

THE DOUBLE-EDGED SWORD OF COUNTER- PROLIFERATION SPYING

When Congress passed FISA Amendments Act in 2008, they added language approving of spying for counterproliferation purposes. One of three known certificates under Section 702 is for counterproliferation. President Obama's Directive purporting to limit the government's EO 12333 spying explicitly says bulk data can be used to police sanctions, and explicitly says the US does not consider sanctions spying to constitute spying for competitive advantage. USA F-ReDux even expands the authorization to use traditional FISA orders to spy on those who "knowingly aid or abet" or "knowingly conspire with any person to engage in" WMD proliferation.

The US is very clear that it will focus the tools of its spying on those involved in proliferation and weapons sanctions violations and in fact plans to intensify that focus.

Which is why it is so easy for NSA to spy on a target at Airbus in charge of Export Controls Licenses (even if it did violate NSA's Memorandum of Understanding with BND, though it's not entirely clear this targeting happened in Germany).

In other documents from the Snowden archive, the aerospace concern EADS, which is now called the Airbus Group, is even connected to a specific name together with a Saudi Arabian telephone number.

The EADS employee works in a sensitive department in the company: He is responsible for securing arms exports licenses for the company's defense division. Many such deals are top secret and are reviewed only by the Federal Security Council, a cabinet committee that is not under parliamentary

supervision. The man is marked as a hit and as a potentially interesting new surveillance target.

That's precisely where you'd look to find out if someone was illicitly creating export control licenses to bypass sanctions. Of course, it's also where you'd look to find out if the Europeans were cutting into US arms sales business to Saudi Arabia.

Airbus is suing for illegal spying because it was targeted by the NSA via Germany, which should get fun.

But at the exact moment France is squawking about that, they're nuzzling up with the Saudis, trying to obstruct or slow the deal with Iran.

Saudi Arabia invited French President Francois Hollande, whose country is deemed to have the toughest stance among the six world powers negotiating with Iran, to Riyadh to discuss regional issues with Gulf Arab leaders who fear a rapprochement with Tehran could further inflame the region.

"France and Saudi Arabia confirmed the necessity to reach a robust, lasting, verifiable, undisputed and binding deal with Iran," Hollande and the new Saudi King Salman said in a statement after meeting on Monday.

This strong stance in the face of a deal comes as France has worked to supplant some of US arms sales in the Gulf.

There's a supreme irony here. The only way that an Iran deal will be verifiable is via unfettered spying (including in the US, where Iranian proliferation targets appear to get treated as terrorist targets do). But the rationale for that unfettered spying would also permit NSA to spy on arms dealers competing with American dealers.

The US says it never uses such spying for competitive advantage. An Airbus suit may really test that claim.