



United States Department of the Treasury

**Written Testimony of
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Subcommittee on Oversight and Investigations**

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The United States House of Representatives

Chairman Kelly, Congressman Gutierrez and distinguished members of this Committee, thank you for inviting me to testify today about the United States Government's efforts to address the financing of terror. Let me tell you why we believe it is so important.

For more than a decade – after its misadventure into Kuwait in August of 1990 – Iraq has been an international pariah. More particularly, it has been the subject of the most comprehensive and far-reaching economic sanctions program ever imposed by the United Nations. The Oil for Food Program, later added to the sanctions program, permitted barter trading of Iraqi oil in exchange for humanitarian goods and services, all subject to UN monitoring and control.

The good news is that tens of billions of dollars flowed through the program between 1996 and today, providing food, medicine, shelter and necessities of life for the Iraqi people. It

was one of the rare programs that well served both a moral imperative and the most fundamental physical needs of people for whom freedom is a stranger.

The bad news is that the program was viewed by the Iraqi regime as an invitation for graft, corruption and sanctions busting. And they made it their holiday. Within the OFF program, they skimmed, they demanded kickbacks, they bought brokers, they created false front companies and they banked the money abroad in cash, or in accounts for product credit. They also began to deal in oil – in an open and notorious fashion – outside of the UN sanctioned program. The smuggled oil produced rivers of money and credit – a conservative GAO estimate is \$6.0 billion in a four year period alone – that were banked abroad.

That money – and those credits – purchased the goods and services that kept Iraq a threat against all reason and international law. That is the cost of turning a blind eye to laundered funds. We all witnessed a second cost when the World Trade Center vanished before our eyes two years ago this month.

I was in Cambridge, England on September 11th attending an international conference on money laundering. The conference was populated by Attorneys General, Chief Justices, Ministers of Police, and even General Counsels. It had the trappings of a sober and serious affair, but in truth, there was a lot of self-congratulation. The law enforcement community had been on the trail of money laundering for more than a decade, and it had much to crow about. Elaborate computer screens, predictive models, profiles of conduct, capture and indictment of persons moving or hiding dirty money, evidenced that we were gaining a lead on a tough issue.

The assaults on New York and Washington silenced the gathering. It was not just the awfulness of the video replaying its unspeakable carnage. It was the realization that we – the professionals charged with the responsibility of policing the international financial system – had

been looking at the world through the wrong end of the telescope. Money had been spirited around the globe, by means and measures and in denominations that mocked detection. The more serious threat to our well being was now clean money intended to kill, not dirty money looking for a place of hiding.

Shortly after the September 11th attacks, President Bush gave those of us who deal with these issues clear orders. He told us to starve the terrorists of funding. Since that mandate over two years ago, the United States has waged a “war” against global terrorism. But this “war” is profoundly uncommon. There is no known sovereign; no uniformed army; no hill to take; no target that is seemingly out of bounds. Indeed, terrorists obscenely place a premium upon the death of innocents. It is shadow warfare, and the primary source of the stealth and mobility necessary to wage the war is money. Much of the intelligence of war is, in fact, suspect – the product of treachery, deceit, custodial interrogation, bribery and encrypted talk. But financial audit trails do not lie. They are literally the diaries of terror and they reveal the secrets necessary to stem tithes intended to underwrite acts of terror.

Money leaves a signature, an audit trail, which once discovered might well prove invaluable in the identification and capture of terrorists. Stopping the flow of money to terrorists may also be one of the very best ways we have to stopping terror altogether. That is a dramatic statement, but it is not possible to overstate the importance of the campaign against terrorist financing. We believe that if you stop the money, you go a long way to stop the killing.

That being said, it is unwise to understate the difficulty of this endeavor. Our economies are deliberately open and porous. The ways to game restrictions on the flow of capital are nearly infinite. Moreover, the challenge is worldwide in scope. The overwhelming bulk of the assets we seek to freeze; the cash flow that we hope to strangle; and the records we aspire to exploit are

beyond the oceans that surround us here in North America. To act alone in this endeavor would justly invite critique, and be ultimately ineffective.

In the United States, our program to wage this war includes the following:

- i. An Executive Order (Executive Order 13224) using the powers in the International Emergency Economic Powers Act that raises the standards of conduct and due diligence of financial intermediaries, and explicitly targets underwriters of terror for the freezing of their assets;
- ii. UN Security Council resolutions that internationalize certain asset freezes and mandate the criminalization of terrorist financing;
- iii. More scrutiny at the gateway to U.S. financial markets as provided by the USA PATRIOT Act;
- iv. Law enforcement criminal investigations and other actions aimed at terrorists and their financiers;
- v. Extensive diplomatic efforts, including the engagement of central bankers and finance ministries, to champion the need and wisdom for international vigilance against terrorist financing;
- vi. Outreach to the private sector for assistance in the identification, location and apprehension of terrorists and their bankers; and,
- vii. Bilateral and multilateral efforts to build laws and systems that will help prevent terrorists from gaming the system in developing countries around the globe, and then developing programs to train those countries in how to administer those laws.

Perhaps the most visible tactic of our comprehensive strategy has been the public designation of terrorists and their support network coupled with the freezing of their assets.

Public designation of terrorists, terrorist supporters and facilitators, and blocking their abilities to receive and move funds through the world's financial system has been and is a crucial component in the fight against terrorism. The Executive Order imposing economic sanctions under the International Emergency Economic Powers Act permits the public designation of not only terrorists and terrorist organizations, but also supporters, facilitators and underwriters of terror as well. Once designated, this order freezes the assets within U.S. jurisdiction of the designee. Action under this order is not "criminal" and does not require proof beyond a reasonable doubt. Currently, 321 individuals and entities are publicly designated as terrorists or terrorist supporters by the United States, and since September 11th, over \$136.8 million dollars have been frozen around the world.

However, only a small measure of success in the campaign is counted in the dollars of frozen accounts. The larger balance is found in the wariness, caution, and apprehension of donors; in the renunciation of any immunity for fiduciaries and financial intermediaries who seek refuge in notions of benign neglect and discretion, rather than vigilance; in pipelines that have gone dry; in the flight to old ways of value transfer such as the use of cash couriers and the ability to focus our resources on those avenues of last resort; and, in the gnawing awareness on the part of those who bank terror that the symmetry of borderless war means that there is no place to hide the capital that underwrites terror.

Notwithstanding the power of this tool, it is important to remember that it is only powerful to the extent we can pull the rest of the world with us in identifying and freezing the assets of identified terrorists and their supporters. Most of the capital we are attempting to freeze is beyond the reach of the United States. Acting unilaterally is often an empty gesture; an action without an effect. Therefore, we need our allies to join with us in a coordinated manner. This is

no easy task. This is the task that occupies much of our time on the financial front of the war against terrorism. The most critical aspect of this task is the ability to provide sufficient actionable information – information that is often thin and encumbered by sensitivity. The predicate for everything we do is actionable intelligence. Without actionable intelligence, it is impossible to fight this war.

Organization of the Effort

Shortly after the attacks of September 11th, the National Security Council established a Policy Coordinating Committee on Terrorist Financing. The purpose of the committee is to (i) recommend strategic policy direction to the National Security Council on issues relating to terrorist financing; (ii) vet and approve proposed public action against targeted terrorists and terrorist financiers; and, (iii) coordinate the United States efforts on issues relating to terrorist financing. I have chaired the committee since October 2001. We have purposefully kept the process flexible, informal, collaborative and iterative. It is a process that has worked well to vet and coordinate proposed action on the financial front of the war.

HAMAS

The focus of this hearing is the terrorist organization HAMAS, and whether our actions to interdict the funds flowing to HAMAS have had any real world effect. The answer is yes, but it is a qualified yes. As stated earlier, many of our actions – particularly actions involving public designation and freezing of assets – have dramatic impact only when we can convince the rest of the world to act with us. It has been an uphill road with HAMAS.

HAMAS was formed in 1987 with a goal of establishing an Islamic Palestinian state in place of Israel. HAMAS' strength is in Gaza and the West Bank. HAMAS relies on broad popular appeal and it is an integral part of the Palestinian political and social landscape.

HAMAS has established networks of mosques, schools, and relief organizations that are highly visible and widely seen by many Palestinians as more effective than services provided by the Palestinian Authority. HAMAS is loosely structured, with some elements working clandestinely and others working openly through mosques and social service institutions to recruit members, raise money, organize activities, and distribute propaganda. It is this dichotomy that has created one of the principal challenges with this organization.

Unlike action against al-Qa'ida, action against HAMAS does not enjoy the same support around the globe. For example, an al-Qa'ida related UN economic sanctions program, which mandates action by all members, has been an extremely valuable tool in getting the world to act in concert against al-Qa'ida. No economic sanctions program exists at the UN for HAMAS. Countries in Europe and the Persian Gulf – two principal areas that supply funds to HAMAS – have been slow to support action against the entire organization, if at all. In fact, some sources estimate that as much as half of HAMAS' income is derived from money raised in the Persian Gulf, including the Kingdom of Saudi Arabia – notwithstanding a May 2002 decree by Crown Prince Abdullah that ceased official Saudi support for the group.

The United States designated the entire HAMAS organization as a foreign terrorist organization in 1995 and we have acted or are acting against HAMAS fundraisers identified and located here in the United States. A principal example of our action is our designation of the Holy Land Foundation for Relief and Development, a Texas based NGO, in December 2001. This designation was challenged in Federal court and has been upheld. The Holy Land Foundation no longer operates. Additionally, our colleagues from the FBI have a number of on-going investigations of other individuals and organizations linked to HAMAS. We are working

side-by-side with the FBI to ensure that those individuals and organizations will be addressed and the funding that is occurring will be stopped.

We have also taken action against HAMAS outside of the United States. On August 22nd, we announced the freezing of four European-based HAMAS fundraisers and one HAMAS fundraiser based in Lebanon: the Comite de Bienfaisance et de Secours aux Palestiniens (CBSP), the Association de Secours Palestinien (ASP), Interpal, the Palestinian Association in Austria (PVOE) and the Sanabil Association for Relief and Development. We announced the public designation of six top HAMAS leaders, and earlier this year we designated the Al-Aqsa Foundation – another European-based HAMAS fundraiser. Of the 321 persons and entities designated to date, 16 are HAMAS related entities. These designations have resulted in the freezing of \$24.7 million dollars around the world.

The rest of the world, particularly Europe (until recently) and countries in the Persian Gulf, view the political/charitable wing of HAMAS differently from its so-called military wing. In our view this is pure sophistry. We have advocated forcefully throughout the world that this distorted view of HAMAS should end. On this front, we have some good news. After nearly constant diplomatic pressure from the United States, on September 12th the European Union, having previously only designated the military wing of HAMAS, designated the entire organization. The European Union's recent action is welcome, if late in coming. A large portion of HAMAS' fundraising has come from Europe and we think the EU's designation of the entire organization will help change that dynamic. Despite the EU's welcome action, the political questions surrounding the Palestinian people coupled with the political and charitable work HAMAS undertakes make it hard to convince other countries around the world – especially in the Persian Gulf – to cease supporting HAMAS.

We think it is critical that governments move now to stop the flow of funds to HAMAS, a terrorist organization that has the conceit and audacity to proclaim with pride that it sends suicide bombers onto buses and into public plazas to kill innocents with the aim of destroying any chance for progress toward peace between the Israelis and Palestinians. Funds flowing to HAMAS fuel this terror. Again, we think if you stop the money, you go a long way toward stopping the terror. No matter how terrible the plight of the Palestinian people, there can be no justification for the killing of innocents. In our view, toleration of such terror by anyone is nothing short of complicity.