



## **DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS**

EMBARGOED UNTIL DELIVERY  
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**Testimony of  
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**Before the House Subcommittee on  
National Security, Emerging Threats, and International Relations  
April 21, 2004**

Chairman Shays, Vice-Chair Turner, and distinguished Members of the Subcommittee, thank you for inviting me to testify today about the Hussein regime's corruption of the Oil-for-Food (OFF) Program -- through kickbacks, after sales fees, inflated pricing and other methods -- and the Department of the Treasury's efforts to help uncover abuses associated with OFF in light of our overarching mission to recover Hussein-related assets.

On March 18, 2004, Treasury Department Deputy Assistant Secretary Juan Zarate testified extensively before the House Financial Services Subcommittee on Oversight and Investigations about the overarching interagency and international efforts to identify, freeze, and recover Iraqi assets worldwide. I am attaching the March 18 testimony to this statement, and request that it be admitted into the record of this hearing.

Our efforts have been to identify and target companies and individuals "fronting," that is, owned, operated, or acting on or behalf of the former regime. Our goal is to identify and return to the Iraqi people that which has been stolen from them financially.

I leave it to my distinguished panelists, who are far more versed in the creation, development and machinery of the OFF program and the U.S. efforts at the United Nations and elsewhere to do all possible to curb its abuses, to discuss those topics. Their testimony will describe a concerted

history of U.S. efforts to ensure the proper functioning of the OFF Program and to deny the Hussein regime the benefits of its corrupt and illegal actions in OFF.

My primary purpose today is to describe to this Committee how the Treasury Department, regardless of the disparate financial crimes being addressed — narcotics and other money laundering, the financing of weapons of mass destruction, organized crime, terrorist financing, state corruption, the financing of the insurgency in Iraq, or the intentional corruption and abuse of a trade-based financial system such as the OFF Program -- applies unified financial investigative methodologies and techniques. In the financial crimes identification and enforcement arenas, we at the Treasury Department employ an integrated approach to uncovering such systems and schemes.

Whether working with the DEA on the financing of drug money trafficking, the FBI on terrorist financing, the Department of Homeland Security on International Emergency Economic Powers Act (IEEPA)-related and sanctions busting schemes, or in the case of Iraq, with the military in the case of insurgency financing, we (the Executive Office for Terrorist Financing and Financial Crimes) the IRS-CI, the Office of Foreign Assets Control, and the Financial Crimes Enforcement Network) bring the same financial crimes disciplines and expertise, as well as our unique international financial contacts, to the table.

This unified approach to financial crimes and sanctions enforcement is being taken a step further. Last month, the Administration announced the creation of the Office of Terrorism and Financial Intelligence at Treasury. This new Office further will enhance the Treasury Department's ability to identify and address the financial underpinnings of financial crimes at home and abroad by streamlining the analysis and use of both financial and intelligence data available to the Department.

As we continually find, and as our financial enforcement efforts in Iraq again have confirmed, attacking the use of a financial system, for example, hawalas or cash couriering, by one criminal group for one purpose, can lead to the identification of other financial criminals utilizing the same systems and financial professionals. A hawaladar may move narcotics proceeds one day, terrorist-related proceeds the next, and funds destined for Iraqi insurgents the day after. Removing the hawaladar, or mandating a transparent hawala system, disrupts each of these criminal groups simultaneously.

#### Recent Designations and Nominations to the United Nations

Our efforts to identify and block and return funds looted by the Hussein regime through regime-created or controlled "front" companies as described in Executive Order 13315, has led as well to entities and individuals involved in the corruption and abuses of the OFF Program.

This past week, the United States and the United Kingdom jointly nominated to the United Nations for listing under UNSCR 1483 eight "front" companies of the Hussein regime, as well as five individuals associated with those companies.

These designations and submissions to the United Nations for listing followed the March 18, 2004, designation of 16 immediate family members of senior officials of the former Iraqi regime pursuant to Executive Order 13315, and the submission of these individuals, as well as the identities of 191 Iraqi parastatal (quasi-government) entities, to the United Nations for listing by the 1518 Committee under U.N. Security Council Resolution (UNSCR) 1483.

These actions, and more are to come, are being taken to assist the international community identify Iraqi assets connected to the designated individuals, parastatals and most-recently, “front” companies. Further, by these actions, the United States is encouraging other countries to undertake independent investigations to identify other Iraqi-related assets, publish similar listings, and return identified funds to the Development Fund for Iraq.

The OFF Program was designed by the United Nations to balance the needs of the Iraqi people for humanitarian relief against the need of the world community to prevent the rearming of Iraq.

But Saddam’s regime, existing on subterfuge, concealment and the ruthless gathering and use of all possible financial resources, attempted to corrupt the OFF Program, as well as provide a cover for the illicit sale of oil outside OFF.

#### Unauthorized Surcharge on OFF Oil Sales

Beginning in the late 1990’s the Hussein regime abused this program to generate illicit revenues by instituting a surcharge scheme on OFF oil sales. 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 OFF, proceeds from authorized 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. We are working with the Department of State and the CPA in the latter's ongoing review of these contracts.

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## **Treasury Role-Pre-2003 War**

### Office of Foreign Assets Control

On August 2, 1990, upon Iraq's invasion of Kuwait, the President issued Executive Order 12722, declaring a national emergency with respect to Iraq. This order, issued under the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the U.S. Code, imposed economic sanctions against Iraq, including a complete trade embargo and a freeze of Government of Iraq property and interests in property. In keeping with United Nations Security Council Resolution 661 of August 6, 1990, and under the United Nations Participation Act (22 U.S.C. 287c), the President also issued Executive Order 12724 of August 9, 1990, which imposed additional restrictions. The Iraqi Sanctions Regulations, 31 CFR part 575 (the "Regulations"), implement Executive Orders 12722 and 12724 and are administered by the Treasury Department's Office of Foreign Assets Control ("OFAC").

In keeping with United Nations Security Council Resolution 986, which established the United Nations Oil for Food program, in 1996 OFAC amended the Regulations to permit the issuance of licenses for U.S. persons to purchase Iraqi petroleum and petroleum products, to supply pipeline parts and equipment, and to supply humanitarian goods to Iraq. The regulations allowed U.S. persons to enter into contracts with the Iraqi government for that purpose, but required further specific authorization from the OFAC before executing those contracts. The regulations also required U.S. persons to comply with requirements established by the United Nations.

Additionally, OFAC authorized the operation of the escrow account established by United Nations Security Council Resolution 986. Pursuant to paragraph 15 of that resolution, the escrow account was afforded the traditional privileges and immunities by the United Nations Security Council.

OFAC is reviewing the licenses it issued in support of the OFF Program to determine if any U.S. persons were involved in any inappropriate activity and, if so, will take all appropriate investigative and enforcement steps as may be necessary.

### Treasury Role-Post 2003 War

As the recent testimony from DAS Zarate demonstrates, the Department has undertaken a robust interagency and international effort to identify, trace and return looted Iraq assets, and most recently is working closely with the interagency community to identify, trace and choke off funding for the Iraqi insurgency. This undertaking has involved all components of the Department, including IRS-CI which has placed agents in Baghdad and elsewhere on a 90 day rotating basis. These efforts, especially document review and interviews, have revealed important information that do potentially bear directly upon the recent OFF inquiries launched

by both the United Nations and the CPA through the Iraqi Board of Supreme Audit. Treasury pledges to make all efforts to assist both of these investigations to the fullest extent appropriate.

Further, the Hussein regime never could have contemplated the vast windfall of document and interview information that the IRS-CI agents, our military and others have unearthed in Iraq. These records and information provide crucial insights and leads concerning the Hussein regime's "front" companies, his oil smuggling schemes, and OFF violations. Access to and vigorous exploitation of Iraqi information is essential. As with all other crimes relying on financial systems to raise and move funds, a "follow the money" approach will reveal the originators, financial facilitators and beneficiaries who perverted elements of the OFF Program.

### Lessons Learned and Conclusion

The efforts of this Committee and those at the United Nations and at the CPA to identify and trace those who abused the OFF Program are important. The past is prologue to the future, and corrupt dictators will seek to abuse future humanitarian efforts for their purposes. It is essential to identify key nodes for this abuse, including financial manipulations, to ensure both that future international humanitarian efforts are shielded from such abuse to the greatest extent possible and that a larger share of the relief intended does in fact arrive at its intended destination. The Treasury Department is pleased to be a part of these efforts, and will do all possible to achieve a successful conclusion. Thank you. I will be happy to respond to any questions you may have.