end of your comments. Are there any gaps in OFAC that Congress can close? If you were sitting here, are there things that you would want to do to strengthen your job, and to further reduce the opportunities for terrorists to have their operations funded?

Mr. WERNER. Well, one of the things—yes. The answer is yes. And I think what I would do is point to the President's 2007 budget request where he seeks 25 additional positions for OFAC, which considering we're an organization of approximately 125 people, is a very significant request. And a large piece of that is intended to permit us to have additional resources necessary to do the kind of follow-up on primary designations that is so essential.

As I testified, what's critical to the effective implementation of any economic sanctions program, is that you don't just designate the bomb builder or the bomb thrower or the drug manufacturer, but also the network that it supports. And as the terrorist organization morphs and changes its name or shifts its funding to a sister entity, we need to be able to have the resources to track that, stay on top of it, and redesignate or add supplemental designations. And to do that, we really need additional resources.

Mr. CLEAVER. So the answer is yes, and—do you have—one final question, Madam Chairwoman. The cost of the new personnel or additional personnel, do you remember offhand what that was?

Mr. WERNER. It comes out to 15 FTE's. Well, our total request for WMD and terrorism was, I think, about 13 FTE's in actual funding, because it will take us a while to hire and bring on board. I don't recall the exact dollar amount that it comes to, but we can get that to you.

Mr. CLEAVER. Is it detectable in the budget?

Mr. WERNER. Yes. Yes. It's broken out in the budget.

Mr. CLEAVER. Okay. Thank you.

Chairwoman KELLY. Thank you, Mr. Cleaver. Mr. Werner, the President of the United States has drawn attention to the super bills used by North Korea to fund its illegal activities. This is not well understood, and I wonder if you could explain to the committee how counterfeiting, especially in North Korea, facilitates the acquisition of WMD technology.

Mr. WERNER. Again, you're stepping beyond my personal expertise, and we can follow up with experts to get you a more complete briefing in response. But the obvious answer is that as they counterfeit U.S. dollars, because they're very sophisticated at it, it gives them capital to make acquisitions.

Chairwoman KELLY. Thank you. If you would follow up, I think that would be helpful, because then it will give all the committee members an idea of how this works. And I'm not sure there's a great deal of knowledge on that.

I also want to point out that when you showed your first slide, you actually have two others.

Mr. WERNER. Yes.

Chairwoman KELLY. I'd like to know if you would like to show those two slides and discuss them with the committee.

Mr. WERNER. I'd be delighted to, if that's okay.

Chairwoman KELLY. Of course.

Mr. WERNER. This slide was intended to just demonstrate the designation process. At times I think people don't really understand how incredibly comprehensive it is and how much it does involve an interagency process.

And so what this slide depicts is that we begin with identifying a target. And the identity of a target can flow from a lot of different sources. It can flow from open source, from a newspaper article. It can come from law enforcement sensitive information. It can flow from intelligence. But based on an all-source review, our analysts are constantly generating targets.

Once a target is identified, that begins the evidentiary process in which additional information and evidence are collected. An actual evidentiary is drafted. It's important to remember, though, during this entire process, we're constantly coordinating with other agencies and deconflicting, because you can have law enforcement equities, you can have diplomatic concerns. There are other operational issues that we need to carefully vet with other agencies so we don't disrupt their processes as well.

But as it moves through the process, we reach a point where we draft an evidentiary, which is essentially an administrative record for the designation, which then undergoes a legal review both by

lawyers at the Treasury Department as well as at the Justice Department. We then have a formal interagency coordination. The Executive Orders generally require, and the WMD one does, concurrent consultation with other agencies. The WMD Executive Order specifies the State Department and the Justice Department but also refers to other appropriate agencies.

And finally, if the deconfliction is resolved and the evidentiary is legally sufficient, we'll actually send it in for a final agency review. And that then results in a public announcement, and everybody knows about the OFAC list. And we do publish the identifying information of the entity on our list.

We also, at the same time we designate, blast out notices to thousands of financial institutions and to State and local law enforcement components, as appropriate, and to Federal components. And we make sure our lists are incorporated into appropriate databases, such as the Visa databases. That's essentially a very abbreviated version of our designation process.

And then I think the next slide goes to just trying to depict how incredibly broad our authorities are. When we actually designate, that results in a block of any interest of a targeted person or entity that comes within the jurisdiction of the United States or a U.S. person. And that doesn't just refer to bank accounts and money. It also includes houses and cars and, frankly, future interests, such as inheritances—all are blocked by our action.

And as our list-based programs grow, we, in fact, are beginning to collect blocked houses and cars and other things, which is interesting, because unlike in a seizure where the Federal agency will take title to the property, OFAC does not. We are not the custodian. The assets are merely blocked. And so that can often create some interesting and complicated licensing and maintenance issues for us.

Chairwoman KELLY. Thank you. That's very interesting. And we've been joined now by Mr. Scott. Mr. Scott, do you have any questions?

Mr. SCOTT. Certainly. Thank you very much, Chairwoman Kelly, for your leadership on this important issue. And may I add that I feel our committee is making significant progress. Terrorist organizations certainly need money to function. And according to the 9/11 Commission, our efforts to freeze terrorist assets is in many ways the crown jewel of the Federal anti-terrorism campaign, and we're very proud of that. It's an area in which we are succeeding the most, but we certainly can do better.

And with that in mind, let me ask you this. Recent media reports describing a significant decline in the amount of terrorist assets frozen since September 11th have cited a lack of cooperation and commitment among different Federal agencies, and other countries. I think that this really is sort of the stone in our shoe in terms of even making further progress. Cooperation between the Federal agencies involved in this, and cooperation with other countries.

Can you describe for me the plans that you have and the plans that you have implemented or that you're working on which would reverse this trend of a failure of communications and cooperations between agencies and countries?

Mr. WERNER. Certainly. To address the asset freezing issue first, I think in many ways a decline in assets frozen under any particular program can actually be evidence of the success of that program, because as you drive people out of the use of the former financial system, you're naturally going to exclude them from our trade and transactions with the United States, and there will be less assets available to freeze.

But also I think it represents the fact that many of the designations we're doing now are involving networks in concentric circles around from the obvious targets that were designated right after 9/11. And so I don't look to the amount of assets frozen as really determinative of performance. I think we really concentrate on whether we have evidence that we're disrupting networks and disrupting the ability of the networks to do business.

With respect to cooperation, I think the GAO report was targeted at an area that is outside of OFAC's scope of responsibility, which is the technical assistance provided internationally. And I'll let others in the Treasury and State Department address that particular issue.

But with respect to cooperation within my programs, the cooperation is really excellent. We work hand-in-glove with the State Department not just on the designation components of our programs, but also with respect to very difficult licensing decisions and enforcement decisions that we make. And we have interagency groups that we participate in, in all of our major programs, where we do joint targeting with multiple agencies and we rely, for example, in the weapons of mass destruction program, our investigators—this is a new program for us. We're learning the technical aspects of that program.

And we rely very heavily on expertise from other department, the Department of State, Department of Commerce, Department of Energy, where there are folks who have years and years of knowledge and experience dealing with WMD-related issues. So that from that perspective, we couldn't get our work done without that cooperation, and we emphasize it, and it's a culture that is important for me to instill within my organization.

Mr. SCOTT. Do you know of any countries that you could sort of point to that might not be cooperating with us as much as we'd like? Countries that offer more of a challenge than others.

Mr. WERNER. I think with respect to cooperation, I would defer to my colleagues at the State Department and others within Treasury who deal more directly with international liaison. That's not to say that OFAC isn't involved in international outreach. We are. We do a lot of very technical compliance with international banks and with other governments on OFAC-related programs.

There are areas of concern. Obviously, the Gulf is a region where there's a lot trade and financing going on there that we know we need to pay attention to. And there are other areas—for example, we're very focused on Iran and North Korea and Syria at this time. Those countries not only are a risk when it comes to weapons of mass destruction, but they are state sponsors of terrorism. And those are some of the areas that we have a lot of concerns about and direct a lot of our resources to.

Mr. SCOTT. Okay.

Chairwoman KELLY. Thank you very much, Mr. Scott. We've been called for a vote. There are no more questions. Without objection, your written statement, your full written statement, Mr. Werner, will be made part of the record. And the Chair notes that some members may have additional questions, and certainly there are some you are going to come back with answers for, for this panel. There may be some questions submitted in writing. So, without objection, the hearing record will remain open for 30 days for members to submit written questions to this witness and to place their responses in the record.

With that, this hearing is adjourned with great thanks to you, Mr. Werner.

Mr. WERNER. Thank you very much.

[Whereupon, at 11:12 a.m., the subcommittee was adjourned.]



# **A P P E N D I X**

February 16, 2006

**Opening Statement**

**Chairman Michael G. Oxley**

**Committee on Financial Services**

*“Weapons of Mass Destruction: Stopping the Funding - the  
OFAC Role”*

**February 16, 2006**

**Good morning to OFAC Director Werner, Members and guests. Thank you, Chairwoman Kelly, for calling this hearing to discuss the status of the Office of Foreign Assets Control’s new Weapons of Mass Destruction proliferators “designation” program. This is a very timely topic.**

**It is absolutely critical that our government and its allies maintain and intensify the broad campaign to investigate, expose, capture and detain the terrorists and their financial supporters. It is just as essential to interrupt the support networks they use to raise money and cloak their criminal acts.**

**Weapons of mass destruction, whether nuclear, chemical or biological, pose the most serious threat conceivable to the safety, welfare and very existence of our nation and the rest of the civilized world. Every action the United States and allied governments can take to disrupt, divert and ultimately destroy the WMD threat needs to be encouraged and supported by this Congress.**

**To that end, law enforcement needs every effective tool it can employ in this war. So, I am eager to hear how OFAC is using President Bush's Executive Order 13382, issued last summer, to go after WMD proliferators, their assets and the front companies they hide behind. This program complements the other initiatives in place authorized by the USA PATRIOT Act and Executive Orders that are cutting off the money flow to these criminal enterprises.**

I look forward to Director Werner's presentation and our discussion this morning.

Madame Chairwoman, thank you again for your noteworthy efforts in this critical area of the war on terror.

**Statement of Chairwoman Sue Kelly**  
**Subcommittee on Oversight and Investigations**  
**“Weapons of Mass Destruction: Stopping the Funding - the OFAC Role”**  
**February 16, 2006**

Today’s hearing is on the Treasury Department’s role in fighting the proliferation of Weapons of Mass Destruction. The spread of WMDs, particularly nuclear weapons, poses the gravest threat to the security of the United States and the peace of the world.

We know, then, that countries such as Iran must be dealt with. We have all heard the hateful and ominous rhetoric from the president of Iran, and we should all recognize the grave threat posed by their possession of weapons of mass destruction.

If Iran is successful, other nations will likely follow its example, and Iran itself could become a base for proliferation of WMD to enemies of the United States, including terrorist groups such as Hezbollah and Hamas.

Acquisition of WMD, particularly nuclear weapons, is an activity that states cannot easily undertake without assistance from nations that already possess this technology. Even the U.S.’s own Manhattan project, the first successful nuclear weapons program, required the technical skills not just of our own country but of industry from the British Empire and the best minds of Germany forced to flee because of Nazi persecution.

Recognizing the key role that foreign industry plays in WMD proliferation, President Bush signed Executive Order 13382, *Blocking Property of Weapons of Mass Destruction Proliferators and their supporters*. Under this order, 18 companies have been designated as supporters of proliferation: 6 companies in Iran, 11 in North Korea and 1 in Syria. This order strikes at proliferation by stopping these companies from having any access to the U.S. financial system.

This executive order is a powerful weapon to be used against WMD proliferators. It can only work to the extent that financial institutions and other government agencies cooperate with it.

Unfortunately, there have been reports that one of the largest financial institutions in the world, ABN Amro, had a deliberate policy of not reporting transactions with Iran to OFAC. There is a possibility that these transactions, going back to 1997, may have allowed Iranian companies now listed under EO 13382 to access the US economy.

Evasion of sanctions regimes by financial institutions endangers the United States and our allies, and must be treated in a way that reflects the severity of the crimes that are facilitated.

A recent article in the Wall Street Journal reported that more than 7 major financial institutions were withdrawing from trade with Iran because of increased regulatory monitoring. Several of them are under investigation, according to filings with the SEC, for possible violations of OFAC regulations while they did business with Iran.

This country should never tolerate businesses making money from hostile regimes that are working to develop weapons of mass destruction. We must make sure that the system we have in place for addressing that is not easily circumvented.

OFAC has an important responsibility in protecting our national security. I look forward to receiving the testimony of Director Werner and working with him to strengthen his agency.

Testimony  
Of  
Robert W. Werner, Director  
Office of Foreign Assets Control  
U.S. Department of the Treasury  
before  
The Subcommittee on Oversight and Investigations  
Committee on Financial Services  
U.S. House of Representatives

February 16, 2006

Chairwoman Kelly, Ranking Member Gutierrez and distinguished members of the Subcommittee, thank you for this opportunity to discuss the Administration's efforts to combat the financial underpinnings of the proliferation of weapons of mass destruction (WMD). The Office of Foreign Assets Control (OFAC), through the leadership and guidance of Treasury's Office of Terrorism and Financial Intelligence (TFI), is responsible for implementing the President's Executive Order targeting WMD proliferators and their support structures (Executive Order 13382). The Office of Intelligence Analysis (OIA), established in 2004, provides considerable support and expertise to this effort as well.

In addition to a brief general discussion of OFAC's sanctions authorities and programs, my testimony today will review the background, scope and process by which OFAC, in conjunction with other executive branch departments and agencies, carries out Executive Order 13382. I will also discuss, to the extent possible given the short period in which this program has been in effect, our assessment of its impact to date. Although the obvious sensitivities of the WMD program preclude, in an open forum, my ability to provide detailed information, I believe it is important to review with the Committee the steps Treasury and OFAC are taking to help protect American citizens from the threat of weapons of mass destruction. I thank you for your longstanding leadership and support in fostering an on-going dialogue on this and other national security issues that affect all Americans.

**Mission and Jurisdiction**

OFAC, through its workforce of approximately 125 staff, is dedicated to carrying out the complex mission of administering and enforcing economic sanctions based on U.S. foreign policy and national security goals.

OFAC administers approximately 30 economic sanctions programs against foreign countries, targeted regimes, and entities and individuals, including residual enforcement actions associated with programs that have been lifted. Although these many programs differ in terms of their scope and application, they all involve the exercise of the President's national emergency powers to impose controls on transactions and trade and to freeze foreign assets that come within the jurisdiction of the United States. Most of the programs administered and enforced by OFAC

presently arise from the President's authorities under the International Emergency Economic Powers Act (IEEPA), the Trading with the Enemy Act (TWEA), the Foreign Narcotics Kingpin Designation Act (Kingpin Act), and the United Nations Participation Act (UNPA). In administering and enforcing these economic sanctions, it is imperative that OFAC maintain a close working relationship with other federal departments and agencies in order to ensure both that these programs are implemented in a manner consistent with U.S. national security and foreign policy interests and that they are enforced effectively. To fulfill its mission, OFAC works directly with the Departments of State (State); Commerce; and Justice, including the Federal Bureau of Investigation and the Drug Enforcement Administration; the Department of Homeland Security's U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; the Department of Defense; bank regulatory agencies; and other law enforcement and intelligence community agencies.

I would also note, Madam Chair, that all of the programs we administer require that we work closely with a broad range of industries. We are presently making efforts to expand and improve our communication with our diverse constituencies, ranging from the financial and services sectors to manufacturing and agricultural industries. In turn, the cooperation we receive from U.S. corporations in complying with sanctions is generally excellent.

I would now like to turn to the primary reason we are gathered here today: to discuss Executive Order 13382, the President's new Order targeting proliferators of WMD and their supporters. I will provide you with some background on circumstances leading to the issuance of the new Order, its objectives, its implementation by OFAC, the impact we are seeing from it, and what future impact we aim to achieve based on our experience in other economic sanctions programs.

#### **Background to Executive Order 13382**

In the aftermath of the September 11, 2001 attacks, the horrifying prospect of WMD falling into the hands of terrorists or rogue regimes has become all the more real to each of us. Recent events involving the nuclear weapons programs of North Korea and Iran demonstrate the challenge we face. The exposure of the WMD proliferation network headed by A. Q. Khan – father of Pakistan's nuclear bomb and, more recently, nuclear technology dealer to Libya, Iran, and North Korea – provided the world with a concrete example of how a network of individuals, with access to sensitive technology and expert knowledge, motivated by greed and personal ambition, can endanger our security by peddling WMD-related wares to rogue regimes.

Prior to the President issuing the new Order, the U.S. government had imposed a variety of other sanctions to counter the proliferation of WMD. For example, Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 28, 1998, authorized the Secretary of State to impose certain measures against foreign entities and individuals determined to have contributed materially to the proliferation efforts of any foreign country, project, or entity of proliferation concern. The measures that the Secretary of State may choose to impose under Executive Order 12938, as amended, are a ban on U.S. government procurement from designated foreign parties; a ban on U.S. government assistance to designated foreign parties; and a ban on

imports into the United States from designated foreign parties.<sup>1</sup> The ban on imports called for in Executive Order 12938 is implemented by OFAC through the Weapons of Mass Destruction Trade Control Regulations, 31 C.F.R. Part 539.

With very real threats confronting us, however, the question for policy makers was whether we were doing all we could to address these threats. In examining the existing arsenal of financial sanctions tools available to combat proliferation, the President and others, including the members of the Silberman-Robb WMD Commission,<sup>2</sup> believed that more could be done. Recognizing the need for additional financial sanctions tools to combat the threat posed by proliferation networks, the President issued Executive Order 13382 on June 29, 2005.

### **Overview of Executive Order 13382**

In the broadest sense, Executive Order 13382 adds powerful tools – a broad based transactions prohibition and an asset freeze – to the array of options available to combat WMD trafficking. The strong new blocking (freezing) provisions imposed by the President apply to property and interests in property of entities and individuals designated under the Order. By prohibiting U.S. persons from engaging in transactions with entities and individuals targeted by the Order, we can effectively deny proliferators and their supporters access to the U.S. financial and commercial systems, cutting them off from the benefits of our economy and trade. An essential element to understanding the importance of the President's new Order is that it provides us with broad new authorities to target not only those engaged in proliferation activities, but also the network of entities and individuals providing support or services to proliferators. As part of issuing Executive Order 13382, in June 2005, the President also identified and targeted eight entities in North Korea, Iran, and Syria, thereby prohibiting U.S. persons from engaging in transactions with them and requiring any assets of those entities within the control of U.S. persons to be frozen. The President also authorized the Secretary of State and the Secretary of the Treasury to designate additional proliferators of WMD and their supporters under the new authorities provided by the Order.

This new sanctions program also underscores the President's commitment to work with our international partners to foster cooperative efforts against WMD proliferation, including those undertaken through the Proliferation Security Initiative (PSI).<sup>3</sup> In addition, we hope that

<sup>1</sup> Executive Order 13382 further amends Executive Order 12938 by conforming the criteria for determining that a foreign entity or individual has engaged in sanctionable activity under that order to the criteria for designations by the Secretary of State set forth in section 1(a)(ii) of the new Order. Executive Order 12938, as amended, will continue to be an important tool to combat WMD proliferation.

<sup>2</sup> Established by Executive Order 13328 signed by President Bush on February 6, 2004, the Commission was charged with assessing whether the U.S. Intelligence Community is sufficiently authorized, organized, equipped, trained, and resourced to identify and warn in a timely manner of, and to support United States Government efforts to respond to, the development and transfer of knowledge, expertise, technologies, materials, and resources associated with the proliferation of WMD, related means of delivery, and other related threats of the 21st century and their employment by foreign powers, including terrorists, terrorist organizations, and private networks.

<sup>3</sup> President Bush announced the Proliferation Security Initiative on May 31, 2003, in order to enhance and expand efforts to prevent the flow of WMD, their delivery systems, and related materials on the ground, in the air, and at

this program can provide a model for other nations to draw upon as they develop their own laws to stem the flow of financial and other support for proliferation activities as called for in United Nations Security Council Resolution 1540. Moreover, the G-8 has been even more specific in its call for action; in July 2005, at the Gleneagles Summit, G-8 leaders called on countries to enhance “efforts to combat proliferation networks and illicit financial flows by developing, on an appropriate legal basis, co-operative procedures to identify, track and freeze relevant financial transactions and assets.” In this regard, Treasury, State, and other federal agencies have been engaged in aggressive international outreach in order to promote this important concept.

*Targets Identified by the President in the Annex to Executive Order 13382*

The eight entities initially identified by the President, based on evidentiary packages developed by OFAC investigators in close cooperation with colleagues in various agencies, reflect some of our government’s primary proliferation concerns, namely the development of WMD and their means of delivery.

With respect to North Korea, the President designated three entities involved in proliferation:

- The **Korea Mining Development Trading Corporation (KOMID)** is Pyongyang’s premier arms dealer and main exporter of goods and equipment related to ballistic missiles and conventional weapons. KOMID offices are located in multiple countries with the main goal of facilitating weapons sales while seeking new customers for its weapons. U.S. sanctions for trading in missile technology have been repeatedly applied to the KOMID organization in the past ten years.
- The North Korean defense conglomerate **Korea Ryonbong General Corporation** specializes in acquisition for North Korean defense industries and support to Pyongyang’s military-related sales. It is identified in export control watch lists in the United States and among U.S. allies. The Ryonbong trade group has been a focus of U.S. and allied efforts to stop the proliferation of controlled materials and weapons related goods, particularly ballistic missiles.
- **Tanchon Commercial Bank**, headquartered in Pyongyang, inherited from the Korea Changgwang Credit Bank Corporation (KCCBC) the role as the main North Korean financial agent for sales of conventional arms, ballistic missiles, and good related to the assembly and manufacture of such weapons. Since the late 1980s, Tanchon’s predecessor, KCCBC, collected revenue from weapons-related sales that were concentrated in a handful of countries mainly located in the Mid-East and several African states. These revenues provide North Korea with a significant portion of its export earnings and financially aid Pyongyang’s own weapons development and arms-related purchases.

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sea, to and from states and non-state actors of proliferation concern. The PSI reflects the need for a more dynamic and active approach to the global proliferation problem and the reality that proliferators are actively and aggressively seeking WMD using techniques that thwart conventional export controls and other enforcement measures. The PSI envisions partnerships of states working in concert, employing their national capabilities to develop a broad range of legal, diplomatic, economic, military, and other tools to interdict shipments of such items.

With respect to Iran, the President designated four entities in the annex to Executive Order 13382:

- The **Atomic Energy Organization of Iran** (AEOI), which reports directly to the Iranian President, is the main Iranian institute for research and development activities in the field of nuclear technology, including Iran's centrifuge enrichment program and experimental laser enrichment of uranium program, and manages Iran's overall nuclear program.
- The **Aerospace Industries Organization** (AIO), a subsidiary of the Iranian Ministry of Defense and Armed Forces Logistics, is the overall manager and coordinator of Iran's missile program. AIO oversees all of Iran's missile industries.
- The **Shahid Hemmat Industrial Group** (SHIG) is responsible for Iran's ballistic missile programs, most notably the Shahab series of medium range ballistic missiles which are based on the North Korean-designed No Dong missile. The Shahab is capable of carrying chemical, nuclear, and biological warheads and has a range of at least 1500 kilometers. SHIG has received help from China and North Korea in the development of this missile.
- The **Shahid Bakeri Industrial Group** (SBIG) is an affiliate of Iran's AIO. SBIG is also involved in Iran's missile programs. Among the weapons SBIG produces are the Fateh-110 missile, with a range of 200 kilometers, and the Fajr rocket systems, a series of North Korean-designed rockets produced under license by SBIG with ranges of between 40 and 100 kilometers. Both systems are capable of being armed with at least chemical warheads.

With respect to Syria, the President designated the Scientific Studies and Research Center (SSRC). SSRC is the Syrian government agency responsible for developing and producing non-conventional weapons and the missiles to deliver them. SSRC also has an overtly promoted civilian research function; however, its activities focus substantively on the development of biological and chemical weapons.

*Executive Order 13382 Designation Criteria and OFAC's Approach*

By publicly designating entities and individuals that engage in proliferation activities and those that support them, the WMD sanctions program is designed to complement existing proliferation-related authorities by blocking proliferators' assets and prohibiting U.S. persons from engaging in transactions with them. In taking these steps we aim to:

- **Expose** their activities publicly, removing the veil of legitimacy behind which proliferators and their supporters hide. Through public designation we intend to inform third parties, who may be unwittingly facilitating proliferation through what they believe to be legitimate business activity, of their association with WMD proliferators and deter others from engaging in business with proliferators.

- **Isolate** proliferators financially and commercially by denying them access to the benefits of trade and transactions with the United States; and
- **Disrupt and impede** the operations of WMD proliferators and their supporters.

While the public identification of these entities by the President, which exposes their illegitimate activities to the light of public scrutiny, is very important, OFAC's continuing role as part of administering the sanctions program is to look behind these entities. For our investigators, the entities named by the President represent a starting point as we seek to unravel the support networks that enable these entities to function. In addition, the subsequent designation of any entity or individual serves as an additional basis for aggressive investigation by OFAC in pursuit of designating additional parties. We refer to these as derivative designations, and it is this approach – targeting the broader support network – that has, over time, proved to be a critical factor behind successful designations in many OFAC-administered programs.

I would like to spend a few moments explaining how we are implementing this new Executive Order and where we intend to go with it. As you already know, the Order blocks the property and interests in property in the United States, or in the possession or control of U.S. persons, of:

- (1) Those listed in the Annex to the Order (i.e., the eight organizations originally identified by the President)
- (2) Any foreign entity or individual determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of WMD or their means of delivery (including missiles capable of delivering such weapons) by any entity or individual or foreign country of proliferation concern;
- (3) Any entity or individual determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, proliferation-related activities or any entity or individual whose property has been blocked pursuant to the Order; and
- (4) Any entity or individual determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any blocked party.

What does this mean in practical terms and how do we strive to implement it successfully? The simplified answer, as I mentioned earlier, is that we target the underlying support networks of identified proliferators. With decades of experience in administering and enforcing dozens of economic sanctions programs, one lesson is clear to OFAC: true success is

based not on isolated designation actions, actions undertaken only once with no follow-up. Quite the contrary – our greatest areas of success have been based on sustained, aggressive action over time that evolves and adapts to match the ever-changing methods of our adversaries. As we apply the designation criteria of the Order to strike our adversaries again and again, we disrupt their attempts to disguise their illicit activities in the stream of legitimate commerce. In the context of this new program, this means we target not only the missile or bomb maker, but also the procurement fronts, the brokers and middlemen, the logistical apparatus used to move dangerous weapons to market, and the financiers that provide the financial mechanisms that facilitate proliferation activities.

*Designations to Date under Executive Order 13382*

Though an open forum does not permit me to give you details of our ongoing investigations, I can assure you that more designations are on the way. Despite the fact that this new program came mid-budget cycle, OFAC has committed substantial resources to the effort. We have also leveraged resources from OIA and sister agencies. As a result of this commitment, since the end of June 2005, OFAC has already designated ten additional entities under the new authorities provided by the Order. In addition to continuing OFAC's efforts in this critical area, the President's FY2007 Budget provides for ten additional positions to continue to implement and administer E.O. 13382 as well as 15 additional positions for other areas of OFAC.

On October 21, 2005, Treasury announced the designation of eight North Korean entities that were determined to be owned or controlled by, or acting for or on behalf of, two North Korean entities named by the President. More specifically, we determined that KOMID, which was identified by the President, is the parent company of two Pyongyang-based entities, Hesong Trading Corporation and Tosong Technology Trading Corporation. These direct associations met the criteria for designation because the entities are owned or controlled by, or act or purport to act for or on behalf of, KOMID. In addition, we determined that Korea Ryonbong General Corporation, also named in the annex to the Order, is the parent company of six Pyongyang-based entities: Korea Complex Equipment Import Corporation, Korea International Chemical Joint Venture Company, Korea Kwangsong Trading Corporation, Korea Pugang Trading Corporation, Korea Ryongwang Trading Corporation, and Korea Ryonha Machinery Joint Venture Corporation. As subsidiaries of KOMID and Korea Ryonbong General Corporation, many of these entities have engaged in proliferation-related transactions.

On January 4, 2006, we announced the designation of two Tehran-based entities – Novin Energy Company and Mesbah Energy Company – that we determined are owned or controlled by, or acting for or on behalf of, the Atomic Energy Organization of Iran (AEOI), an entity named by the President in the annex to the Order. Novin has transferred millions of dollars on behalf of the AEOI to entities associated with Iran's nuclear program. Novin is owned and operated by the AEOI and is located at an address associated with AEOI. Mesbah is a state-owned company subordinate to the AEOI. Through its role as a front for the AEOI, Mesbah has been used to procure products for Iran's heavy water project. Heavy water is essential for Iran's heavy-water-moderated reactor, which will provide Iran with a potential source of plutonium well suited for nuclear weapons. Heavy water is believed to have no credible use in Iran's civilian nuclear power program, which is based on light-water reactor technology.

### The Designation Process

As previously discussed, one of the primary components in the implementation of this program is the need to investigate WMD proliferators and their networks of front companies and individuals. Those investigations lead to the compilation of an administrative record that serves as the factual basis for designating targets under the broad authorities provided by the new Executive Order. Although simplified for purposes of discussion, we follow a three-step process in accomplishing this task, which consists of:

- 1) identifying the target;
- 2) construction and deconfliction of an evidentiary package; and
- 3) public announcement of the designation.

Let me walk you through these three broad stages in more detail. Like our colleagues in law enforcement and the intelligence community, we follow leads. Those leads may present themselves in a variety of ways, ranging from highly classified intelligence reporting, tips received from the public, and law enforcement referrals, to open source media reports. In pursuing any lead, our investigators consider whether the lead may be a candidate for designation by reviewing the information they can identify in the context of whether it fits within the criteria of the Executive Order and appears sufficient to meet the required evidentiary burden. In addition, investigators, assisted by the information and expertise of our interagency partners, consider whether designation of the candidate would actually assist in disrupting or impeding the activities of a larger target, such as a proliferation network. If the initial investigation of a lead shows promise, then OFAC investigators move into the second stage of the designation process – the evidentiary process.

In the WMD proliferation context, as well as our other programs, such as the highly successful counter-narcotics programs, we engage in “all-source” investigation and research and, quite often, extensive field work. By “all-source” investigation, I mean to say that our investigators seek to use any and all information available to them. Historically, this has included corporate records, from both open sources and those that may be seized in the course of law enforcement or intelligence operations, law enforcement reports redacted to protect sources, foreign law enforcement reports gained through cooperation in the field with foreign counterparts, foreign and domestic indictments or court transcripts, and intelligence reports from across the spectrum of the intelligence community. An additional source of information, which has proved to be key to our efforts in other programs, is source statements derived from debriefings conducted by U.S. law enforcement investigators and OFAC investigators. This very sensitive information requires excellent cooperation between OFAC and its law enforcement colleagues combined with careful implementation.

Of course, in reviewing these evidentiary sources, we are also sorting through reams of information for facts and data that permit us to conclude, as a legal matter, that there is a reasonable basis for believing that a target meets the specific criteria for designation under the terms of the Executive Order. For example, for a targeted entity we would typically look for information that substantiates ownership or control by another designated party or that a target is

acting for or on behalf of, or providing material, financial, technological or other support for, or goods or services in support of, a designated party. To help us assess ownership or control we ask such questions as: Who are the shareholders? Who are the officers, directors, or managers? What is the entity's current address? What is its taxpayer ID number?

Similarly, for individuals, we look for information indicating that they are acting for, or on behalf of, or providing material support to a designated party. To help us assess this, we try to understand their exact relationships with designated parties. Moreover, and this cannot be overstated, in order to make our sanctions effective, we have to have adequate unclassified identifiers for our targets that can be included in publication of the designation. This is essential in order to enable the private sector to distinguish among individuals and companies with similar names, so that they can interdict or reject transactions that are prohibited by the designation while, at the same time, avoiding interference with their ability to process their normal business transactions efficiently and effectively. There will be occasions when we need to proceed without particular bits of information, but ideally our identifiers will include a target's known aliases and such information as date of birth, place of birth, address, passport numbers, or other national identification numbers.

Once this evidence is collected, our investigators draft an evidentiary document summarizing the various exhibits acquired through their investigation and research. This "summary" document – which can run into hundreds of pages of text and supporting exhibits – meticulously lays out how the information provides us with reason to believe that the target meets the specific criteria for designation. Once drafted, the evidentiary packages undergo internal review by senior OFAC investigators, and a back and forth process of editing and the collection of additional evidence begins.

After an evidentiary package has been thoroughly reviewed within OFAC, it is then reviewed for legality by Treasury's attorneys. Based on the feedback from the attorneys, who are examining the case to ensure that among other things we have met our evidentiary threshold and our investigators may engage in further investigation and research and revise the package to address any legal concerns. The Department of Justice's Civil Division, which represents OFAC in court if our designations are challenged by our targets, also gives the case a thorough legal review.

The next formal stage of our evidentiary process involves interagency coordination. In most of our cases, it is somewhat misleading to present this as a distinct stage because we are normally very engaged with colleagues, in a variety of agencies, throughout the investigation process. In fact, initial targets are suggested through an interagency working group, and closely coordinated and vetted within appropriate agencies in the early stages of development. Depending on the amount of intelligence involved in constructing a case, we also work closely with colleagues in OIA and from elsewhere in the intelligence community to develop our case. Nonetheless, we do go through a more formal coordination phase designed to de-conflict our proposed designations with the operational and policy interests of other agencies, and to ensure that the targets are consistent with and further the strategic national security and foreign policy goals of the United States. In fact, such coordination is required by the language of Executive Order 13382. The Order specifically directs that designations by Treasury or State be

undertaken in consultation with one another, as well as in consultation with Justice and other relevant agencies.

Interagency coordination is clearly a critical part of the process because it ensures that our public designation of entities and individuals comprising a network do not jeopardize the ongoing operations of our colleagues in the law enforcement or the intelligence communities, and are consistent with our government's foreign policy and national security objectives and interests. We are acutely mindful of the importance of ensuring that we do not compromise sensitive sources or methods that would harm our national interest, and that our actions are coordinated with ongoing diplomatic efforts in order to achieve effectively our national security and foreign policy objectives. Our experience is that any potential conflicts can be fully and successfully resolved by fostering the early and ongoing working-level contacts between our investigators and their counterparts in the law enforcement and the intelligence communities.

Once this very thorough interagency review process has been completed, the final evidentiary package is presented for my signature. Among my chief concerns in reviewing a completed evidentiary package is verifying that we have, in fact, received concurrences from our interagency colleagues. Moreover, at the same time that the package is moving to me for my consideration, two other important processes are in motion.

First, OFAC's team of compliance officers and information technology professionals are working closely with our investigators to prepare the information about a target for possible public release. If I approve the proposed designation and sign a related blocking order, our team moves into action to push the critical information on the target – the names, the aliases, the locations, the identifying information such as dates of birth, passport numbers, national identification numbers, etc. – to the public through OFAC's List of Specially Designated Nationals and Blocked Persons (SDN list). This list is used by thousands of companies around the country and around the world to screen real-time transactions and accounts for the possible involvement of one of our targets.

The second process, which is similarly complex, arises when our investigators become aware of a designation target having a presence in the United States. If such a presence is detected, our investigators from both the Designation Investigations Division and our Enforcement Division work to prepare an operation to block any property that can be identified. Often this involves serving blocking orders or cease and desist orders on U.S. persons involved with a designation target. It can also involve blocking homes, commercially leased space, and vehicles, possibly at several locations throughout the country. As you can imagine, informing someone that they can no longer deal in blocked property – which may mean they have to cease doing business or apply to OFAC for a license to continue residing in a now-blocked property – can elicit a strong response. For the protection of all involved, we closely coordinate our domestic enforcement operations with law enforcement officers from other federal agencies and local authorities. At times, we are also able to coordinate our action with a law enforcement action, such as the execution of a search warrant.

**Impact of OFAC Designations**

Although the sanctions program established by Executive Order 13382 is in its early stages, and while I am limited in what I can say in this public forum, I am pleased to be able to assure you that we are already seeing a true impact on our targets.

More importantly, our successes in many other programs, especially our highly effective counter-narcotics programs, provide us with a roadmap for effectively implementing new programs called for by the President or the Congress. The lesson we have learned, in more than 10 years of work in the narcotics arena, is that success is not the result of limited, isolated action. It is the result of aggressive implementation sustained over a period of years. It is grounded in tenacious follow-up to previous designations, adapting our target list to meet the ever-changing face of our adversary, and it is based on targeting the entire network. Though our resources are relatively limited, I believe that OFAC, Treasury and our interagency partners have the experience and tenacity to make our new WMD proliferation program successful.

Again, thank you for this opportunity to address OFAC's role in the new WMD sanctions program. I look forward to answering any questions you may have at this time.

# E.O. 13382's Reach: The Network

- Targets the *entire network*, including WMD proliferators, their supporters and support structures, and their assets:

**WMD Proliferators**



**Individual**



**Organization**

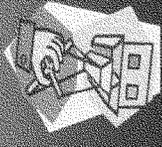
**Support Structures**



**Financiers**



**Logistical Support**



**Front Company**

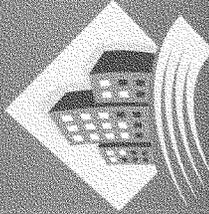


**Suppliers**



# The Designation Process

Identify Target



**KOREA RYONHA  
MACHINERY  
JOINT VENTURE  
CORPORATION**

Evidentiary Process

- > Investigation & Evidence Collection
- > Evidentiary Drafting
- > Legal Review
- > Interagency Coordination
- > Final Agency review

Public Announcement

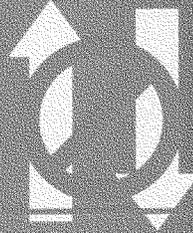
The Department of the Treasury's Office of Foreign Assets Control (OFAC) today designated eight North Korean entities pursuant to Executive Order 13382. The following entities have, therefore, been added to OFAC's SDN list:

KOREA RYONHA MACHINERY JOINT VENTURE CORPORATION (a.k.a. CHOSUN YUNHA MACHINERY JOINT OPERATION COMPANY; a.k.a. KOREA RYENHA MACHINERY J/V CORPORATION; a.k.a. RYONHA MACHINERY JOINT VENTURE CORPORATION), Central District, Pyongyang, Korea, North; Mangyongdae-gu, Pyongyang, Korea, North; Mangyongdae District, Pyongyang, Korea, North [NPWMD].

# Effects of Designation



Any interest of a targeted person or entity that comes within the control of a US person must be blocked.



No US person may transact in any way with blocked property.



Persons holding blocked property must report it to OFAC.

Blocked property is immobilized without permission from OFAC.



Questions for the Record  
 WMD Hearing, February 16, 2006  
 Rep. Barbara Lee

What is the total number of full time employees in OFAC? Please provide a breakdown by work/area function (region, issue, licensing, weapons proliferation, etc) of each full time employee by year from 2001 through 2006.

- A. OFAC was reorganized in 2005 to address an agency that was highly compartmentalized. To address the problems of resource management and stove piping, OFAC was reorganized according to its principal functions: Compliance and licensing, designations and enforcement and resource management. Within these divisions, OFAC is able to quickly address the changing resource priorities, which characterizes the fluid nature of its many sanctions programs. Therefore OFAC does not break out its employees strictly by region or issue. As of April 1, 2006 they were allocated as indicated on the chart below. As noted in the chart, the Foreign Terrorist Division was transferred from OFAC to Treasury's Office of Intelligence Analysis in FY2006.

	Targeting/Intelligence(Total # of Sanction Investigators)				Sanctions Administration (# of total Compliance, Licensing, Enforcement, CivPen,				Support	Mgmt	Total FTEs
Total FTEs in Division	22.5				49.5				29.2	13.8	115
% of Targeting or Administration FTEs	Terrorst Programs	Country Programs	Narcotics Trafficking	Proliferatio n/ Other	Terrorst Programs	Country Programs	Narcotics Trafficking	Proliferatio n/ Other			
	10.22%	8.44%	57.78%	23.56%	17.16%	65.96%	10.82%	6.06%			
Subject areas	Specially Designated Terrorists (SDT), Specially Designated Global Terrorists (SDGT), Foreign Terrorist Orgs (FTO)	Cuba, Iran, Syria, Sudan, Libya, NK, Libena, Zimbabwe, Iraq, Balkans, Burma	Specially Designated Narcotics Traffickers (SDNT), Kingpin Act	WMD, Diamond Trading	Specially Designated Terrorists (SDT), Specially Designated Global Terrorists (SDGT), Foreign Terrorist Orgs (FTO)	Cuba, Iran, Syria, Sudan, Libya, NK, Libena, Zimbabwe, Iraq, Balkans, Burma	Specially Designated Narcotics Traffickers (SDNT), Kingpin Act	WMD, Diamond Trading	Records, Facilities, IT, HR, Budget, Strategic Planning, Outreach, FOIA, Divisional Support		

Background and Explanatory Notes

- o Team chiefs divide their time among all the program areas but are counted as management
- o FTEs assigned to program areas are not represented in whole numbers because personnel in OFAC work multiple programs simultaneously
- o Two managerial positions, currently vacant, are not included in these numbers
- o The numbers represent FTE on-board at the time of their collection and the assignments of the FTE at that time
- o Non-FTE interns and non-reimbursable detailees are not included in this chart
- o The OFAC Foreign Terrorist Programs (FTD) Division was transferred in FY 2006 to the Office of Intelligence Analysis
- o The 23 FTE formerly associated with OFAC's FTD Division are no longer included in OFAC

What is the total revenue collected from implementing fines against those found to be in violation of the trade and travel embargo on Cuba? Has this increased since 2004? How are Americans allowed to appeal fines and ruling? Where are the fines deposited? In the Treasury?

A. Civil Penalty Enforcement Collections from Cuba since 2001 are as follows:

2001 - \$1,981,914  
2002 - \$1,202,093  
2003 - \$ 790,183  
2004 - \$1,706,008  
2005 - \$1,195,364

OFAC is authorized to impose civil penalties. Upon receiving a pre-penalty notice from OFAC, a hearing before an Administrative Law Judge may be requested. If a penalty notice is issued, the matter may be negotiated directly with OFAC or a request may be made for an Administrative Law Judge to decide. Penalty payments are deposited in the general Treasury funds.

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