U.S. AND FOREIGN EFFORTS TO RECOVER IRAQ'S STOLEN MONEY

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BEFORE THE

SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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U.S. AND FOREIGN EFFORTS TO RECOVER IRAQ'S STOLEN MONEY

Thursday, March 18, 2004

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

The subcommittee met, pursuant to call, at 10:10 a.m., in Room 2128, Rayburn House Office Building, Hon. Sue Kelly [chairman of the subcommittee] presiding.

Present: Representatives Kelly, Oxley (ex officio), Hensarling, Garrett, Gutierrez, Inslee, Lynch and Maloney. Also present were Representatives Ose and Renzi.

Chairwoman KELLY. [Presiding.] This hearing of the Subcommittee on Oversight and Investigations will come to order.

This morning the subcommittee continues its examination of the efforts by our nation and others to suppress the flow of illicit money used to finance terrorist networks, and specifically to track down the money Saddam Hussein stole from the Iraqi people. Terrorists have no boundaries, nor do they exhibit any regard for peace, liberty or human life. Terrorists will never stop trying to find ways to secure the resources needed to carry out their extremist agendas.

An unwavering commitment to shattering the underground financing networks upon which they rely is critical and is a critical part of our effort to prevent future acts of terrorism here and abroad. The subcommittee will continue to examine efforts to pursue illicit money and help eradicate the threat of international terrorism.

The capture of Saddam Hussein was a great day for the Iraqi people and for freedom and democracy throughout the world. The Iraqi people are now free from this reign of terror, and it is appropriate that the pilfered fortune once used to oppress them now be directed toward initiatives that will help to build a country and a government of the choosing of the Iraqi people.

There still remains difficult work ahead. It is imperative that we work with our foreign counterparts and the Iraqi people to rebuild the country's infrastructure, financial systems and overall economy. Last week, the Iraqi governing council completed the transitional administrative law for Iraq. This new constitution is an important step toward a free Iraq with a democratic election and this new constitution created for and by the Iraqi people. As the law was approved, we are reminded of the steadfast leadership of our president and this administration, as well as our brave soldiers and

sailors and our brave coalition troops, who have provided throughout the liberation of this oppressed nation.

Along this difficult journey, our armed services have continued to earn the admiration and respect of the American people and of many others throughout the world. Our thoughts and our prayers are with the men and women who serve our country, and we will continue to give them support and the resources that they need to complete this important mission. As we continue this work with our allies and the Iraqi people to rebuild their country, it is going to take a great amount of resources. We have to do everything we possibly can to retrieve the money Saddam Hussein stole from the Iraqi people and to assist them in reconstruction efforts.

This money belongs to the Iraqi people. It belongs to them. It was never Saddam Hussein's money to begin with. He stole it from them. The assets needs to be found and returned to the people of Iraq to build schools, to reopen the businesses, to help resupply the hospitals and repair the country's infrastructure, all of it maliciously destroyed by the tyranny of Saddam Hussein and his inner circle. Since the start of our military intervention in Iraq one year ago, the United States has led a worldwide hunt for the money Saddam Hussein systematically looted from the Iraqi people over the last few decades.

The focus of these efforts has been to retrieve and return Saddam's money that has already been located and frozen. Simultaneously, we are searching to uncover new money, accounts and front companies that the former dictator and his associates used to siphon money out of the country and use it for their own nefarious purposes. Last May, this subcommittee held the first congressional hearing on efforts to freeze, seize and repatriate assets of the corrupt Saddam Hussein regime.

Witnesses from the Treasury, State and Defense Departments who are leading the search for Saddam's assets inside Iraq and around the world testified before the subcommittee. In that hearing, the subcommittee learned of the complex schemes used by Saddam Hussein's regime to steal from the Iraqi people, including kickbacks, phony front companies, hidden trusts, hidden accounts and other accounts in financial institutions with front names throughout the world.

We also examined how our government works with other relevant international agencies, counterparts in foreign governments and the financial services industry to identify, seize and repatriate the worldwide financial assets of this dictator.

Given the significance of these issues, the committee requested the General Accounting Office to assist Congress in this important investigation. This subcommittee will receive an update on the GAO efforts today, including how much money has been found and transferred to the development fund for Iraq by the United States and other foreign countries. We are also very interested in U.S. efforts to locate new accounts and to convince foreign countries to freeze and transfer the money back to Iraq.

Our government has given the United Nations Sanctions Committee the names of numerous entities and dozens of individuals with ties to Saddam Hussein and the corrupt dictator's regime. As we continue to provide evidence to the United Nations, there have

been questions about the ability and willingness of countries to use and share intelligence information. Foreign entities must proactively contribute to these efforts and we need to know what can be done to encourage their participation.

It is their safety. It is our safety. It is the reconstruction of a new nation of Iraq that is run by and for the Iraqi people. We expect nothing less than the highest level of cooperation from all foreign governments and financial institutions. Congress was very clear and unwavering in the passage of the Patriot Act. The willingness to share cross-border information is a license required to do business in America. I am going to repeat that. That is something people do not realize about the Patriot Act. We spelled it out in the Patriot Act. The willingness to share cross-border information is a license required to do business in the United States of America.

Now, Congress and the American people need to know who is cooperating and whether any action may be necessary by our government or the United Nations. We know the money is out there and we plan to find it and we plan to return it to Iraq. We expect foreign entities to do the same.

The subcommittee thanks the witnesses for being here with us today. We have key witnesses from Treasury, the State Department and in addition, we have representatives from the General Accounting Office to discuss the preliminary findings of their investigation. Congress has an important role to play in making clear to countries across the world that the United States will be unrelenting in its pursuit of those who finance terror. This subcommittee is going to continue to place a sharp focus on fulfilling this important obligation.

With that, I turn to my ranking member, Mr. Gutierrez.

[The prepared statement of Hon. Sue W. Kelly can be found on page 30 in the appendix.]

Mr. GUTIERREZ. Good morning and thank you for calling this hearing today, Madam Chair.

Last May, we held the first congressional hearing on the recovery of Saddam's stolen assets. Subsequently, we requested the GAO investigate how the U.S. Government works with its foreign counterparts and the banking industry to identify and recover the assets of dictators. I am pleased that the GAO will present their preliminary findings and update us on the structures that have been put in place to accomplish our goals.

However, I was very troubled that a number of obstacles were originally placed in the path of the GAO. At the end of last year, it came to my attention that the Departments of the Treasury and State had imposed significant limitations on the GAO's work. Apparently, the departments have precluded the GAO from traveling to key European countries to discuss their practices for identifying, seizing and returning foreign regime assets. They were also precluded from discussing these issues with European embassy officials in Washington or United Nations officials in New York. Treasury officials indicated that approval for travel to foreign countries would not be granted for 4 to 6 months, which would be after the report was scheduled to have been completed.

Additionally, the departments were failing to provide the GAO with important documentation that was requested in September

2003. Specifically, this included, one, information on other countries's laws and processes for recovering assets; two, official diplomatic communications sent to foreign governments related to asset recovery efforts; three, documents related to U.S. efforts to recovery assets in Afghanistan and the former Yugoslavia; four, minutes from the meetings of the Iraqi assets working group; and five, updated financial data on the amount of frozen Iraqi assets housed in foreign countries and the amounts transferred to the development fund for Iraq.

Apparently, Treasury Department officials have expressed their willingness to provide this information, but stated that they were receiving direction from the State Department and the White House. This is deeply disturbing, not only because the administration is being less than forthcoming about such an important issue, but also raises separation of powers concerns.

However, over the last several months, I have been informed and told that the GAO's access to information has improved dramatically. That is a good thing. I would hope that this continues and that the reasons for these roadblocks have been addressed, and that future efforts are not impeded by similar actions.

I look forward to the testimony of the witnesses and thank the Chair for calling the hearing.

Chairwoman KELLY. Thank you, Mr. Gutierrez.

Chairman Oxley, thank you for being here.

Mr. OXLEY. Thank you, Madam Chairwoman. I commend you and the subcommittee for undertaking this leadership and commitment to repatriating assets for the people of Iraq. This is our second hearing on the issue and our goals are to support the U.S. Government effort and to ensure that it is working as effectively as it can to return stolen Iraqi funds.

The United States has a long and proud history of liberating nations from tyranny and supporting new democracies. An important part of supporting the new democracy in Iraq is returning Hussein's pilfered cash. In today's hearing, we look forward to testimony from the U.S. Department of the Treasury, the U.S. Department of State, and the General Accounting Office regarding our progress in this area.

The behavior of the former Iraqi government officials with respect to the Oil for Food Program displayed complete disregard for basic human need and total contempt for the United Nations. Iraqis starved while Saddam spirited billions of United Nations funds out of Iraq for personal gain. We cannot permit those funds to remain frozen in bank accounts throughout the world.

Some of those funds may also have been invested in companies in violation of the United Nations sanctions and occasionally in companies created expressly for the purpose of evading United Nations sanctions. Banks and other intermediaries should not be permitted to hold assets indefinitely on their balance sheets without returning them to their rightful owners, the people of Iraq.

Those assets are needed urgently to help rebuild Iraq. Our purpose today is to assess our progress toward that goal. I understand that the coalition provisional authority in Iraq, the Iraqi ministries and various U.S. Government entities are working hard to ensure that funds illegally diverted from Iraq are returned forthwith.

Many of these people are civilians placing their lives on the line each day in Iraq. I commend their efforts and, together with Vice Chairman Kelly, I am working with a CPA and today's witnesses to help ensure the identification, isolation and repatriation of these assets. Our commitment to due process creates a number of challenges in the worldwide financial system. I believe these challenges can be met, especially if the different parts of the U.S. government can work together collaboratively.

Much progress has been made on the interagency issue identified in last year's hearing, but I understand more progress is needed. Just as we need interagency cooperation, we need international cooperation. Our representative to the G-7, Secretary Snow, is doing everything he can to foster that. Make no mistake, though, without President Bush's commitment, this project never would have been undertaken.

While much remains to be done in returning assets to Iraq, let's not forget that much has been accomplished against great odds. Madam Chairlady, if I could point out, when I was in Iraq in November, and we met with various commanders there, they talked about the Commanders Fund. That was money that had been discovered within Iraq that had been stolen by Saddam and his two sons. It amounted to some $300 million.

That money was used very effectively by the commanders in the field for helping rebuild schools, rebuild roads, infrastructure and the like. When we met with General Odierno up in Kirkuk, he made the point, this was right before Thanksgiving in November of last year, that they were rapidly going through that $300 million and that is of course partly because we needed to do the supplemental when we did, to provide that gap.

At the same time, this effort that you are undertaking with our friends at Treasury and State, can really repatriate that money where it belongs. So your efforts in this against great odds are quite commendable. I think that the progress will start to pick up over the next several months as we focus attention on this issue. Indeed, if anybody could go to Iraq and see the results of this program, which was supposed to be oil for food, and was really oil for Saddam and oil for palaces, this is an opportunity to correct that wrong in a very meaningful way.

So again, I commend you for this series of hearings and I yield back.

[The prepared statement of Hon. Michael G. Oxley can be found on page 33 in the appendix.]

Chairwoman KELLY. Thank you very much.

Mr. Lynch?

Mr. LYNCH. Thank you, Madam Chair. Thank you, Ranking Member Gutierrez, and thank you, Chairman Oxley, for organizing this hearing and continuing your good work.

I want to thank the panel for attending as well, helping the committee with its work.

I also traveled to Iraq, although last May shortly after the invasion. I also visited Kirkuk and was with General Odierno not that long after he and his forces had actually apprehended friends of the family of Saddam Hussein and recovered major amounts of melted-

down gold and also American currency that was being pilfered from the Iraqi people.

In those days and weeks and actually hours prior to the invasion on March 19, we had reports of members of Saddam Hussein's family taking trailer-loads of cash from Iraqi banks and following those trucks up into Syria. There is a great need here for us to lower as much as possible the cost to the American people of the effort in Iraq. Every dollar that we can recover will be one dollar less that we do not have to come up with through supplementals and other measures in this Congress.

The particular area that I would like to hear from when we get to questioning are surrounding the Oil for Food Program and the mismanagement or the administration of that program, and also the siphoning off of money for improper purposes. I think there is a very focused reason why you are here today, but I do not want to ignore the fact that there is a wider purpose here as well.

For the past two centuries, wars on this earth have basically been waged by nations, so it allowed diplomacy to prevent wars. Now we have the privatization of war, which is terrorism, and we need, if we are going to prevent the gravest dangers to the American people and to freedom-loving people everywhere, we need to choke off the funds for this privatization of war against private citizens being conducted by various terrorist organizations all over this earth. So it is very, very important, the work that we are doing here, even though we are just looking at Saddam Hussein and trying to recover those monies.

There is a network of money that is being used to fund, as I say, the privatization of war against innocent civilians. So we hope that we can use some of the progress that is accomplished here in that wider effort.

I yield back. Thank you, Madam Chair.

Chairwoman KELLY. Thank you.

Mr. Hensarling?

Mr. HENSARLING. In the interests of time, Madam Chairman, I would just ask unanimous consent that my opening statement be entered into the record.

[The prepared statement of Hon. Jeb Hensarling can be found on page 35 in the appendix.]

Chairwoman KELLY. So moved.

Without objection, all Members's opening statements will be made part of the record. This is a very busy day on Capitol Hill, and Members who do have questions and I am sure have opening statements they want to put in the record, so we will make them a part of the record.

Now, we will turn to our first panel. Testifying on the first panel are two key witnesses leading the U.S. efforts to recover and return Saddam Hussein's assets to the Iraqi people. The subcommittee welcomes back Mr. Juan Zarate, the Deputy Assistant Secretary for the Executive Office of Terrorist Financing and Financial Crimes at the U.S. Department of the Treasury. That is a very long title, sir.

Last week, the Bush administration announced the creation of a new Office of Terrorism and Financial Intelligence at the Treasury Department, which will include a new under secretary and two as-

sistant secretaries. Mr. Zarate, I would like to congratulate you on your nomination for that position of assistant secretary. The creation of this new office, coupled with the President's proposal to increase the budget to help fight terrorist financing and financial crime, signals this administration's commitment to the war on terror. The committee looks forward to having you back at a later time in your new role to discuss this new endeavor.

Also here today is Mr. Paul E. Simons, Deputy Assistant Secretary for Energy, Sanctions and Commodities at the Bureau of Economic and Business Affairs at the U.S. State Department. That is a good long title, too, there, but we know what you do. Mr. Simons has launched U.S. police training efforts in post-conflict Iraq and Afghanistan. He has also previously served as Deputy Chief of Mission at the U.S. embassy in Israel, which involved work on Arab-Israeli peace negotiations.

The subcommittee thanks both of you for your testimony today. Without objection, your full written statements will be made part of the record. You will be recognized for a 5-minute summary of your testimony. The lights in the boxes on the table will indicate when you have the time. Green, you have 5 minutes; yellow, you have 1 minute left; and red, we would ask you to summarize quickly.

Thank you very much. We go now to you, Mr. Zarate.

STATEMENT OF JUAN ZARATE, DEPUTY ASSISTANT SECRETARY FOR THE EXECUTIVE OFFICE OF TERRORIST FINANCING AND FINANCIAL CRIMES, UNITED STATES DEPARTMENT OF THE TREASURY

Mr. ZARATE. Madam Chair, thank you very much and thank you for your kind words. I very much appreciate them.

Chairwoman Kelly, Congressman Gutierrez and distinguished members of the Subcommittee on Oversight and Investigations, thank you for inviting me to testify today about the U.S. Government effort to identify, freeze and recover Iraqi assets worldwide. I am pleased to be here this morning with Deputy Assistant Secretary of State Paul Simons, with whom we work closely on this and other efforts of global magnitude.

Madam Chair, this week marks the 1-year anniversary of our campaign to free Iraq. In that year, we have liberated the Iraqi people, ousted a ruthless tyrant, captured members of the fallen regime, and helped the Iraqi people begin rebuilding their country. This is also the anniversary of Secretary Snow's bold call for the world to find, freeze and repatriate to the Iraqi people the assets plundered by Saddam Hussein and his regime. I am here today, Madam Chair, to report on our significant and steady progress since then.

In this effort, we have found the Hussein regime was as fiendish in its thievery as it was terrible in its tyranny. Hussein and his cronies abused the good will of the international community to fortify and enrich the regime with kickbacks, skimming schemes and smuggling operations. While the Iraqi people suffered, Hussein and his sons paid for pleasure palaces and armaments.

We have been on the hunt for Iraqi assets around the world, whether official Iraqi assets held in the name of Iraqi entities or

the assets looted and hidden by the Hussein regime and their family members. Make no doubt, this is a daunting and complicated mission, Madam Chair. Even so, on a daily basis through interviews, diplomacy, and analysis, we are unmasking the financial web used by the regime and returning money to the Iraqi people.

Allow me to provide a brief snapshot of the success we have seen to date. With the cooperation of our allies abroad, we have frozen nearly $4.5 billion of Iraqi assets worldwide. This past year, almost $2 billion of Iraqi assets has been newly identified and frozen outside the U.S. and Iraq. Since last year, the United States, foreign countries and the Bank for International Settlements have transferred back to Iraq over $2.5 billion in frozen Iraqi funds.

As this chart demonstrates, we have seen increasing transfers into the Development Fund for Iraq. To date, approximately $750 million have been transferred from foreign sources to the DFI. Within Iraq, we have seized approximately $1.3 billion in cash and valuables, including most of the money stolen from the Central Bank of Iraq by Hussein immediately before the war.

In Iraq and throughout the world, our financial investigators have interviewed key detainees as well as bankers, lawyers and accountants who acted as financial facilitators for the regime. These efforts have yielded countless leads. Madam Chair, an example of this occurred when our agents determined that the former Iraqi ambassador to Russia had stolen approximately $4 million in Iraqi assets. As a result, that amount has been frozen and we are working to repatriate it.

Working closely with the governments of Liechtenstein, Switzerland and Jordan, we have secured one of Hussein's Falcon 50 corporate jets seen in the graphic here. As a result of this collaboration, we are also uncovering a financial network that had been used by the Iraqis to move money and people in the heart of Europe. The Departments of the Treasury and State have provided identifying information on over 570 identified Iraqi bank accounts to 41 countries for review and follow-up. Madam Chair, we continue to identify key individuals and entities whose assets should be frozen.

All of these efforts are guided by the strong recognition that this mission is critically important for both old and new reasons. Iraqi assets must be recovered so that they can be used to pay pensioners, construct schools, equip hospitals, and rebuild Iraq. It is equally imperative to recover Iraqi assets to prevent them from being used to fund the Iraqi insurgency and to keep them out of the hands of terrorists. The United States and the international community cannot permit that these assets be used against our troops, coalition partners and innocent civilians in Iraq.

Finally, our successful prosecution of this hunt serves as a strong warning to other rogue regimes which might seek to loot their countries and hide the stolen assets in the international financial system. Our commitment, Madam Chair, to the people of Iraq is unwavering. Our efforts to find and return Iraq's money are critically important in the transition to a free and prosperous Iraq.

Thank you, Madam Chair, for this opportunity to testify, for your consistent support in these efforts, and for the attention of this committee.

[The prepared statement of Juan Zarate can be found on page 56 in the appendix.]

Chairwoman KELLY. Thank you very much.

I am happy that you mentioned the fact that kleptocracy was not the province of Saddam Hussein alone.

We go now to Mr. Simons.

STATEMENT OF PAUL SIMONS, DEPUTY ASSISTANT SECRETARY FOR ENERGY, SANCTIONS AND COMMODITIES, BUREAU OF ECONOMIC AND BUSINESS AFFAIRS, UNITED STATES DEPARTMENT OF STATE

Mr. SIMONS. Madam Chair, Congressman Gutierrez, and distinguished members of the subcommittee, thank you very much for the opportunity to testify this morning on our efforts to recover Iraqi assets and to return them to the Development Fund for Iraq. I would ask that my full statement be entered into the record and I will just make a few very brief opening remarks.

First, let me associate myself completely with Secretary Zarate's opening statement. We very much have a seamless, cooperative and productive interagency process on the Iraq asset issue. I think the results speak for themselves: more than $750 million transferred over the past year into the Development Fund for Iraq from international sources, and in our view, good prospects for additional transfers prior to the June 30 target date for the transfer of authority to an Iraqi interim government.

For our part, the State Department is very much committed at the highest levels, both in Washington as well as overseas, to the continued recovery of Iraqi assets. We engage on a weekly basis in Washington at the assistant secretary and the under secretary level on this issue. Our International Organizations Bureau, our folks in New York, have been very active in crafting the U.N. resolutions, including Resolution 1483, that has really been the linchpin of bringing the international community behind this effort.

Overseas, I think it is very important to stress that our ambassadors handle this issue as an item of highest priority. Diplomacy really has changed after 9-11. We are very much more involved in the State Department in working together with the law enforcement community, the intelligence community, the financial community, on issues such as terrorist financing, recovering assets, and homeland security. This is all part of the new diplomacy and the State Department is very much committed to this.

Juan mentioned that already we have shared information on more than 570 accounts with more than 41 countries worldwide in the effort to secure the return of Iraqi assets. We have exchanged within the past year more than 400 telegrams with our embassies in the field. We are in daily E-mail contact with them and it really is a tremendous effort.

Let me also say that there is a great degree of collegiality in the interagency process on this issue—all of the key players, Treasury, State, Justice, Defense, Homeland Security, and the very brave individuals that are working out in the CPA, the Coalition Provisional Authority. Our intelligence and law enforcement agencies, all are working together in a very collaborative fashion. You mentioned, Madam Chair, that I did have the opportunity previously

to work on the law enforcement side in Iraq, where we also have a strong interagency effort, but this effort I think is particularly collegial and effective.

So we have made tremendous strides in the recovery and the return of these assets. We still have a long way to go. There are obstacles. I look forward to your questions and perhaps we can have a more open dialogue here, as well as in our private session later. The U.N. has broken new ground. The notion of asset freezing as well as asset transfer is something that is new to a lot of our colleagues in the international community; it is a new concept. We are bringing them along, but this is a post-9-11, cutting edge idea. But we are working with them, we are making a strong effort inside the government, interagency, as well as internationally, and we look forward to the committee's support as we move ahead.

Thank you.

[The prepared statement of Paul Simons can be found on page 53 in the appendix.]

Chairwoman KELLY. I thank you very much.

I am going to ask a couple of questions. Let me just ask Mr. Zarate, what challenges do you face in identifying Iraqi accounts? It is reported that Iraqi money is frozen or held in financial entities by a number of countries, including France, Germany, Switzerland, Luxembourg, Panama, and Russia, among others. Apparently, these countries give reasons for not releasing the money by saying that they cannot be sure that it belonged to Saddam Hussein's regime.

To the extent that it is possible in an open session, can you discuss which countries have taken this approach, as well as which countries have actually cooperated with us in doing what they can to get that money released?

Mr. ZARATE. Madam Chair, if I could, I would like to address your first concerns, which are the obstacles that we are seeing. Certainly, there are legal complications based on the novelty of this effort, both the novelty in terms of freezing and immediately repatriating assets to Iraq. There are also complications with respect to competing claims and other legal issues related to that.

One of the challenges and one of the efforts underway in the interagency group is to compile information in a way and analyze information in way that makes it useful for foreign governments to help prod them to take the right decisions on this, to freeze the assets and to repatriate them. As we have said, we have seen very good progress to date, increasing progress in terms of transfers to the DFI. We expect to see even more progress in the coming weeks.

That being said, there are challenges. There are countries that have to make legal reforms and have to reform the way that they look at this issue. There are countries that perhaps have not given the attention to this or the political will to this that they should. But in general, this is something that we have been pushing at the top of our agenda, as Paul indicated. It is a major agenda item for our ambassadors around the world. It is certainly top of the agenda for Secretary Snow and I know for Secretary Powell as well.

So we are working on a daily basis with countries around the world. Perhaps in the closed session, we can speak more specifi-

cally about some of the challenges that we are facing and some of the countries with whom we are having greater difficulty.

Chairwoman KELLY. Thank you very much.

I would like to also ask you, the administration and the Treasury Department have been very active in locating individuals and entities that are not cooperating. I know that. How are we moving forward in our efforts to surface and disable those who support terrorism and seek to undermine the progress in Iraq? How will this contribute to our efforts in the war against terror? That is a double question. I hope you will answer that, Mr. Zarate.

Mr. ZARATE. Absolutely, Madam Chair. First, we have been sharing information as freely and as quickly as possible. The unprecedented efforts to get account information, as we discussed, to foreign governments, frankly, is an unprecedented effort by the intelligence community, the treasury department and the state department to enlist our foreign counterparts, to have them act against those accounts and to follow up with investigations.

We are also engaged, Madam Chair, in a process of listing and designating known supporters, known family members, known entities who are part of the financial infrastructure of the Hussein regime. Today in fact, Madam Chair, the Treasury Department is announcing the designation of 16 family members related to the Hussein regime, people who are critical to the financial underpinnings and workings of the regime, such as Barzan al-Tikriti and his family. Those names are being notified to the U.N. to make that part of the mandatory freeze list, if you will, to allow our counterparts around the world to freeze those assets and to repatriate them.

In addition, we are notifying 191 parastatals. These are quasi-government entities controlled by the Iraqi government which may still have accounts worldwide. This announcement today, Madam Chair, I think is the first step of the unveiling of our good work over this past year, the good, brave work of our investigators in the field; the great work of the intelligence community; the good work of the military; and the phenomenal diplomatic work of the state department.

Chairwoman KELLY. I thank you. I think that sends a clear message to the world that the U.S. and our allies are going to demand cooperation from foreign countries and their financial institutions. I am very glad to hear you report that today.

I would like to ask you, Mr. Simons, I think I have a bit more time here, I wondered if you would elaborate more on the challenges faced and the need to coordinate U.S. laws, regulations and capabilities with those of other countries. To what extent has State compiled information on other countries's laws and regulations about freezing. You mentioned this in your testimony, freezing and seizing and releasing the assets, and how that works with the applicable U.N. resolutions.

Mr. SIMONS. Thank you, Madam Chair. I think I would like to cite three areas that we are working internationally to try to address some of the limitations that other countries have in terms of both seizing and freezing assets, as well as transferring them. I think up front, it is also useful to keep in mind that the U.S. does have as a matter of legislation and regulation a very flexible legal structure in place.

We have the International Emergency Economic Powers Act, IEEPA, which forms the basis for our ability in the case in which the President declares a national emergency, to provide a very flexible kind of a vehicle. This sort of a vehicle is generally speaking not present in the cases of our major allies, both in Europe as well as in the developing world. So we are starting off with not exactly a level playing field here. We have a lot more flexibility to move up front.

In terms of getting other countries to move, let me cite three areas. First, as Juan mentioned, our aggressive effort to list countries with the U.N. We discovered in the case of terrorist financing where we have a series of U.N. resolutions, that our ability to list entities was an extremely important factor in getting other countries to move along and to get their internal legislative and regulatory gears moving. So we are hoping that the designation today that Secretary Zarate mentioned will have a catalytic effect in terms of galvanizing some movement on the part of countries that have not moved.

Secondly, we have the Financial Action Task Force, which is a multilateral body that issues recommendations with respect to money laundering and terrorist financing policy to its members and to other countries around the world. The Financial Action Task Force, or the FATF, has issued 40 recommendations specifically on money laundering; and eight recommendations on terrorist financing. Those specifically cover the issue of asset seizing and asset freezing, and basically make it an obligation for countries that are members to acquire legal and regulatory regimes that will enable them to exercise these functions. We have fairly aggressively used a name-and-shame process in the FATF to get countries to come into compliance, both with the 40 recommendations, as well as the eight recommendations.

Finally, and this goes back to the time when I worked in narcotics and law enforcement, we have a very active technical assistance program on terrorist financing that was put into place after 9-11 that also brings countries up to speed; that sends our Department of Justice experts out to developing countries to show people how to put into place money laundering legislation that incorporates asset freezing. So we are doing this on the technical assistance side as well.

So I think we have a number of areas where we are working actively. Thank you.

Chairwoman KELLY. Thank you.

Mr. Gutierrez?

Mr. GUTIERREZ. Mr. Zarate, in your testimony you identified $6 billion in recovered Iraqi assets. What do you think the total amount might be?

Mr. ZARATE. Congressman Gutierrez, one of the conundrums of this effort has been trying to understand and get a hold on the full universe of assets pilfered by the Hussein regime. Part of the complication results from the Stalinist-like economy that was run by Hussein in which the economy was used for his own purposes, used for state purposes. In part, that is why we are designating the parastatals today to get at those assets that may exist abroad.

Part of the efforts today, in fact, Congressman, is to have foreign governments help us identify precisely what the universe of assets are that exist out there.

Mr. GUTIERREZ. Do you think you will find another $6 billion?

Mr. ZARATE. Another $6 billion?

Mr. GUTIERREZ. Yes.

Mr. ZARATE. I think it is very hard to say, Congressman. I think what we saw in the May 2002 GAO report, which estimated that it was $6.6 billion that was skimmed off of the Oil for Food Program over about a 4-or 5-year period, I think that is a very good estimate. It is helpful, but I do not think it tells the whole story, in part because we do not know the total.

Mr. GUTIERREZ. Do you think you have found most of it?

Mr. ZARATE. Well, we have found $4.5 billion total in the U.S. and worldwide. That has been frozen. We have returned over $2.5 billion of that to Iraq. As we mentioned, $750 million of that has come from foreign sources into the DFI. We expect to find more. Yes, Congressman, we think there is more out there. As we indicated, there are front companies that have been used. There are agents that were facilitators for the regime. Part of the efforts today, frankly, in designating the 16 individuals is to get at their assets as well, to make sure that the family members of these high-level regime members do not have access to funds and that they are not in the hands of terrorists.

Mr. GUTIERREZ. What have we spent so far in rebuilding Iraq?

Mr. ZARATE. Congressman, I would have to get back to you on that. I do not have an exact figure. Certainly, expenditures are made out of the DFI, the Development Fund for Iraq. All of the frozen assets that are found around the world are funneled into the DFI, as well as proceeds from oil sales. But congressman, I do not have the figure in terms of what has been spent.

Mr. GUTIERREZ. In relationship to the total costs, what we recover will probably be a small relationship of the money in terms of rebuilding Iraq.

Mr. ZARATE. I think that is hard to estimate, Congressman, in part because this is an ongoing effort.

Mr. GUTIERREZ. Maybe you could put what you think, what you say we have recovered, what you project we might recover and what the total cost is, so that we can gauge what we are doing vis-a-vis the total we have been looking at.

Congresswoman Kelly I thought asked a great question about who is cooperating and who is not. For some reason or another, you were not specific about the countries that were and were not. Let me just ask you, is Germany cooperating, and France? I really have difficulty asking for the freedom toast every morning here, so I was wondering if we could go back. Are they cooperating?

Mr. ZARATE. Congressman, part of the reason I answered Madam Chair the way I did was because I think some of this is fairly sensitive. That is why I suggested we get into greater detail in the closed session. Part of the sensitivity, Congressman, deals with the fact that this is an ongoing effort. We are in constant discussions with these governments, including Germany and France and others, Russia. I gave an example of Russian cooperation in my oral statement.

They are cooperating. Now, there are varying levels of cooperation. There are also varying levels of aptitude and political willingness. I think that is something better left for a closed session.

Mr. GUTIERREZ. In the beginning, it was stated by members of the current administration, especially from Defense, that we would be able to rebuild Iraq and that the costs of the war would be minimal to us and to our treasury, both because of recovery of assets and more specifically because of the oil that would be there, and that would help. That has not turned out to be true, so that is why I asked the question so that we can in the end make a final evaluation about what the total costs were. Because as both of you know, there are differences in opinion and they are pretty wide and substantial as to whether we need as a question of national security to engage Iraq.

Afghanistan, not a question, what we needed to do there. I think we would all agree that there might be questions of difficulty. I think, Madam Chair, that they are doing a great job, and it also bodes well since we keep talking about, I get confused when we keep kind of the U.N. does not matter, but we keep talking about the U.N. So maybe in closed session, we could figure out, does the U.N. matter; does it have any relevance anymore; how much does it matter. I read in the paper it does not matter, but then every time I come to one of these hearings, the name "U.N." keeps popping up in terms of getting cooperation from the world community.

Thank you very much, Madam Chair, for being so generous with the time.

Chairwoman KELLY. Thank you.

Mr. Garrett?

Mr. GARRETT. Thank you and good morning.

I appreciate your testimony. It sounds like a Byzantine process and a matrix that you have to deal with as far as tracking down these assets. One of the concerns I have had in light of other testimony we have had as far as assets that are right even here at home and the possibility for a terrorist or would-be terrorist, those that you may not even have on any list today, the ability of them to take these funds that are here in this country and to send them elsewhere so they cannot be traced anymore.

I understand that they basically are still able to use our own financial institutions, U.S. financial institutions, banks to do that. To that end, what measures should be put in place to tighten our financial institutions, our banks, as far as who may be using them and what identifications may be appropriate as far as a screening process for people using our financial institutions in this country.

Mr. ZARATE. Congressman, you raise a very important issue, and again I think this points to the importance of the Patriot Act and the work of the Congress in putting in place a vigorous Title III element of the Patriot Act, which gave us greater powers with respect to sharing information, but also with respect to tightening of the safeguards within the financial system.

We have an open economy, an open financial system, so there is always the danger that criminals, terrorists or others, will misuse that system to raise money, to move money, et cetera. What our challenge is, is to create efficient and effective gateways, if you will,

to the financial system that allows us to capture at the outset or during transactions nefarious activities.

Mr. GARRETT. May I suggest, then that if we wanted to apply an appropriate gateway, that gateway would be such that you would require some sort of documentation for an individual to open up an account, and that documentation would be an official documentation issued from this country and not from some other country.

It is my understanding that Treasury is in support of allowing an individual, an illegal immigrant, an alien, a would-be terrorist who is in this country illegally and has no other documentation from this country or another country, but would be allowed to use documentation such as a matricula card from his country to open up a bank account. Why would be want to allow illegal immigrants and would-be terrorists to use that sort of documentation and not some sort of official U.S. documentation?

Mr. ZARATE. Congressman, under Section 326 of the Patriot Act where we set out relevant regulations for the documents that are required for account openings, we have applied a risk-based approach that in large part relies on the financial institutions to do proper due diligence and to engage in proper identification of the accountholders, and to engage in know-your-customer principles and practices that are expected of a financial institution.

We work very closely with them to look at precisely what types of identifications are appropriate. In the regulation, we leave open to them the ability to balance, to see what identification is appropriate.

Mr. GARRETT. Is it true, then, if I was to go to my local bank and my banker knows me for 40 years, that they would still require some sort of identification from me to open that account, but if someone else came into that bank for the very first time and presented to them a matricula card from another consulate, that they would be required to open up an account with them.

The second question is, who would be in this country that would not have some form of either American identification such as American citizen, or a legal immigrant into this country. Who other than those individuals would be needing to use a foreign documentation such as that?

Mr. ZARATE. To answer your first question, Congressman, it would not be a requirement that the bank actually open an account. It would be incumbent upon the bank to ensure themselves that the identity presented by the individual hoping to open an account is in fact the identity of the individual. So in many instances, to use your example, I would imagine that a bank would require a second form of identification or would require references or would engage in other due diligence in order to assuage themselves that the person is who they say they are.

So the first is really a calculus for the financial institutions. On that point, I would like to mention that the administration is undertaking, along with the Departments of Justice and Homeland Security, to look at what forms of identification are more susceptible to fraud or fraudulent reproduction. Driver's licenses, for example, are often counterfeited, and there are problems there as well. So that is an important issue.

On your second point, Congressman, I think it bears mentioning, and this is a point that we have raised internationally as we have tried to broaden and deepen the regulatory expanse of government oversight and transparency, it behooves us to have people in the financial system and using the formal financial system. It actually becomes easier to track financial flows. It becomes easier to track individuals if they are actually engaging in financial transactions in the formal system.

It is much more difficult when you are dealing with underground banking systems, hawalla systems, et cetera, when expatriate workers are trying to transfer money back home and there are no records or very little records to speak of. So in a sense, having a system that allows for the potential for people who are living in the country, making money in the country, to access the formal financial system is actually a helpful enforcement tool.

Mr. GARRETT. So is the answer to your second question, my second point of who would be in this country other than illegal immigrants using this indication might be would-be terrorists?

Mr. ZARATE. I think you are asking me to speculate.

Chairwoman KELLY. Mr. Zarate, you may answer that question briefly. Mr. Garrett is actually out of time and this subcommittee is aware of the issues that Mr. Garrett raises and will address them in a subcommittee oversight of agencies, which actually we have these things on the schedule. So we can talk about that, but please go ahead.

Mr. ZARATE. I will not speculate as to who potentially is using the matriculas. It would obviously be individuals from that country who are living and making money in this country and who would want to use that identification to conduct legitimate transactions.

Chairwoman KELLY. Thank you.

Mr. Inslee?

Mr. INSLEE. Thank you.

I assume that just about at the same time the war started in Iraq that your agency swung into action right away to try to chase down any of Saddam's assets. Is that a fair statement, pretty close to contemporaneous with starting the war?

Mr. ZARATE. That is right. The announcement from Secretary Snow launching this campaign was immediately coincident with the commencement of actions in Iraq.

Mr. INSLEE. I certainly appreciate that. The question arises, if we did that in Iraq, why after September 11, 2 days after September 11, did this administration allow a privately chartered 737 to fly around America picking up Saudi Arabian citizens, including blood relatives of Osama bin Laden, and fly the out of the United States back to Saudi Arabia, without undergoing a close comprehensive scrutiny to determine whether or not they had any relationship to the assets of al Qaeda, as has been widely reported.

If you can shed light on whether in fact that is accurate or not, that would be appreciated. If you can explain why the U.S. Government did that, at the same time it was grounding all the airplanes in America so my constituents could not get home from their business trips, it allowed Saudi Arabians, the country that had 15 out of 19 members on the planes that crashed into the towers, were

from Saudi Arabia, and flew them out of the country without really scrutinizing the situation for assets.

Mr. SIMONS. Congressman, I do not know that I can give you a detailed answer to that question. I can say, and I think I could speak on behalf of my Treasury associates as well, that those of us that were involved with the issue of terrorist financing in the wake of 9-11 moved very quickly. We had an executive order that was in place within the first several weeks after 9-11, and the first comprehensive effort to identify and to freeze the assets of terrorist financiers was put into place in very rapid fashion.

Subsequently, we sought and obtained U.N. blessing for this and we went international. So on the issue of seizing and freezing terrorist financing assets, I think the record of the administration post-9-11 was a very strong one.

Mr. INSLEE. I appreciate that. Could you shed light on whether or not the facts I set forth are accurate or not? Did that happen?

Mr. SIMONS. I do not have the information on that. I will have to get back to you with an answer on that question.

Mr. INSLEE. I would very much appreciate it because as far as I can tell, we have not received information from the administration. So if you can favor me with a letter specifically stating whether those things happened or not, and explaining why this administration would allow an airplane to pick up Osama bin Laden's relatives to fly them out of the United States of America 2 days after 9-11, at the same time they are grounding every other civilian aircraft in America, without finding out if they had some of al Qaeda's cash with them, if you could explain to me a justification why this administration let that happen, I would be very appreciative. And I will provide you my address.

The second question I have, could you gentleman, in summary form, this is an approximation, could you tell me the approximate number of people that are involved in this tracing of Iraqi assets now, just in your respective, and then these are ballpark figures.

Mr. ZARATE. Congressman, that is a hard number to give you, in part because on a daily basis you have——

Mr. INSLEE. Can you give me just ballpark, within a factor of three?

Mr. ZARATE. I would say, at least within Treasury, we have certainly our investigators on the ground from the criminal investigation division at IRS, five of whom will be on the ground as of April; we have four on the ground now. They work very closely with FBI counterparts and department of defense officials. Those numbers are very difficult, at least for me to provide. We also have officials in the Coalition Provisional Authority who are advising the ministries and also working on these issues. There is one particular individual from treasury who is focused on this issue and the State Department has some individuals as well.

Then back here at main Treasury, we have a fluctuation of about I would say from five to ten experts at any time dealing with this issue, as well as people at main headquarters at IRS, as well as people at OFAC and FinCEN. So it is hard to give you an exact number because on a daily basis, depending on the issues, the issues revolving around this are so complicated and varied it really depends.

Mr. INSLEE. I am sorry. Mr. Simons?

Mr. SIMONS. Yes, from the perspective of the State Department, we have at any time from about five to ten officials in the building working the issue. At each of our embassies, we have identified since 9-11 a terrorist finance coordinating officer who has undergone training in Washington and who is working not only terrorist financing issues, but also these Iraqi assest issues. We have a point person at every one of our embassies around the world that is following up on the leads.

I would also like to note, if I could, Mr. Congressman, that the leads that are being generated by the Treasury, IRS folks in the field, working in Iraq, are truly unique. We have never had this kind of effort before. Our ability to take that information, to route it through Washington and to get it back out to the field again is something that is very unique. When we talk about lessons learned, I think it is something that we might try to see if we can do again in the future.

Chairwoman KELLY. Thank you very much, Mr. Inslee.

I really want to thank this panel. There may be questions that will be coming from other members. I want to first of all explain——

Mr. INSLEE. Madam Chair?

Chairwoman KELLY. I am sorry?

Mr. INSLEE. Could I ask you your indulgence? I do not know if we could have a possibility of——

Chairwoman KELLY. Mr. Inslee, I am really sorry, but there will be a closed briefing after this meeting. If you have further questions, perhaps you can ask them in that closed session.

Mr. INSLEE. Thank you.

Chairwoman KELLY. I want to thank this panel very much. Mr. Zarate, I want to congratulate you on the designation of the 16 family names, as well as the 191 quasi-government entities that you have designated to the United Nations to be added to the list that requires the members's countries to block and transfer any stolen Iraqi assets that are found outside of Iraq. That is very significant and that is hard work. It represents, I am sure, a great many hours in the back rooms looking at very unattractive books.

So I really do congratulate you on that. And I congratulate the panel and I note that some members may have additional questions for this panel, which they may wish to submit in writing. Mr. Inslee, you may wish to take that route as well. Without objection, though, the hearing record will remain open for 30 days for the members to submit written questions to these witnesses and to place their responses in the record.

I thank you very much. Now, we will call the second panel.

Mr. Ose, I am sorry. I have just dismissed this panel.

Mr. OSE. I have a question for Mr. Zarate.

Chairwoman KELLY. All right. With unanimous consent, we will bend the rules and allow you one question with one quick answer, because I have dismissed this panel and actually we are going to have a private session after this, and you may ask your questions there. But with unanimous consent, I will do that, for one question.

Mr. OSE. I thank the Chair.

Mr. Zarate, in the early 1990s, certain Iraqi assets were frozen in banks, something on the tune of $1.2 billion. I am curious as to the rates of return that were paid on those assets subsequent to their freezing in terms of whether or not they adhered to what is called a commercially reasonable basis. I would be happy to take my answer in writing if it pleases the chair in order to expedite matters.

Mr. ZARATE. Congressman, we will provide a written response which will provide a full accounting. But to give you a very quick answer, you are correct that in the early 1990s, $1.261 billion was frozen in the U.S. with respect to Iraqi assets. As of today, the figure of $2.112 billion dollars has been frozen. As we have indicated, approximately $1.932 billion of that amount has been vested and transferred back to Iraq.

So the differential between the $1.26 billion and the $2.112 billion represents in part the interest accrued. Given the varied nature of the accounts, given one of the loan elements to the U.N., it presents a complication in the figure. We feel that most banks applied a commercially reasonable rate. If you actually worked out the numbers, assuming some of these things, it works out to about 4 percent as to the rate that was applied.

Mr. OSE. By institution, are you able to break it out in terms of what was frozen and what the rate of returns were being paid?

Mr. ZARATE. Yes, we are. That is commercially sensitive information and the rates varied depending on the type of account, as well as the amounts. In the instance where we found that banks either did not apply an interest rate that was appropriate, we have gone back to those banks and ameliorated that problem.

Mr. OSE. Madam Chair, I would be happy to submit my question for further expansion by Mr. Zarate in writing.

Chairwoman KELLY. Thank you.

Mr. OSE. I thank the Chair.

Chairwoman KELLY. In the interests of fairness, since Mr. Ose has had a turn, I am going to beg this panel's indulgence and return to Mr. Inslee for his final question.

Mr. INSLEE. Thank you, Madam Chair. That is an act of great graciousness. Thank you very much. I appreciate it.

Some of us feel that the greater threat at the time the war started in Iraq, to the lives of our constituents, was actually al Qaeda, the group that killed thousands of Americans on September 11. If the will of the policymakers at that time had been to continue to focus on stopping al Qaeda from killing Americans, rather than to shift and shift resources into the war in Iraq, would the people that you just identified, each you talked about a certain number of people who are now chasing Iraqi assets instead of al Qaeda assets, would those resources have been available to chase al Qaeda assets, the group that struck us on September 11? The ones that are now chasing Iraqi assets?

Mr. ZARATE. Congressman, this administration, the Treasury Department and I know the State Department, has never lost its focus on the battle against al Qaeda and other terrorist groups. Our campaign to freeze assets and to seize assets related to al Qaeda is unabated. In fact, today we are announcing the designation of 10 individuals that are part of an Italian cell submitted to

the U.N. by the Italians. This is an ongoing effort. We now have designated 361 individuals and entities, frozen or seized approximately $200 million in terrorist-related assets, continue to work closely on a bilateral basis and multilaterally with our partners abroad to address the al Qaeda issue.

So my answer is that all the relevant resources are being applied to the hunt for al Qaeda's finances, and on a daily basis we are uncovering those leads as well and taking appropriate actions to deal with them.

Chairwoman KELLY. Thank you very much.

Mr. INSLEE. Thank you.

Chairwoman KELLY. I again will thank the panel very much for their indulgence on this, and I look forward to our having a closed session with both of you. With that, you are dismissed with our great thanks.

On our second panel, the subcommittee will hear from two witnesses from the General Accounting Office as a follow-up to a request that the committee made to the agency last May. With us from the General Accounting Office is Mr. Joseph Christoff, the Director of International Affairs and Trade, and Ms. D'Agostino, the Director of GAO's Financial Markets and Community Investment.

Mr. Christoff spearheads the GAO's work related to the U.S. agencies responsible for nonproliferation, export control and international security issues, as well as issues related to the United Nations and multilateral institutions. Ms. D'Agostino directs the GAO's work on a number of issues including anti-money laundering programs, the SEC's technology and security oversight of the markets. Prior to this position, she led and managed GAO reviews of counterterrorism and government-wide terrorism initiatives and defense, trade and technology transfer issues.

Without objection, your full written statements will be made part of the record. You will each be recognized for a 5-minute summary of your testimony. We will begin with you, Mr. Christoff.

STATEMENT OF JOSEPH A. CHRISTOFF, DIRECTOR OF INTERNATIONAL AFFAIRS AND TRADE, UNITED STATE GENERAL ACCOUNTING OFFICE

Mr. CHRISTOFF. Madam Chairwoman, members of the subcommittee, thank you for inviting GAO to this important hearing.

Last year, you asked GAO to examine how the United States works with other nations to recover the assets of foreign regimes. Today, I will present our preliminary observations on U.S. efforts in Iraq. First, I will update GAO's previous estimate of the illegal revenues the former regime acquired through the Oil for Food Program. Next, I will describe the efforts of U.S. agencies to recover Iraqi assets. Finally, I will provide some observations on the challenges that the United States faces in recovering these assets.

Let me first begin with the Oil for Food Program. Under U.N. sanctions, the former Iraqi regime was allowed to sell oil to purchase food and other humanitarian goods. From 1997 to 2002, the United Nations controlled over $67 billion in Iraqi oil revenues. However, the sanctions did not prevent Iraq from acquiring billions in illegal revenues from these proceeds. Oil was smuggled through Syria, Jordan and the Persian Gulf. The government levied sur-

charges of up to 50 cents a barrel against oil purchasers. It extracted commissions of 5 to 10 percent against commodity suppliers. Based on this information, we estimate that the former regime acquired $10.1 billion in illegal revenues.

I would now like to describe the efforts the U.S. has made to recover the regime's assets. Led by the Departments of the Treasury and State, more than 20 government entities are working to locate, freeze and transfer the former regime's assets to Iraq. The United States created a new interagency coordinating body called the Iraqi Assets Working Group. This group is responsible for exploiting financial documents in Iraq and engaging the financial community in the hunt for illicit assets.

In addition, the United States has used recently developed domestic and international authorities to recover assets. Provisions in IEEPA and the Patriot Act allowed the Treasury Department to confiscate and vest Iraqi assets. U.N. Security Council Resolution 1483 required all members to immediately transfer the regime's assets to the Development Fund for Iraq.

Now, the results of those efforts. Let me caution that we have yet to review the reliability of the data that has been provided us by the Department of the Treasury and the Coalition Provisional Authority. First, in March 2003, the U.S. Government took control of or vested $1.9 billion in Iraqi assets held in the United States. This process moved quickly because the United States had in place the necessary legal authorities to vest and transfer the Iraqi assets. The CPA has spent the vested assets on salaries for former Iraqi military personnel, civil servants and pensioners, and to pay for the operations of Iraqi ministries.

Second, coalition forces and investigators quickly seized over $900 million in Iraq between April and May 2003. These assets included hard currency, gold and jewelry. The CPA has used $752 million of these assets to fund reconstruction projects and to purchase liquefied petroleum gas.

Third, other countries froze $3.7 billion of Iraqi assets in compliance with U.N. Security Council resolutions. As of March 2004, over 10 countries had transferred $751 million to the DFI. Finally, little progress has been made in identifying and recovering assets hidden worldwide. While the total amount accumulated by the former Iraqi regime is unknown, estimates range from $10 billion to $40 billion.

The United States faces several challenges in its efforts to recover Iraq's assets. First, recovering the former regime's assets initially was not a high priority in the overall U.S. effort in Iraq. By September 2003, as the need for additional resources to rebuild Iraq became apparent, the United States placed a higher priority on recovering the former regime's assets.

Second, U.S. expectations for the quick transfer of funds may have been overly optimistic given the legal capabilities of some countries. U.S. officials believed that the U.N. resolutions would require other countries to quickly transfer Iraqi assets. However, many countries needed to adopt legislation to implement the U.N. requirements.

Furthermore, U.S. officials assumed that frozen assets were immune from new claims. However, some countries have delayed

transferring assets until all claims are settled. Finally, the transfer of sovereignty to an interim Iraqi government could complicate U.S. efforts to recover the regime's assets. The transitional government has yet to conclude agreements on the activities of the multinational force, which may include rights to continue to interview Iraqi officials and exploit financial documents.

Madam Chairwoman, that completes my statement. Ms. D'Agostino and I would be happy to answer your questions.

[The prepared statement of Joseph A. Christoff and Davi M. D'Agostino can be found on page 37 in the appendix.]

Chairwoman KELLY. Thank you very much.

Ms. D'Agostino, I am sorry.

STATEMENT OF DAVI D'AGOSTINO, DIRECTOR OF FINANCIAL MARKETS AND COMMUNITY INVESTMENT, UNITED STATES GENERAL ACCOUNTING OFFICE

Ms. D'AGOSTINO. That was our joint statement.

Chairwoman KELLY. Yes, Mr. Christoff said that was your statement as well. Is that correct?

Ms. D'AGOSTINO. Yes. We worked on this together.

Chairwoman KELLY. All right.

The committee heard testimony last year that the most effective way to recover nongovernment assets, that is to say the plundered assets that are converted to personal use, but held outside the plundered country, might be private lawyers acting on behalf of a country pursuing civil remedies, and not necessarily a government-led criminal effort. Do you have an opinion on that effort? It was carried on a trial basis for the U.N. to recover plundered Nigerian assets and I would be interested in what your feelings are, whether or not you think that might be more effective or as effective, or is it good to have the two things running in conjunction with each other?

Mr. CHRISTOFF. Madam Chairwoman, we have not looked into that particular option. Certainly, I would say that all options are important in trying to recover assets, whether it is an option working directly with the countries on an official basis, or even working with financial institutions to try to get the assets back.

Chairwoman KELLY. I think maybe we should explore that a bit, if you are willing to do that. Would you mind looking into that and getting back to us and talking with us about it? It might be something that would point up places where we can amplify private efforts that are going on out there.

Ms. D'Agostino, did you have something you wanted to say on that?

Ms. D'AGOSTINO. I am aware that we have interviewed a few of the private sector entities that have been involved in hunting assets for remuneration. We have information about their views, but we have not formed any position of our own with respect to that.

Mr. CHRISTOFF. Let's add it to our list. We are completing our work for you by May, so we will do that.

Chairwoman KELLY. If you would add that to your list, I would appreciate it.

It is an accepted fact now that the Saddam Hussein regime was demanding kickbacks and deliberately mis-pricing oil sales and

really manipulated the Oil for Food Program by engaging in a lot of illegal sales of oil. Can you tell me what efforts were made, if any, by the United Nations to make sure that the oil for food sales contracts were actually properly priced and that there were no bribes and kickbacks? What did the U.N. do about that?

Mr. CHRISTOFF. Let's perhaps put some perspective on what the United Nations was required to do. The contracts that we are talking about that involved commissions, that involved kickbacks, were contracts that under the U.N. Oil for Food Program, the Iraqi government was allowed to negotiate directly with the purchasers and with the suppliers of the commodities. So any types of kickbacks or commissions obviously would not have been listed in the specific contracts.

We do know that those type of kickbacks occurred because foolishly some of the contracts had line items that said "after sale service charges," which were in effect kickbacks. Any information that the Oil for Food Program might have had about some of these problems was referred to the United Nations Sanctions Committee. That Sanctions Committee is made up of the same members as the Security Council. So according to the U.N., it was incumbent upon the Sanctions Committee to take any action on allegations of kickbacks or commissions that they may have uncovered.

Chairwoman KELLY. And they did not, is that correct?

Mr. CHRISTOFF. One interesting point is that some of the smuggling that occurred, for example to Jordan, the sanctions committee noted the occurrence of the smuggling, but nothing was done beyond that.

Chairwoman KELLY. What about other countries in this regard? What have any other countries done to report, to stop the kickbacks that were going on, the bribes, the kickbacks, the money manipulation? Have you uncovered any attempt by countries to try to stop this or report it or do anything to stop Saddam Hussein from that sort of evil behavior?

Mr. CHRISTOFF. It was a bit of a double-edged sword because many of those countries obviously were the recipients of the contracts; the key countries that received the majority of the contracts were the United States, Russia and France. So I do not think we have any specific information about which of the countries on the Security Council did report information. We do know that the United States and Great Britain were the countries that placed the greatest number of holds on contracts. The U.S. placed about $5 billion of holds on contracts, mostly concerned about the possibility of dual-use goods being part of those contracts.

Chairwoman KELLY. Were there any holds placed by Russia?

Mr. CHRISTOFF. No.

Chairwoman KELLY. No holds placed by France or Germany?

Mr. CHRISTOFF. None that I am aware of. Again, 90 percent were U.S. The remainders I believe were British.

Chairwoman KELLY. Thank you.

I am going to turn now to Ms. Maloney.

Mrs. MALONEY. Thank you, Chairwoman Kelly. Actually, one of our bills is on the floor right now on regulatory relief, where we worked on the business interest accounts. I am going to go down there shortly on that.

But I want to thank you for holding this hearing. I am deeply disturbed by the scandal in the papers involving bribes to U.N. officials involved in the Oil for Food Program with Saddam Hussein. But my question to GAO is, are you getting all the access you need to information? Are the Departments of the Treasury and State cooperating with you? Are they imposing limits on your ability to complete this study? Do you have access to everything you need to do a good study?

Ms. D'AGOSTINO. Representative Maloney, we have been working very closely with the Departments of the Treasury and State to get all the information that we need. We have recently over the past several weeks achieved accommodation with the departments and are going to continue to try to obtain some follow-on information after the hearing so that we can finalize our report to you, hopefully by the end of May.

Mrs. MALONEY. So you do have access to all the information you need.

Ms. D'AGOSTINO. So far, we believe that we are getting the access that we need.

Mr. CHRISTOFF. I am really happy with the cooperation that we got over the past two weeks, and I want that to continue until our report is issued in May. That is an expectation that I hope we all have.

Mrs. MALONEY. There was an article yesterday in one of the papers about Saddam Hussein accounts in Jordan, and that they were not cooperating in telling our government or anyone who was making withdrawals from those accounts. Are you familiar with that allegation, with that story? Are you familiar with trying to get information on these Jordanian accounts? Have they cooperated? The paper said they are not cooperating. Can you comment on this?

Mr. CHRISTOFF. I am familiar with it, but I think the information that you will get will be in the closed-door session.

Mrs. MALONEY. Okay. Thank you.

Do you have any idea of the scope of the amount of money involved in these bribes that were reported in the Oil for Food Program?

Mr. CHRISTOFF. Sure. The estimate that we just updated, 2 years ago we said there was $6.6 billion; it is now $10.1 billion. It is broken down into two parts; about $4.4 billion of that total amount is related to what is referred to as surcharges, commissions, in effect, kickbacks, that were imposed on purchasers or asked from suppliers. The remaining amount, the $5.7 billion, was the smuggling that went through the Persian Gulf, Jordan, Syria, and Turkey.

Mrs. MALONEY. Do you believe that money from Saddam Hussein that he took from the Oil for Food Program is going to insurgents who target U.S. troops in Iraq today?

Mr. CHRISTOFF. No, I do not.

Mrs. MALONEY. You do not. You do not.

I look forward to the closed-door session and the Jordanian accounts.

Thank you.

Chairwoman KELLY. Thank you, Ms. Maloney.

Mr. Ose?

Mr. OSE. Thank you, Madam Chair.

I want to go back over a couple of things to make sure I understand correctly. It is GAO's conclusions that about $10.1 billion in oil sale revenue was skimmed off the top.

Mr. CHRISTOFF. $10.1 billion that was either skimmed or it was the result of illegal smuggling of oil.

Mr. OSE. Okay. More accurately, $4.4 billion of skimming and $5.7 billion of smuggling.

Mr. CHRISTOFF. Correct.

Mr. OSE. And that is comprised based on surcharges of up to 50 cents per barrel or commissions ranging from 5 percent to 10 percent in the form of surcharges and the like.

Mr. CHRISTOFF. Right. In our analysis, actually, we used 25 cents per barrel, trying to be a bit more conservative.

Mr. OSE. Okay. You highlighted Syria, Jordan and generically the Persian Gulf as the source or the end-countries for this oil.

Mr. CHRISTOFF. Smuggling.

Mr. OSE. For the smuggling portion of that.

Mr. CHRISTOFF. Correct.

Mr. OSE. Were there countries beyond Syria, Jordan or the Persian Gulf to which this oil was sent?

Mr. CHRISTOFF. The oil ultimately ended up in the international market. The conduits for actually getting it out of Iraq were through pipeline via Syria; truck over towards Jordan and Turkey; and then through the Persian Gulf by ship.

Mr. OSE. Okay. GAO's position, then, is that the conduits for the oil departing Iraq were Syria, Jordan and Persian Gulf.

Mr. CHRISTOFF. Correct.

Mr. OSE. And the end-users, do you have any evidence as to who the end-users of this oil, other than just the generic international markets?

Mr. CHRISTOFF. No, not the smuggled.

Mr. OSE. Okay. Do you have any evidence as to the payola on the $4.4 billion worth of revenue that is estimated to be in the form of surcharges or commissions?

Mr. CHRISTOFF. The United Nations has all of the contracts. At the end of March, there were over 6,000 contracts that were pending. All of this information has been turned over the Coalition Provisional Authority, so that will list all of the pending contracts in terms of the purchasers, as well as the suppliers of commodities; who they were; which countries they were coming from; and the total amounts.

Mr. OSE. Some of the press reports I have read indicate that certain individuals who are actually associated or affiliated directly with the United Nations in one form or another were the beneficiaries, either directly or by virtue of relationships with corporate entities of having received some of these oil shipments. Does GAO have any such information?

Mr. CHRISTOFF. No.

Mr. OSE. You also talked a little bit about holds on contracts. Ms. Kelly touched on this. I just want to make sure I go back on this. There were any number of countries with whom there were contracts for provision of service to the Hussein regime in Iraq; the United States, Germany, France, Russia. Were there others?

Mr. CHRISTOFF. Your question again?

Mr. OSE. You talked earlier about holds on contracts.

Mr. CHRISTOFF. Correct.

Mr. OSE. And that the United States had placed holds on up to $5 billion worth of contracts.

Mr. CHRISTOFF. Correct.

Mr. OSE. Your earlier testimony was, in answer to Ms. Kelly's question, was that no holds had been placed on any contracts that you were aware of from Russia, France or Germany.

Mr. CHRISTOFF. We will certainly go back and check on that. Two years ago when we did this work, 90 percent of the holds were U.S.; the remainder were British.

Mr. OSE. Okay. In terms of the accounts into which money from the sale of oil under the Oil for Food Program occurred, the funds were placed in custodial accounts in U.S. banks or other banks?

Mr. CHRISTOFF. A U.N. escrow account held in Paris.

Mr. OSE. What bank in Paris controlled the funds?

Mr. CHRISTOFF. The Bank National de Paris.

Mr. OSE. Paribas?

Mr. CHRISTOFF. Yes.

Mr. OSE. Okay. Do you have any information as to what sort of fees or assessments or rates of return were paid on the monies deposited into that account?

Mr. CHRISTOFF. I do not know. As part of the Oil for Food Program, however, the United Nations was given approximately 3 percent of the total oil proceeds that would be for their administrative expenses to administer the Oil for Food Program.

Mr. OSE. My question is, in their custodial nature, the U.N. was acting as an escrow or a fiduciary and they were placing funds into BNP Paribas in Paris.

Mr. CHRISTOFF. Right.

Mr. OSE. Was that an interest-bearing account?

Mr. CHRISTOFF. I do not know. We can check on that.

Mr. OSE. I see my time has expired. Thank you.

Chairwoman KELLY. Thank you. That was an interesting line of questioning and I hope we can get some answers.

It just kind of blew me away there when you said 3 percent of the Oil for Food Program monies were siphoned off by the United Nations?

Mr. CHRISTOFF. No, no, no. Not siphoned off.

[Laughter.]

Chairwoman KELLY. Let me understand this.

Mr. CHRISTOFF. Yes, please. That was part of the arrangement in establishing the Oil for Food Program, to administer the program as part of the agreement, 72 percent of the oil sales went to Iraq to be used for purchases; 3 percent was overhead to allow the United Nations to administer the program; and 25 percent was returned to Kuwait as part of war reparations.

Chairwoman KELLY. Thank you. I appreciate that clarity. I also appreciate the very direct manner in which you have answered our questions with facts. It is refreshing to have someone here that does not dissemble; that just says what it is. I appreciate that.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing. So without objection, the hearing record will remain open for 30 days

for the members to submit written questions to these witnesses and to place their responses in the record.

Mr. OSE. Madam Chair, if I may? I want to follow up on the line of questioning you just brought up for a moment.

Chairwoman KELLY. Could you do that please in the closed session?

Mr. OSE. Certainly.

Chairwoman KELLY. Thank you.

This hearing is adjourned.

[Whereupon, at 11:39 p.m., the subcommittee was adjourned.]

A P P E N D I X

March 18, 2004

OPENING STATEMENT OF REP. SUE KELLY
CHAIRWOMAN
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
"The Hunt for Saddam's Money: U.S. and Foreign Efforts to Recover Iraq's Stolen Money"

March 18, 2004

This morning, the Subcommittee continues its examination of the efforts by our nation and others to suppress the flow of illicit money used to finance terrorist networks and, specifically, to track down the money Saddam Hussein stole from the Iraqi people.

Terrorists have no boundaries, nor do they exhibit any regard for peace, liberty, or human life. Terrorists will never stop trying to find ways to secure the resources needed to carry out their extremist agendas. An unwavering commitment to shattering the underground financing networks upon which they rely is a critical part of our effort to prevent future acts of terrorism here and abroad. The Subcommittee will continue to examine efforts to pursue illicit money and help eradicate the threat of international terrorism.

The capture of Saddam Hussein was great day for the Iraqi people and for freedom and democracy throughout the world. The Iraqi people are now free from his reign of terror, and it's appropriate that the pilfered fortune once used to oppress them now be directed towards initiatives that will help build a country and government of their choosing. There still remains difficult work ahead, and it is imperative that we work with our foreign counterparts and the Iraqi people to rebuild the country's infrastructure, financial systems and overall economy.

Last week, the Iraqi Governing Council completed the Transitional Administrative Law for Iraq. The new law is an important step toward a free Iraq with democratic elections and a new constitution created by and for the Iraqi people. As the law was approved, we are reminded of the steadfast leadership that our President and this Administration, as well as our brave soldiers, sailors and coalition troops, have provided throughout the liberation of an oppressed nation. Along this difficult journey, our armed services have continued to earn the admiration and respect of the American people and many others throughout the world. Our thoughts and prayers are with the men and women serving our country, and we will continue to give them the support and resources they need to complete this important mission.

As we continue to work with our allies and the Iraqi people to rebuild their country, it will take a great number of resources. We must do everything possible to retrieve the money Saddam Hussein stole from the Iraqi people to assist in these reconstruction efforts. This money belongs to them. These assets must be found and returned to the people of Iraq to build schools, reopen businesses and hospitals, and repair the country's infrastructure – all destroyed by the malicious tyranny of Saddam Hussein and his inner circle.

Since the start of our military intervention in Iraq one year ago, the United States has led a worldwide hunt for the money Saddam Hussein systematically looted from the Iraqi people over the last few decades. The focus of these efforts has been to retrieve and return Saddam's money that already has been located and frozen. Simultaneously, we are searching to uncover new money, accounts and front companies of the former dictator and his associates.

Last May, this Subcommittee held the first Congressional hearing on efforts to freeze, seize and repatriate assets of the corrupt Saddam Hussein regime. Witnesses from the Treasury, State, and Defense Departments who are leading the search for Saddam's assets inside Iraq and around the world testified before the Subcommittee.

In that hearing, the Subcommittee learned of the complex schemes used by Saddam Hussein's regime to steal from the Iraqi people, including kickbacks, phony front companies, hidden trusts, and other accounts in financial institutions throughout the world. We also examined how the our government works with other relevant international agencies, counterparts in foreign governments, and the financial services industry to identify, seize, and repatriate the worldwide financial assets of dictators. Given the significance of these issues, the Committee requested that the General Accounting Office (GAO) assist Congress in this important investigation.

This Subcommittee will receive an update on these efforts today, including how much money has been found and transferred to the Development Fund for Iraq (DFI) by the U.S. and other foreign countries. We also are very interested in U.S. efforts to locate new accounts and to convince foreign countries to freeze and transfer money.

Our government has given the U.N. Sanctions Committee the names of numerous entities and dozens of individuals with ties to Saddam Hussein and the corrupt dictator's regime. As we continue to provide evidence to the United Nations, there have been questions about the ability and willingness of countries to use and share intelligence information. Foreign entities must proactively contribute to these efforts, and we need to know what can be done to encourage their participation.

We expect nothing less than the highest level of cooperation from foreign governments and financial institutions. Congress was very clear and unwavering in the PATRIOT Act: the willingness to share cross-border information is a license required to do business in America. Now, Congress and the American people need to know who is cooperating and whether any action may be necessary by our government or the United Nations. We know the money is out there, and we plan to find and return it. We expect foreign entities to do the same.

The Subcommittee thanks the witnesses for being here with us today. We have key witnesses from the Treasury and State Departments, in addition to representatives from the General Accounting Office (GAO) to discuss the preliminary findings of their investigation.

Congress has an important role to play in making clear to countries across the world that the United States will be unrelenting in our pursuit of those who finance terror, and this subcommittee will continue to place a sharp focus on fulfilling this important obligation.

Opening Statement

Chairman Michael G. Oxley

Financial Services Committee

Subcommittee on Oversight and Investigations

**"The Hunt for Saddam's Money:
U.S. and Foreign Efforts to Recover Iraq's Stolen Money"**

March 18, 2004

I commend Mrs. Kelly, Chairman of the Subcommittee on Oversight and Investigations and Vice Chairman of the Committee on Financial Services for her leadership and commitment to repatriating assets to the people of Iraq. This is our second hearing on the issue, and our goals are to support the U.S. government effort and to ensure that it is working as effectively as it can to return stolen Iraqi funds.

The United States has a long and proud history of liberating nations from tyranny and supporting new democracies. An important part of supporting the new democracy in Iraq is returning Hussein's pilfered cash. In today's hearing, we look forward to testimony from the U.S. Department of the Treasury, the U.S. Department of State, and the General Accounting Office regarding our progress in this area.

The behavior of the former Iraqi government officials with respect to the Oil-for-Food program displayed complete disregard for basic human need and total contempt for the United Nations. It was really the oil for Saddam program, the oil for palaces program. Iraqis starved while he spirited billions of U.N. funds out of Iraq for personal gain. We cannot permit those funds to remain frozen in bank accounts throughout the world. Some of those funds may also have been invested in companies in violation of the U.N. sanctions, occasionally in companies created expressly for the purpose of evading U.N. sanctions. Banks and other intermediaries should not be permitted to hold assets indefinitely on their balance sheets without returning them to their rightful owners: the people of Iraq.

Those assets are needed urgently to help rebuild Iraq, and our purpose today is to assess our progress toward that goal.

I understand that the Coalition Provisional Authority in Iraq, the Iraqi ministries, and various U.S. government entities are working hard to ensure that funds illegally diverted from Iraq are returned. Many of these people are civilians placing their lives on the line each day in Iraq. I commend their efforts and, together with Vice Chairman Kelly, am working with the CPA and today's witnesses to help ensure the identification, isolation, and repatriation of these assets.

Our commitment to due process creates a number of challenges in the worldwide financial system. I believe these challenges can be met, especially if the different parts of the U.S. government can work together collaboratively. Much progress has been made on the inter-agency issues identified in last year's hearing, but I understand more progress is needed.

Just as we need inter-agency cooperation, we need international cooperation. As our representative to the G-7, Secretary Snow is doing everything he can to foster that.

Make no mistake, though, without President Bush's commitment, this project never would have been undertaken. While much remains to be done in returning assets to Iraq, let's not forget that much has been accomplished against great odds. I commend Mrs. Kelly for focusing on this issue and hope today's hearing can serve as a catalyst for additional repatriation of stolen government funds.

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Representative Jeb Hensarling
Opening Statement for Financial Services Hearing
"The Hunt for Saddam's Money"
Thursday, March 18, 2004

Madam Chairwoman, tomorrow is the one year anniversary of the beginning of America's liberation of Iraq. I think it is important that we take the time to acknowledge the exceptional work of our nations military and some of the dramatic changes that have taken place in that country over the course of the past year.

At the beginning of this month the Iraqi Governing Council approved an interim constitution for Iraq which included a Bill of Rights for the Iraqi people, something unprecedented in the history of the Middle East region.

Municipal councils exist in almost all major cities and towns in Iraq, while more than 500 judicial courts operate independently from the Iraqi Governing Council and the Coalition Provisional Authority.

The enormous success the Coalition has had in training Iraqi security forces has allowed U.S. troops to rotate back to their home stations more frequently. Because of this, the number of Coalition forces is expected to decrease by approximately 20,000 troops in the month of May.

All Iraqi hospitals and more than 1,200 clinics are open, with at least 90 percent of all children in Iraq now being able to receive routine immunizations.

More than 5.5 million children went back to school in 2003, and more than 2,300 schools have been restored for the 2004 school year.

With a new independent central bank in place, the financial system in Iraq is as stable as it has been in recent years. Iraqi banks continue to make loans to finance new businesses, and more than 95 percent of all pre-war bank customers have banking services.

And these are just some of the numerous accomplishments made in Iraq over the past 12 months.

Clearly, the Iraqi people have had their lives transformed from ones darkened by persecution and poverty, to lives enlightened with peace and prosperity.

The determination, focus, and character of our brave troops have been Americas most important resources in our mission to bring freedom to Iraq. However, there is another important front in our efforts to liberate Iraq, and that is what we are here to discuss today.

In the past year, almost $2 billion in Saddam Hussein's assets have been tracked down and confiscated. As part of President Bush's "financial offensive" these funds will be returned to the people of Iraq, primarily to be used for Iraqi reconstruction efforts.

The money of Hussein's regime is blood money, and our Administration's efforts to return these funds to the people who Hussein stole it from have been very successful. This Administration should be commended for their aggressiveness in going after Saddam's ill gotten fortune. Furthermore, they should be applauded for their commitment to dry up the assets of all terrorists seeking to inflict harm upon this great nation.

The sooner the U.S. can effectively choke off the funding sources for terrorists and terrorist regimes, the sooner we can put Iraq on the path to peace and prosperity, the sooner our own country and other nations will be free from terror.

I look forward to the testimony of our panelists, specifically for their insight on how United States efforts have been coordinated and complimented by other nations.

More importantly, I am curious to hear what our panelists believe we in Congress can do to help with the Administration's efforts to recover these ill-gotten funds and keep America secure.

I thank the Chairwoman and yield back the balance of my time.

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Oversight and Investigations, Committee on Financial Services, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EST
Thursday, March 18, 2004

RECOVERING IRAQ'S ASSETS

Preliminary Observations on U.S. Efforts and Challenges

Statement of Joseph A. Christoff, Director
International Affairs and Trade
and Davi M. D'Agostino, Director
Financial Markets and Community Investment

GAO-04-579T

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Highlights

Highlights of GAO-04-579T, a testimony to Subcommittee on Oversight and Investigations, House Committee on Financial Services

Why GAO Did This Study

Rebuilding Iraq is a U.S. national security priority. Billions of dollars are needed for Iraq's reconstruction. The U.S. government and the international community have undertaken important efforts to recover the assets of the former regime and return them to the Iraqi people. In this testimony, GAO will present its preliminary observations on the recovery effort. Specifically, GAO (1) updates its estimate of the revenues diverted from the Oil for Food Program, (2) describes the U.S. government agencies working on the asset recovery effort, (3) discusses the results of U.S. efforts, and (4) highlights challenges that the United States faces in recovering Iraqi assets.

What GAO Recommends

As this testimony reflects GAO's preliminary observations, GAO is making no recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-579T. To view the full product, including the scope and methodology, click on the link above. For more information, contact Joseph Christoff at (202) 512-8789 or christoffj@gao.gov or Davi M. D'Agostino at (202) 512-5431 or dagostinod@gao.gov.

March 18, 2004

RECOVERING IRAQ'S ASSETS

Preliminary Observations on U.S. Efforts and Challenges

What GAO Found

GAO estimates that from 1997 through 2002, the former Iraqi regime acquired $10.1 billion in illegal revenues related to the Oil for Food program—$5.7 billion in oil smuggled out of Iraq and $4.4 billion in illicit surcharges on oil sales and after-sales charges on suppliers. This estimate is higher than our May 2002 estimate of $6.6 billion because it includes 2002 data from oil revenues and contracts under the Oil for Food Program and newer estimates of illicit commissions from commodity suppliers.

The United States has tapped the services of a variety of U.S. agencies and recently developed domestic and international tools in its efforts to recover Iraqi assets worldwide. Led by the Department of the Treasury, about 20 government entities have combined efforts to identify, freeze, and transfer the former regime's assets to Iraq. The United States also used the International Emergency Economic Powers Act, as amended by provisions in the USA PATRIOT Act of 2001, to confiscate the property of the former Iraqi regime under U.S. jurisdiction and vest the assets in the U.S. Treasury. Finally, U.N. Security Council Resolution 1483 required all U.N. members to freeze without delay and immediately transfer assets of the former Iraqi regime to the new Development Fund for Iraq (DFI).

U.S. efforts to recover Iraqi assets have had varying results. In March 2003, the U.S. government quickly took control of Iraq's assets in the United States. From May to September 2003, the United States transferred $1.7 billion to Iraq to help pay for the salaries of Iraqi civil servants, ministry operations, and pensions. Within Iraq, U.S. military and coalition forces seized about $926 million of the regime's assets. Other countries froze about $3.7 billion of Iraqi regime assets in compliance with U.N. Security Council resolutions. As of March 2004, Treasury reported that more than 10 countries and the Bank for International Settlements had transferred approximately $751 million to the DFI. Little progress has been made in identifying and freezing additional Iraqi assets that remain hidden. While the amount of hidden assets accumulated by the former Iraqi regime is unknown, estimates range from $10 to $40 billion in illicit earnings.

The United States faces key challenges in recovering Iraq's assets. First, recovering the former regime's assets was not initially a high priority in the overall U.S. effort in Iraq. Second, U.S. officials stated that many countries needed to adopt additional legislation to implement the U.N. requirements and transfer the funds to the DFI. U.S. expectations for the quick transfer of funds may have been overly optimistic given the legal capabilities of some countries. Third, the impending transfer of sovereignty to an interim Iraqi government on June 30, 2004, may further complicate U.S. efforts to locate and recover assets of the former regime. It is uncertain whether the new government will allow the United States to continue its hunt for the former regime's assets.

Madam Chairwoman and Members of the Subcommittee:

We are pleased to be here today to discuss our preliminary observations on U.S. and international efforts to recover assets of the former Iraqi regime and transfer them to Iraq for reconstruction.

Rebuilding Iraq is a U.S. national security and foreign policy priority. Billions of dollars are needed for meeting humanitarian needs, stabilizing Iraq, and repairing the country's infrastructure. The U.S. government and the international community have undertaken important efforts to recover the assets of the former regime and return them to the Iraqi people.

In May 2003, this committee asked GAO to examine how the U.S. government works with the international community to recover the assets of targeted foreign regimes. We will complete this broader report on U.S. recovery efforts for the committee in May 2004.

Today, we will present our preliminary observations on Iraqi asset recovery efforts. Specifically, we will (1) update our estimate of the revenues diverted from the Oil for Food Program by the former Iraqi regime, (2) describe the U.S. agencies working to recover Iraqi assets, (3) discuss the results of U.S. efforts, and (4) highlight challenges in asset recovery.

To address these issues, we reviewed documents and statements from the Departments of the Treasury, State, Defense, and Justice on the asset recovery effort, the Coalition Provisional Authority (CPA)[1] in Iraq on the funds transferred to Iraq, and the United Nations on the Oil for Food Program. We met with U.S. officials working on the recovery effort, including officials from the Treasury's Office of Foreign Assets Control (OFAC), analysts from U.S. law enforcement and intelligence agencies, financial regulators, and representatives from U.S. financial institutions responsible for implementing U.S. orders to freeze and transfer blocked Iraqi assets. We have yet to review the reliability of the data provided by the Department of the Treasury and the CPA.

[1]The CPA is the U.N.-recognized coalition authority, led by the United States and the United Kingdom, responsible for the temporary governance of Iraq.

Summary

- We estimate that from 1997 through 2002, the former Iraqi regime acquired $10.1 billion in illegal revenues related to the Oil for Food Program—$5.7 billion in oil smuggled out of Iraq and $4.4 billion in illicit surcharges on oil sales and commissions from suppliers. This estimate is higher than our reported May 2002 estimate of $6.6 billion because it includes 2002 data from oil revenues and contracts under the Oil for Food Program, newer estimates of illicit commissions from commodity suppliers.[2]

- The United States has tapped the services of several U.S. agencies and used recently developed domestic and international tools in its efforts to recover Iraqi assets worldwide. Led by the Department of the Treasury, about 20 government entities have combined efforts to identify, freeze, and transfer the former regime's assets to Iraq. The United States also used the International Emergency Economic Powers Act (IEEPA), as amended by provisions in the USA PATRIOT Act of 2001, to confiscate the property of the former Iraqi regime under U.S. jurisdiction and vest the assets in the U.S. Treasury. Finally, U.N. Security Council Resolution 1483 required all U.N. members to freeze without delay and immediately transfer assets of the former Iraqi regime to the new Development Fund for Iraq (DFI).

- U.S. efforts to recover Iraqi assets have had varying results.

  - In March 2003, the U.S. government quickly took control of Iraq's assets in the United States. From May to September 2003, the United States transferred $1.7 billion to Iraq to help pay for the salaries of Iraqi civil servants, ministry operations, and pensions. The United States also transferred $192 million to the DFI in July 2003. Most of the vested funds have been spent on reconstruction.

  - Within Iraq, U.S. military and coalition forces seized about $926 million of the regime's assets. The CPA used these funds for Iraqi projects, ministry operations, and liquefied petroleum gas purchases.

  - Other countries froze about $3.7 billion of Iraqi regime assets in compliance with U.N. Security Council resolutions. As of March 2004, Treasury reported that more than 10 countries and the Bank

[2]U.S. General Accounting Office, *Weapons of Mass Destruction: U.N. Confronts Significant Challenges in implementing Sanctions Against Iraq*, GAO-02-625 (Washington, DC.: May 23, 2002).

for International Settlements had transferred approximately $751 million to the DFI. State Department and Treasury officials continue to work diplomatically with other countries to expedite the transfer of remaining Iraqi assets.

- Little progress has been made in identifying and freezing additional Iraqi assets that remain hidden. While the amount of hidden assets accumulated by the former Iraqi regime is unknown, estimates range from $10 billion to $40 billion in illicit earnings.

- The United States faces key challenges in recovering Iraq's assets. First, recovering the former regime's assets was not initially a high priority in the overall U.S. effort in Iraq. Second, U.S. expectations for the quick transfer of funds may have been overly optimistic given the legal capabilities of some countries. Third, the impending transfer of sovereignty to an interim Iraqi government may further complicate U.S. efforts to locate and recover assets of the former regime.

Background

In August 1990, Iraq invaded Kuwait, and the United Nations imposed sanctions against the regime. Security Council Resolution 661 of 1990, prohibited all nations from buying Iraqi oil and selling Iraq any commodities except food or medicines. The resolution also required member states to block the transfer of Iraqi assets from their countries. Consistent with this resolution, the President froze all Iraq's assets held in the United States. Other nations similarly froze Iraqi government assets in their countries.

In 1991, the Security Council offered to let Iraq sell oil under a U.N. program to meet its peoples' basic needs. The Iraqi government rejected the offer and, over the next 5 years, food shortages and a general deterioration in social services were reported.

In December 1996, the United Nations and Iraq agreed on the Oil for Food Program, which allowed Iraq to sell a set amount of oil to pay for food, medicine, and infrastructure repairs. The United Nations monitored and screened contracts that the Iraqi government signed with commodity suppliers. Iraq's oil revenue was placed in a U.N.-controlled escrow account. From 1997 through 2002, Iraq sold more than $67 billion of oil through the U.N. program and issued $38 billion in letters of credit for humanitarian goods. In May 2003, the Security Council passed Resolution 1483, which recognized the United States, Great Britain, and coalition partners as the authority for providing security and provisional

administration in Iraq. The resolution also ended the sanctions, except for the prohibition on exporting arms to Iraq.

Estimated Revenue Obtained Illegally by the Former Iraqi Regime from the Oil for Food Program Exceeds $10 Billion

We estimate that, from 1997 through 2002, the former Iraqi regime acquired $10.1 billion in illegal revenues related to the Oil for Food Program—$5.7 billion through oil smuggling and $4.4 billion through surcharges against oil sales and illicit commissions from commodity suppliers.[3] This estimate is higher than the $6.6 billion we reported in May 2002.[4] We updated this estimate to include (1) oil revenue and contract amounts for 2002, (2) updated letters of credit from prior years, and (3) newer estimates of illicit commissions from commodity suppliers.

Oil was smuggled out through several routes, according to U.S. government officials and oil industry experts. Oil entered Syria by pipeline, crossed the borders of Jordan and Turkey by truck, and was smuggled through the Persian Gulf by ship. In addition to revenues from oil smuggling, the Iraqi government levied surcharges against oil purchasers and commissions against commodity suppliers participating in the Oil for Food Program. According to some Security Council members, the surcharge was up to 50 cents per barrel of oil and the commission was 5 to 10 percent of the commodity contract. The funds were paid directly to officials connected with the Iraqi government. In addition, according to a Department of Defense (DOD) official, a DOD report in September 2003 evaluated 759 contracts funded and approved under the Oil for Food Program. The study found that at least 48 percent of the contracts were overpriced and that on average the contracts were overpriced by 21 percent.

[3]This estimate is in 2003 U.S. constant dollars.

[4]U.S. General Accounting Office, *Weapons of Mass Destruction: U.N. Confronts Significant Challenges in implementing Sanctions Against Iraq*, GAO-02-625 (Washington, DC.: May 23, 2002).

U.S. Efforts to Recover Iraqi Assets Involve Many Agencies and Use Recently Developed Domestic and International Authorities

The United States has tapped the services of several U.S. agencies and used recently developed U.S. and international authorities in its efforts to recover Iraqi assets worldwide. About 20 entities, including those of the Departments of the Treasury, Homeland Security, Defense, Justice, State, intelligence agencies, law enforcement agencies, and the White House National Security Council, are involved in recovering Iraqi assets.

To lead the asset recovery efforts, the United States created an interagency coordinating body headed by the Department of the Treasury. The Iraqi Assets Working Group has developed a strategy to identify, freeze, seize, and transfer former regime assets to Iraq. The working group's goals are to:

- Exploit documents and key financial figures in Iraq to better understand fund flows;
- Secure the cooperation of jurisdictions through which illicit funds have flowed so that working group members may exploit financial records and uncover the money trail;
- Secure the cooperation of jurisdictions in which illicit assets may reside to locate, freeze, and repatriate the assets;
- Engage the financial community in the hunt for illicit assets generally, and specifically secure the cooperation of the financial institutions through which illicit funds have flowed or may still reside;
- Develop a system to facilitate the fluid repatriation of funds; and
- Prepare for potential sanctions against uncooperative jurisdictions and financial institutions.

The working group is leveraging the expertise of U.S. officials involved in efforts to recover assets of terrorists and money launderers.

The U.S. Congress recently passed legislation containing provisions that allowed the President to confiscate foreign funds frozen in U.S. financial institutions. Specifically, provisions in the USA PATRIOT Act of 2001 amended IEEPA to allow the President to confiscate foreign property subject to U.S. jurisdiction in times of "on-going hostilities" or if the United States is attacked. These provisions gave the President the necessary authority, through an Executive Order, to confiscate the property of the former Iraqi regime and to vest these assets in the U.S. Treasury.

In addition, the State Department cited U.N. Security Council Resolution 1483 as an important vehicle for requiring other countries to transfer assets to Iraq. On May 22, 2003, the U.N. Security Council adopted Resolution 1483, which (1) noted the establishment of the DFI, a special account in the name of the Central Bank of Iraq; and (2) required member states to freeze and immediately transfer to the DFI all assets of the former Iraqi government and of Saddam Hussein, senior officials of his regime and their family members. The resolution also included a unique immunity provision to protect the assets from new claims.

U.S. Efforts to Recover the Former Iraqi Regime's Assets Have Had Varying Results

In 2003, the U.S. government quickly vested Iraq's assets held in the United States and transferred them to Iraq. Similarly, the U.S. military, in coordination with U.S. law enforcement agencies, seized assets of the former regime in Iraq. The CPA has used most of the vested and seized assets for reconstruction projects and ministry operations. U.S. officials noted that some other countries' efforts to transfer Iraqi funds have been slowed by their lack of implementing legislation. There has been little progress in recovering the regime's hidden assets.

The United States Transferred Nearly $1.9 Billion in Vested Assets to Iraq

In 2003, the United States vested about $1.9 billion of the former regime's assets in the U.S. Treasury. Between May and December, the United States transferred more than $1.7 billion to Iraq and $192 million to the DFI. The United States had the necessary legal authorities to make the transfers quickly.

On August 2, 1990, in compliance with a Presidential Executive Order, the Treasury Office of Foreign Assets Control (OFAC) issued regulations to financial institutions requiring them to freeze Iraqi assets in the United States. More than 30 banks in the United States identified and froze accounts with $1.4 billion in Iraqi assets.[5] These institutions held assets in accounts that accumulated interest.

In March 2003, the President used authorities, including the enhanced authority in IEEPA, as amended by provisions in the USA PATRIOT Act, to issue a new executive order to confiscate or take ownership of Iraqi assets held by U.S. financial institutions and vest them in the U.S. Treasury.

[5]In addition, according to OFAC, more than $480 million was frozen in U.S. financial institutions abroad.

According to Treasury and Federal Reserve officials, Treasury instructed the Federal Reserve Bank to release portions of the funds to DOD upon the Office of Management and Budget's approval of DOD's spending plans. As of March 2004, the CPA had spent about $1.67 billion of the $1.9 billion for emergency needs, including salaries for civil servants and pensions, and for ministry operations.

The United States Seized More Than $900 Million in Iraq

CPA informed us in March 2004 that the U.S. military, in coordination with U.S. law enforcement agencies had seized about $926 million of the regime's assets in Iraq. The U.S. military seized about $894 million in Iraqi bonds, U.S. dollars, euros, and Iraqi dinars, as well as quantities of gold and jewelry. This amount included $750,000 found with Saddam Hussein when he was captured. Department of Homeland Security agents seized an additional $32 million.

The CPA is authorized to use these seized funds for humanitarian and reconstruction efforts. As of March 2004, the CPA had used $752 million for reconstruction activities, including projects, ministry operations, and liquefied petroleum gas purchases.

Other Countries Have Transferred $751 Million to the DFI

According to Treasury, other countries have frozen about $3.7 billion in Iraqi assets. Treasury officials reported that, as of March 2004, more than 10 countries and the Bank for International Settlements have transferred $751 million to the DFI. Treasury officials noted that the remaining assets have not been transferred to the DFI because some countries do not have the necessary legislation to affect the transfer or are holding about $1 billion to adjudicate claims. U.N. Security Council Resolution 1483 requires the immediate transfer of Iraqi funds identified and frozen in these accounts to the DFI.

To encourage other countries to transfer the funds to Iraq, the Secretary of the Treasury requested that the international community identify and freeze all assets of the former regime. Additionally, Treasury and State officials said that they have engaged in diplomatic efforts to encourage countries to report and transfer the amounts of Iraqi assets that they had frozen. For example, since March 2003, State officials told us that they have sent more than 400 cables to other countries requesting that they transfer funds to the DFI.

According to U.S. officials, Treasury and State continue to leverage the U.S. government's diplomatic relations with finance ministries and central

banks to encourage the transfer of Iraqi assets to the DFI, according to Treasury officials. Some of the remaining frozen funds are located in financial institutions in Iraq's neighboring countries or Europe.

Little Progress Has Been Made in Recovering Hidden Assets of the Former Iraqi Regime

Little progress has been made in recovering the former Iraqi regime's hidden assets. Because the former Iraqi regime used a network of front companies, trusts, and cash accounts in the names of the regime family members and associates, it has been difficult to identify how much remains hidden in the international financial system. U.S. government officials have cited estimates ranging from $10 billion to $40 billion in illicit earnings.

According to U.S. government officials, U.S. government asset recovery efforts have focused on exploiting documents in Iraq, interviewing key financial figures, and convincing other countries to cooperate in identifying and freezing illicit funds that have flowed through or still reside in their countries. For example, Department of Homeland Security agents have exploited Central Bank of Iraq records for leads regarding Saddam Hussein's procurement network. Internal Revenue Service criminal investigators have conducted interviews of former finance ministry individuals and exploited financial documents of the regime to obtain leads on the location of targeted assets. The Defense Intelligence Agency provides some of the research and analysis used to identify assets of the former Iraqi regime.

In addition, according to Treasury and State officials, they are coordinating efforts to gain the cooperation of other countries. For example, State officials said that U.S. investigators have identified 500 accounts that potentially belonged to the former regime in other countries. State is working through their overseas embassies to get the cooperation of these countries to return the funds to the DFI.

Challenges to Transferring Frozen Assets and Locating the Hidden Assets

The U.S. government has faced key challenges to recovering the assets of the former Iraqi regime.

First, recovering the former regime's assets was not initially a high priority in the overall U.S. effort in Iraq. As the need for additional resources to rebuild Iraq became apparent, the United States placed a higher priority on recovering the former regime's assets. According to U.S. government officials, recovering the former Iraqi regime's assets became the U.S. government's third priority behind the hunt for weapons of mass destruction and security in September 2003. In addition, Internal Revenue

Service agents stated that DOD's post-war plans and priorities did not include protection of financial documents or other information that could have provided leads on the location of the former regime's assets.

Second, U.S. expectations for the quick transfer of funds under U.N. Security Council Resolution 1483 may have been overly optimistic given the lack of legal capabilities of some countries to do so. In June 2003, State and Treasury officials said that the U.N. resolution included unique provisions that afforded the United States and the international community with an opportunity to quickly recover Iraqi assets worldwide. The resolution required all U.N. members to freeze without delay assets of the former Iraqi regime and immediately transfer them to the DFI. Many of the member states that had frozen Iraqi government assets in 1991 did not immediately transfer the assets to the DFI.

U.S. officials stated that many countries needed to adopt additional legislation to implement the U.N. requirements and transfer the funds to the DFI. According to U.S. government officials, some U.N. member countries have developed the authorities, institutions, and mechanisms to freeze assets of targeted terrorists, but others had not developed similar mechanisms for targeted regimes. U.S. government officials also stated that some countries did not have the administrative capabilities and financial mechanisms to transfer the frozen assets. U.S. officials did not have a central repository of other countries' laws and regulations related to transferring Iraqi assets. Furthermore, according to U.S. officials, despite the immunity provision included in the U.N. resolution, some countries are delaying transfer of funds until all claims have been settled.

Third, the impending transfer of sovereignty to an interim Iraqi government on June 30, 2004, may further complicate U.S. efforts to locate and recover assets of the former regime. It is uncertain whether the new government will allow the United States to continue its hunt for the former regime's assets. The future transitional government has yet to conclude agreements regarding the activities of the multi-national force, which may include the right to interview Iraqi officials and exploit documents. In addition, it is also uncertain whether other countries will transfer their remaining funds to the DFI when the interim government assumes authority over it.

Madam Chairwoman and Members of the Subcommittee, this concludes our prepared statement. We will be happy to answer any questions you may have.

Contacts and Acknowledgments

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Appendix I: Roles of U.S. Entities In Recovering Iraqi Assets

Asset location	Assets	Current status
United States	$1.92 billion Frozen and transferred	$1.67 billion Funds disbursed in Iraq

Entity	Agency/Office/Subdivision	Role
Department of the Treasury	Office of Foreign Assets Control	Froze assets in 1990, directed financial institutions to transfer these assets to Treasury account in 2003.
	Executive Office for Terrorist Financing and Financial Crime	Leads interagency Iraq Task Force Working Group for Tracking and Recovery of Iraqi Assets (Iraqi Assets Working Group, IAWG).
Federal Reserve Bank of New York		Maintains Treasury's vested account. As directed by Treasury, released the vested funds to the Department of Defense and the Coalition Provisional Authority (CPA).
Executive Office of the President	Office of Management and Budget	Approves CPA spending requests of vested funds. .
Coalition Provisional Authority		Approves and manages the obligation and expenditure of vested funds.

Asset location	Assets	Current status
Iraq	$926 million Seized	$752 million Funds disbursed in Iraq

Entity	Agency/Office/Subdivision	Role
Department of Defense		Military identified and seized assets in U.S. dollar, euro, and dinar currency notes; gold, jewelry, and Iraqi bonds.
Department of Homeland Security	Bureau of Immigration and Customs Enforcement	Assisted the military in the identification and seizure of assets. Seized an additional $32 million.
	Secret Service	Determined the authenticity of seized assets.
Coalition Provisional Authority		Approves and, with DOD, manages the obligation and expenditure of seized funds.

Source: GAO.

Asset location	Assets	Current status
Other countries	$3.7 billion Identified and frozen	$751 million Transferred to the Development Fund for Iraq[a]

Entity	Agency/Office/Subdivision	Role
Department of the Treasury	Executive Office for Terrorist Financing and Financial Crime	Coordinates with State on outreach to foreign government officials, including finance ministries.
	Office of Foreign Assets Control	Coordinates with State and Justice on potential asset designations.
	International Affairs	Tracks the status of assets frozen in and transferred from other countries.
Department of State	Bureau of Economic and Business Affairs and International Organizations	Undertake diplomatic efforts to encourage other governments to implement UN Resolution 1483.
	Bureau of Intelligence and Research and Regional Bureaus	Collect and analyze economic and other information on Iraq and its neighboring countries
	U.S. Mission to the United Nations	Negotiated consensus on UN Resolution 1483. Submits potential freezing designations to the United Nations.
Financial Institutions		Identify, freeze, and transfer assets to the Development Fund for Iraq.

Asset location	Assets	Current status
Global	$Unknown[b] Hidden Iraqi assets	?

Entity	Agency/Office/Subdivision	Role
Department of the Treasury	Executive Office for Terrorist Financing and Financial Crime	Coordinates U.S. efforts to locate additional hidden assets.
	Internal Revenue Service Criminal Investigation Division	Reviews documents and interviews individuals connected to Saddam Hussein's finances, front companies, and account transactions; provides leads to embassies and to other governments and financial institutions.
Department of State	Bureau of Economic and Business Affairs and overseas embassies	Undertake diplomatic efforts to encourage other governments to follow up on leads and freeze assets.
	U.S. Mission to the United Nations	Encourages UN members to identify, freeze, and transfer assets.
Department of Homeland Security	Bureau of Immigration and Customs Enforcement	Identify and track financial assets related to the Central Bank of Iraq.
Department of Defense	Defense Intelligence Agency	Provides research and analysis used to identify assets of the former Iraqi regime.
	Office of the Secretary of Defense and the Special Operations and Low-Intensity Conflict	Work with the IAWG to facilitate activities in Iraq, including providing logistical support to Treasury investigators.

Source: GAO.

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TESTIMONY BY PAUL SIMONS
DEPUTY ASSISTANT SECRETARY FOR ENERGY, SANCTIONS, AND COMMODITIES
DEPARTMENT OF STATE
TO THE
HOUSE COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

March 18, 2004

U.S. INTERAGENCY EFFORTS ON IRAQI ASSET RECOVERY

Madame Chair and ranking member and distinguished members of the Subcommittee on Oversight and Investigations, thank you for the opportunity to testify on U.S. efforts to recover Iraqi assets and return them to the Development Fund for Iraq (DFI).

The United States is actively engaged in the recovery of Iraqi assets. The seamless, cooperative, and productive interagency process put in place has resulted in the identification and return to date of more than $750 million to the Development Fund for Iraq from international sources, with good prospects for additional transfers prior to the June 30 target date for the transfer of authority to an Iraqi Interim Government.

Our experience with Iraqi asset recovery has provided a number of lessons, which we expect to apply to future crises. First, multilateral cooperation and a U.N. umbrella are valuable tools in persuading foreign governments to freeze and return assets. Secondly, strong cooperation among law enforcement, intelligence and diplomatic officials is key to developing the information needed to make the international case for asset recovery.

The State Department is committed at the highest levels to continue the recovery of Iraqi assets. Undersecretary for Economic, Business and Agricultural Affairs Larson and Assistant Secretary for Economic and Business Affairs Wayne are personally engaged each week on the details of the interagency recovery effort, as am I. The Department continues to stress the importance of this issue with senior foreign government officials and urge action by the international community, with the goal of facilitating and expediting the return of Iraqi assets.

Throughout the Department, a number of different bureaus and offices bring their expertise to bear in the effort to recover and return Iraqi assets. Our International Organizations Bureau and our Mission to the United Nations played a lead role in drafting and securing international consensus behind U.N. Security Council Resolution 1483, the linchpin of the Iraqi asset recovery effort. Just today, we submitted a list of 191 Iraqi government entities and 16 family members of Saddam and other senior officials of the former Iraqi regime to the U.N. 1518 committee for listing under UNSCR 1483. We've made concrete steps, through active outreach to all UN Member States, urging them to implement the UNSCR 1483 requirement to identify, freeze and transfer

to the DFI the assets of the former Government of Iraq and its senior officials. In all these efforts, our Bureau of Economic and Business Affairs has played a leadership role in orchestrating international outreach on the asset recovery effort.

U.S. embassies abroad are also actively involved with the international effort to recover and deliver Iraqi assets to the DFI. Our Ambassadors in key countries have made this a priority for their missions and for bilateral discussions with host governments. They stress the importance of recovering these assets, which belong to the Iraqi people, and their return to Iraq where they can be used to accelerate economic reconstruction.

In addition to using diplomatic tradecraft, we have provided our embassies with specific information on where to look for assets. Embassies in turn have relayed this information to host governments and urged local investigation of these leads. To date, we have provided specific information to 41 countries on a total of 570 accounts worldwide. This information is unprecedented in its scope and specificity, when compared with previous efforts. As a result of our efforts, countries in the Middle East, Eastern and Western Europe, the Far East, and North Africa have recovered and transferred assets to the DFI.

While I am proud of the efforts of the State Department, I am equally impressed with the interagency effort. As my Treasury colleague so appropriately described, the interagency working group has been a resounding success. Indeed, the interagency Iraq asset working group is one of the more collegial and productive interagency efforts that I have worked on in recent years. All the key players -- Treasury, State, Justice, NSC, Defense, Homeland Security, CPA, intelligence, and law enforcement agencies -- have supporting agendas and work well together.

Each agency brings special expertise and capabilities to the table. For our part, the State Department has identified Iraqi asset recovery as a key element in our bilateral relationships with countries that hold Iraqi assets. We have worked closely through diplomatic channels with countries that hold Iraqi assets, encouraging them to forward those funds to the DFI. As I mentioned earlier, our embassies have been central to this approach, providing an unprecedented amount of detailed information to foreign governments and encouraging the transfer of Iraqi assets to the DFI. Our approach has been consistent across the board, with close allies and friends, as well as with countries where relations are strained.

We have exchanged over four hundred telegrams with our embassies in the field on this topic and at least that many emails, not to speak of the multiple daily phone contacts with our interagency and CPA colleagues.

The results of this energetic diplomacy, supported by specific and detailed information, has been the transfer of $750 million to the DFI of the approximately two billion dollars in Iraqi assets that have been identified and frozen. We are continuing to work to secure the transfer of as much as possible of the remainder of those frozen assets, including by emphasizing that the Security Council resolution provides only a relatively narrow exception for those assets that themselves were the subject of a lien or judgment in place

before the resolution was adopted. Although it is unlikely that the DFI will receive all of these resources by the June 30 transition date, we are optimistic that additional funds will be transferred.

Countries throughout the world have aided us in this monumental effort. The United Kingdom, Japan, Norway, Tunisia, Jordan and Croatia, as well as the Bank for International Settlements, among others, have transferred assets to the DFI thus far.

As you can see, we've made great progress in the recovery of Iraqi assets. It is difficult to quantify how much might eventually be collected. We've collected much of the money we know about. However, the remaining amounts, especially assets looted and hidden by senior officials of the former regime will take longer to identify and are harder to estimate now.

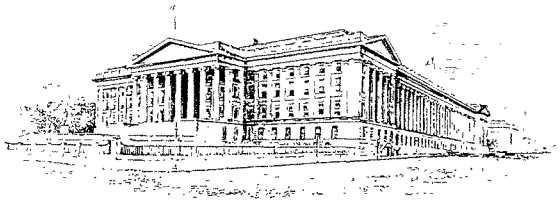
While we've made great strides in the recovery and return of Iraqi assets, we still have a ways to go and there is much more that needs to be done. I am proud of our accomplishments to date, but I don't want to marginalize the difficulty in the effort we've undertaken. Often countries will not freeze assets unless individual names are listed at the UN, despite our constant pressure against this approach. In addition, countries often say they cannot transfer assets until they resolve outstanding claims issues. And still others sometimes ask for direct instructions or indemnification letters from the Governing Council before transferring funds. Even with all of our accomplishments there are still roadblocks to progress. However, this remains and will remain a high priority for the Department and the interagency group.

The important steps we've made here have a value beyond Iraq. Looking forward, we need to institutionalize the lessons learned in this successful process. This is not the first or the last time we have come to grips with the issue of seeking the return of assets pillaged by dictators.

Building on the knowledge gained from our efforts on Iraqi assets, we look forward to working with our interagency colleagues on a way to systematically assist countries in securing the return the funds corrupt officials have stolen. We expect to participate actively in developing such a model for future use in appropriate cases.

As we look forward to the next few months and the transition on June 30, we remain a committed participant in this effort. There is much yet to be done, but we remain confident that as a result of strong interagency work and international cooperation, we will recover additional assets.

Madame Chairman, thank you for your continued interest and the opportunity to address this important issue.



DEPARTMENT OF THE TREASURY

Testimony of
Juan C. Zarate, Deputy Assistant Secretary
Executive Office for Terrorist Financing & Financial Crimes
U.S. Department of the Treasury

Before the House Financial Services Subcommittee on
Oversight and Investigations
March 18, 2004

Chairwoman Kelly, Congressman Gutierrez, and distinguished Members of the Subcommittee on Oversight and Investigations, thank you for inviting me to testify today about the Treasury Department and U.S. government efforts to identify, freeze, and recover Iraqi assets worldwide. Under the President's leadership, this Administration has taken the world-wide lead in trying to locate and recover Iraqi assets for the reconstruction of Iraq and the benefit of the Iraqi people.

As you will hear today, that mission, though daunting and complicated, has achieved successes due to the unprecedented interagency cooperation and coordination of all components of the United States Government. We collectively have made significant progress since Treasury's former General Counsel testified before you on this effort last May, and I am pleased to be here with my colleagues from the Department of State today to update you on some of our activities and achievements. I am especially pleased to have this opportunity share with you the cooperation we have received from our colleagues in other agencies, and the dedication and bravery of our financial investigators and staff in Baghdad, who have placed themselves in harm's way to accomplish this very complex mission.

The Priority of the Iraqi Asset Recovery Mission

It has been a year since the President directed the Department of the Treasury to lead the U.S. Government's efforts to identify, freeze, and repatriate Iraqi assets worldwide. That mission has been and remains a top priority for the Department of the Treasury. It will remain so, even as we grapple with the complexities generated by the transition to a new, independent Government of Iraq.

The U.S. government's task remains clear – to identify and seek repatriation of Iraqi assets located outside Iraq, whether they are official Iraqi assets held in the name of the Iraqi

government, or are part of the assets systematically looted by Saddam Hussein, his regime cronies and their immediate family members. We have and will pursue these assets, even though they have, in many cases, been very well concealed in the international financial system behind a maze of front companies and straw men.

Our efforts are guided by the strong recognition that this mission is critically important, for both old and new reasons:

- Iraqi assets must be recovered so that they can be used for the reconstruction of Iraq and the benefit of the Iraqi people, to whom they rightfully belong. Saddam Hussein, his regime cronies and their immediate families cannot be allowed to get away with plundering the country of Iraq and hiding their ill gotten gains in the international financial system.

- In addition, as events have unfolded, it has become imperative to recover Iraqi assets to prevent them from being used to fund the Iraqi insurgency and to keep them out of the hands of terrorists both within and outside Iraq. We and the international community cannot permit these assets to be used against our troops, coalition partners, and innocent civilians in Iraq, or to support the nefarious activities of terrorists around the world.

- Moreover, the efforts of the international community to identify and repatriate assets stolen by Saddam Hussein and his former regime serve as a strong warning to other tyrants and kleptocrats, who might seek to loot their countries and hide the stolen assets in the international financial system. Lessons learned by the United States and the international community in the hunt for Iraqi assets will serve as a model, both for the U.S. Government and for the international community, on how to respond and identify, trace, freeze, and repatriate national patrimony stolen by corrupt despots in the future.

Important Progress to Date

We have achieved important success in returning assets to the Iraqi people and in unearthing the schemes and networks used by the regime to steal from Iraq:

- Since March 20, 2003, with U.S. leadership, almost $2 billion of Iraqi assets has been newly identified and frozen outside the U.S. and Iraq;

- Since March 20, 2003, approximately three-quarters of a billion dollars have been transferred by other countries to the Development Fund for Iraq (DFI). In total, the United States, foreign countries, and the Bank for International Settlements have transferred back to Iraq over $2.5 billion in frozen Iraqi funds;

- Approximately $1.3 billion in cash and valuables has been recovered in Iraq.

- We continue to identify key individuals and entities whose assets should be frozen. Today, the Department of the Treasury has designated 16 immediate family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315. The

United States is also submitting these individuals, as well as the identities of 191 Iraqi parastatal (quasi-government) entities, to the United Nations, and requesting that they be listed by the UN 1518 Committee under UNSCR 1483. If adopted by the 1518 Committee, these names will be added to the list of senior Iraqi officials and entities that we previously joined with the UK and France in submitting to the UN for listing under UNSCR 1483;

- In Iraq, our financial investigators have conducted over 80 interviews of key individuals who have information relating to Iraqi assets, ranging from the top ministers of the State Oil Marketing Organization (SOMO), to the laborers who buried Saddam's U.S. currency. Our investigators are finding and interrogating key financial facilitators like accountants and bankers, who have knowledge about the movement of Iraqi assets. Under IRS-CI questioning, these witnesses have identified assets that can be recovered for the DFI, and which we are aggressively pursuing.

- While searching for Iraqi assets abroad, IRS-CI agents determined that the former Iraqi Ambassador to Russia had stolen $4 million in Iraqi assets that had been entrusted to him. As a result, that amount has been frozen in Russia, and we are working to have it repatriated.

- Working closely with the governments of Liechtenstein, Switzerland, and Jordan, we are taking action to recover one of Saddam's Falcon 50 corporate jets and to uncover a financial network that had been used by the Iraqis to move money and people in the heart of Europe.

- The financial investigation teams have also uncovered important leads for other IRS-CI financial investigations to follow up on in jurisdictions outside of Iraq. We have identified bank accounts and other assets held in over twenty countries, including Switzerland, France, Germany, Liechtenstein, Russia, Spain, Egypt, Thailand, Indonesia, Lebanon, Belarus, Iran, South Korea, Malaysia, Japan, Morocco, Saudi Arabia, UAE, British Virgin Islands, Jordan, Syria and Yemen.

- As a result of interagency cooperation and investigative and other efforts in Baghdad and at Headquarters, the Departments of Treasury and State have provided identifying information on over 570 identified Iraqi bank accounts to 41 countries for review and follow-up. Those accounts were identified as belonging to the Central Bank of Iraq, Rafidain Bank, and Rasheed Bank.

This is but a snapshot of the important work underway to find and return Iraqi funds to the Iraqi people.

Investigation: The Hunt for Assets

Our efforts to identify and recover Iraqi assets target three basic groups of assets:

- Assets frozen in 1990 under UNSCR 661 that are subject to freeze and transfer under UNSCR 1483, as well as additional Iraqi assets covered by 1483;

- Assets that exist in the countries that did business with Iraq either legally or illegally under the UN sanctions regime in place before March 2003 (called "trading states") — Jordan, Lebanon, Syria, and Turkey;

- Assets looted and hidden outside Iraq by Saddam Hussein and senior members of his former regime, their immediate families, agents, and front companies.

Identifying, tracing, and recovering these funds involve numerous tools -- investigatory, diplomatic, and intelligence. Again, the variety of these tools, and the respective expertise of the different departments and agencies in employing them, requires our close interagency collaboration.

The Investigation

Our "trace and chase" investigatory mission depends primarily on two tools: robust interrogation of individuals who have knowledge of Hussein's financial web, including key financial figures in Iraq and elsewhere, and vigorous exploitation of documents and other financial records, including bank records and computer databases recovered in Iraq, and around the world. These activities enable us to understand Iraqi fund flows and locate existing assets, so that they can be repatriated.

Since this "trace and chase" mission leads all over the world, our diplomatic outreach has been extensive and worldwide. The Department of State and its embassies play a vital role by helping to secure the cooperation of jurisdictions through which illicit funds have been generated or flowed. This enables us to gain access to, and exploit, financial records to help us uncover the money trail and identify jurisdictions in which illicit assets may still reside, so that they can be returned to the DFI.

Treasury officials also consistently reach out to foreign counterparts, and press them to fulfill their obligations under UNSCR 1483 to identify, freeze, and promptly transfer Iraqi assets to the DFI, and to cooperate with us in our investigations. We have visited countries like Switzerland, Jordan and Lebanon and engaged in productive and intensive discussions with high level government officials, seeking their cooperation in identifying, freezing, and transferring Iraqi assets.

We have aggressively pursued our investigation by sending financial investigation teams to numerous jurisdictions to question witnesses and examine documents and other financial records. These forensic teams are composed primarily of IRS-CI agents, with help from the Department of Defense and OFAC, among others. Where a U.S. nexus to the movement of goods and services is detected, we have worked closely with agents from the Department of Homeland Security.

In addition to IRS-CI, other Treasury offices and bureaus — in particular, OFAC and FinCEN, through their unique databases and analytical expertise and capabilities – are actively involved in the Iraqi "trace and chase" effort. FinCEN, Treasury's Financial Intelligence Unit (FIU), exchanges information relating to financial activities of the former Iraqi regime and helps communicate specific Iraqi asset law enforcement-related inquiries to other countries through the Egmont Group—an international body of over eighty FIUs.

- In one recent example, FinCEN facilitated information exchanges between Liechtenstein's FIU and other U.S. law enforcement agencies to help us investigate and establish Iraqi ownership of a Falcon 50 jet plane. As a result of FinCEN's assistance and active intervention by the U.S. embassies in Switzerland and Jordan, Liechtenstein and Jordan, where the plane is physically located at present, have initiated steps to repatriate the plane to Iraq — the disposition requested by the Iraqi Governing Council.

Treasury's Office of Foreign Asset Control (OFAC), drawing upon more than a decade of enforcing U.S. sanctions on Iraq, provides critical analysis of investigative and intelligence information. Among its activities, it identifies individuals and entities for designation to trigger the freezing and transfer of their assets.

Treasury has also sent an individual from our Terrorist Finance Task Force to be a CPA Financial Advisor. This advisor works full time on Iraqi asset recovery issues and has been invaluable in getting information and facilitating actions in Iraq that are essential to seeking recovery of Iraqi assets in numerous jurisdictions.

Financial Investigation in Iraq

One of the most important recent developments in the investigation has been our ability to place financial investigation teams in Iraq on a long-term basis and to obtain access to key individuals who have knowledge of the flow and location of Iraqi funds. The IRS-CI agents on our financial investigation teams are in Iraq under the auspices of the Defense Department's DIA Iraq Survey Group ("ISG"), which has been instrumental in getting them into the country and providing full logistical support for the teams while they are there. Our financial investigation teams work closely with the FBI and the intelligence community, as well as with Treasury's CPA advisors.

IRS-CI agents provide unique financial investigative expertise to identify, interview, and exploit high-value financial targets and relevant documents. The IRS has taken the lead for the actual, on-the-ground investigation.

- Since last May, we have sent three financial investigation teams, composed of three agents each, to Baghdad, on 90 day rotations.

- The financial investigation teams have also uncovered important leads for other IRS-CI financial investigation teams to follow up on in jurisdictions outside of Iraq.

These efforts are ongoing, as the agents on the ground work with the Department of Defense to gain access to key individuals, including bankers, lawyers, and accountants, who helped the regime and its cronies move money within Iraq and abroad.

Financial Investigation "Jump Teams" Operating Outside Iraq

Our financial investigation teams do not just operate in Iraq. To date, we have sent financial investigation "jump" teams to Jordan, Syria, Denmark, Switzerland, and Qatar. We are actively seeking permission from several other countries to send financial investigators to their jurisdictions as well, and are prepared to send teams anywhere in the world to track down Iraqi assets.

So far, our investigators have made significant progress in uncovering accounts and networks abroad. In this effort, they have, among other things:

- Conducted more than 100 interviews of individuals worldwide — high/mid and lower level individuals who might have knowledge of the whereabouts of regime assets. These interviews include high-value witnesses with direct knowledge of flows of funds;

- Identified assets and bank accounts held in over twenty countries, including Switzerland, France, Germany, Lichtenstein, Russia, Spain, Egypt, Thailand, Indonesia, Lebanon, Belarus, Iran, South Korea, Malaysia, Japan, Morocco, Saudi Arabia, UAE, British Virgin Islands, Jordan, Syria, and Yemen.

- Identified over 1600 Iraqi-controlled accounts in eight banks in Jordan, obtained and reviewed account statements relating to these accounts, and identified front companies with accounts in Jordan. These accounts were frozen by the Jordanians and will be reviewed by CI agents and Iraqis to determine the validity of claims filed against these monies.

- In Syria, identified the flow of over $3 billion through Syria while the Iraqi-Syria trading protocol was in effect, estimated that about $1 billion was in the trade account at the outset of Operation Iraqi Freedom, and identified over $200 million remaining in Syrian bank accounts;

- Discovered that large amounts of money were routinely shipped via diplomatic pouches, to be stored for operational funding of all Iraqi embassies. This information has led to a plan to help the Iraqi Foreign Ministry conduct audits of Iraqi missions abroad. IRS-CI agents will participate in the audits of certain high-interest embassies;

- Identified Iraqi oil trade accounts in Turkey that may contain substantial amounts of Iraqi assets;

- As a result of interagency investigative and other efforts in Baghdad and at Discovered $4 million in Iraqi assets being held in a Russian bank by the former Saddam-regime Iraqi Ambassador to Russia. The agents thoroughly documented the witness accounts

and presented the information to an Iraqi court, which ordered that the money be seized and transferred to the DFI. The Department of State and CPA Advisors have been providing assistance to Iraqi officials, who are seeking transfer of these funds by Russia, which has cooperated with us in freezing the funds.

Headquarters, the Departments of Treasury and State have sent identifying information concerning more than 570 identified Iraqi bank accounts, belonging to the central Bank of Iraq, Rafidain Bank, Rasheed Bank, to 41 countries for review and follow-up. Acting on these referrals of information, countries have identified accounts and funds, and have either repatriated funds to the DFI, or are taking appropriate steps to do so.

Insurgency Finance Task Force in Iraq

In addition to fielding our own forensic investigation teams dedicated to identifying, tracing, and recovering Iraqi assets located outside Iraq, we have sent an IRS-CI investigatory agent to participate with the FBI and others in the recently-formed Defense Joint Interagency Task Force on the Iraqi Insurgency, operated by CJTF-7, the Coalition Command Authority in Iraq. The financial component of this Task Force has been tasked to identify and recover funds that could be used to fuel the Iraqi Insurgency and attack our troops, our Coalition partners, CPA Advisors, Iraqi officials and police, and innocent Iraqi civilians. We anticipate adding two additional IRS-CI agents to the Insurgency Task Force in the next two months, which will bring the total number of IRS-CI agents participating since the onset of the financial investigation in Iraq to twelve.

The participation of IRS forensic investigators on the Insurgency Task Force provides a valuable opportunity to coordinate our asset hunt with the overlapping insurgency finance investigation. Finding and recovering Iraqi assets, both inside and outside Iraq, is instrumental in keeping this money from being used for nefarious purposes, whether by Iraqi insurgents, terrorists or other criminals.

Methods of Raising and Moving Money by the Hussein Regime

The Hussein regime used a variety of ways to enrich itself with pleasure palaces and armaments at the expense of the Iraqi people. Our work has helped crystallize how this was done and provides leads for possibly finding and returning some of those funds to the Iraqi people.

Uncovering Hussein-Era Smuggling, Kickback, and Skimming Schemes

Our financial investigation and analysis has helped us develop a better understanding of some of the schemes that Saddam Hussein and his regime used to raise and launder illicit assets, in violation of the UN's Iraqi sanctions regime.

While we do not know the full universe of Iraqi assets amassed by Saddam Hussein and the former government of Iraq in violation of UN sanctions, our financial investigation and analysis to date indicate that the former regime generated significant revenues from a complex web of financial activities. These activities included kickbacks and skimming funds from the UN-

authorized Oil For Food (OFF) program, as well as oil smuggling outside the OFF program. A May 2002 GAO report "conservatively" estimates that from 1997 to 2001, the Hussein regime obtained $6.6 billion from oil smuggling and kickbacks from UN-sanctioned oil sales alone.

Let me describe three of these schemes in greater detail.

Unauthorized Surcharge on OFF Oil Sales

In response to Iraq's invasion of Kuwait in August, 1990, the United Nations Security Council imposed sanctions on Iraq that prohibited virtually all commercial transactions with Iraq and required Member States to freeze Iraqi assets. In 1995, building upon previous humanitarian exceptions to the UN sanctions regime, the Security Council further responded to the plight of the Iraqi people by creating the OFF program, which authorized Iraq to sell oil under UN supervision and use the proceeds to purchase goods for the humanitarian needs of Iraqi citizens.

The Hussein regime abused this program to generate illicit revenues by instituting a surcharge scheme on OFF oil sales, beginning in the late 1990s. Pursuant to this scheme, Iraq would charge an extra 10 to 35 cents per barrel "surcharge" on Iraqi oil sales transacted under the OFF program. The size of the "surcharge" varied with the oil shipment's destination. After this became known in late 2000, the U.S. and UK thwarted further surcharges by requiring "retroactive pricing" of Iraqi oil, ensuring that the actual price paid was close to market price. Before the surcharges ended, however, money reportedly was accumulated at Iraqi embassies or deposited into bank accounts in various jurisdictions, and later withdrawn in the form of cash. This cash was then transported back to Iraq and reportedly deposited into the Central Bank of Iraq. Some of the cash generated by this kickback scheme was not repatriated to Iraq, but instead was used to buy military equipment and other goods prohibited by international sanctions, without the knowledge of the UN.

After Sale Service Fee Scheme

The "after sale service fee" scheme involved kickbacks generated from Iraqi purchases of goods authorized under the OFF program. Under the OFF program, proceeds from official OFF Iraqi oil sales were deposited in a designated UN account, to be used for humanitarian purposes, such as purchasing food and medical supplies for the Iraqi people. To circumvent the restrictions on purchases and generate additional illicit revenue, the Iraqi government ordered each of its ministries to institute a 10% kickback scheme. Vendors selling goods to the Iraqi government were required to inflate the contractual purchase price by 10% and kick back the excess charge to the Iraqi government. Thus, a vendor would submit records to the UN indicating that it was selling $110 worth of goods to Iraq, when in fact the vendor was selling only $100 worth of goods, and was returning the additional $10 to Iraq as a kickback. The illicit funds generated by this scheme reportedly were handled similarly to the oil price surcharges, and were either repatriated as cash to Iraq or used to buy goods in violation of UN sanctions. After Iraqi ministries began cooperating with the CPA, a process was instituted to renegotiate these contracts, with a view of eliminating kickbacks.

Trade Protocol Funds and Front Companies

A third scheme involved the sale of oil in violation of UN sanctions under "trade protocols" with neighboring countries. Beginning in the early 1990s, the former Iraqi government entered into signed official agreements with Jordan, Turkey, and Syria to sell Iraqi oil to each of these countries outside the OFF Program and precursor international sanctions. In each country, the proceeds of the oil sales were split between a trade account and a cash account. Most of the funds (60%-75%) were placed in the "trade account."

Under the trade protocols, the Iraqi government was required to use the money in the trade account to purchase goods from vendors and businesses in the particular protocol-partner country. The money from the cash account (25%-40% of oil sale proceeds) in each of the protocol countries was transferred to bank accounts in Jordan and Lebanon -- usually through bank accounts set up in the names of front companies or individuals, to further disguise the scheme and the movement of the funds. Eventually, the cash account funds generated under all of the protocols were deposited in bank accounts controlled by the Central Bank of Iraq, Rasheed Bank, or Rafidain Bank. After this, the money was withdrawn in the form of cash and transported back to Iraq. When the money reached Baghdad, it was deposited into the vault at the Central Bank of Iraq.

We are using the information about the oil smuggling, kickback, and skimming schemes developed by our investigation to better identify and trace Iraqi assets in several jurisdictions. For example, in one neighbouring country, we have examined 68 accounts of 16 front companies involved in the trade protocol skimming scheme, and are seeking to trace the flow of this money.

Understanding these enrichment schemes used by the Hussein regime to enrich itself provides not only leads, but also a clear case study as to how a notorious regime will go about abusing the goodwill of the international community to enrich and embolden itself.

Front Companies

We know that the Hussein regime relied on front companies that it secretly owned or controlled to engage in illegal commerce and to move funds outside of the gaze of the international community. The assets of front companies are subject to freezing and transfer to DFI under UNSCR 1483, Paragraph 23. Our investigation has identified front companies involved in transactions under the trade protocols, as well as other commercial activities. For example, we have identified a front company, registered in Liechtenstein, which the Liechtenstein government has liquidated and is investigating. This was the company used to conceal Iraqi ownership of the regime's Falcon 50 jet plane.

Designations under the United Nations Regime

Designations are an important tool in our Iraqi asset investigation. To facilitate international cooperation with our own investigatory efforts to identify Iraqi assets located in other countries, and to prod the international community to identify, freeze, and transfer Iraqi assets in their

jurisdictions, we have listed entities and individuals covered by the freeze and transfer requirements of UNSCR 1483.

As I mentioned earlier, today the Department of the Treasury has designated 16 immediate family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315. The United States also is submitting the names of these individuals, as well as of 191 Iraqi parastatal (quasi-government) entities, to the United Nations, with the request that they be listed by the 1518 Committee under UNSCR 1483. If adopted by the 1518 Committee, these names will be added to the list of senior Iraqi officials and entities that we previously joined with the UK and France in submitting to the UN for listing under UNSCR 1483.

We hope that these designations will spur other countries to undertake independent investigations, publish similar listings, and return Iraqi funds to the DFI.

I would like to emphasize that the United States strongly believes that while U.N. listing is helpful, UNSCR 1483 requires member states to freeze and transfer all covered assets, independent of whether they have been identified by the UN. European and other governments have stated that they have been hampered in implementing UNSCR 1483, which calls for the identification of Iraqi-related accounts and blocking and return of assets, because under their domestic laws, nations cannot freeze assets in the absence of a specific listing of individuals and entities at the United Nations. We therefore will continue to submit names to the UN for listing as a way of helping other countries fulfill their obligations to identify, freeze, and transfer Iraqi assets. Today's listing is not intended to be exhaustive, and we will continue to identify individuals and entities for designation and UN listing.

In identifying the 16 individuals and 191 entities for designation today, the Treasury Department worked in close consultation with the U.S. Department of State as well as the Department of Justice and other parts of the government.

I should also like to point out the central role that Treasury's Office of Foreign Asset Control plays in the Iraqi designation process. OFAC has responsibility for implementing Executive Order 13315 of August 28, 2003, which blocks the property of the former Iraqi regime, its senior officials, and their family members. OFAC develops the lists of individuals and entities for designation and submission to the UN. By identifying and publicly designating such officials, family members, and instrumentalities, OFAC triggers the freezing of former Iraqi leadership assets in U.S. jurisdiction, and enables the Secretary of the Treasury to transfer the assets to the DFI.

We will continue to examine all available information to identify other individuals and entities for designation under EO 13315 and UNSCR 1483. We will continue to spearhead the interagency efforts to develop additional candidates for U.S. designation and nomination to the UN, and we expect to be able to announce further designations in coming weeks.

International Cooperation and Challenges

We have made significant progress in identifying, freezing, and transferring Iraqi assets to the DFI, largely with the help of allies abroad, but there is still much to do. As indicated above, since March 20, 2003, almost $2 billion of Iraqi assets has been newly identified and frozen outside the United States and Iraq. The United States has led the effort to prompt the identification and return of frozen Iraqi funds around the world, resulting in approximately three-quarters of a billion dollars being transferred by other countries to the DFI. Ten foreign countries are confirmed to have transferred amounts into the DFI, and more have pledged to do so. For example, Japan transferred $98.1 million; the United Kingdom transferred $182 million; Jordan transferred $235 million; and Tunisia transferred $8 million.

With the help of other countries, we continue to uncover accounts and identify numerous companies and individuals who were part of the regime's financial web. This is a daily and ongoing effort, and is resulting in greater understandings that will help us trace the flow of funds, hopefully to their current locations.

Even willing countries, however, face challenges to freezing and repatriating Iraqi assets:

- First, the lack of a defined government agency in most countries that administers sanctions in a focused, long term manner has led to less organized efforts in these countries. In addition, a poor accounting of what Iraqi assets existed in countries around the world and the shifting nature of some of those accounts presented problems of accounting at the outset of our global efforts. These factors, in combination in certain instances with less developed financial systems, makes locating and securing assets more problematic than in the U.S.

- Countries have legal problems with taking title to property and immediately repatriating it to Iraq. The mechanism and obligation established in UNSCR 1483 to dealing with Iraqi assets represents a novel, aggressive approach to immediate repatriation of assets under international law. As a result, some countries are in the process of examining what legal measures exist or need to be created within their domestic systems to enable them to comply fully with the requirements of 1483. Other countries are determining what processes need to be put in place to transfer Iraqi assets. We are working with governments around the world and the Iraqis to find legally viable ways to transfer funds to the DFI.

- Finally, in some jurisdictions, the existence of extensive third party claims on Iraqi money has complicated asset recovery. Under UNSCR 1483, countries are obligated to return the funds unless such funds are themselves the subject of a lien or judgment that predated the Resolution. While this novel legal mechanism is intended to forestall adjudication of unperfected legal claims until a later date, some countries have insisted on addressing what we consider to be unperfected commercial and other claims against Iraqi funds in their banking systems as a condition of transferring assets to the DFI. We have been working with the Iraqis and various countries to try to resolve these issues and maximize the amount of money transferred to the DFI.

As with all of these efforts, international outreach and diplomatic troubleshooting are ongoing throughout the world. We are continuing to work with our partners abroad to obtain the return of previously identified Iraqi funds and to identify suspect Iraqi accounts.

Interagency Cooperation

The hunt for Iraqi assets will be a long-term effort. It requires dogged investigation, including interrogations, witness interviews, and document exploitation, as well as intensive diplomatic efforts worldwide and vigorous intelligence work. I cannot emphasize strongly enough that the progress we are making is the result of coordinated efforts by the Departments of State, Defense, Justice, Treasury, Homeland Security, and the intelligence community.

The complex challenge of uncovering the trail of Iraqi assets demands that all relevant government agencies work together in a comprehensive and coordinated manner, and share and enhance information obtained from whatever source. That is precisely what we have been doing, and will continue to do.

In particular, we have established two interagency mechanisms that serve as a model for interagency coordination — the Iraqi Asset Working Group and the DIAC Fusion Center.

Iraqi Asset Working Group

The interagency Iraqi Asset Working Group (IAWG), which I chair, includes Treasury components -- my Office (the Executive Office for Terrorist Financing and Financial Crime), IRS-CI, OFAC, and FinCEN; the Departments of State, including USUN; Justice, including the FBI; Defense; Homeland Security; the intelligence community and the NSC, as well as Treasury's Coalition Provisional Authority (CPA) Advisors. The Iraqi Asset Working Group brings the unique expertise of each of these agencies and departments to bear on the hunt for Iraqi assets. The group meets at least weekly, and oversees and coordinates the U.S. Government's international search for Iraqi assets.

Among other things, we set priorities for the international forensic investigations, direct financial investigation teams to various jurisdictions, set priorities for diplomatic outreach, discuss and analyze possible UN and domestic designations under EO 13315 and UNSCR 1483 of Iraq-related individuals and entities, review progress, and help coordinate activities among CPA and Iraqi officials to facilitate action by the Iraqis to transfer assets to the DFI. The IAWG has proven to be an efficient and highly- effective means for handling issues as they arise. It allows us to closely monitor investigative and diplomatic developments, track our progress, and determine our next steps by group consensus. And of course, it provides an ideal mechanism for efficiently sharing relevant information across the U.S. Government.

In addition to our weekly meetings, the inter-agency group communicates extensively and intensively on a daily basis. We draft and clear papers and cables together, target assets and jurisdictions for investigation, work on getting investigation teams required military training and deployed, share intelligence, diplomatic, and investigatory information, and otherwise conduct the business of the group in a detailed and collegial way.

Financial Component at DIAC Fusion Center

In addition to the Iraqi Asset Working Group, Treasury and the Defense Department have established a financial intelligence and investigation component at the Fusion Center at the Defense Intelligence Analysis Center at Bolling Air Force Base. The financial component is staffed primarily by IRS-CI agents, and operates under the auspices of the Iraq Survey Group. The Fusion Center receives intelligence information and investigative leads obtained in Iraq and other foreign jurisdictions. This information is centralized, analyzed, and shared with all relevant intelligence and law enforcement entities. Leads are then sent back to the field, to trace and recover Iraqi assets worldwide. Where appropriate, we provide leads to foreign governments for follow-up and freezing of hidden Iraqi assets.

This approach is designed to produce new leads on an ongoing, interagency basis, and is helping us to pierce the complex layers of transactions involved in the international flow of Iraqi assets over time. This synergy between the intelligence functions, the Department of Defense, and the Treasury components has led to concrete results in the field.

The Way Forward in Iraq and Abroad

Given the approaching June 30th handover of authority to the Iraqis, we are working to develop a transition plan with the interagency community, the CPA, and the Iraqis that will identify the roles in this effort of both the U.S. Government and the Iraqis after that date. These roles must necessarily reflect continuing U.S. involvement. As long as U.S. military and civilian personnel are in Iraq and under threat from terrorists and insurgents, we must aggressively attack the financial underpinnings of that insurgency.

We are also focused on setting Iraq on the right path to deal with the issues of financial integrity and oversight. Our experience around the world on issues related to money laundering and terrorist financing teaches us that Iraq must develop the strongest possible financial infrastructure -- both formal and informal -- as quickly as possible. We know that this requires robust anti-money laundering and anti-terrorist financing laws and regulations. All components of the Treasury Department are working with the Departments of Justice and State, the Federal Reserve, the CPA and Iraqi Governing Council and Ministries to put in place mechanisms to protect the Iraqi financial system, including charities, money exchangers and hawaladars, bulk cash couriers, money remitters, and the banking industry itself, from abuse by financial criminals and terrorists.

This entire endeavor has taught us some important lessons and is sending a clear message around the world. First, these efforts provide a model for U.S. interagency cooperation. The use of all of the expertise and tools available to the U.S. government is critical when dealing with complicated matters such as this. Second, we have set a template for launching aggressive international investigations to respond to requests by other countries, or by the international community as a whole, to find and repatriate assets stolen by foreign officials and placed in the international financial system. This effort, in combination with other steps we have taken in this arena, such as the conclusion of the negotiations of the UN Anti-Corruption Convention, will strengthen international mechanisms to locate, seize and return assets stolen by kleptocrats. In

addition, Treasury has issued a regulation implementing Section 312 of the USA PATRIOT Act, which requires 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, has addressed the need for financial institutions to guard against accepting funds looted by other countries' political figures.

The Department of the Treasury is in the process of using these important international steps and the model of the Iraqi asset hunt to broaden efforts to recover funds looted by other despots – as in the case of Charles Taylor. The lessons we have learned, and will continue to learn as the hunt proceeds, are valuable. And we are eager to continue to put them to good use.

All of this sends a clear message to the tyrants of the world. We will find your money and will return it to the people from whom you've stolen it.

Conclusion

Every day, we are learning more about the maze of Hussein's money trails, and every day, we take concerted efforts to get other countries to identify Iraqi assets, and transfer the funds that they have already frozen. The investigation, especially as it turns increasingly to the hidden, unofficial assets, 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 — especially the IRS-CI agents in Baghdad – and our troops on the ground in Baghdad, who are engaged in these worthy and important efforts. We appreciate the support of Congress in these efforts and look forward to working with you to find and repatriate Iraq's money.

United States General Accounting Office
Washington, DC 20548

May 27, 2004

The Honorable Sue W. Kelly
Chairwoman, Subcommittee on Oversight and Investigations
Committee on Financial Services
House of Representatives

Subject: *Financial Services: Post-hearing Questions Regarding Recovering Foreign Regimes' Assets*

Dear Madam Kelly:

On March 18, 2004, we testified before your Subcommittee's hearing on *The Hunt for Saddam's Money: U.S. and Foreign Efforts to Recover Iraq's Stolen Money.*[1] This letter responds to your request that we provide answers to follow-up questions from the hearing. Your questions, along with our responses, follow.

1. "The Financial Services Committee heard testimony last year that the most effective way to recover non-government assets—that is to say plundered assets converted to personal used but held outside the plundered country—might be private lawyers, acting on behalf of a country pursuing civil remedies, and not a government-led criminal effort. Do you have an opinion on that effort, which was carried out on a trial basis for the UN to recover plundered Nigerian assets?"

Answer: Private sector firms have played major roles through investigative efforts, civil litigation, or a combination of both in some foreign regime asset recovery efforts. Governments have used private sector firms to locate assets of corrupt leaders and have filed lawsuits to return them to the country from which they were taken. The targets of such efforts have included the assets of former dictator Jean-Claude "Baby Doc" Duvalier of Haiti, the government of Libya, General Sani Abacha of Nigeria, and President Ferdinand Marcos and his wife in the Philippines. Officials from firms involved in some of these efforts said that they have developed considerable expertise that allows them to be effective in asset recovery efforts. Representatives of private law firms stated that they believe civil litigation is probably the most effective mechanism for recovering the stolen assets of corrupt

[1]See U.S. General Accounting Office: *Recovering Iraq's Assets*, GAO-04-579T (Washington, D.C.: Mar. 18, 2004).

government officials. Such proceedings are public, which serves to shame the individuals involved in stealing and/or concealing the assets.

Private sector officials said efforts of this sort face challenges, however, which can limit their effectiveness. Locating assets and suing to have them returned to their country of origin is very expensive. The laws that apply to such circumstances differ by country. Pursuing assets in these countries would require expertise in the laws of each country. For example, some countries strictly separate criminal and civil matters, while others combine them; such differences have great effect on how legal cases can proceed. In addition, countries whose assets have been looted might not be able to afford this type of expertise. A country seeking to recover assets in other countries is likely to have to do so through a formal legal process. This process is quite technical, and each country's requirements for providing assistance can vary.

Civil suits also require a party pursuing the action. This is often the successor government following the corrupt foreign regime, or a group of parties wronged by the regime. In the case of Iraq, UNSCR 1483 and the President's Executive Order shielded assets from claims, thus removing the incentive for private groups to pursue the assets.

We do not have an opinion on the best approach for pursuing plundered assets. The best approach is likely to vary, based upon the specific facts of the case, such as the party pursuing the assets, the location of the assets, and whether the location is known.

2. "It is now an accepted fact that the Saddam Hussein regime was demanding kickbacks and deliberately mispricing the oil sales it did not make through the program to say nothing of the illegal sales. What efforts if any were made by the UN to ensure that oil-for-food sales contracts were properly priced and that there were no bribes or kickbacks involved? Why was it so easy for these underhanded deals to persist for more than a half of a decade? Should we assume that any other sanctions or trade deals under the control of the UN are any better enforced? What efforts is State making to improve the UN's monitoring ability of similar situations in the future?"

Answer: The Iraq government decided with whom it would contract and negotiated the prices for goods. The United Nations Security Council screened contracts for dual-use items and weapons and made the final determinations on approving contracts. The Office of the Iraq Program was supposed to review pricing and at times noted to the Security Council when prices seemed high, but no holds were placed due strictly to pricing. The United Nations monitored the goods shipped to Iraq by inspecting them at the border to authenticate deliveries for payment.

The U.N. Secretariat had a fundamental responsibility to provide effective management and oversight, including appropriate internal controls. The United Nations received about 3 percent of Iraq's oil revenues. This amounted to hundreds of millions of dollars each year to run the Oil for Food program and carry out its obligations under Security Council resolutions and guidance.

Over the past several months, the Coalition Provisional Authority in Iraq and the World Food Program have provided assistance to Iraqi government officials and ministries to establish codes of conduct, appoint inspectors general, and improve financial management systems. The goal of this assistance is to provide more effective management of ongoing oil-for-food contracts and of reconstruction assistance.

3. "Describe the provisions in IEEPA and the Patriot Act that allowed the US to confiscate and vest Iraqi assets held in the United States."

Answer: The International Emergency Economic Powers Act (IEEPA) authorizes the President to exercise economic powers to deal with unusual and extraordinary threats, which have their sources in whole or in part outside the United States, to the national security, foreign policy, or economy of the United States (50 U.S.C. § 1701).

In October 2001, section 106 of the USA PATRIOT Act (P.L. 107-56), amended section 203 of IEEPA (50 USC 1702) to authorize the President, when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign nationals, to confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks. The President may vest all right, title, and interest in such confiscated property in any agency or person the President designates. The property may be used for purposes that are in the interest of and for the benefit of the United States.

4. "Of the $3.7 billion in Iraq assets held in other countries, how much was frozen before and after UNSCR 1483?"

Answer: According to the Department of the Treasury, about $2.3 billion was declared frozen in 30 other countries in 1991. As of March 17, 2004, about $1.4 billion has been frozen since U.N. Security Council Resolution 1483 was adopted in March 2003.

5. "What is OFAC's role in locating, freezing, and repatriating Iraqi assets? Were they fully engaged in the asset recovery effort?"

Answer: OFAC's role in locating, freezing, and repatriating Iraqi assets is similar to its role for the other economic sanctions programs it currently administers. As the U.S. government agency charged with administering and enforcing sanctions against targeted foreign regimes and other designated groups and individuals—such as conflict diamond traders, terrorists, and narcotics traffickers—OFAC implemented three Iraqi asset-related Executive Orders: 12722, 12724, and 13315.

According to OFAC, its role in locating Iraqi assets is to work with the Departments of State and Justice and intelligence agencies to identify individuals, groups, and entities associated with the former regime; develop the evidence necessary to place these individuals, groups, and entities on its Specially Designated Nationals (SDN) and Blocked Persons list to initiate an asset freeze; and place them on the SDN list.

Once individuals, groups, and entities are placed on the SDN list, U.S. financial institutions are required to search for their accounts for the purpose of freezing them.

In compliance with an August 1990 OFAC order to freeze Iraqi assets, U.S. financial institutions froze $1.4 billion of such assets located in the United States. According to OFAC, U.S. financial institutions froze more than $480 million abroad. These assets also had accumulated interest from 1991 to 2003. Because OFAC does not seize (or take control of) the assets, it requires U.S. financial institutions to freeze them. These institutions must maintain control over the frozen assets and report annually to OFAC on their status, including the amount of interest accumulated.

On March 20, 2003, under the authority in IEEPA, as amended by section 106 of the USA PATRIOT Act, the President issued an Executive Order confiscating and vesting (taking ownership of) certain Iraqi property. The order vested in the United States Treasury all funds in the United States held in the names of the Government of Iraq, the Central Bank of Iraq, Rasheed Bank, Rafidain Bank, and the State Organization for Marketing Oil. All U.S. financial institutions holding funds in the names of the five entities were ordered to transfer those funds to the Federal Reserve Bank of New York, and 23 banks did so electronically. In accordance with the March 2003 Executive Order, $1.9 billion was vested and transferred to the bank. According to Treasury and Federal Reserve officials, Treasury then instructed the bank to release portions of the funds to DOD upon the Office of Management and Budget's approval of DOD's spending plans. As we noted in our March 18, 2004, written statement to the committee, the Coalition Provisional Authority (CPA) had spent, as of that date, about $1.67 billion of the $1.9 billion in vested assets for emergency needs, including salaries for civil servants and pensioners, and for ministry operations.

OFAC has been actively involved in the Iraqi asset recovery effort, according to the Treasury Department's Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, both during our interviews with him and in his March 18 written statement to the committee. Furthermore, OFAC officials stated that they have been fully involved in the Iraq case.

6. "Are there any existing U.S. laws that the departments could use to get more countries to transfer their Iraq assets?"

Answer: We are not aware of any existing U.S. laws that the departments could use to require more countries to transfer their Iraqi assets. Assets located in other countries are generally outside the jurisdiction of the United States. They are subject to the domestic laws of the country in which they are located. Therefore, the United States generally engages in diplomatic efforts to encourage countries to transfer assets.

7. "What are the Treasury and State Departments doing to encourage other countries to quickly return Iraqi assets held in their countries?"

Answer: In March 2003, the Secretary of the Treasury requested that the international community identify and freeze all assets of the former Iraqi regime. Additionally, senior officials at Treasury and State have engaged in diplomatic efforts to encourage countries to report and transfer the amounts of Iraqi assets frozen within their

countries. For example, since March 2003, the State Department has sent more than 400 cables to other countries requesting that they transfer funds to the Development Fund for Iraq (DFI).

According to Treasury officials, they have been trying to devise other mechanisms to make it easier for countries that do not have the necessary laws and regulations in place to transfer assets. For example, they have been trying to devise ways that financial institutions in Iraq can exchange payment orders directly with financial institutions holding frozen assets.

8. "What mechanisms are being used to trace informal banking methods of money transfers, such as bulk cash transfers and black market currency exchanges? Are they working or do U.S. efforts need additional legal support from the government?"

Answer: We have not fully assessed U.S. efforts to trace informal banking methods of money transfers such as bulk cash smuggling and black market currency exchanges, to include an assessment of whether additional legal support is needed from the government. We can offer the following:

We recently reviewed U.S. efforts to deter terrorists' use of alternative financing mechanisms including the use of bulk cash (also the use of commodities, charities, and hawala systems).[2] We found that there were no systematic collection and analyses of data for terrorism cases to aid in determining the problem's magnitude. We recommended that the Federal Bureau of Investigation (FBI), in consultation with relevant U.S. government agencies, systematically collect and analyze information involving terrorists' use of alternative financing mechanisms, which included bulk cash smuggling. According to FBI officials, the FBI began efforts to collect baseline data on terrorism funding mechanisms from its field offices to more systematically analyze information on terrorists' use of alternative financing mechanisms.

In general, in the United States, bulk cash smuggling is a money laundering and terrorism financing technique that is designed to bypass tracking mechanisms such as transparency reporting requirements for formal financial institutions. Financial transparency reporting requires Currency and Monetary Instrument Reports (CMIR), which obligate the filer to declare if he or she is transporting across the border $10,000 or more in cash or monetary instruments. Other financial transparency reporting requirements include reports to the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) of receipts or transfers of U.S. currency in excess of $10,000 using the Currency Transaction Report (CTR) and of suspicious activities using the Suspicious Activity Report (SAR).

In response to the events of September 11, 2001, the former U.S. Customs Service initiated an outbound currency operation, Operation Oasis, to refocus its efforts to target 23 identified nations involved in money laundering. According to the

[2]See *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*, GAO-04-163 (Washington, D.C.: Nov. 14, 2003) and *Combating Terrorism: Federal Agencies Face Continuing Challenges in Addressing Terrorist Financing and Money Laundering*, GAO-04-501T (Washington, D.C.: Mar. 4, 2004).

Department of Homeland Security's (DHS) Bureau of Immigration and Customs Enforcement (ICE), Operation Oasis seized more than $28 million in bulk cash, between October 1, 2001, and August 8, 2003. However, according to ICE officials, while some of the cases involved were linked to terrorism, they were unable to determine the number and the extent to which these cases involved terrorist financing.

9. "Do U.S. efforts follow sales of metals and other commodities that could be used as money transfer methods and control? Have any been found?"

Answer: In our recent work on U.S. efforts to deter terrorists' use of alternative financing mechanisms, the Department of Justice (DOJ) commented that it does not initiate or organize investigations on an industry-wide basis or as a result of the type of commodity used or particular means of transfer. U.S. law enforcement agencies—specifically the FBI, which leads terrorist financing investigations and operations—do not systematically collect and analyze data on terrorists' use of alternative financing mechanisms, such as the use of metals and commodities.[3]

The scope of our review focused on U.S. efforts to deter terrorists' use of alternative financing mechanisms, including the use of commodities (also bulk cash, charities, and hawala systems). Some commodities included in our review were diamonds, gold, drugs, weapons, cigarettes, counterfeit goods, and others. However, some evidence, including examples, were omitted from our report due to sensitivity concerns, as agreed with the FBI and cannot be discussed here. Furthermore, much of the information concerning investigations into the link between diamonds and terrorist financing is classified, was not included in the report, and cannot be discussed here. A few closed cases involving commodities used by terrorists to fund their activities, such as the use of cigarettes and drugs, were cleared by DOJ as examples that we were able to use in our reporting.

10. "Is there any control on precious stone sales that yield information on whether it is used for money transfer? Is this possible? Have the efforts of the U.S. Government (U.S. Customs Service) found or established a way to track these? Do we need additional controls here and/or worldwide?"

Answer: As of April 27, 2004, the Department of the Treasury's FinCEN anti-money laundering rule for precious stones and metals dealers have not been finalized. We have not assessed the proposed rule.

- According to FinCEN's Notice of Proposed Rulemaking, section 352(a) of the USA PATRIOT Act, which became effective on April 24, 2002, Title III amended section 5318(h)(1) of the Bank Secrecy Act to require financial institutions to establish anti-money laundering programs, and section 352(c) directs the Department of the Treasury to prescribe regulations for anti-money laundering programs. Although a dealer "in precious metals, stones, or jewels" is defined as a financial institution

[3]See Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms, GAO-04-163 (Washington, D.C.: Nov. 14, 2003) and Combating Terrorism: Federal Agencies Face Continuing Challenges in Addressing Terrorist Financing and Money Laundering, GAO-04-501T (Washington, D.C.: Mar. 4, 2004).

under the Bank Secrecy Act, FinCEN had not previously defined the term or issued regulations regarding dealers.[4]

- On April 29, 2002, FinCEN deferred the anti-money laundering program requirement to have time to study the industry and apply money laundering controls.
- On February 21, 2003, the Department of the Treasury posted a *Notice of Proposed Rule Making for Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels.* Under the proposed rule, a dealer's policies, procedures, and internal controls must be reasonably designed to detect transactions that may involve use of the dealer to facilitate money laundering or terrorist financing. In addition, a dealer's program must incorporate procedures for making reasonable inquiries to determine whether a transaction involves money laundering or terrorist financing, and the dealer should respond accordingly.

Worldwide, the international community, including the United States, is attempting to track the origin of diamonds through the Kimberley Process in an effort to deter the flow of conflict diamonds. Conflict diamonds are those diamonds used by rebel movements to finance their military activities, including attempts to undermine or overthrow legitimate governments. In June 2002, we reported that our assessment of the Kimberley Process revealed that the certification scheme for tracing diamonds internationally lacked key aspects of accountability.[5] In our November 2003 report on U.S. efforts to deter terrorists' use of alternative financing mechanisms, we noted that critical shortcomings still exist with regard to internal controls and monitoring within the Kimberley Process and that these weaknesses could be exploited by those financing terrorism.[6]

11. "Have you been able to register super hawaladars effectively? How many? How effective are your methods of registering smaller hawaladars? How many have you registered? Are additional federal laws on this money transfer method necessary?"

Answer: We have not assessed FinCEN's ability to register hawaladars. However, officials and researchers reported that it is difficult to enforce both registration and requirements to obtain state licenses (where required by state law), report suspicious transactions, and maintain anti-money laundering programs. They also noted that it is likely that numerous small hawala operations remain unregistered and noncompliant with one or more of these requirements. Moreover, terrorists may have adapted to these new regulations by developing and maintaining relationships and conducting business with the hawala operators that remain underground, increasing the likelihood that their transactions will not be detected.

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[4]Department of the Treasury, 31 CFR Part 103, RIN 1506-AA28, *Financial Crimes Enforcement Network*; "Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels," *Federal Register*/Vol. 68, No. 35/Friday, Feb. 21, 2003/ Proposed rules.

[5]*International Trade: Critical Issues Remain in Deterring Conflict Diamond Trade*, GAO-02-678 (Washington, D.C.: June 14, 2002).

[6]See *Terrorist Financing: U.S. Agencies Should Systematically Assess Terrorists' Use of Alternative Financing Mechanisms*, GAO-04-163 (Washington, D.C.: Nov. 14, 2003).

12. "Please list the European countries that have been particularly helpful in tracing illicit money flows? Are you getting information that is helpful in tracking money laundering and illicit money?"

Answer: Specific information that we have from the Department of the Treasury relating to the cooperation of countries in the hunt for Iraqi assets is classified. However, Treasury and State officials said that some of the remaining frozen Iraqi assets are located in financial institutions in Europe. In addition, due to the sensitivity of ongoing negotiations to recover Iraqi assets, we agreed not to interview foreign officials potentially involved in the ongoing negotiations. The Departments of the Treasury and State could more appropriately address this question.

13. "Is the U.S. government getting the cooperation from banks required to trace illicit money or are we still finding resistance in reporting and tracking information? Please describe the cooperation and coordination from foreign institutions, including: BNP; Dubai Islamic Bank; Arab Bank; Credit Lyonnaise; Al-Taqua Bank; The Al-Rajh Banking and Investment Company?"

Answer: Treasury officials stated that U.S. banks are cooperating with the U.S. government in tracing illicit money. Under OFAC regulations, all U.S. persons, including financial institutions, are required to comply with orders to freeze assets and block transactions and report to OFAC within 10 business days of doing so. Financial institutions face steep criminal and civil penalties, which can vary based upon the sanctions program, for not complying with these regulations. For Iraq, civil penalties can range up to $325,000 per violation and criminal penalties can reach $1,000,000 and 12 years in prison. In addition, OFAC has recently stated that it believes the manner and level of U.S. financial institution compliance with its regulations and its own monitoring of that compliance is effective. In the Iraq case, OFAC officials stated that they do not believe additional Iraqi assets have entered the U.S. financial system since the early 1990s because of the action U.S. financial institutions took to freeze Iraqi assets.

Internationally, the U.S. government does not have jurisdiction over foreign banks outside the United States. However, according to OFAC, it works with other countries' counterpart entities, typically central banks, to encourage those entities to freeze assets the United States has targeted. The Treasury and State Departments have also been involved in diplomatic efforts to encourage foreign governments to transfer assets frozen in their financial institutions to the Development Fund for Iraq, as required by U.N. Security Council Resolution 1483. These diplomatic efforts are currently ongoing and GAO agreed not to obtain access to information on their progress in this instance. Neither did we obtain access, in this instance, to information describing cooperation and coordination of foreign institutions, including those you listed.

14. "Is the U.S. Government getting help in tracking illicit money from the following countries: Russia; Germany; Lichtenstein; Jordan; Syria; Saudi Arabia; Lebanon; the Philippines; Indonesia; Malaysia: Qatar; Kuwait; Palestine; Guyana; Equatorial Guinea; Panama; Columbia; Egypt; China; UAE; Pakistan; Cuba; the Balkan countries?"

Answer: Department of the Treasury information we have relating to the cooperation of countries in the hunt for Iraqi assets is classified. However, Treasury and State officials said that most of the frozen Iraqi assets that remain are located in financial institutions in Iraq's neighboring countries and in Europe. In addition, due to the sensitivity of ongoing negotiations to recover Iraqi assets, we agreed not to interview foreign officials potentially involved in ongoing negotiations. The Departments of the Treasury and State could more appropriately address this question.

15. "A 1999 IMF report estimated that annual global offshore assets located in offshore financial centers were $4.8 trillion dollars. Is there any effort being made to register local "nominees" on these accounts? Is there an effort to track these shell corporations and shell banks that may exist? Are the international entities involved (the United Nations, World Bank, the IMF, etc.)? Is the U.S. government getting cooperation from these entities, or has it been difficult to receive real-time information that would help dry up illicit money?"

Answer: We have not assessed U.S. or international efforts to register local nominees of offshore accounts at offshore financial centers.

16. "Is there an effort to monitor cross-border currency movements from accounts, such as those referred to above? Are there reporting requirements that show transparency for the World Bank, the IMF, and the financial branches of the United Nations? Do the officers of the above organizations carry a fiduciary responsibility for the reports of these organizations? How extensive are the duties and responsibilities of these boards regarding the reporting of illicit money?"

Answer: We have not assessed international efforts to monitor cross-border currency movements from accounts located in offshore financial centers. However, in November 2003, the International Monetary Fund's (IMF) Executive Board concluded that regular monitoring of offshore financial centers should become a standard part of the IMF's surveillance work. However, offshore financial centers' participation in and publication of these assessments are voluntary. On March 12, 2004, the IMF issued a report on its assessment of offshore financial centers.[7] This report assessed transparency and supervision in offshore financial centers in 41 jurisdictions.

IMF assessments of offshore financial centers examined compliance with international standards in the financial sector, including banking supervision, the effectiveness of anti-money laundering, and combating the financing of terrorism

[7]See Monetary and Financial Systems Department, International Monetary Fund: *Offshore Financial Centers: The Assessment Program—An Update* (Washington, D.C.: International Monetary Fund, 2004).

arrangements. The results of the assessment showed that wealthier offshore centers had a much higher rate of compliance with the assessed standards, than did jurisdictions with lower levels of income. The IMF report also concluded that the supervisory systems of the lower income financial systems resulted from inadequate skills and the numbers of staff in their supervisory agencies, reflecting the lack of adequate resources.

As of March 12, 2004, the IMF had completed 28 assessments. Of these, 26 have been published or are expected to be published, while two jurisdictions have opted not to publish their reports. The report provides an appendix that lists the offshore financial centers contacted and the status of the assessments.

17. "Is there any effort to establish laws, both domestic and foreign, as part of reporting requirements that would identify depositors? Would such laws be helpful in tracing illicit money? Would they help track money laundering activity?"

Answer: Domestically, Congress enacted the USA PATRIOT Act of 2001, which contains a number of provisions to identify depositors and make it easier to trace money in the U.S. financial system. Treasury officials stated that several provisions of the USA PATRIOT Act also enhanced the U.S. government's ability to recover foreign regimes' assets.

Title III of the USA PATRIOT Act, among other things, expanded Treasury's authority to regulate the activities of U.S. financial institutions, imposed additional due diligence requirements, established new customer identification requirements, and required financial institutions to maintain anti-money laundering programs. The table below lists USA PATRIOT Act Title III provisions could assist with asset recovery efforts.

USA PATRIOT Act Provisions with Applicability to Tracking Money Laundering

Provision	Description
Section 311	Authorizes Treasury to designate specific foreign financial institutions, jurisdictions, transactions, or accounts to be of "primary money laundering concern." Treasury may require that financial institutions with links to such jurisdictions or institutions engage in specific measures, such as increased record keeping, or restricting or prohibiting access to the U.S. market.
Section 312	Requires U.S. financial institutions to exercise due diligence and in some cases enhanced due diligence when opening or operating correspondent accounts for foreign financial institutions or private banking accounts for wealthy foreign individuals.[a] This provision also requires U.S. financial institutions to establish due diligence policies, procedures, and controls reasonably designed to detect and report money laundering through such correspondent and private banking accounts.
Section 313	Prohibits banks and securities firms from maintaining correspondent accounts for foreign shell banks that have no

	affiliation with any financial institution through which their banking activities are subject to regulatory supervision. Foreign shell banks are those with no physical place of business.
Section 314	Encourages cooperation and the sharing of information related to money laundering and terrorism among law enforcement agencies, regulatory authorities, and financial institutions. Upon notice to the Secretary of the Treasury, permits the sharing among financial institutions of information related to individuals, entities, organizations, and countries suspected of possible terrorist or money laundering activities.
Section 317	Gives U.S. courts considering money laundering cases jurisdiction over foreign individuals and financial institutions that (1) commit a money laundering offense in the United States; or (2) convert laundered funds that have been forfeited to personal use. U.S. courts also have jurisdiction over foreign financial institutions with accounts in the United States. Provides for the appointment of a federal receiver to take control of all assets of the defendant to satisfy a civil or forfeiture judgment or a criminal sentence.
Section 319(a)	Changes forfeiture procedures so that, if funds used in money laundering are deposited in a foreign bank that has an interbank account in a U.S. bank, funds in the U.S. bank account can be seized.[b]
Section 326	Requires Treasury to jointly prescribe with financial regulators regulations that require financial institutions to implement procedures to verify the identity of any person seeking to open an account. Also requires customers to comply with the procedures. The financial institutions are required to consult lists of known or suspected terrorists to determine whether the person seeking to open an account appears on the list.
Section 356	Requires Treasury to promulgate regulations under which securities firms, commodities firms, mutual funds, and insurance companies must file suspicious activity reports.
Section 365	Requires businesses with cash transactions involving more than $10,000 in one transaction to file Currency Transaction Reports with the Financial Crimes Enforcement Network.

[a]A correspondent account is an account established by a financial institution for a foreign bank to receive deposits and make payments or other disbursements on behalf of a foreign bank, or to handle other financial transactions related to the foreign bank.
[b]An interbank account is an account held by one financial institution at another institution primarily for the purpose of facilitating customer transactions.

Source: GAO.

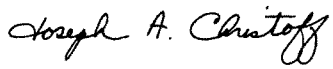
Treasury officials stated that some of these provisions would be more effective in combating terrorist financing and money laundering than they may at first appear. For example, financial institutions may stop dealing with other financial institutions that are located in an area of "primary money laundering concern" to avoid the increased recordkeeping requirements of Section 311. Treasury officials stated that Section 312 is a powerful provision because it requires that U.S. financial institutions guard against accepting proceeds from corrupt foreign officials or other sources of fraud.

Internationally, the United States government has worked to provide technical assistance to governments that requested it in an effort to improve their capacity to combat money laundering and terrorist financing. Countries can use this assistance to develop the legal authorities and investigative abilities to locate assets of targeted foreign regimes and, in some cases, transfer them to their country of origin. Shortly after September 11, 2001, the State Department convened an interagency group to identify those countries most vulnerable to terrorist financing and to devise a strategy to provide countries with the necessary training and technical assistance to create comprehensive, effective anti-money laundering and antiterrorist financing regimes. The assessments were done to assist in the development of training and technical assistance implementation plans. The State Department also offers training for other countries' law enforcement personnel through its International Law Enforcement Academies. In addition, the State Department contributes funds to the United Nations Global Program Against Money Laundering and other anti-money laundering groups.

If you have any questions about this report or need additional information, please contact Joseph A. Christoff at 202-512-8979 and Davi D'Agostino at 202-512-8678. We can also be reached by e-mail at christoffj@gao.gov and dagostinod@gao.gov, respectively.

Zina Merritt, Tetsuo Miyabara, Barbara Keller, Thomas Conahan, Ronald Ito, Sarah Lynch, Suzanne Dove, Kathleen Monahan, Tracy Guerrero, Mark Speight, Rachel DeMarcus, and Lynn Cothern made contributions to this report.

Sincerely yours,



Joseph A. Christoff
Director, International Affairs and Trade

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Director, Financial Markets and Community Investment

(320279)

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#1)

House Committee on Financial Services

March 18, 2004

Question:

Many countries have said they are setting aside substantial amounts of Iraqi frozen assets to cover claims filed by individuals and companies that they say are owed money by Iraq. Do you interpret UN Resolution 1483 to permit the payment of these claims? Do you feel these countries are acting in good faith in light of the ambiguity expressed in UN Resolutions 661 and 670?

Answer:

UN Security Council Resolution 1483, paragraph 23, obliges UN Member States to freeze and transfer to the Development Fund for Iraq (DFI) all funds or other financial assets or economic resources of the previous Government of Iraq or its state bodies, corporations or agencies, located outside Iraq as of the date of the resolution (May 22, 2003). It also obliges Member States to freeze and transfer to the DFI funds or other financial assets or economic resources that have been removed from Iraq, or acquired by Saddam Hussein or other officials of the former Iraqi regime and their immediate family members, including entities owned or controlled by them, directly or indirectly, or by persons acting on their behalf or at their direction.

If funds meet either criteria above but are subject to a "prior judicial, administrative, or arbitral lien or judgment," Member States are exempt from the requirement to transfer them to the DFI but not from the requirement to freeze them. There is no provision in UNSCR 1483 for payment of claims from frozen Iraqi assets.

The best indicator of the good faith of the international community in the area of Iraqi asset recovery is the steady increase in the return of assets from around the globe to the DFI. Countries from Europe, the Middle East, North Africa, and Asia have returned over $780 million to the DFI.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#2)

House Committee on Financial Services

March 18, 2004.

Question:

The Committee received testimony in our hearing that the oil for food program was used by the Saddam regime to skim billions of dollars. Recent press reports indicated that the UN directed all funds in the program to French and other European banks which did little to audit the transactions. In addition, these banks did not act after notification of substantial discrepancies, the UN did nothing to investigate or correct this situation. What banks were the main recipients of money from this program? Are the U.S. and foreign governments working with them now? What has been the level of cooperation? How can international efforts to monitor similar programs be improved in the future?

Answer:

Income from oil sales under the Oil-for-Food program was deposited by the UN into two banks: the New York branches of BNP-Paribas (France), and Chase Manhattan Bank (United States). Both of these companies are registered to operate in many countries. The funds reserved for humanitarian purchases in the Center/South of Iraq (59 percent of oil income) were deposited in BNP-Paribas; the remainder was deposited in Chase Manhattan. The OFF bank accounts and financial statements were audited twice annually by the UN Board of Auditors, who issued a report to the Secretary General that was circulated to members of the Security Council. Twelve audits have been circulated to date; another audit should be completed within the next three months. We have supplied GAO with copies of all these audits. Over the years of the program the Board of Auditors made recommendations for improvements but generally concluded that the transactions of the UN escrow accounts were in accordance with financial regulations and legislative authority. I am not aware of any specific allegations of wrongdoing directed against

either of these banks in regard to OFF. The banking accounts and operations appear to have been conducted and monitored according to normal business and accounting practices. However, we await the report of the Volcker Commission in this regard.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#3)

House Committee on Financial Services

March 18, 2004

Question :

In our hearing there was a brief discussion of the challenges faced and the need to coordinate U.S. laws, regulations, and capabilities with those of other countries. To what extent has State compiled information on other countries' laws and regulations re: freezing and seizing/releasing assets and how they apply UN resolutions?

Answer:

State compiles such information as needed in the course of dealing with specific cases or legal questions related to Iraqi assets located in particular jurisdictions.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#4)

House Committee on Financial Services

March 18, 2004

Question:

What are the key challenges and lessons learned from this experience? To what extent are these applicable to other asset recovery efforts?

Answer:

Our experience in recovering the assets of Saddam, his cronies and his regime has provided proof positive of the importance of multilateral cooperation and a UN umbrella in persuading foreign governments to freeze and transfer assets. UN Security Council Resolution 1483 was unique in that it obliged UN Member States not only to freeze assets but also to transfer them to a fund with international oversight whose objective was to benefit the Iraqi people from whom they were stolen. Without this unique feature, we could have blocked the assets from getting into the wrong hands but we could not have put them to work building roads and schools for the Iraqi people. Secondly, many U.S. agencies bring special expertise to the asset recovery effort, which functions best if cooperation and lines of communication among the agencies are top priorities. A group like the interagency Iraqi Assets Working Group needs to be established from the beginning of international situations where asset recovery is likely to be a significant element of the overall package to put a nation in crisis back on its feet.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#5)

House Committee on Financial Services

March 18, 2004

Question:

What mechanisms are being used to trace informal banking methods of money transfers, such as bulk cash transfers and black market currency exchanges? Are they working or do US efforts need additional legal support from the US government?

Answer:

I have consulted with Treasury DAS Juan Zarate to whom you also addressed this identical question. He has agreed that this question deals with issues for which the Department of the Treasury has primary responsibility and that he is best placed to respond to it. You will be hearing from DAS Zarate with an answer to this question.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#6)

House Committee on Financial Services

March 18, 2004

Question:

Do US efforts follow sales of metals and other commodities which could be used as money transfer methods and control? Have any been found?

Answer:

I have consulted with Treasury DAS Juan Zarate to whom you also addressed this identical question. He has agreed that this question deals with issues for which the Department of the Treasury has primary responsibility and that he is best placed to respond to it. You will be hearing from DAS Zarate with an answer to this question.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#7)

House Committee on Financial Services

March 18, 2004

Question:

Is there any control on precious stone sales that would yield information on whether it is used for money transfer? Has the U.S. Government (U.S. Customs Service) found or established a way to track these? Do we need additional controls here and/or worldwide?

Answer:

In response to the devastating wars in Africa during the past decade that were financed by conflict diamonds, that is, diamonds used by rebel groups to overthrow legitimate governments, an international initiative known as the Kimberley Process was launched to sever the link between conflict diamonds and the legitimate diamond trade. The Kimberley Process seeks to control trade in rough diamonds by allowing trade only among Participants that have established national systems that meet the minimum standards of the Kimberley Process Certification Scheme (KPCS). These standards include the issuance of a forgery resistant certificate that must accompany all shipments of rough diamonds, the shipment of rough diamonds in tamper proof containers and the maintenance of accessible records pertaining to these shipments. Additionally, all Participants undertake to provide statistics about their rough diamond trade and production on a regular basis. While the purpose of the Kimberley Process is not to address terrorist financing, the Kimberley Process had brought greater transparency to the diamond trade.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#8)

House Committee on Financial Services

March 18, 2004

Question:

Have you been able to register super hawaladors effectively? How many? How effective are your methods of registering smaller hawaladors. How many have you registered? Are additional federal laws on this money transfer necessary?

Answer:

I have consulted with Treasury DAS Juan Zarate to whom you also addressed this identical question. He has agreed that this question deals with issues for which the Department of the Treasury has primary responsibility and that he is best placed to respond to it. You will be hearing from DAS Zarate with an answer to this question.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#9)

House Committee on Financial Services

March 18, 2004

Question:

Please list the European countries that have been particularly helpful in tracing illicit money flows. Are you getting information that is helpful in tracking money laundering and illicit money?

Answer:

For detailed information on this subject on a country-by-country basis, I would refer you to the previously mentioned 2004 International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crimes. This report includes a country-by-country analysis, including detailed coverage on European countries. The report is available on our website at http://www.state.gov/g/inl/rls/nrcrpt/2003/vol2/html/index.htm.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#10)

House Committee on Financial Services

March 18, 2004

Question:

Is the U.S. government getting the cooperation from banks required to trace illicit money or are we still finding resistance in reporting and tracking information? Please describe the cooperation and coordination from foreign institutions including: BNP; Dubai Islamic Bank; Arab Bank; Credit Lyonaise; Al-Taqua bank; the Al-Rajhi Banking and Investment Company?

Answer:

I have consulted with Treasury DAS Juan Zarate to whom you also addressed this identical question. He has agreed that this question deals with issues for which the Department of the Treasury has primary responsibility and that he is best placed to respond to it. You will be hearing from DAS Zarate with an answer to this question.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#11)

House Committee on Financial Services

March 18, 2004

Question:

Is the U.S. Government getting help in tracking illicit money from the following countries: Russia; Germany; Liechtenstein; Jordan; Saudi Arabia; Syria; Lebanon; the Philippines; Indonesia; Malaysia; Qatar; Kuwait; Palestine; Guyana; Equatorial Guinea; Panama; Colombia, Egypt; China; UAE; Pakistan, Cuba; the Balkan countries?

Answer:

I have consulted with Treasury DAS Juan Zarate to whom you also addressed this identical question. He has agreed that this question deals with issues for which the Department of the Treasury has primary responsibility and that he is best placed to respond to it. You will be hearing from DAS Zarate with an answer to this question.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#12)

House Committee on Financial Services

March 18, 2004

Question:

A 1999 IMF report estimated that annual global offshore assets located in offshore financial centers were 4.8 trillion dollars. Is there any effort being made to register local "nominees" on these accounts? Is there an effort to track these shell corporations and shell banks that may exist? Are the international entities involved (the United Nations, World Bank, the IMF, etc)? Is the U.S. government getting cooperation from these entities, or has it been difficult to receive real time cooperation that would help dry up illicit money?

Answer:

Of the sixty or so offshore jurisdictions, the great majority requires the identification of "nominee" directors of banks and international business companies (IBCs) at the time of initial registration. We do not know how many offshore jurisdictions require, or implement requirements if any, for notification to the Registrar in the case of new or substituted nominees. Assessments performed by the IFIs, FATF, FATF-style regional bodies, and the USG are limited to analysis of compliance with international standards and do not track shell corporations or banks. Determining the existence of these shell entities is difficult due to the secretive nature of the offshore financial sector. The spotty information that the USG receives on these shell entities is provided by bilked U.S. citizens, by the jurisdictions themselves, and by our posts in response to questions posed to them in preparation of the International Narcotics Control Strategy Report Volume II: Money Laundering and Financial Crimes. This report includes a chart on offshore jurisdictions that provides information on the number of offshore banks and IBCs. The report is available on our website at http://www.state.gov/g/inl/rls/nrcrpt/2003/vol2/html/index.htm.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#13)

House Committee on Financial Services

March 18, 2004

Question:

Is there an effort to monitor cross border currency movements from accounts, such as those referred to above? Are there reporting requirements that show transparency for the World Bank, the IMF, and the financial branches of the United Nations? Do the officers of the above organizations carry a fiduciary responsibility for the reports of these organizations? How extensive are the duties and responsibilities of their boards regarding the reporting of illicit money?

Answer:

The United States Government believes very strongly in the utility of cross border currency reporting and under the Patriot Act has made cash smuggling a felony. Indeed, Recommendation 19 a of the Financial Action Task Force (FATF) reads:

Recommendation 19

Countries should consider:

a. Implementing feasible measures to detect or monitor the physical cross-border transportation of currency and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.

The requirement, however, is only that countries consider such reporting. The U.S. delegation that attended the FATF Seminar on Terrorist Financing in February 2004 pointed out during the discussion on the use of cash couriers by terrorist organizations, that cross border reporting is a

critical tool to identify, interdict, and seize terrorist funds and those responsible for its transport. The FATF agreed to conduct a study on this issue, including the utility of such a reporting system.

The USG uses audits, program reviews, and reports to Congress on its monetary contributions to international financial institutions (IFIs) such as the IMF and World Bank, and the United Nations in order to ensure IFI financial transparency. In addition, to the extent that the IFIs or the UN utilize financial services in the United States or other FATF countries, they are subject to anti-money laundering reporting and other requirements. Indeed the FATF and the IFIs have recently adopted a "joint methodology" for implementing the FATF recommendations in both the FATF mutual evaluation program as well as assessments undertaken by the IFIs.

Note: As to the specifics of the nature of financial transparency within the IFIs themselves, such as internal controls, independent auditing and financial reporting, I would refer you to the Department of Treasury, and respective Executive Directors for the IFIs.

Questions for the Record Submitted to

Deputy Assistant Secretary Paul Simons by

Representative Sue Kelly (#14)

House Committee on Financial Services

March 18, 2004

Question:

Is there any effort to establish laws, both domestic and foreign, as part of reporting requirements that would identify depositors? Would such laws be helpful in tracing illicit money? Would they help track money laundering activity.

Answer:

The Financial Action Task Force (FATF) has long recognized the importance of customer identification issues in countering money laundering and other financial crimes and has incorporated them into its 40 Recommendations. Recommendations 4-12 address a broad range of issues relating to the identification of depositors, including lifting of bank secrecy for money laundering, customer identification, record keeping and retention, etc. Countries do differ as to whether they accomplish this by regulation or law, and actual implementation differs as well. The 40 Recommendations can be found at http://www.fatf-gafi.org/40Recs_en.htm#Forty and country specific information on customer identification can be found in the previously referenced International Narcotics Control Strategy Report.

Responses of Deputy Assistant Secretary Juan Zarate to Questions from Committee on Financial Services "The Hunt for Saddam's Money: U.S. and Foreign Efforts to Recover Iraqi's Stolen Money" March 18, 2004

1.
Q: How is the Iraqi Assets Working Group using leads generated by the Defense Intelligence Agency (DIA) and other law enforcement and intelligence agencies to locate hidden assets?

A: The Iraqi Assets Working Group (IAWG) has established a process by which leads generated by the Defense Intelligence Agency (DIA), CIA, IRS-CI, and other law enforcement and intelligence agencies are sent to the interagency DIAC Fusion Center at Ft. Bolling. There, the information is analyzed and leads are sent back out to the field for further follow up, including to IRS-CI agents in Baghdad and elsewhere. Two full time IRS-CI agents staffing the DIAC Fusion Center report several time a day to my staff, who are helping oversee the search for Iraqi assets worldwide.

Q: Are leads being developed by others that the working group is exploiting? If so, which other groups and how is this information being used?

A: Promising leads are being developed by IRS-CI agents in Baghdad, working with both ISG and the Defense Joint Interagency Task Force on the Iraqi Insurgency, operated by the CJTF-7. Where this information suggests that Iraq assets may be located in foreign jurisdictions, the IAWG works with its State, Treasury, Agency, and other members to follow up on these leads in the relevant countries. In addition, other countries have generated leads, which we pursue through the DIAC and other mechanisms, including designating individuals and entities under Executive Order (EO) 13315 and submitting them for listing by the UN 1518 Committee, pursuant to UNSCR 1483.

Q: Are there problems using this information, such as that provided through intelligence sources?

A: We sometimes face obstacles in using classified information to follow leads. In order to share this information with other countries or to use it for our own public Statements of the Case (SOC) in support of designations of individuals and entities under EO 13315 and for submission to the UN 1518 Committee, the information must be declassified by the agency that provided it. Even when ultimately successful, this process can create substantial delays. When declassification of useful information proves not possible, we often try to parallel construct it, using other, non-classified sources. Again, however, this can impose delays that hinder the designation/UN listing process. Fortunately, as we continue the process of identifying and designating front companies and related individuals, the process of declassifying information is becoming more routine and streamlined. The IAWG provides a forum for us to continue to press for declassification or development of alternative sources, where necessary.

2.
Q: Concerns have been raised that it will become more difficult to collect and return assets as time continues to pass. Are there adequate resources and personnel designated [sic] to this issue? Are more resources necessary?

A: We have dedicated adequate resources and personnel to the USG's Iraqi asset recovery effort. As we approach the June 30 transfer of sovereignty to the Interim Iraqi Government (IIG), we are likely to face additional obstacles to obtaining transfer of frozen Iraqi assets to the DFI. Some countries may delay transferring the funds to DFI, in the hope that they can negotiate a deal with the IIG to use the funds to pay outstanding claims that are not authorized by UNSCR 1483, to pay for new trade agreements/purchases, or to otherwise cultivate favorable relations with the IIG. It is also possible that cooperation by Iraqi officials in our asset recovery efforts may decline, due to the press of other matters connected to the transition, and also to a lack of motivation to secure transfer to the DFI before the June 30 handover. We are continuing to address these issues, and have adequate resources and personnel to do so. In particular, we are continuing to press both Iraqi officials and foreign jurisdictions to take steps necessary to transfer frozen Iraqi assets in several key jurisdictions, and we appear to be making some significant progress. Iraqi officials joined a Treasury CPA official in Amman, April 29 to May 8, to facilitate claims review and additional transfers. In response, Jordan has recently committed to transfer another large tranche of funds (approximately $55 million), and additional transfers from Lebanon may also be possible. We are fully prepared to send additional IRS-CI agents to any and all appropriate jurisdictions to follow up on leads, including exploiting documents and interviewing witnesses, and have committed the resources to do so. (IRS-CI agents are expected to return to a key neighboring jurisdiction in the next few weeks.) In addition, our ongoing process of designating groups of front companies and individuals and submitting their names for UN 1518 Committee listing should help to generate further international cooperation in identifying, freezing, and transferring Iraqi assets that have not yet been identified and frozen. Again, we have adequate resources to prepare these designations at a rate that the international community is able to absorb and act upon.

3.
Q: A number of factors have limited the collection of Iraqi funds. These include the failure of the United Nations to monitor money frozen in the past, foreign governments [sic] reluctance to turn over frozen funds, and the Treasury's hesitance [sic] to push banks to pay higher interest rates on Iraqi assets. How is each of these issues being addressed?

A: *Lack of Monitoring*--Although the UN's Iraqi sanctions regime did not provide for UN or other monitoring of money frozen pursuant to the various Security Council Iraq resolutions, we have aggressively sought to identify all remaining Iraqi assets that UN member states froze under the prior Iraqi sanctions regime. Last March, almost immediately upon the initiation of hostilities in Iraq, Secretary Snow sent letters to 38 jurisdictions that had originally frozen Iraqi assets under the UN Iraqi sanctions regime,

asking them to confirm the amount of frozen Iraqi assets in their financial system, as well as identify, freeze, and transfer any additional, unfrozen Iraqi assets. On May 18, 2004, U.S. embassies in these countries were instructed to follow-up yet again to urge these countries to investigate possible deposits in their jurisdictions in the names of the 280 individuals and entities listed, at our initiative, with the UN 1518 Committee, pursuant to UNSCR 1483. Treasury and State Department officials also made numerous phone calls, requesting foreign countries to confirm the amount of frozen Iraqi assets and to identify any additional, non-frozen assets in their jurisdictions. Since March 2003, the IAWG has conducted an international "trace and chase" initiative which seeks to identify, trace, and locate assets, including those that were transferred in violation of UN Security Council resolutions on Iraq.

Foreign Governments' reluctance to transfer Iraqi funds to the DFI--We have addressed the reluctance of some foreign governments to transfer frozen Iraqi assets to the DFI by a variety of measures. In addition to extensive bilateral outreach by the Treasury and State Departments, urging foreign jurisdictions to fulfill their obligations under UNSCR 1483 and identify, freeze, and transfer Iraqi assets to the DFI, we have pressed key jurisdictions to identify and freeze Iraqi assets by sharing relevant information, including account and transaction information involving Iraqi assets. We have also engaged in an aggressive program of designating covered individuals and front companies, and submitting their names to the UN for listing by the 1518 Committee, in order to encourage other countries to identify, freeze, and transfer assets belonging to listed individuals and entities, and to conduct their own investigations into Iraqi assets in their jurisdictions, using the listed names as leads. Finally, we have helped countries devise novel legal methods that will allow them to transfer funds into the DFI in a manner previously impossible, given past legal structures and restrictions.

Interest rates on Iraqi assets--Iraq's assets were blocked (or "frozen") in place, and for the most part, continued to be held in the same institutions and in the same types of investments as their owners had placed them. The Iraqi Sanctions Regulations (ISRs) (31 CFR Part 575 at 575.203 (b)), require financial institutions holding blocked Iraqi property to pay a "commercially reasonable" interest rate. However, since there is no single "commercially reasonable" interest rate, rates will vary between, and within, financial institutions depending on the size and type of deposit being held. OFAC has required each bank transferring blocked Iraqi assets vested under Executive Orders 13290 and 13315 information on the interest it paid on blocked Iraqi funds during the time those funds were blocked. All banks claimed, and provided information to support the claim, that they paid interest at "commercially reasonable" rates, as required by the ISRs. In August 1990, $1.261 billion of Iraqi assets were blocked in the United States. At the time of the President's March 2003 vesting under Executive Order 13290, blocked Iraqi assets in the United States totaled $2.112 billion. This increase of over $850 million reflects an interest rate of approximately 4% per annum, using standard present value tables.[1]

[1] This calculation does not take into consideration $200 million loaned in 1992 from the blocked commercial accounts to the United Nations under Security Council Resolution 778, or blocked real and tangible property that earned no interest over the more than 12 years of sanctions.

4.
Q: What challenges do you face in identifying Iraqi accounts?

A: There are several ongoing challenges that we face, as indicated in my written testimony. As we move beyond "plucking the low hanging fruit" of assets frozen under the prior UN sanctions regime and UNSCR 1483, we face challenges in locating Iraqi assets that have been deliberately hidden under layers of front companies and complex international transactions. To address this challenge, we are exploiting financial records, interviewing witnesses, and interrogating incarcerated persons of interest to obtain leads to identify Iraqi assets hidden around the world. Another obstacle impeding the "trace and chase" effort stems from the various laws of certain jurisdictions, which prevent our financial investigators from examining certain Iraqi financial records and transactions without a finding of criminal activity and may prevent the repatriation of Iraqi funds. The security situation in Iraq also imposes great difficulties: it not only makes it difficult for our financial investigators to move around the country to interview witnesses and examine financial records; it also makes it difficult for CPA advisors and IRS-CI investigators to meet with Iraqi officials to ensure that all steps necessary to obtain transfer of funds to the DFI are completed expeditiously. Also, substantial amounts of financial records that might have been useful were destroyed during the war or its immediate aftermath.

Q: It is reported that Syria has frozen hundreds of millions of dollars but will not submit the money to the Iraq fund because they can not [sic] be sure it belonged to the Saddam Hussein's [sic] regime. Is this a common problem, and what is being done?

A: Syria has not based its refusal to transfer frozen Iraqi assets on the grounds that it is not sure that the funds belonged to the former Iraqi regime. Rather, Syria insists, contrary to the provisions of UNSCR 1483, that all outstanding Iraqi claims must be reviewed and resolved before it will transfer any remaining funds to the DFI. Syria has used the "frozen" Iraqi assets it acknowledged holding to pay large amounts of alleged Iraqi commercial claims, without authorization by Iraq. To date, foreign countries have not refused to transfer frozen assets on the grounds that they cannot establish that they belonged to the former Iraqi regime and are covered by UNSCR 1483. That issue may arise more frequently in the future, as we identify more front companies and agents and ask the international community to freeze and transfer Iraqi assets held in the names of these entities and individuals. The Treasury Department recently designated the Commercial Bank of Syria as a "primary money laundering concern" under Section 311 of the USA PATRIOT Act, in part because of the role that bank played in facilitating Iraqi financial activity during the sanctions period, as well as their retention of frozen Iraqi funds.

5.
Q: Since the U.S. has been actively involved in efforts to recover the plundered assets of corrupt regimes in Iraq and other developing countries, there appears to be

no permanent mechanism to coordinate the tracking and recovery of such funds. Why is that?

A: The U.S. Government and the international community have been addressing the need to identify, freeze/restrain, seize, and recover the proceeds of foreign government corruption on a case-by-case basis. While to date, there is no permanent mechanism to coordinate the tracking and recovery of all such funds, either for the U.S. Government or internationally, the U.S. Government has developed an interagency mechanism to coordinate asset recovery efforts for particular countries. For example, the Iraqi Asset Working Group, led by the Treasury Department, coordinates the U.S. Government's efforts to identify, freeze, and recover Iraqi assets worldwide. Similar working groups have been, or will be, established to address recovering the proceeds of foreign government corruption involving other countries. In addition, the Treasury's Executive Office for Terrorist Financing and Financial Crime (EOTFFC) is in the process of examining mechanisms and strategies to address this issue on a comprehensive, rather than case-by-case basis.

On an international basis, the UN Convention Against Corruption, which was adopted and opened for signature by the General Assembly on December 9, 2003 and would go into operation 90 days after ratification by 30 States, will provide an international framework for addressing recovery of kleptocratic assets on a more comprehensive basis. We anticipate that implementation of this Convention will significantly strengthen the international community's commitment to freezing and transferring the proceeds of foreign government corruption, and help persuade foreign countries to take steps to establish their mechanisms for identifying, tracing, freezing and recovering kleptocratic proceeds. However, within the Convention's framework, countries will still need to rely on bi-lateral cooperation to trace and recover illicit proceeds. In addition, the Financial Action Task Force (FATF) has set our standards for dealing with "politically exposed persons" in the financial sector, which helps establish a baseline of diligence for the international community which we are using to raise standards worldwide. In recent discussions I had with the Swiss government, this was a major topic of concern and discussion.

As the international community gains experience in this area, it may be appropriate to consider other steps, including the need for a permanent mechanism to track recovery of the proceeds of foreign government corruption. We are exploring what comprehensive strategies and mechanisms make sense given the variety of cases and the diplomatic and political vicissitudes of each case.

Q: What efforts are underway to correct the situation?

A: Please see answer immediately above.

Q: What is the U.S. government position on establishing such a permanent asset-tracking-and-recovery regime?

A: We believe that at present, a permanent asset-tracking-and-recovery regime, other than an interagency working group in the U.S. Government, is premature. We are currently exploring how best to utilize the international standards established by the FATF to set in place clear international expectations and codes of conduct. That being said, the political, diplomatic, and legal complications and variations of each kleptocracy case appear to argue for a flexible approach using common standards and established practices (as seen in the Iraqi asset context) as the baseline.

6.
Q: What is Treasury's plan for identifying additional hidden assets?

A: We are continuing to exploit as much information as possible. Our financial investigators will continue to interview individuals who have knowledge of Hussein's financial web, including key financial figures in Iraq and elsewhere. They and others in the government will exploit documents and other financial records, including bank records and computer databases recovered in Iraq and around the world, to identify Iraqi fund flows and locate hidden assets. In these processes, we continue to identify significant individuals and entities covered by UNSCR 1483, for U.S. designation and listing by the UN 1518 Committee. These tools are producing leads, which we will actively follow up all over the world, through law-enforcement, diplomatic, and other means.

Q: Does Treasury or the Iraqi Assets Working Group have an estimate of the amount of Iraqi assets that remain hidden? If so, what is it and how was it developed?

A: We do not have an estimate of the amount of Iraqi assets that the Hussein regime stole from the Iraqi people, nor how much money remains hidden in the international financial system in a web of front companies and straw men, spun to avoid detection. While the GAO recently estimated that the Hussein regime amassed $10.1 billion from Oil for Food (OFF) kickbacks and skimming between 1997 and 2003, this estimate does not attempt to determine how much of those funds remained at the outset of the recent war, nor how much was spent by the regime. We believe that Hussein may have spent large amounts of these funds on such things as illicit weapons and other prohibited goods, as well as "pleasure palaces". As a result, we have no way of estimating Hussein's funds remaining in the international financial system, even accepting the GAO's $10.1 billion estimate as a baseline. In addition, the GAO estimate is based only on OFF-related activities. We believe that Saddam Hussein amassed assets from a variety of other sources, including oil smuggling outside the OFF program, cigarette smuggling, and fees exacted from a monopoly over travel to religious sites in Iraq.

7.
Q: What mechanism are being used to trace informal banking methods of money transfers, such as bulk cash transfers and black market currency exchanges?

A: Informal banking exchanges, such as hawala and bulk cash, leave financial foot prints that trained financial investigators can and do follow. With respect to the United States, almost all U.S. informal remitting takes place in one direction--from the U.S. to abroad. In these transfers, the remitter cannot settle his/her books in the foreign jurisdictions without an infusion of cash. Accordingly, the U.S. side of the informal system will collect cash that must, at some point, be moved abroad. Our investigators look for U.S. bank accounts with cash deposits (generating CTRs) and regular foreign transfers (generating SARs), which we follow-up for leads. Alternatively, a remitter will courier the currency out of the United States and either file a CMIR that we will pursue, or smuggle the currency, which once detected, we can likewise pursue. While such movements may be informal, they are not invisible.

Unfortunately, with respect to international bulk cash transfers and black market currency exchanges originating abroad (e.g., currency flows from Karachi to Dubai), we do not have comprehensive data on the movements of funds at present. We are in the process of establishing mechanisms of information sharing and targeting that will allow us to better track these international movements. For example, in June 2004, the Financial Crimes Enforcement Network hosted a conference in Abu Dhabi of financial intelligence units (FIUs) from South Asia to discuss these issues and to put in place mechanisms to share this type of data. We have also worked to train more investigators and inspectors in key jurisdictions, like the United Arab Emirates, but there remains a need for more trained investigators and specialists who can track these informal methods of transfer from foreign sources. Through bilateral and multilateral channels, we are also urging other countries to address the issue of cash couriers through reporting requirements, information sharing, and targeted searches and seizures. All of these efforts will help improve our sense of the volume and flow of cash and black-market currency internationally.

Q: Are they effective or do U.S. efforts need additional legal support from the government?

A: With respect to U.S. informal transactions, the USA Patriot Act has significantly enhanced the legal provisions dealing with illegal money transmitting businesses and bulk currency smuggling. As a result, we believe we have the recordkeeping and reporting authorities that we need to pursue these systems-based investigations. We are working with the international community to encourage more rigorous cross-border reporting requirements and enforcement to address foreign informal banking transactions, as described above.

8.
Q: Do U.S. efforts follow sales of metals and other commodities which could be used as money transfer methods and control? Have any been found?

A: Our anti-money laundering-counter terrorist financing efforts increasingly address the use of precious metals and other commodities as money transfer methods. (See *2003 National Money Laundering Strategy*, Appendix D.) While criminal individuals and organizations have long misused international trade mechanisms to avoid taxes, tariffs,

and customs duties, as both the formal international financial system and money service businesses become increasingly regulated, scrutinized, and transparent, criminal money launderers and terrorist financiers are increasingly likely to use fraudulent trade-based practices in international commerce to launder, earn, move, and integrate funds and assets. Trade-based value transfer is prevalent in many parts of the world that are vulnerable to terrorist financing. Gold, in particular, has deeply rooted appeal in some foreign cultures, and is uniquely susceptible to trade-based money laundering because, depending on its form, it can be both a commodity and a *defacto* bearer instrument. Thus, the misuse of the international gold trade is an alternative remittance system by itself, but can also be involved in other alternative remittance systems, such as hawala and the black market peso exchange. Often gold, diamonds, and other gems can be used to "clear accounts" or "balance the books" of hawala transactions, or be used as the remitting instrument itself. Some of the largest money laundering cases in history have involved the gold trade.

However, many of the suspect sales of metals and other commodities do not have a nexus to the United States, making scrutiny of the underworld of this trade difficult. In response, we are working with foreign counterparts to investigate and address the use of gems and other commodities in trade based money laundering and terrorist financing schemes in other countries, such as the UAE, India, and Pakistan. In particular, we are seeking to determine the depth and scope of this issue, as well as the manner in which it is connected to regionally and culturally specific norms. Also, trade-based systems sometimes intersect with banks and other traditional financial institutions in the United States, as well as elsewhere. When this is the case, financial institutions may be able to review the trade-related financial transactions for indications of unusual activity, and report this information to authorities in suspicious activity reports.

In addition, we are also working with the Financial Investigations Division of the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE), which tracks both the importation and exportation of metals and other commodities that can be used as money transfer methods to identify trade anomalies and patterns of criminal activity, including fraud, money laundering, arms trafficking, tax evasion, terrorist activity, and drug smuggling. Through its Numerically Integrated Profiling System (NIPS) computer program, ICE analyzes electronically captured data provided by the Automated Commercial System (ACS), Automated Manifest System (AMS), Department of Commerce Export System, Bank Secrecy Act (BSA) databases, I-94 passenger/flight data, telephone records, seizure data, and data received from foreign governments, and identifies connections between the movement of people, money, and goods (including gold and other precious metals) into and out of the United States.[2] It is

[2] Investigations into the use of precious metals and other commodities to launder money include Operation Meltdown in New York and METALOR in Boston. Operation Meltdown targeted gold suppliers in the New York area that were laundering narcotics proceeds through the sale of gold and other precious metals. Jewelers would receive narcotics proceeds (cash) and either provide gold pellets or melt and mold gold into items such as bolts, nuts, cones and wrenches. In some cases, gold was hidden in jewelry machines shipped to Colombia. Once the gold was received in Colombia, it was resold for cash, completing the money laundering cycle. Operation Meltdown resulted in the arrest of 23 people and seizure of 140 Kilograms of gold (estimated value of $1.4 million), approximately $1 million in loose diamonds, and $2.8 million in U.S. currency. The METALOR case in Boston, Massachusetts involved money laundering of drug proceeds for Colombian and Peruvian individuals and companies, using schemes that involved smuggling gold out of

important that other countries capture and have available cross-border trade data. Comparing inbound/outbound trade data between and among countries can lead to anomalies that could provide leads to possible money laundering, tax evasion and terrorist financing.

9.
Q: Is there any control on precious stone sales that would yield information on whether it is used for money transfer? Is this possible?

A: In response to the use of conflict diamonds by rebel groups in Africa to finance wars to overthrow legitimate governments, the international community initiated the "Kimberley Process" (KP), which seeks to prevent trade in conflict diamonds by controlling the trade in rough diamonds. In particular, the Kimberly Process limits legitimate trade in rough diamonds to Kimberly Participants that have established national systems that meet the minimum standards of the Kimberley Process Certification Scheme (KPCS). These standards include issuance of a forgery-resistant "Kimberly Certificate," which must accompany all shipments of rough diamonds; shipment of rough diamonds in tamper proof containers; and the maintenance of accessible records pertaining to these shipments. All KP Participants undertake to provide statistics about their rough diamond trade and production on a regular basis. While KP was not initially intended to address terrorist financing, it has brought greater transparency to the diamond trade.

The Rough Diamonds Control Regulations, 31 C.F.R. Part 592, administered by the Office of Foreign Assets Control, implement the Clean Diamond Trade Act, Pub. L. 108-19, and the KPCS for rough diamonds. Effective July 30, 2003, the Regulations prohibit the importation into, or exportation from, the United States of any rough diamond, from whatever source, not controlled though the KPCS. This means that shipments of rough diamonds between the United States and countries that do not participate in the KPCS generally are prohibited, and shipments between the United States and participating countries are permitted only if they are handled in accordance with the standards, practices, and procedures of the KPCS set out in the Regulations. The purpose of these standards, practices and procedures is to keep the legitimate trade in rough diamonds free from conflict diamonds.

However, these controls do not yield information on whether precious stone sales are used for money transfer, including information on the illegal or underground transfer of value. The Kimberly process was designed to provide transparency into the sales process of blood or conflict diamonds, and is not an effective tool for policing money laundering, terrorist financing, or diamonds used in alternative remittance systems. With respect to hawala in particular, diamonds are becoming an increasingly important commodity to provide "counter-valuation" to balance accounts between hawaladars. Again, existing

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the United States and the use of multiple wire transfers as payment for the gold shipments. On January 14, 2004, Matalor plead guilty to Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity in violation of Title 18 USC 1957, was fined $2.25 million, and forfeited $423,000.

controls on precious stone transactions do not provide information or "footprints" that captures this part of the misuse of the international diamond trade.

Q: Has [sic] the efforts of the U.S. Government (U.S. Customs Service) found or established a way to track these? Do we need additional controls here and/or worldwide?

A: OFAC does not track diamond or other precious stone sales for this purpose, and currently, there are no controls on precious stone sales that would yield information on whether this mechanism is used for money transfer. However, pursuant to Section 352 of the USA PATRIOT Act, Treasury's Financial Crimes Enforcement Network (FINCEN) is preparing a proposed regulation that would require jewelry dealers to enact anti-money laundering rules similar to those for financial institutions, including requirements for Suspicious Activity Reports and Know-Your-Customer compliance methods for jewelry dealers.

10.

Q: Have you been able to register super hawaladors effectively? How many? How effective are your methods of registering smaller hawaladors? How many have you registered? Are additional federal laws on this money transfer method necessary?

A: FinCEN administers the Bank Secrecy Act (BSA), 31 U.S.C. §5311 et seq., and its implementing regulations, 31 C.F.R. Part 103. The BSA requires each "money service business" (MSB) to register and provide certain information to FinCEN. See 31 CFR 103.41. This registration is accomplished by a MSB Registration Form. The MSB Registration Form does not specify "hawalas" as a registerable category per se. Rather, the regulation and the registration form cover all persons or businesses that are money transmitters, regardless of the amount of transfer activity, and include the kinds of funds transfer services offered by a hawala or other Informal Value Transfer System (IVTS) operator.

Section 359 of the USA PATRIOT Act specifically expanded the definition of financial institution for purposes of the BSA to include not only a licensed sender of money, but also any other person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money transfer system, or any network of people who engage in facilitating the transfer of money domestically or internationally outside the conventional financial institution system. Any individual or group of people engaged in conducting, controlling, directing or owning an IVTS in the United States would likely be a financial institution for purposes of the BSA. As such, they would be required to comply with BSA requirements, including requirements to establish an anti-money laundering (AML) program, register with FinCEN as an MSB, and comply with record-keeping and reporting requirements, including reporting suspicious activity and large currency transactions to FinCEN. See FinCEN Advisory 33 (March 2003) and FinCEN Report to Congress in Accordance with Section 359 of the USA PATRIOT ACT (Nov. 2002).

Currently, approximately 17,000 MSBs have registered with FinCEN. However, FinCEN believes that there is still a universe of entities required to register as MSBs that have not yet done so. Although FinCEN previously estimated that there were more than 200,000 MSBs nationwide, 40,000 of these were outlets of the U.S. Postal Service (USPS), which are not required to register. FinCEN also believes that a significant number of non-USPS MSBs are not required to register because they are agents of another MSB, or otherwise exempt from the registration requirement.

When the registration requirement was first imposed in 1994, FinCEN faced the challenging tasks of informing the formal financial sector of the role of MSBs in the financial system; ensuring that MSBs understood their registration and reporting obligations; and devising enforcement mechanisms. Both law enforcement and the financial institutions themselves are becoming more knowledgeable about MSBs and their operations. As a result, financial institutions are filing more suspicious activity reports with FinCEN relating to MSBs. These reports help law enforcement identify illegal or unregistered MSBs, including IVTS operations.[3]

Many money transmitters are ethnic-based hawala-style remitters that avoid regulation because they perceive it as bad for business. Also, many money transmitters feel that government authorities will use reported information for other purposes, such as immigration enforcement. Our goal is to avoid driving these businesses further underground and to identify them, so that we can educate them on their new responsibilities. FinCEN is developing a renewed outreach plan that includes coordinating with state regulators, obtaining up-to-date information on the size and nature of the MSB sector, coordinating IRS-SB/SE projects to identify unregistered MSBs, improving registration and regulatory requirements, and continuing to develop and disseminate guidance. FinCEN plans to work closely with the banking community to spot clearing accounts used by unregistered MSBs.

In addition, Title 18 U.S.C. § 1960 provides the U.S. Department of Justice with criminal sanctions for persons who knowingly conduct, control, manage, direct or own all or part of an unlicensed money transmitter business, without a state license in the United States, including IVTS like operations.

11.

Q: Please list the European countries that have been particularly helpful in tracing illicit money flows.

A: FinCEN is working with its counterpart financial intelligence unit (FIU) in Italy, the Ufficio Italiano dei Cambio (UIC), to track illicit currency flows between the United States and Italy. We anticipate that this project will become the foundation for additional collaborative efforts among the 94 countries that have FIUs forming the Egmont Group.

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[3] FinCEN has analyzed samples of Suspicious Activity Reports (SARs) referencing IVTS or IVTS-like operations, and has published a study of the results. See FinCEN's SAR Activity Review; Issue 6 (Nov. 2003).

12.
Q: Is the U.S. Government getting the cooperation from banks required to trace illicit money or are we still finding resistance in reporting and tracking information?

A: Under the BSA, banks and other types of financial service providers are required to develop and implement anti-money laundering programs to detect and prevent money laundering, terrorist financing, and other forms of illicit financial transactions. In addition, the BSA requires these financial institutions to file reports that have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, including the reports identified in the following table:

Form Name	**Form Number**
Currency Transaction Report	FinCEN 104
Currency Transaction Report-Casinos	FinCEN 103
Designation of Exempt Person	TDF 90-22.53
Suspicious Activity Report-Depository Institution	TDF 90-22.47
Suspicious Activity Report-Money Services Business	TDF 90-22.56
Suspicious Activity Report-Casino and Card Clubs	FinCEN 102
Suspicious Activity Report-Securities and Futures Industry	FinCEN 101
Money Services Business Registration	TDF 90-22.55
Report of Cash Payments over $10,000 to a Trade or Business	8300
Report of Foreign Bank and Financial Accounts	TDF 90-22.1
Report of International Transportation of Currency or Monetary Instruments	FinCEN 105

The above forms require financial institutions, trades and businesses, or individuals in the United States to report certain transactions including, but not limited to:

- cash transactions in excess of $10,000;
- suspicious transactions of $5,000 or more;
- foreign account holdings in excess of $10,000; and
- transportation of cash or monetary instruments to or from the United States in excess of $10,000.

In addition, Section 314 of the USA PATRIOT Act provides another important mechanism for obtaining cooperation by banks in tracing illicit proceeds. In recognition of its unique position as a central focal point for financial information, Section 314 mandated FinCEN to facilitate and enhance the flow of information potentially related to terrorist financing and major money laundering. In general, Section 314(a) allows law enforcement to query U.S. financial institutions about suspects, businesses, and accounts in major money laundering and terrorism investigations. FinCEN facilitates this interaction by sending law enforcement information requests to thousands of financial institutions across the country. These financial institutions in turn search their records

and transactions, and report positive matches back to FinCEN. FinCEN then consolidates the data and provides this "pointer" information to the law enforcement requestor for follow-up through appropriate legal process.

Q: Please describe the cooperation and coordination from foreign institutions, including: BNP; Dubai Islamic Bank; Arab Bank; Credit Lyonaise; Al-Taqua Bank; The Al-Rajhi Banking and Investment Company?

A: With respect to foreign banks, many such institutions, including one in the above question, have branches or affiliates located in the United States. As a result, these institutions are subject to the reporting, record-keeping, and anti-money laundering program requirements of the BSA. In addition, although not required under the BSA, FinCEN receives reports of suspicious transactions from foreign institutions located outside the United States.

For detailed information on this subject on a country-by-country basis, please see the Department of State's *2004 International Narcotics Control Strategy Report, Volume II: Money Laundering and Financial Crimes*, which provides a country-by-country analysis, including detailed coverage on European countries. The report is available at http://www.state.gov/g/inl/rls/nrcrpt/2003/vol2/html/index.htm.

Q: Are you getting information that is helpful in tracking money laundering and illicit money?

A: Yes. Since February 2003, we have used Section 314(a) of the USA PATRTIOT Act to enable law enforcement to locate quickly the accounts and transactions of those suspected of money laundering or the financing of terrorism. The system has been used to send the names of more than 1,700 persons suspected of terrorism financing or money laundering to more than 31,800 financial institutions, and has resulted in approximately 12,300 matches that were passed on to law enforcement. We understand the sensitivity of the use of this system, and will continue to ensure through vigorous review that this system is used only in cases where terrorist financing is suspected, or in the most egregious money laundering cases.

13.
Q: Is the U.S. government getting help in tracking illicit money from the following countries: Russia; Germany; Lichtenstein; Jordan; Syria; Saudi Arabia; Lebanon; the Philippines; Indonesia; Malaysia; Qatar; Kuwait; Palestine: Guyana; Equatorial Guinea; Panama; Columbia; Egypt; China; UAE; Pakistan; Cuba; the Balkan countries?

A: In general, FinCEN has been receiving help in tracking illicit money from the following Egmont Group members: Russia, Germany, Liechtenstein, Lebanon, Panama, Colombia, UAE, and in the Balkans - Slovenia, Croatia, Serbia, Greece, Bulgaria, and Romania. These countries have been responsive and when available, the information was forthcoming.

For the following Egmont Group countries, the quality of information exchange (a) is still being tested due to their relatively recent entry into Egmont: Albania (2003); (b) has yet to be tested due to their expected entry into Egmont in 2004: Macedonia, Egypt, and Indonesia; or (c) the need for an information sharing agreement: Malaysia. There appear to be no obstacles to information exchange since these countries have been vetted by the Egmont Group.

The following countries have taken steps to join the Egmont Group in the short term (2005-2006), however no information exchange with FinCEN has yet occurred: Bosnia-Herzegovina, Jordan, Philippines, Qatar, Kuwait, and Montenegro.

There have been no information exchanges between FinCEN and the following countries: Syria, Saudi Arabia, Palestine, Guyana, Equatorial Guinea, Pakistan, and Cuba. Long term prospects for Egmont Group membership remain unsure.

14.
Q: A 1999 IMF report estimated that annual global offshore assets located in offshore financial centers were $4.8 trillion. Is there any effort being made to register local "nominees" on these accounts?

A: The BSA does not require the registration of nominees of offshore accounts. However, the BSA does prohibit domestic financial institutions from establishing a correspondent account relationship with a foreign bank that does not have a physical presence in a foreign jurisdiction (shell bank). In cases involving correspondent bank relationships between domestic institutions and foreign banks with a physical presence, domestic banks must maintain records of the owners and agents of the foreign bank. These records are available to U.S. authorities upon request. See 31 CFR 103.177.

The BSA also requires U.S. persons to disclose foreign accounts holding in excess of $10,000 to FinCEN on an annual basis. In certain cases, such reports would disclose the nominees on these accounts. See 31 CFR 103.24.

In addition, offshore assets, such as private investment corporation holdings established and maintained by way of a domestic bank, are subject to examination by appropriate regulatory authorities. While these account relationships are not subject to an umbrella registration requirement, they are subject to review by authorized persons.

Q: Is there an effort to track these shell corporations and shell banks that may exist? Are the international entities involved (the United Nations, World Bank, the IMF, etc.)?

A: The Federal Bank Supervisory Agencies (Comptroller of the Currency, Federal Reserve, FDIC, etc.) issue Special Alerts and Advisories upon discovery of activity by foreign or domestic financial institutions soliciting business or bank relationships within the United States, not authorized or chartered by their host country to engage in such activity. These alerts and advisories have been known to involve shell banks.

The IMF has published reports assessing the risk of Offshore Financial Centers, dated June 23, 2000, and March 28, 2002, which should be available by contacting the IMF. The World Bank has an Anti Corruption and Fraud Investigation Unit and, on some occasions, has solicited the cooperation the Federal Bank Supervisory agencies. Please contact the World Bank, United Nations, or IMF for further information.

Q: Is the U.S. government getting cooperation from these entities, or has it been difficult to receive real time information that would help dry up illicit money?

A: UN Security Council 1518 Committee is tasked with identifying persons/entities, including front companies, connected with the Saddam regime for the purpose of freezing funds transferred illegally out of Iraq and returning those funds to the Iraqi people in accordance with UNSCR 1483. The UN Committee has cooperated fully with the United States, approving every listing, which the U.S. has proposed. These listings have enabled member states to freeze approximately $6 billion around the world and transfer approximately $.75 billion to the Development Fund for Iraq.

15.
Q: Is there an effort to monitor cross border currency movements from accounts, such as those referred to above? Are there reporting requirements that show transparency for the World Bank, the IMF, and the financial branches of the United Nations?

A: Under of the BSA, cross border currency movements of cash and monetary instruments in excess of $10,000 must be reported to the Financial Crimes Enforcement Network by completing and filing a Report of International Transportation of Currency or Monetary Instruments form (CMIR). The scope of the requirement is very broad and applies to financial institutions, businesses and persons engaged in such activity. Any persons engaged in such activity, without the benefit of a CMIR, are subject to criminal and civil sanctions. The Department of Homeland Security's Bureau of Immigration and Customs Enforcement closely monitors CMIRs, which are also available to other authorities. However, the World Bank, United Nations and IMF are not authorized to access CMIR data.

Q: Do the officers of the above organizations carry a fiduciary responsibility for the reports of these organizations? How extensive are the duties and responsibilities of their boards regarding the reporting of illicit money?

A: Under the BSA, any partner, director, officer or employee of a financial institution, as provided in 31 CFR 103.11(n), is responsible for ensuring compliance with the law and is subject to both criminal and civil sanctions for failure to do so.

16.
Q: Is there any effort to establish laws, both domestic and foreign, as part of reporting requirements that would identify depositors?

A: Under the BSA, depositors, account holders or persons conducting certain transactions with financial institutions are subject to specific identification requirements. As discussed in Item 12, above, financial institutions are required to obtain and verify detailed information on the persons conducting certain transactions. In addition, the BSA has record-keeping requirements that require financial institutions to obtain and verify customer identities. For example, persons purchasing monetary instruments with cash for $3,000 or more must provide a standard form of identification, such as a driver's license, before conducting the transaction(s). Financial institutions are required to retain this information for 5 years. In addition, the BSA require banks, mutual funds, broker-dealers in securities, futures commission merchants and introducing brokers to verify customer identity and acquire and maintain certain records on persons who open accounts. This information is available to FinCEN and other law enforcement and regulatory authorities.

Q: Would such laws be helpful in tracing illicit money? Would they help track money-laundering activity?

A: The BSA and its reporting, record-keeping and anti-money laundering requirements are vital elements in the efforts of the United States to prevent, detect, and track money laundering and the flow of illicit proceeds through our financial system. The BSA provides the framework that enables financial institutions to report information relevant to the prevention, detection and prosecution of criminal activity, including terrorist financing, to appropriate authorities. In addition, Title III of The USA PATRIOT Act significantly increased the scope of the BSA. A copy of the BSA, USA PATRIOT Act, and the above-mentioned forms and FinCEN reports, are available at http://www.fincen.gov/.

The United States Government believes very strongly in the utility of cross border currency reporting, and under the Patriot Act, has made cash smuggling a felony. Indeed, Recommendation 19a of the Financial Action Task Force (FATF) reads:

Recommendation 19

Countries should consider:

a. Implementing feasible measures to detect or monitor the physical cross-border transportation of currency and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements

The recommendation, however, only requires countries to *consider* such reporting. During discussion on the use of cash couriers by terrorist organizations at the FATF Seminar on Terrorist Financing in February 2004, the U.S. delegation pointed out that cross border reporting is a critical tool to identify, interdict, and seize terrorist funds and those responsible for its transport. In response, the FATF agreed to conduct a study on this issue, including the utility of such a reporting system.

The U. S. Government uses audits, program reviews, and reports to Congress on its monetary contributions to international financial institutions (IFIs) (such as the IMF and the World Bank) and the United Nations to ensure IFI financial transparency. In addition, to the extent that the IFIs or the UN utilize financial services in the United States or other FATF countries, they are subject to anti-money laundering reporting and other requirements. Indeed the FATF and the IFIs have recently adopted a "joint methodology" for implementing the FATF recommendations in both the FATF mutual evaluation program and assessments undertaken by the IFIs.

Q: Do the officers of the above organizations carry a fiduciary responsibility for the reports of these organizations? How extensive are the duties and responsibilities of their boards regarding the reporting of illicit money?

A: The World Bank files an annual report on its activities and provides its Board with an annual report on Bank procurement. Both documents are disclosed to the public. The Board of the World Bank bears fiduciary responsibility for the institution and its annual reports, which it reviews and approves. The World Bank board has also carried on extensive discussion on how to participate in the global war on terrorist finance. As a result, the Bank now plays a key role in AML/CFT efforts.

17.
Q: Is there any effort to establish laws, both domestic and foreign, as part of reporting requirements that would identify depositors?

A: The Financial Action Task Force (FATF) has long recognized the importance of customer identification issues in countering money laundering and other financial crimes, and has incorporated them into its 40 Recommendations. Recommendations 4-12 address a broad range of issues relating to the identification of depositors, including lifting of bank secrecy for money laundering, costumer identification, record keeping and retention, etc. Countries differ as to whether they accomplish this by regulation or law, and actual implementation differs as well. The 40 Recommendations can be found at http://www.fatf-gafi.org/40Recs_en.htm#Forty, and country specific information on customer identification can be found in the previously referenced International Narcotics Control Strategy Report.

Under the BSA, depositors, account holders or persons conducting certain transactions with financial institutions are subject to specific identification requirements. As discussed in Item 12, financial institutions are required to obtain and verify detailed information on the persons conducting certain transactions. In addition, the BSA has record-keeping requirements that require financial institutions to obtain and verify customer identities. For example, persons purchasing monetary instruments with cash for $3,000 or more must provide a standard form of identification, such as a driver's license, before conducting the transaction(s). Financial institutions are required to retain this information for 5 years.

In addition, the BSA requires banks, mutual funds, broker-dealers in securities, futures commission merchants and introducing brokers to verify customer identity and acquire and maintain certain records on persons who open accounts. This information is available to FinCEN and other law enforcement and regulatory authorities.

Q: Would such laws be helpful in tracing illicit money? Would they help track money-laundering activity?

A: The BSA and its reporting, record-keeping and anti-money laundering requirements are vital elements in the U.S. Government's efforts to prevent, detect, and track money laundering and the flow of illicit proceeds through our financial system. The BSA provides the framework that enables financial institutions to report information relevant to the prevention, detection, and prosecution of criminal activity, including terrorist financing, to appropriate authorities. In addition, Title III of The USA PATRIOT Act significantly increased the scope of the BSA.

A copy of the BSA, USA PATRIOT Act, along with the above-mentioned forms and FinCEN reports, are available at http://www.fincen.gov/ .

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