

**TESTIMONY OF DAVID D. AUFHAUSER
GENERAL COUNSEL
DEPARTMENT OF THE TREASURY
BEFORE THE
HOUSE FINANCIAL SERVICES SUBCOMMITTEE
OVERSIGHT AND INVESTIGATIONS
MAY 14, 2003, 10:00 A.M.
THE UNITED STATES HOUSE OF REPRESENTATIVES**

Madame Chair and distinguished Members of the Subcommittee on Oversight and Investigations, thank you for inviting me to testify today about the Treasury Department's efforts to track down, freeze, and repatriate to the people of Iraq assets that have been systematically looted by Saddam Hussein, his family, and his cronies. While major combat operations in Iraq are over and the Hussein regime has been toppled, the search for assets continues. Our task is clear – identify and repatriate all assets, whether they are held in the name of the Iraqi government or hidden in the international financial system behind a maze of front companies and straw men. Whatever Hussein's legacy may be, it must not include successfully stealing and hiding billions of dollars in the international financial system.

Today I will stress two overarching themes that help to put our task into perspective – first, identifying and securing the repatriation of Hussein's assets is but one part of this Administration's multifaceted effort to rebuild Iraq for the Iraqi people. President Bush has made it clear to the world that our liberation of the Iraqi people did not end with the elimination of Hussein's regime. It is our obligation to alter the economic conditions that permitted Hussein to thrive and repress the Iraqi people, creating instead the opportunity for democracy and self-determination. Second, while it is obvious, it bears repeating: the hunt for Hussein's assets is not solely a Treasury initiative. The complex challenge of uncovering the trail of illicit money in a country that has suffered under a Stalin-esque dictatorship for 25 years demands that our

government agencies work together in a coordinated manner. And that is precisely what we are doing. Working closely with the intelligence community and the Departments of State, Defense, Justice, and Homeland Security, we have launched a comprehensive effort to hunt down these assets and enhance the likelihood of their return to the Iraqi people.

I want to take a moment to emphasize why we are engaged in these efforts. First and fundamentally, we have an obligation to ensure that assets rightfully belonging to the people of Iraq are located and returned. Second, wherever illicit assets may be hidden, we must not permit them to find their way into the hands of terrorists. Third, global efforts to identify and repatriate assets stolen by Hussein will serve as a strong deterrent against other tyrants and kleptocrats who seek to loot their countries and then place those funds out of reach in the international financial system. Finally, the exploitation of financial documents and the questioning of individuals with knowledge of Hussein's financial web may well help us to track down weapons of mass destruction, suppliers of those weapons, or agents of the regime that may be hidden abroad.

In sum, our plan for recovering Iraqi assets has the following elements:

- Exploiting documents and key financial figures in Iraq to better understand fund flows;
- Securing the cooperation of jurisdictions through which illicit funds have flowed so that we may exploit financial records and uncover the money trail;
- Securing the cooperation of jurisdictions in which illicit assets may reside to locate, freeze, and repatriate the assets;
- Engaging the financial community in the hunt for illicit assets generally, and specifically secure the cooperation of financial institutions through which illicit funds have flowed or may still reside;
- Developing a system to facilitate the fluid repatriation of funds; and

- Preparing for potential sanctions against uncooperative jurisdictions and financial institutions.

I. The Systematic Looting of a Nation

We may never know the full extent to which the Hussein regime stole from the Iraqi people, or how much money remains hidden in the international financial system. Criminals rarely keep consolidated accounting records. What continues to emerge from the rubble of Hussein's fallen regime is a disturbing tale of his ability to create a web of deceit under a comprehensive international sanctions program; a web in which he trapped and victimized his own people.

This we do know. Hussein's circumvention of the United Nations sanctions regime to the financial benefit of his regime has been open, notorious, and well-documented. Sanctions imposed by the UN Security Council beginning in 1990 were sweeping, barring virtually all commercial transactions with Iraq. The international community moved quickly to implement these and subsequent UN Security Council Resolutions.

In 1995, building upon previous humanitarian exceptions to the sanctions regime, the international community further responded to the plight of the Iraqi people by creating the oil-for-food (OFF) program: permitting the official sale of Iraqi oil and placing the proceeds in a designated UN account to be used for humanitarian purposes.

Despite the laudable goals of the OFF program and the best of intentions, Hussein intentionally exploited the program to generate substantial illicit income. Hussein not only survived under the UN sanctions regime, he flourished. The various ways in which he subverted sanctions have been widely reported and include:

- *Sales of oil outside of the OFF program* – from the inception of the sanctions program through the development of the OFF program, Iraq conducted illegal oil sales to its neighbors by pipeline, tanker truck, and barge.
- *Skimming and kickbacks on oil legitimately sold through the OFF program* – price manipulation and additional surcharges deposited to separate accounts provided a significant revenue source within the otherwise legitimate oil sales program.
- *Kickbacks and surcharges on humanitarian purchases under the OFF program and other schemes.*

Various estimates exist as to the money illegally generated outside of the OFF program. In its May 2002 report, the GAO “conservatively” estimated that Hussein regime amassed \$6.6 billion in illegal revenue from oil smuggling and skimming on UN sanctioned oil sales from 1997 to 2001.

Even more challenging is to estimate the amount of money Hussein and his family personally amassed before the beginning of Operation Iraqi Freedom. While estimates range from \$2 billion to \$40 billion, we simply do not yet know how much of this wealth still exists in accounts throughout the world.

II. Assets of the Iraqi Government

On March 20, one day after the military phase of the liberation of Iraq began, President Bush vested in the United States Iraqi government assets frozen upon the imposition of economic sanctions in 1990. Secretary Snow and Treasury’s Office of Foreign Assets Control implemented the vesting order, directing that \$1.7 billion be deposited in a special account at the Federal Reserve Bank of New York. Vesting under the International Emergency Economic

Powers Act, which is itself a new authority given to the President in the USA PATRIOT Act, provides us with maximum flexibility to repatriate these assets. Secretary Snow has already ordered initial disbursements of those funds to meet the immediate humanitarian needs of the Iraqi people.

Concurrent with the vesting of assets, we began working with the State Department to engage other jurisdictions around the world to identify, freeze and make available Iraqi government assets for repatriation. These outreach efforts, which include efforts to secure not only Iraqi government assets, but also illicit assets of Hussein and his family, have taken place on many fronts. For example, we have sent out cables and demarches to more than 50 countries seeking cooperation in our hunt for assets. We have had and continue to have extensive bilateral and multilateral meetings with key jurisdictions. For example, we took advantage of the IMF/World Bank meetings held in Washington last month to hold several important bilateral meetings to discuss the matter. Both Treasury and State officials have placed telephone calls to their counterparts in key jurisdictions. And Secretary Snow brought this message to the meeting of the G7 last month.

The response of other nations to our renewed call to locate illicit Iraqi assets has been positive. To date, we believe that an additional \$1.2 billion has been located and held in “suspense” accounts pending further dialogue. Cooperation has come from many jurisdictions. We will continue this outreach process to engage other jurisdictions to locate and freeze all additional Iraqi government assets.

III. Illicit Assets of Hussein, his Family, and his Cronies

The greatest challenge lies in identifying and tracing the flow of funds that Hussein has stolen and injected into the international financial system. The funds may be hidden in a web of front companies and straw men, spun to avoid detection. It is therefore essential that we assemble evidence from all sources, in Iraq as well as in other jurisdictions.

Exploitation of documents and individuals in Iraq and transiting jurisdictions. The obvious, but essential, first step in tracing the illicit assets is to locate evidence that may exist, whether it be the financial audit trail or human intelligence. We have already begun assembling interagency teams of forensic investigators and sending them to Iraq to assist the Department of Defense with the search for evidence. These teams will also be available to assist jurisdictions used as conduits for illicit funds with their own searches for relevant documents and evidence.

Enlisting the cooperation of transiting and nesting jurisdictions. We must have cooperation all along the emerging money trails, from all the jurisdictions through which funds transited, as well as jurisdictions in which funds may have ultimately nested. The scope of this search is ever-expanding. International assistance is needed to track the illicit assets of Hussein, his family, his cronies, and the front companies and straw men they used. As we develop more specific information about money flows, I expect the intensity of interaction and cooperation to increase.

Enlisting the cooperation of the private sector. The hunt for illicit assets will take us through the doors and into the records of financial institutions worldwide. It is therefore vital that financial institutions lend their assistance to our efforts. We expect financial institutions to be vigilant against accepting the proceeds of corruption, and we expect that when we develop specific information on money trails, financial institutions will assist in the recovery effort.

Possible sanctions. Our message from outset has been clear – we expect that jurisdictions and financial institutions will assist us in our efforts to recover the plundered assets of the Iraqi people. Our experience thus far has been positive. But in the event of recalcitrance, we have available to us various tools to encourage both jurisdictions and individual institutions to cooperate. For example, section 311 of the USA PATRIOT Act gives the Secretary of the Treasury, in consultation with other agencies, the authority to require U.S. financial institutions to take appropriate countermeasures against foreign jurisdictions or foreign financial institutions that the Secretary finds to be of primary money laundering concern. This authority includes the power to cut off access to the U.S. financial system. Should it be necessary, a jurisdiction's or a foreign financial institution's refusal to search for and eliminate accounts holding illicit proceeds may fall within the purview of this provision.

IV. Developing an International Mechanism to Secure the Repatriation of Iraqi Assets

Our efforts to recover illicit Iraqi assets highlights the problem of securing the repatriation of assets that are stolen by kleptocrats and placed in the international financial system. Recent examples demonstrate that locating illicit assets is just the beginning. The government of the Philippines located accounts throughout the world where Ferdinand Marcos had stashed illicit funds under the names of real and fictitious friends and accomplices, but the effort to repatriate those assets through traditional means has taken over a decade.

Under the auspices of the United Nations, the United States has been participating in the negotiation of an international convention that will strengthen international mechanisms to locate, seize and return assets stolen by kleptocrats. These negotiations are not scheduled to

conclude until the end of 2003, and implementation of such an agreement on a global basis is likely years away.

While the United Nations continues its efforts to devise a general mechanism to facilitate recovery of illicit assets on a global scale, immediate arrangements must be made for the fluid repatriation of Iraqi assets, both those in the name of the Iraqi government as well as illicit Hussein assets. One possibility is a UN Security Council Resolution related directly to the recovery of funds of the government of Iraq that have been frozen pursuant to existing Resolutions. Another possibility is consultations or arrangements among jurisdictions that have located illicit Iraqi assets within their borders in order to facilitate resolution of third party claims, and thus expedite the return of those assets to Iraq.

Separately, the hunt for illicit Iraqi assets reinforces the need for financial institutions to take responsibility to ensure they do not become the haven for the proceeds of corruption. Treasury is completing work on a regulation implementing a provision of the USA PATRIOT Act, section 312, that will place renewed emphasis on U.S. financial institutions to guard against accepting the proceeds of foreign corruption from kleptocrats, their families, and other associated “politically exposed persons” in the first place.

We are not alone in pursuing this type of regulatory requirement. In Switzerland, for example, recent amendments to Swiss anti-money laundering laws and regulations are designed to enhance protections against accepting the proceeds of foreign corruption from politically exposed persons. Additionally, the Financial Action Task Force, as well as groups of private financial institutions, have addressed the need for financial institutions to guard against accepting funds looted by other countries’ political figures.

V. Results

Since March 20th, an additional \$1.2 billion in Iraqi government assets have been placed beyond the reach of the former regime, the United States vested \$1.7 billion in assets, the movement of those vested assets back to Iraq has begun, U.S. financial investigators are in Iraq, and every day we are learning more about the maze of Hussein's money trails. This is a time-consuming, laborious, and potentially dangerous task. This is a process that, by its very nature, will take time. We owe a debt of gratitude to the civilians who are engaged in these efforts.

As you know, on April 20, 2003, our troops on the ground discovered nearly \$900 million worth of currency. We are now in the process of examining the authenticity of the currency, checking for counterfeiting, and attempting to determine where it came from.

Beyond this, our success to date is measured in terms of commitments from other jurisdictions to join in this effort, investigative teams assembled and inserted into Iraq, and the review of evidence already obtained. Our purpose is clear and we will continue to provide this Committee with updates on our progress.

Madame Chair, we are engaged in an important task intended to have a significant and tangible impact on the people of Iraq who have suffered for so many years under the repression of Saddam Hussein. Treasury will continue to work with our sister departments and agencies to secure the cooperation of the international community to locate, freeze, and repatriate Iraqi assets. This concludes my formal testimony and I would be pleased to answer any questions that you, or members of the Committee, may have.

Thank you.