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MONEY LAUNDERING AND TERROR FINANCING ISSUES IN THE MIDDLE EAST

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

MONEY LAUNDERING AND TERROR FINANCING ISSUES IN THE MIDDLE EAST, FOCUSING ON THE FINANCIAL ACTION TASK FORCE, THE USE OF CHARITIES TO FUND TERRORISM, AND THE PRESIDENTIAL EXECUTIVE ORDER (13224) WHICH ALLOWS THE UNITED STATES TO FREEZE THE ASSETS OF CERTAIN ORGANIZATIONS

JULY 13, 2005

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MONEY LAUNDERING AND TERROR FINANCING ISSUES IN THE MIDDLE EAST

WEDNESDAY, JULY 13, 2005

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:02 a.m., in room SD–538, Dirksen Senate Office Building, Senator Richard C. Shelby (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN RICHARD C. SHELBY

Chairman SHELBY. The hearing will come to order.

For the last 2 years, the Committee has been conducting a series of hearings into the issues of money laundering and terror financing. During these hearings, the Committee and the public have had an opportunity to hear from a number of witnesses, both government and private sector, on continuing weaknesses in our financial system to exploitation by criminals and terrorists and on measures taken and yet to be taken to address those weaknesses. A continuing series of instances of major banks here in the United States being the target of civil and/or criminal proceedings in response to marked failures to comply with anti-money laundering statutes and regulations have served to keep us vigilant to the problems that continue to exist, not just with the banks and financial institutions themselves, but with the regulatory structure that is supposed to provide oversight and prevent many of these transgressions.

Most recently, the New York branch of Arab Bank was cited with a consent order for its failure to exercise due diligence with regard to its customer base and for its failure to file suspicious activity reports, despite the enormous volume of financial transactions involved in an indisputably high risk region of the world. It is the Committee's concern that some of these transactions involved known terrorists and terrorist organizations, including the Islamic Resistance Movement, or Hamas, and Al Qaeda.

At the core of the Arab Bank case sits the Saudi Committee for the Support of the Al Quds Intifada, a known conduit for money destined for terrorist organizations in the West Bank and Gaza. The New York branch of Arab Bank case is currently the subject of a Department of Justice investigation, so there is little specific about it that the Government witnesses here today, specifically Under Secretary Levey, can say, but I raise the issue for the obvious evidence it provides of the failure of the Federal regulators to adequately supervise that bank and for the bank itself to comply

with U.S. regulations. The parallels to the Riggs Bank case are striking, and frankly are disturbing.

I am particularly disturbed by the continued funding of terrorist activities for, in addition to the obvious threat to innocent civilians both here and abroad, two recent and glaring reasons. On June 15, the BBC aired a report on the Spanish police raid on a number of apartments used by suspected Al Qaeda terrorist cells, cells possibly implicated in the March 11 terrorist attacks that killed almost 200 people in Madrid. Particularly striking about the BBC footage, and possibly little noticed, were the stacks of freshly minted $100 bills totalling tens of thousands of dollars, sitting in one of the apartments. I have to ponder where the considerable cache of brand-new bills originated. Terrorism is extremely cost-effective. How many more deaths would have been attributed to that currency?

A second and more recent incident struck a little closer to home. At 9:30 in the morning, as you know, of July 7, I was meeting with the National Terrorist Financial Investigation Unit of Scotland Yard in London with some of my staff who are here today. Fifteen minutes into that meeting, the synchronized bombing of the City of London subway and bus systems occurred, resulting in deaths of around 50 innocent victims and the maiming and wounding of perhaps 700 more. The coincidental timing of my discussions of terrorism with British security officials as emergency vehicles raced to the scenes of devastation served to bring home once again the fragility of life and the threat under which we all live from the scourge of international terrorism.

And, while the struggle against terror financing is but one component of the broader war against terrorism, it is an absolutely essential component. Money is the lifeblood of terrorism. And the Middle East is ground zero for much of the money raised and moved in support of terrorist activities. It is not, however, the only place where money is raised and moved. The terrorist underground in London responsible for last week's attacks and the breath of terrorist fundraising in the United States are broad and deep. It is my hope that the witnesses here today will help us to shed light on the extent of the continuing challenge and what we can and are doing to confront it.

Our first panel today includes Stuart Levey, Under Secretary of the Treasury for Terrorism and Financial Crimes and a regular visitor here; Anthony Wayne, Interim Under Secretary of State for Economic, Business, and Agricultural Affairs, and Nancy Powell, Acting Assistant Secretary of State for International Narcotics and Law Enforcement and a former Ambassador to Pakistan. Secretaries Levey and Powell, Ambassador Powell, we all welcome you.

Senator Bunning, do you have an opening statement?

STATEMENT OF SENATOR JIM BUNNING

Senator BUNNING. Yes, I do. Thank you, Mr. Chairman first of all for holding this important hearing, and I would like to thank all our witnesses for testifying today.

Last week's dastardly attack in London showed the world once again that terrorists will continue to attack the innocent. We must stay vigilant in the war on terror. We must continue to take the

fight to the terrorists and fight them on all fronts. One of the most important fronts in the war on terror is on the financial front. We must do everything we can to dry up the financing of the terrorist organizations. We must continue to track down those who perform these terrorist acts, but we also must hit terror organizations where it hurts them the most: In their pocket books.

No matter how many terrorists we have captured, as long as terrorism has a funding source, there will always be another waiting to step in and take their place. The United States needs to be able to investigate and prosecute terrorist financiers wherever they hide. To do this, we must have the cooperation and support of the international community.

We have made some progress in finding and blocking some of these funds, but there is a lot more we must do. We must turn off the terrorism funding faucet and force these terrorists to dry up and wither away. I hope our witnesses today will give us an update on our progress in cutting terrorist funding. I hope they will shed light on how far we have come, where we still have problems, and what else we can do.

And just as an aside, I had a military LA who was a major in the Marine Reserves, and he was sent to Fallujah. His reserve unit was recalled. And I continue to get emails from him, and he said Senator, the biggest thing you have to do is cut off their money. And if we can do that, we can defeat these terrorists.

So, I am looking for information from you today.

Thank you very much, Mr. Chairman.

Chairman SHELBY. Thank you, Senator Bunning.

Secretary Levey, Secretary Wayne, Secretary Powell, your opening statements will be made part of the record in their entirety. You proceed at your risk,as you know.

[Laughter.]

We will start with you, Secretary Levey. Welcome back to the Committee. You have spent a lot of time here, as much as we do.

STATEMENT OF STUART LEVEY
UNDER SECRETARY, OFFICE OF TERRORISM
AND FINANCIAL INTELLIGENCE
U.S. DEPARTMENT OF THE TREASURY

Mr. LEVEY. Yes; it is a pleasure to be here, Mr. Chairman. Chairman Shelby, Senator Bunning, thank you for inviting to me testify here today about the progress that we are making in the fight against terrorist financing and money laundering in the Middle East. This Committee's commitment to and, Mr. Chairman, your personal leadership on this issue has been vital to our work, and I thank you for it.

It is an honor to be testifying here today beside my State Department colleagues and particularly Under Secretary Wayne. Since September 11, 2001, Tony Wayne has been a tireless and effective advocate for U.S. interests in these matters around the world, including in the Middle East. We often speak about the excellent interagency cooperation we have in this area, and Tony is a personal exemplification of that.

I am also pleased to be testifying in the same hearing with my former colleague, Dennis Lormel. Dennis was a pioneer at the FBI

in creating its terrorist financing capacity after September 11, and I was grateful to be his colleague at the Justice Department.

As you mentioned, today's hearing comes less than a week after the terrible attacks in London, and I would like to express my condolences to the families of the victims. The brave resolve of the British people that they have shown is the proper defiant response to those terrorists who seek to disrupt our way of life. Last week's cowardly acts also remind us that our commitment to combat terrorists and their supporters must never waver. As you know, Senator Bunning, we must fight them on all fronts. There is too much at stake.

Some have questioned the value of our efforts to fight terrorist financing, suggesting that individual attacks can be carried out with small amounts of money. But operating a terrorist organization requires more than explosives. Terrorists need money to acquire safe haven, train members, purchase false travel documents, pay operatives and their families as well as to plan and stage attacks. Undermining the terrorist money flow by deterring donors, freezing assets, and arresting facilitators degrades their overall capability.

Following the money continues to be one of the most valuable sources of intelligence we have for investigating terror networks, for a simple reason: Money trails do not lie. Financial intelligence tends to be very reliable. I am happy to report that our efforts as an interagency team are beginning to show results. Terrorist groups like Al Qaeda and Hamas are feeling the pinch and do not have the same easy access to money that they once did. With respect to terrorist financing in the Middle East, my written testimony addresses recent developments across a number of countries in the regions. I do not have the time to review these developments in this statement, but I would like to at least provide a brief overview of our engagement with Saudi Arabia, in which I know this Committee has a particular interest.

The Committee is well-aware that the challenges posed by terrorist financing from within Saudi Arabia are among the most serious we have faced. Today, we believe that private Saudi donors may be a significant source of terrorist funding, including for the insurgency in Iraq. Saudi Arabia-based and funded organizations also remain a key source for the promotion of ideologies used by terrorists and violent extremists around the world to justify their hate-filled ideology and agenda.

Saudi Arabian charities, including the IIRO, WAMY, and the Muslim World League continue to cause us concern. We have pursued a strategy of sustained pressure and cooperation with Saudi Arabia to address these and other challenges. Saudi Arabia has responded with increased counterterrorism cooperation, particularly since the Riyadh bombings in May 2003. At this point, the Saudi Arabian Government takes seriously the threat that terrorism poses within the Kingdom and around the world, including the United States.

Positive developments have included the formation of a joint terrorist financing task force, led by the FBI on the U.S. side, to foster timely information exchange and selected joint action with the United States. There has also been significant increased regulation

of much of Saudi Arabia's charitable sector. There is much yet to be done, and I can assure you that we are fully committed to this engagement. I have recently expressed my concern on a variety of these issues to Saudi officials and look forward to working with them to resolve them.

At the same time, we cannot allow ourselves to lose sight of the other concerns out of a single-minded focus on one country. There are many terrorist financing challenges that we face in the Middle East and that we need to work on with all of the countries in the region, including Saudi Arabia. Perhaps the most pressing, which was alluded to indirectly by Chairman Shelby, is the problem of cash and cash couriers.

Particularly in the Middle East, where cash is a prominent part of the culture, this is a serious danger, and cash is being used to fund the deadly insurgency in Iraq as well. It is critical that Gulf countries and countries throughout the Middle East lower their reporting thresholds for cross border transfers of cash and enforce these provisions aggressively.

The creation of the Middle East-North Africa FATF is a tremendous step in the right direction in pursuing these sorts of standards, but we are clearly at the very beginning of the process. Some Middle Eastern countries have not passed adequate money laundering laws. Some have failed to take action on cash couriers. Some have no control over their informal Hawala sectors, and some have not yet established financial intelligence units.

Our most important task in the Middle East is to ensure that these standards are not only adopted but they are also implemented and enforced. We do not measure success by the number of laws put on the books, but by changes made on the ground. Real progress will come in the form of border stops, cash seizures, account blockings, arrests, and the like.

It is my job in this process to be impatient and impatient for progress on all of these fronts, and I can assure you that I am. We look forward to continuing our work with you on these issues, and I would be happy to answer your questions.

Chairman SHELBY. Secretary Wayne.

STATEMENT OF E. ANTHONY WAYNE
ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS
U.S. DEPARTMENT OF STATE

Mr. WAYNE. Thank you very much, Mr. Chairman, Senators Hagel and Bunning. It is a great pleasure to be here again. Thank you for your continued attention to these issues. It is very important to us, and I can tell you that this cluster of issues remains a high priority for the Department of State.

The main theme of my written testimony, and of the little excerpt I will give orally now, is really that we have made significant strides in bolstering the political will and the ability of governments in the Middle East and South Asia to act against terrorism and terrorist finance, but clearly, we need to do much more.

We face a resilient, an adaptable, and a ruthless foe. As you were in London, Mr. Chairman, I was in Gleneagles at the G–8 Summit, and in Gleneagles, we were, of course, all struck by the impact of

this horrible attack in London. And we worked very quickly to reshape, to a degree, the good work that had already been done by the G–8 experts on counterterrorism to help to put out a strong statement on the steps that we in the G–8 can take ahead. And we look forward to working very closely with our UK colleagues as they have now also taken on the mantle of presidency of the European Union.

I saw that Chancellor Gordon Brown announced yesterday that tackling terrorist finance was going to be one of his priorities in the EU Presidency. And fortunately, Under Secretary Levey and I have been working with the British and with the EU seriously in preparation for this. And we think there is much good that can be done to tighten up that cooperation across the Atlantic.

Similarly, I just flew back in last night from Amman, where I had met with Jordanian and Iraqi ministers. Though the agenda was economic, you are not surprised, at all, I know, that terrorism came up regularly. In fact, my Iraqi colleagues reminded me that they faced the horror of these terrorist attacks every day, and they urged us to do all we could to help them diminish and eliminate these attacks that they are facing.

So, I come sit here today reinforced in my dedication to work to ensure that our interagency process strikes the right balance of priorities and uses the right mix of tools in our effort to keep funds out of the hands of terrorists. Our partnership with the Department of the Treasury is extremely important in this effort. We have worked very closely together, and it is only in working together, not just the two of us but with the rest of the interagency community, that we are being effective, both at home and abroad. I particularly am pleased to be testifying with Under Secretary Stuart Levey, who does bring a persistence and an impatience, as he said, to the process, which keeps us all moving in a positive direction, and of course, Ambassador Powell has worked on the very front lines of fighting terrorism and is now fulfilling an important post as my colleague at the Department of State.

The many agencies in the U.S. Government bring a range of tools to this effort, as you well know, and we are most effective when we are able to ensure that we do have clear overall direction to assure information sharing, to choreograph all the value added and the tools that each of our colleagues from the U.S. Government brings together. We have worked over the past several years to devise a very effective interagency process now directed by the National Security Council that helps us to really maximize the impact we can have.

One of the critical methods we have used in working the financing of terrorism is the process of designating individuals and groups for asset freeze and for ban on travel. This has several benefits, which I would just like to underscore. Of course, it makes it a lot harder for those groups and individuals to gather money and to use the formal financial system. It also informs those unwitting donors around the world and particularly in the region we are considering today where they have often thought they were giving to good, charitable causes. It helps make them more alert, and it makes, of course, more cautious those who knew exactly what they were doing but thought they had found a safe way to do it.

When we decide to designate a terrorist or a financier, the Department of State leads the interagency effort to get the broadest possible international support for that designation. That, of course, as you very well know, is essential to the very effectiveness of designations, because if other countries do not act to look for these individuals, to look for these accounts, to look for these groups, it is not going to have much impact. Most of the money is flowing elsewhere, not through the United States.

We have had success in building partnerships throughout the region that we are talking about today in joining us and going to the United Nations to designate people. Saudi Arabia has joined us; India has joined us; Jordan and Iraq have joined us; and even, in one case, Syria joined us, and this was the designation that took place of an individual who was supporting terrorism in Iraq.

In this process, we realize that if we are more successful at tightening up the use of the formal system, as Stuart Levey indicated, terrorists will try to find other means to try to get their money around. They use cash couriers. They are using alternative remittance systems. They are using charities. And we need to be just as smart and to help our partners be just as smart in tracking down and in stopping these alternative means of moving the money forward.

So we worked very hard to provide types of training to governments around the world and particularly in this region in such areas as trade based money laundering and customs training and antiterrorist financing techniques; we have done case studies with bank examiners; we have taught law enforcement officials general finance investigative skills, all in the effort to have a more effective financial coalition.

Let me just mention a few highlights from the country-specific work that we have been doing. In recent months, the Government of Saudi Arabia, as we are reminded on a regular basis in the press, has continued a very vigorous counterterrorism effort on the ground, apprehending terrorists and their supporters, but it has also continued to publicize not only its counterterrorism efforts but also to speak out denouncing terrorism inside Saudi Arabia, which is very important.

Homeland Security Advisor Townsend and I attended in February of this year an international counterterrorism conference which was organized by the Saudi Government in Riyadh. That conference declared, as its final outcome, that there can be no justification for terrorism.

Since then, the Saudis have continued an effort to educate the public about the dangers and ills of terrorism. They have also continued to fight on the ground. Just recently, on June 28, they issued a new list of 36 most-wanted terrorists in the Kingdom to replace the earlier list, where they had acted effectively. At least one of these new individuals has been killed and another has surrendered since the list was released.

The Saudis report that they have seized $8 million to $10 million as part of their efforts. They called at the February conference for establishing an international counterterrorism center in Riyadh to help cement cooperation among countries in curbing all aspects of terrorism, including the financing of terrorism. They are also con-

tinuing to work to create a fully operational financial intelligence unit. Saudi officials say this unit could be up and running in the next 2 to 3 months. We will continue to encourage and support that process and also encourage the Saudi FIU to join the Egmont Group, which is the group of financial intelligence units around the world, as you know, in 2006.

As Under Secretary Levey mentioned, Saudi Arabia and the United States have been working for a year and a half now in the context of a joint task force on terrorist financing, which is led by the FBI on the United States side. Much good work has been done, but there also remains much work to achieve.

We believe the Saudi Arabian Government is implementing its new approach to charity regulation. At present, we are told that no charity in Saudi Arabia can move its assets located in Saudi Arabia outside of the country without government approval. We continue to stress in our discussions with the Saudis the need for full implementation of the new charity regime, which would include the establishment of a fully functioning charities commission.

We also believe that appropriate regulatory oversight is needed of organizations headquartered in the Kingdom, such as the Muslim World League, the International Islamic Relief Organization, and the World Assembly of Muslim Youth. The Saudis tell us they recognize this need, and at present, neither the IIRO or WAMY are able to move money from their accounts to recipients outside of Saudi Arabia. The Saudis tell us these organizations are subject to the same restrictions that apply to domestic Saudi charities.

In Kuwait, the government has formed a new ministerial committee to develop strategies to combat terrorism and extremism. It recently forbade its ministries and other institutions from extending official invitations to 26 clerics who reportedly signed a statement in support of jihad in Iraq.

The government is drafting new legislation specifically to criminalize terrorist finance and to strengthen its anti-money laundering and terrorist finance regime. The government has accepted assistance from the Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training, OPDAT, to review this legislation. Our embassy is working closely with the Departments of the Treasury, Justice, the Federal Reserve, and others, to look at counterterrorism training packages we can make available.

The UAE is a very aggressive partner in enforcing anti-money laundering regulations. In 2004, it enacted legislation criminalizing terror finance. It has also been one of the leaders in trying to tackle the hawala phenomenon. In April of this year, it hosted a third international conference to find ways to prevent the use of the hawala system by terrorist financiers. We work very closely with the UAE and have a very intense and regular dialogue with their officials.

I was just in Jordan, and there raised with the Minister of Finance and the Central Bank Governor the urgency of having the parliament pass a new anti-money laundering law which will significantly strengthen the legal authority there to tackle terrorist financing. Both express their commitment to do so and their hope that the parliament will act in this summer's special session.

Turning to Pakistan, let me just note that we, of course, all welcome the concrete actions that it has taken to implement its U.N. Security Council resolutions, the freezing of over $10 million of Al Qaeda assets, and the terrorists they have apprehended, including Abu Faraj al-Libbi, Al Qaeda's operational leader. We are also encouraged that Pakistan is showing increased concern about the infiltration of terrorist groups into charitable organizations.

We have provided Pakistan with assistance in drafting its anti-money laundering and counterterrorism financing law, and we are urging that a strong law be passed by parliament and put into action. As soon as that happens, we have additional training assistance that we will be able to make available to help a financial intelligence unit to get up and running.

At the same time that we are dealing with these specifics to go after terrorist financing, we are also trying to address the longer-term goal of improving economic prosperity and employment opportunities in these priority countries, and as you remember, the September 11 Commission pointed out that we cannot neglect the need to encourage prosperity and development in these countries.

The G–8 countries in Gleneagles just reiterated their support for the broader Middle East and North Africa initiative, which is aimed exactly at doing that and supporting reform and growth and prosperity in the broader Middle East, working with the governments of the region and civil society groups and business throughout that region.

Our development policies reflecting the President's National Security Strategy are also an important part of this effort. I might just cite, this is true across the region, but in Pakistan, we have specifically designed our development policies to help create alternatives for youth who might otherwise be susceptible for recruitment into terrorist organizations.

As the September 11 Commission report noted, practically every aspect of U.S. counterterrorism strategy relies on international cooperation. Given that money gets into the hands of terrorists flowing all around the world, the only way that we are going to be successful in drying up their financial resources is through continued active U.S. engagement in countries around the globe.

We hope that our efforts and assistance in these areas will result in better coordination. We look forward eagerly to the Saudi's financial intelligence unit and the charities commission becoming effective operational bodies. We look forward eagerly to Pakistan and Jordan passing strong anti-money laundering legislation and to Kuwait drafting its new legislation and putting it forward.

We need universal and rigorous implementation across the region to prevent terrorist financing. We need to have an active and effective foreign financial intelligence units. We need to have more activism in tackling cash couriers. We need stricter regulations on money service businesses and hawalas. We need tighter controls on NGO's and charities, and we need countries to implement international conventions. As Under Secretary Levey mentioned, the Financial Action Task Force and its new regional counterpart, the MENA FATF, is going to be very important in this one effort.

Finally, sir, your support is very important in this, both in providing the resources we need to go forward in this effort but also

in you reaching out to your colleagues around the world and encouraging them to cooperate, to take the tough decisions sometimes to put the laws in place and then to implement those laws. We have found it to be extremely effective when you and your colleagues travel and actually raise these issues with senior government officials and sometimes even the not so senior ones who are charged with taking this work forward. So we very much encourage you to do that.

I look forward to your questions and thank you again.

Chairman SHELBY. Secretary Levey, in your statement, you referenced the continued problems with Saudi cooperation on the issue of international charitable organizations like the International Islamic Relief Organization and the World Association of Muslim Youth. The Saudis have refused to acknowledge these organizations as a Saudi problem, arguing instead that they are multilateral organizations headquartered in Saudi Arabia but otherwise autonomous. They have gone so far as to suggest that their relationship to these organizations is identical to that between the United States and the headquarters of the United Nations. It is a far reach.

Could each of you—start with you, Secretary Levey and then Secretary Wayne, comment on the measures the United States is currently taking to address this rather significant weakness in Saudi Arabia's antiterror finance regime? The March 2005 International Narcotics Control Strategy Report states with respect to Pakistan—Ambassador Powell, you know a lot about that as former ambassador there—the following: A nexus of private, unregulated charities has also emerged as a major source of illicit funds for international terrorist networks.

That is a very serious statement about a country on the front lines of the war on terror with which we maintain a difficult but essential alliance. Share your thoughts regarding the Saudi-based charities and Pakistan's terrorist links to charities. We will start with you, Secretary Levey.

Mr. LEVEY. Thank you for that question, Mr. Chairman.

As you indicated, I did treat these charitable organizations based in Saudi Arabia in my statement and my written testimony, and I have indicated that the IIRO, Muslim World League, and WAMY continue to cause us concern on several fronts. One, as Mr. Wayne pointed out, we have been told that these organizations are no longer free to send money abroad from Saudi Arabia, and that would be a very positive development if it were fully implemented. We continue to have concerns about whether it is fully implemented.

Two, and this is perhaps a positive point, there was a time when they were setting up this charities commission that we have been talking about where it appeared as if they intended to exempt these organizations from the oversight of that charities commission.

This is one of the successes of our engagement. It is easy for me to say that, because I was not personally responsible for the success. I think Mr. Wayne, Fran Townsend, and Juan Zaratti were, but we have now gotten assurances that these organizations will

be subject to the oversight of that Commission, which I think is a very positive development.

But as you note in your question, Mr. Chairman, this is exactly the analogy that we have been given, which is that these organizations are akin to the United States relationship with the United Nations.

Chairman SHELBY. You do not buy that, do you?

Mr. LEVEY. I do not buy that. I do not think anyone is buying that, and I have expressed my very strong skepticism of that analogy to the Saudi Government. The perhaps positive response to that was, okay, well, we are willing to work with you to try to control these organizations abroad.

I think it is important that we all recognize that these organizations are very, very much tied to Saudi Arabia; that their history is very tied in with Saudi Arabia; and while the Saudi Arabians may be able to say that they do not have technical control over branches of these organizations abroad, they certainly have influence that they can bring to bear, and I hope that they will follow through on their commitment to work with us to try to do that.

Chairman SHELBY. Thank you.

Secretary Wayne, do you have any comments on that?

Mr. WAYNE. Only to say, Chairman, that as we have engaged with the Saudis, we have stressed the point that if there are significant sources of money either being raised in your country or coming into your country, they need to be regulated. And that is the key challenge here, and that is a challenge that every sovereign government needs to take on.

Chairman SHELBY. It is particularly a challenge in the Islamic world, is it not?

Mr. WAYNE. It is, because there has not been a tradition of claiming donations in any way as we sometimes do for taxes, or there was more of a duty, and you did the giving of money anonymously. So there has been an evolution in how you think about charitable giving and how you track it.

But as Under Secretary Levey has said, we have seen an evolution in thinking as we have worked with our colleagues in Saudi Arabia. They have now said that, in fact, they are applying their current restrictions on all charitable giving to these organizations and that they realize that there does need to be a regulatory oversight of them. They are still at work in that process as they are at work in setting up their charities commission, but you can be assured it will continue to be a very high level topic in our work, and I do want to give praise to Homeland Security Advisor Fran Townsend for continuing this very high level dialogue with the Saudis persistently for a long period of time now to achieve this progress and to build this partnership.

Chairman SHELBY. Ambassador Powell, do you have a comment on the Pakistani aspect of that?

**COMMENTS OF NANCY POWELL
ACTING ASSISTANT SECRETARY FOR
INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT,
U.S. DEPARTMENT OF STATE**

Ms. POWELL. If I can comment briefly, the observation in the report was based on a number of sources but includes the conclusions of an interagency team that looked at training and technical needs that Pakistan has. I would also like to report that Pakistan has created a Center for Philanthropy. It is a government institution that was designed to register all of the nongovernmental organizations in Pakistan and to create a framework for primarily ensuring that they were not fraudulent organizations, that those giving to them could be assured that their money would be used for the purposes stated.

I met frequently along with other senior members of the embassy staff with the director of the center to encourage that it cover areas to make sure that the charities in Pakistan were not engaged in activities or vulnerable to being used by the terrorists, even if they had legitimate activities. I would also like to suggest that although, as Secretary Wayne reported, the law has not been passed on money laundering and other areas of concern in Pakistan, it is out of the cabinet committee now as of last week and will be considered by parliament. In the interim, particularly the Securities and Exchange Commission equivalent and the Bank of Pakistan have used their extensive regulatory authority to try to address some of these concerns, including this one.

Chairman SHELBY. Senator Sarbanes.

STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Thank you very much, Mr. Chairman. Could I take a moment or two for an opening statement?

Chairman SHELBY. Proceed as you wish.

Senator SARBANES. First of all, Mr. Chairman, I want to commend you for once again scheduling an oversight hearing on this very important issue. I fully share your commitment for the Committee to follow this matter closely, and of course, the tragic events in London and yesterday's suicide bombing in Israel give this hearing special immediacy.

A number of countries are making progress in putting in place formal anti-money laundering systems, but the real question is the implementation of those laws. I mean, they put them into place, but the question is what is being done to carry them out and to enforce them and what is the degree to which there is cooperation with counterterrorism and anti-money laundering efforts around the world. I take it—I saw you nodding—you would agree with that, Secretary Levey; is that correct?

Mr. LEVEY. Very much so.

Senator SARBANES. And of course, you have a number of obstacles to meaningful progress: Lack of trained examination or enforcement personnel; the absence of sophisticated financial regulatory infrastructure; even disagreements about the definition of terrorists.

I am concerned that a number of smaller countries, particularly in the Gulf region, seem to want to create these offshore financial

free trade areas or financial centers as a way to secure revenues. But these arrangements may well be an invitation to organized criminals, terrorists, and those seeking to evade regulatory controls to hide their funds, and I think it is very important to keep our eye on that subject.

Now, Secretary Levey, having gotten from you the observation that implementation is extremely important, I now want to ask you this question: We are nearing the fourth anniversary of the enactment of the USA PATRIOT Act. Section 312, which dealt with correspondent accounts, was a major part of Title III of the Act.

A proposed rule under Section 312 was published in May 2002, more than 3 years ago. But despite repeated statements to this Committee that Treasury recognizes the importance of the rule, it has not yet been finalized. This is all the more surprising because the Federal Reserve Board has issued at least two cease-and-desist orders identifying correspondent banking failures in major international banks.

Why, specifically, has Treasury not acted, and is the rule being held up for some reason? When will this regulation be finally issued?

Mr. LEVEY. I was tempted to say I learned my lesson against nodding, but I had a feeling I was going to get asked that question anyway. Let me assure you, Senator Sarbanes, that there is no one who wants to see this rule put out more than I do.

Senator SARBANES. Well, then, what is the hold-up?

Mr. LEVEY. On the one hand, it is a complicated rule. As you indicated, the proposed rule was put out approximately 2 years before I got to the Treasury Department, and it was one of my priorities when I got there to take a look at it and to provide input to see what adjustments I wanted to advocate for within the Department.

What I can tell you is that there is no holdup on the rule. The current status of it is that we have now sent it to the regulators for review pursuant to the consultation requirement that we have under this section. I have learned the hard way in other contexts not to promise a particular timetable on when the rule will be finished, but that is the current status of it. I hope it will be a prompt review by the regulators and that we will be able to issue it very soon.

Senator SARBANES. This law was signed on October 26, 2001.

Mr. LEVEY. You are absolutely right, Senator.

Senator SARBANES. It will be 4 years this October. And it required you to not later than 100 days after the date of enactment to delineate by regulation the due diligence portions of the rule, and that was done. And then, everything came to a stop.

Mr. LEVEY. That is an accurate representation of what has happened. We have done the guidance but——

Senator SARBANES. Do you think if I were the official of one of these countries we are trying to get to put in an anti-money laundering scheme and to implement it, and you went over and were pushing me hard to do this thing, do you think I would be within reasonable bounds if I said, well, now, Mr. Secretary, what about this regulation you were supposed to put in effect under Section

312? You do not seem to have done that in your own country. How can you be giving me a hard time about what I should do?

Mr. LEVEY. I do not want to make light of it, Senator, and I understand precisely the point you are making. I do think that we have a fairly robust anti-money laundering system, so that when I go around the world, and Mr. Wayne goes around the world, and we ask for reforms that we are speaking from a position of authority and credibility. But you make an excellent point that we need to do our work here as well.

Senator SARBANES. We could enhance it a little bit, I think.

Now, let me ask you: Has the Treasury Department met with representatives of Islamic NGO's to discuss terrorist financing under the guise of charitable giving? Have there been such meetings, and what were their results?

Mr. LEVEY. Actually, Senator, we have done a fair amount of the type of activity that you refer to. We have made it a priority to reach out to the Muslim community, particularly with respect to charitable giving. As I think Mr. Wayne indicated, our goal here is not to stop charitable giving. Our goal here is to stop the use of charitable organizations for funding terrorism.

A great majority of the people who give money to these organizations are pure of heart, and they want their money to go to real humanitarian causes. And so, we have done what we can to try to help the charitable community protect itself from that abuse and so that people who have good intentions can send their money to real humanitarian causes without fear that it is going to be devoted to terrorism.

Just yesterday, as part of this effort, we put on our website a very comprehensive summary of all the actions that we have taken as a Treasury Department with respect to charitable organizations since September 11. It identifies all the charitable organizations that we have designated pursuant to 13224, the Executive Order for terrorist financing, and it gives a summary of why we have designated them, all of the aliases and AKA's that the charitable organizations go by so that people have a resource to go to in order to make sure that they are not giving money to an organization that we have identified as being a supporter of terrorism.

This is something that we did in response to requests from the Islamic community here in the United States saying that this would be a resource that they would appreciate, and we are doing that. We are also just about to issue another set of voluntary best practices for charitable organizations, things that we suggest that they can do to protect themselves from this abuse.

While these are voluntary, they have had a real impact in the charitable community here in the United States, where they have been viewed as almost obligatory, which I think is a positive thing, and we will continue to try to do this.

Senator SARBANES. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

Mr. Levey, what are some of the other ways that charities or the terrorists are raising money if it is not through charitable organizations? What are the other major sources of fundraising that you

have now spotted or, for that matter, the nontraditional fundraising areas that you have focused on?

Mr. LEVEY. Well, Senator Bunning, I think there are really two answers to your question, two categories to the answer. One would be how they are raising it and how they are moving it. Terrorist organizations have traditionally looked to in addition to charities, they have looked to simply wealthy donors to give money directly. And that still remains a problem.

They have also raised money through petty crime. We have had a number of—I should not say petty crime; sometimes petty crime; sometimes not so petty crime. But we have had a number of cases here in the United States where we have been able to show that terrorist organizations were funding themselves through criminal activity here; a very prominent case in North Carolina where Hezbollah was raising money through counterfeit cigarette operations. But they may also be just having operatives live where they intend to attack and having legitimate sources of income, which is also a possibility that we need to be aware of.

In terms of the way they move money, as I think I discuss in my written testimony, we see that one of the successes of our actions is that we have driven terrorist organizations out of the easy ways of moving money, simply wiring money back and forth to each other and using the traditional banking system.

That is, in one sense, a success; in another sense, it is a challenge, because now, they move money in ways like cash couriers or Hawalas that are a little bit harder, present a challenge in order for us to regulate those sources.

Senator BUNNING. I have heard from some bankers, not a great deal but most of them know their customers, and they have a pretty good idea when something fishy is going on in one of their banks, but they are burdened by what they think are regulations that could be better focused on possible illegal activities.

Is the Department of the Treasury working with banks to see if they can better focus on accounts when given the activities that seem irregular where it is more likely that something of a suspicious nature is occurring?

Mr. LEVEY. Actually, Senator Bunning, we are doing a great deal of just the type of activity that you are talking about, and I would like to commend my Director of FinCen, Bill Fox, who does this with great energy. We have spent a lot of time not only reaching out to the banking community but also really listening to them and acting in response to what we have heard.

Senator BUNNING. You are listening, actually, to bankers? That is not what I have heard.

Mr. LEVEY. I beg to differ, Senator. Just yesterday, for example, the Justice Department amended its U.S. Attorneys' Manual to provide that all prosecutions and deferred prosecutions for violations of the Bank Secrecy Act will now have to be approved by the Criminal Division in Washington. That sounds like an awfully technical thing, but I think the banking community is going to find it significant, because it will ensure that prosecutions and deferred prosecutions brought by the Justice Department will only be undertaken after there is an opportunity for the kind of good consultation between Justice and Treasury that I believe will occur, and the

banking community, as you might imagine is very, very sensitive to and cognizant of prosecutorial decisions made by the Justice Department as well as to enforcement decisions made by regulators and the Treasury.

Senator BUNNING. I am going to ask the question one more time. Maybe you missed the question. Are you consulting with bankers?

Mr. LEVEY. Yes.

Senator BUNNING. Yes?

Mr. LEVEY. Yes.

Senator BUNNING. Big money center banks only or other bankers?

Mr. LEVEY. Other bankers as well; both myself, Mr. Fox more so than myself spent a lot of time with bankers, making speeches, going to conferences. I am surprised to hear that bankers are saying that they do not feel that they are——

Senator BUNNING. Well, maybe they are not big enough. Maybe, a $300 million bank is not big enough for money laundering.

Mr. LEVEY. That is not true. There are significant vulnerabilities in small banks as well, and we spend time reaching out to them as well.

Senator BUNNING. My time has run out.

Thank you, Mr. Chairman.

Chairman SHELBY. Senator Hagel.

STATEMENT OF SENATOR CHUCK HAGEL

Senator HAGEL. Mr. Chairman, thank you.

I want to pursue the line of Senator Bunning's questions, and I am going to ask a couple of specific questions in regard to the exchange that you just had with Senator Bunning.

I have been told that as you have done in your Financial Crime Enforcement work, FinCen, and the Office of Terrorist Financing and Financial Crimes is experiencing a backlog because of some of the administrative process that is underway. My first question is is there a backlog of financial reports in those two offices?

Mr. LEVEY. What I think you may be referring to is suspicious activity report filings with FinCen.

Senator HAGEL. That is right.

Mr. LEVEY. I would not say that there is a backlog so much as there has been a big increase in suspicious activity report filings, which is something that we are taking very seriously. We want to make sure that we do not have banks filing suspicious activity reports when they do not really believe that there is suspicious activity, because that degrades the process and makes it less valuable.

But I think we also have to remember that the Bank Secrecy Act data that is filed in these suspicious activity reports is extremely valuable, and we want to make sure that we do not take steps that cut off the Government from extremely valuable data that is filed through suspicious activity reports. Just last month, the head of the Terrorist Financing Section at the FBI testified before the House that they have 88,000 suspicious activity reports that they are looking at that are related to terrorism investigation subjects. That is the kind of thing that I do not think we can afford to lose.

Senator HAGEL. Let me ask it another way, specifically, is there a backlog or is there not a backlog in these two offices of reports?

Mr. LEVEY. I do not believe that there is what I would call a backlog.

Senator HAGEL. What would you call it?

Mr. LEVEY. And I will actually clarify that these reports are filed with the Financial Crimes Enforcement Network and not with my office, the Office of Terrorism Financial Intelligence. They are filed with FinCen. They are getting a larger volume of information, and it is presenting challenges for them to process it. They are also pursuing an information technology fix called BSA Direct, which should be online in October, which should greatly improve their ability to manage this data.

Senator HAGEL. So is there a backlog, or is there not a backlog? You are up-to-date? You are not up-to-date?

Mr. LEVEY. I guess I do not know exactly whether all of the information is being entered as timely as I would like.

Senator HAGEL. Well, would you not think that that is fairly important? If you need more resources, have you asked for more resources in order to enter timely information and to make sure it is current?

Mr. LEVEY. It is part of our budget request.

Senator HAGEL. Because it does not do us much good if it just lays around or if it is not, in many cases, real time, I would suspect.

Mr. LEVEY. This information, though, is not just laying around. It is being put out to the law enforcement community so that they can review it as well.

Senator HAGEL. But if there is any kind of a backlog, how does that happen?

Mr. LEVEY. All of the SAR's that are filed are provided to the law enforcement community, and they can review them. There are SAR review teams in various cities.

Senator HAGEL. Well, let me get to a point that Senator Bunning was making, and I hear this from many bankers, that in fact, one of the reasons that you may be experiencing, as you noted, an increase in these suspicious activity reports is that these smaller banks, medium-sized banks are filing them because they are filing them to protect and will err on the side of caution, thinking that they really do not have much to report but because of the field examiners overinterpreting the Bank Secrecy Act, they will get hit with violations.

Now, is that a problem? Is that something that concerns you? Is it something we need to look at? What is your take on that?

Mr. LEVEY. I think that phenomenon is a concern, and you are exactly right. One of the problems that we have had is that while we are trying to set policy in Washington, as you know, it does not always translate out into the field. We have a problem where banks are filing on precisely the types of transactions that you have mentioned, where they do not really think it is suspicious, but they think look, I do not want to be second guessed down the road.

Senator HAGEL. Well, what are we doing about that in the way of educating field examiners? Are the field examiners overinterpreting the Bank Secrecy Act?

Mr. LEVEY. Well, as a matter of fact, we just put out, and I do not remember exactly the date, but within the last few weeks,

though, a set of comprehensive exam procedures where we were trying to unify the way all the regulators will handle these exams so you will not have the problem you referred to; you will not have one examiner or one agency interpreting the rules differently from others. And there was a comprehensive set of exam procedures that was put out jointly by FinCen as well as all the regulators to try to address exactly this problem. This is something that we have been taking very seriously and trying very hard to fix.

Senator HAGEL. Well, I would say—my time is up, Mr. Chairman—that as is the case with Senator Bunning and I suspect other colleagues on this Committee as well as other Senators, they are hearing from the bankers, and their bankers think that we are wasting our resources, time, and focus on these kinds of procedural issues when there is nothing there and taking our eye off of the real threats.

And when you come back before this Committee, Mr. Secretary, and I will follow up in a letter next week so we can get into a little more detail, and maybe you can come in and talk about this, we do not want this to drag on like has been the case with Senator Sarbanes' questions to you: It takes 4 years to get a law implemented. I do not know what service you are doing our country or doing anyone when we let things drift to that extent.

So, I will ask if you can come in and see me, and I will formally send a letter over to the Secretary and ask for more detailed information.

Mr. LEVEY. I look forward to the meeting.

Senator HAGEL. Thank you.

Mr. LEVEY. Because this is not something we have let drift.

Senator HAGEL. Thank you.

Mr. LEVEY. And I would be happy to tell you that.

Chairman SHELBY. Thank you, Senator Hagel.

Secretary Levey, you mentioned the United States-Saudi Joint Terrorist Finance Task Force in your opening statement. The Banking Committee staff visited Saudi Arabia in February and came away with a rather pessimistic view of status of that task force. In short, rather than being a formalized, side-by-side, day-to-day operation, it is their conclusion that it is more of an ad hoc arrangement involving the same individuals from both sides who meet regularly but hardly work together on a daily basis.

Could you expand here your comments for the Committee in terms of how well the joint task force, in your opinion, is working? Is the responsiveness of the Saudi half of the arrangement conducive to the level of cooperation necessary to accomplish the task force mission, and are there political, cultural, or bureaucratic gaps between the two sides that limit its effectiveness?

Mr. LEVEY. Thank you, Mr. Chairman.

I should start by saying that one of the very positive things that has developed with the Committee is that I have developed a kind of relationship with the staff where I am able to get that kind of feedback, and I apologize: I meant to treat this particular issue, because I had heard about this concern after the trip.

I do think, and I have double checked since I heard these concerns, that the joint terrorist financing task force that you alluded to in Saudi Arabia is something that we consider a very positive

development. You are correct that it is not a side-by-side physically arrangement, but that, we think would be a rather unusual situation.

There are not very many countries where we are working day-to-day, side-by-side with our security and intelligence services in the same room. There is good cooperation on cases that are being worked both that we bring leads to them and we work cooperatively with them. That is not to say that this cannot be improved. There are certainly improvements that we are looking to make. We think that the way we like to describe it is that the groundwork is laid for the cooperation, and we would like to see it broadened and deepened.

But considering where we were with Saudi Arabia before 2003, I think we should—and I am not one to throw this kind of phrase around lightly—I think we should be looking at this as a success.

Chairman SHELBY. Is there a difference between the attitude in Saudi Arabia in cooperating with us when something has gone wrong in their Kingdom and we are helpful dealing with terrorists against their own Government as opposed to our concerns here on our own interests?

Mr. LEVEY. I can only speak in generalities, but I think we have had cooperation on both of those categories.

Chairman SHELBY. You think it is better, but you do not think it is on the level of the British-American cooperation, do you?

Mr. LEVEY. Maybe I should defer that—I am scared of causing a diplomatic incident, but you are probably right about that, Senator.

Chairman SHELBY. The position of the United States. with regard to the Palestinian Relief and Development Fund, also known as InterPal, is that it is unambiguously a financial supporter of the Islamic resistance movement. Yet the British Government has repeatedly investigated InterPal and come to the conclusion that it has no evidence of funding going through that organization to the military wing of Hamas.

Their position is, as I understand it, is that InterPal funds go to social welfare activities carried out by Hamas with little or no leakage to terrorist activities. I would like to know how you know that, and could you comment for the Committee on the British position on InterPal, and will it change after last week?

Mr. LEVEY. Well, I have to say that it is an ironic question after the one you just asked.

Chairman SHELBY. Yes.

Mr. LEVEY. Because this is one where perhaps our closest ally and we have a disagreement.

Chairman SHELBY. Sure.

Mr. LEVEY. And that happens, and that is perhaps healthy, although this one is frustrating to me. As you indicate, we believe InterPal to be a conduit, one of the principal charities that was used to hide the flow of funds to Hamas. We think that we designated it domestically here. I have raised it repeatedly with my——

Chairman SHELBY. They have also raised a lot of money in the United States of America, have they not?

Mr. LEVEY. Well, InterPal is a British——

Chairman SHELBY. I know that, but I am speaking Hamas has.

Mr. LEVEY. Oh, yes, you are absolutely right, and we have taken action with respect to the charitable organizations in the United States that we have been able to definitively tie to Hamas, and we have shut them down. But as you indicate, this is one where we disagree with the British, and we hope to see this change.

Chairman SHELBY. The Emirate of Dubai prides itself on the free trade zones as an important component in its effort to become the regional financial and commercial center of the Persian Gulf. Of particular pride to the emirate and of particular concern to this Committee is the Dubai International Financial Centre, which Dubai hopes will facilitate its transformation into the region's premier financial services hub.

The attraction of a free trade zone, of course, is its emphasis on a minimal regulation of commerce involving both commercial goods and money, developments at variance with U.S. goals of greatest regulation in that region. Is this a concern, Secretary Wayne, shared by your office and others? And if so, what have you done or what can you do to address this potential weakness in the anti-money laundering regime? Seems like that they are using this some as a transit point for nuclear components headed for sanctioned terrorist-supporting countries and a lot of other things. Does this concern you?

Mr. WAYNE. Well, yes; having the United Arab Emirates, the various points through which financial resources and other goods and services pass have been a point of concern for us. It has also been a point of concern for the authorities in the UAE and in the specific emirates. So what we have worked to do is set up a number of effective partnerships, as we have been trying to do in other places, really, on an interagency basis, coordinated in our embassy but working both at the Federal level and at the emirate level to tackle these several different challenges, whether it be related to weapons of mass destruction, terrorist financing, or other export control dangers.

We have a very intense dialogue with the UAE. We have beefed up the presence at our embassy, which now includes Homeland Security, former U.S. Customs, which is now called Immigration and Customs Enforcement, ICE, personnel, in order to build a practical relationship with the different authorities both Federal and in the individual emirates. And we have found a very receptive set of partners on the side of both the authorities in Dubai and at the Federal level in Abu Dhabi.

And so, our intention is to keep making this an even more effective partnership than we have had. As I mentioned earlier, at the level of terrorist financing, the central bank authorities in the UAE have been among the very most forward leaning and aggressive in the region at putting very effective and tough controls in place.

Chairman SHELBY. Senator Bunning, do you have any questions at this time?

Senator BUNNING. No.

Chairman SHELBY. I want to thank the panel. I have a number of questions for the record that we will get to you, and we hope you would answer them promptly.

We appreciate your appearance here today.

Senator Sarbanes, do you have any questions of this panel?

Senator SARBANES. Not at this time.

Chairman SHELBY. Okay; thank you.

Thank you.

Our second panel will include Mr. Dennis Lormel, former Section Chief of Financial Crimes Division, Federal Bureau of Investigation, and currently Senior Vice-President, Anti-Money Laundering, Corporate Risk International; Mr. Steven Emerson, Executive Director of the Investigative Project and a long time tracker of the sources of funds provided to terrorist organizations; and Dr. Mahmoud El-Gamal, Chair of Islamic Economics Finance and Management, Rice University, and former Department of the Treasury Islamic Scholar in Residence.

Dr. El-Gamal is not here to testify on sources of terrorist financing. He is here to educate us and enlighten us on Islamic banking practices and whether the gradual spread of Islamic banking poses challenges to the United States in understanding the movement of funds in the Islamic world that may be unique to the western style of banking currently prevalent throughout much of the Islamic world.

I thank all of you for your appearance today. Your written testimony will be made part of the hearing record in its entirety, and we will let you proceed summarizing—Mr. Lormel, thank you for your appearance, and we will start with you, if you are ready, sir.

STATEMENT OF DENNIS M. LORMEL
SENIOR VICE PRESIDENT, ANTI-MONEY LAUNDERING
CORPORATE RISK INTERNATIONAL, FAIRFAX, VIRGINIA

Mr. LORMEL. Thank you, Senator.

Very quickly, I would like to thank the Committee for the invitation, and like we have heard in the first panel, commend you guys for the work you do. It is really important. And I would like to lead off on that, on the questions that Senator Bunning and Senator Hagel were concerned about.

You notice in my written testimony, I specify in there that those are some areas that the Committee should be looking at for additional follow-up. I think I have developed a unique perspective since leaving the Bureau. I work very closely with the financial community, and I think there is a middle ground that needs to be established there, Senator, and I do think there is communication, but I also think that the feedback is insufficient, so it is an area that really is an area that needs follow-up.

But moving on, I wanted to just summarize some of the things I put in my written statement just in terms of some of the dimensions that we need to look at in terrorist financing. We should not be looking at terrorist financing as just kind of one dimensional. It is multidimensional in terms of on one hand, activities and individuals, because we are looking at financing of activities in terms of operations, in terms of the fundraising, in terms of the use of the funds beyond that: Technical support, administrative support, and then, in terms of individuals, in terms of operatives, in terms of suicide bombers, in terms of fundraisers, facilitators, and donors.

And each of those dimensions requires a different kind of funding mechanism. When I deal with bankers now, I ask them who are

you most likely to deal with, and in what capacity are you likely to deal with those people? And they need to focus their compliance and know your customer practices in that regard. And then, from an investigative standpoint, and this is important, because when you are trying to measure accomplishments and where we are in the war on terrorism in terms of terrorist financing, I think you need to break that down into three dimensions, one of them certainly being being strategic; one of them tactical; and one of them historic.

And in terms of strategic, I think Stuart Levey at Treasury in putting his operation together is doing a good job, because he recognizes the need for strategic intelligence, and he is trying to put a component together, and it needs to have some time to develop its credibility and resources, and I know that the FBI, right after September 11, we recognized that, we put an entity together. And in Stuart's testimony, he talked about FinCen and their putting together BSA Direct, and it plays right back to Senator Hagel's concern about suspicious activity reporting.

Suspicious activity reports are critically important. The information they contain can link, and as Stuart said, the person who took my place at the FBI, Mike Morehart, testified before the House last month that with this new robust capability we have in terms of analytical capability with SAR's, they came up with 88,000 hits, and I think that is really something that has a lot of potential in the future, and I recommend that you get a briefing on that.

And in terms of the other recommendations I made, I would be very happy to work with your staff, with some of the ideas that I had or with what my perspectives are in that regard.

Moving on to the Middle East and your concerns, because, Senator, you asked questions; I will go right to the Joint Terrorism Task Force. It is not a formal task force and it was not set up to be that way. The dynamics were such that we did not have that ability.

Chairman SHELBY. Is it more of an ad hoc group?

Mr. LORMEL. Well I would say it is more than ad hoc.

Chairman SHELBY. A grade above that?

Mr. LORMEL. Yes, I would put it above that, but I also know that it has come a long way, and I think the starting point was we provided a lot of training, as Tony Wayne said, to different countries in the Middle East and the region, particularly the UAE. The model in the UAE is very good. We sent teams over there to train, and based on that training, we established good will. And what the UAE showed us was not only did they implement laws, but I think they also have the wherewithal, at least the intent to follow-up, implement, and oversee those laws, where with the Saudis, the issue is transparency, and are they genuine, or are they disingenuous, and that is a big question and certainly a big challenge for my former colleagues in dealing with them.

And I know, having been involved in that process that Fran Townsend, David Aufhauser, and people like that, Cofer Black put incredible pressure and persuasion on them to continue to move forward. But going back to the task force for a second, Senator, I think it is more than ad hoc. It is certainly not the best case scenario. It is a good case scenario, and the bottom line is that there

is a good exchange of information going on there; whether or not the people sit side-by-side, they do meet regularly, and they are exchanging useful information, and that is the important factor there. And overall, in the Middle East, as I mentioned, the UAE and Bahrain were very good partners in terrorist financing with us, and I think it is important that we mention here the Middle East North Africa Financial Action Task Force that was formed, that the Financial Action Task Force the World Bank and the IMF have recognized that formation, and I think that is a very positive move: 14 countries in the region participating in that particular task force, and I think what we are going to see, as we see here in the United States when you talk about accomplishments, accomplishments that are kind of incremental in being achieved. And I think that is a process we are going to see, and I think it will be a very good thing in dealing with the regulators and with the law enforcement community.

And I would like to close with asking the Members to consider the USA PATRIOT Act and certainly the sunset provisions. From a lessons learned perspective, one of the things that we learned best from September 11 was the fact that we had to do things differently and implement and run with time sensitive and time urgent type of investigative mechanisms and protocols.

And we implemented some things like that, and they worked very well, but two areas where they could work a little better for us would be if the Bureau had administrative subpoena authority in terrorism cases; again, from a time sensitive, time urgent standpoint, that would be very important, and I think the Director has made it—and I have seen his, and I know when I was in the Bureau, he was very emphatic about the fact that we had a mandate to protect people's civil rights, so not to be abusive.

In the areas we did have administrative subpoena authority, I think there is a good track record there; and then, another area that John Pistole testified here before you back in October or September 2003 was production of subpoenaed records in an electronic format. There is still no standardization there, and that is an area that if the Bureau and other agencies could get that information in electronic format, the analytical process could be done in a much more time sensitive, time urgent manner, and again, I would be very happy to discuss that in greater detail offline.

Thank you very much for the opportunity to come here.

Chairman SHELBY. Mr. Emerson, do you want to sum up your remarks?

STATEMENT OF STEVEN EMERSON

EXECUTIVE DIRECTOR, THE INVESTIGATIVE

PROJECT ON TERRORISM (ITP), WASHINGTON, DC

Mr. EMERSON. Sure; thank you, Senator, and Members of the Committee for holding the hearing; it is especially timely after the disclosure of the fact that four relatively young British Muslims were involved in the suicide bombing in London, the first time suicide bombers were recruited and operated within the European continent. And the terrorist operation by the Islamic Jihad yesterday that killed several Israili women.

I think that it is really important, as I listen to my distinguished colleagues on the previous panel as well as my friend Dennis, that we ensure that we understand that terrorism does not occur in a vacuum; that we cannot measure the terrorism merely on the cost of calculating the price of explosives, but rather, factoring in the larger religious indoctrination, recruitment, religious immersion, and training—all of the elements of a spectrum in Western societies are essentially invisible, not subject to government regulation, and that are legal.

And yet, it is that very type of religious extremist ideology which creates the environment and culture by which suicide bombers and terrorist acts occur. If one looks at the September 11 attacks, one can see that Mohammed Atta in 1994 was a secular, young, Arab male living in Europe, and he became immersed in a religious vortex of Wahabbist Saudi ideology and religious extremism in Germany; it was only a short jump later that he began volunteering for jihad.

So, I think that as we look at the price and costs of estimating terrorist financing, we have to look at the other factors that contribute and which are actually more responsible. Now at this time what I would like to do is to summarize some of the findings of my organization, the Investigative Project on Terrorism, in assessing the results of the war on terrorism; certainly complementing the incredibly dedicated public servants who have been involved relentlessly in this war. But we also have to admit that we are now behind the curve, and there is a lot more we can do.

Unfortunately, I believe that some of the things that are responsible for our being behind the curve are self inflicted wounds. Some of the reasons include bureaucratic rivalries, the compartmentalization of U.S. law enforcement intelligence; the absence of mass digitization and electronic retrieval of information.

The fact of the matter is that at present, the war on terrorism has been fought by trying to primarily shut down radical Islamic charities serving as fronts. In that respect, since September 11 the U.S. Government shut down at least five radical Islamic groups. But according to new analysis and information that my group has uncovered, actual new terrorist-affiliated fronts have been reconstituted by some of the previous officers connected with the charities that were shut down. This has not gotten the attention yet of the pertinent addresses within U.S. law enforcement and regulatory agencies.

U.S.-based operative terrorist groups have been able to increasingly turn to drug trafficking, organized retail theft, black market smuggling, the production and sale of counterfeit name goods, the production and sale of baby formula, and even car theft rings in order to raise money for terrorist organizations. Most recently, there has been great concern that the number of cars and automobile exported to the Middle East both legally and illegally—some smuggled through and some just sold on the open market—are being used to finance terrorist acts or actually carry out actual bombings. As has been the case discovered in Iraq, SUV's registered in the United States were found to be in the possession of terrorist organization.

The fact of the matter is that at present, we are hampered by a series of factors, including the unwillingness of Western European Nations to get their act together in consistently opposing radical Islamic terrorist groups. The fact of the matter is that the EU list is a wonderfully impressive list, but it has no teeth whatsoever, because it depends upon the individual countries.

And to the extent that Britain has been involved in trying to shut down the financial support of terrorism, unfortunately, its refusal to shut down InterPal is a glaring indication of the fact that political appeasement still is an operative factor in decisionmaking in Europe.

I would also like to note that with respect to Saudi Arabia, as you Chairman Shelby have pointed out, I am not hampered by any diplomatic niceties, so I will say exactly what I believe: You asked whether the joint task force was an ad hoc. I call it an ad or a hoc. The reality is it has done very little. And there has been a lot of lip service paid to the role of Saudi Arabia recently in terms of its funding, its willingness to oversee, regulate, and stop the flow of funding to terrorist groups. But the reality is different again, as you pointed out very correctly—when it disclaims any type of responsibility for its role in creating funding and still empowering, the World Assembly of Muslim Youth or the World Muslim League, two major $100 million charitable organizations that were created by the Kingdom of Saudi Arabia and have line items in Saudi Arabia's budget annually; they continue to pump money around the world into radical Islamic mosques, organizations, and even are affiliated with terrorist groups to this day.

Both of these organizations are part of the Wahabbist network that we believe have been proven beyond a shadow of a doubt to be connected to Al Qaeda, Hamas, and other terrorist groups. The evidence that we have collected by examining tens of thousands of reports, publications, internal records, and statements of both organizations clearly show overwhelmingly that the unwillingness of Saudi Arabia to acknowledge this or to rein them in is a major source of terrorism. It provides the basis for young Muslims such as those in Britain and elsewhere, and God help us if we have this in the United States, for them to be recruited into the ideology of radical Islam that sees jihad and suicide bombings or other terrorist acts as an acceptable act of "protest."

The fact of the matter is that Saudi Arabia continues to pump radical Islamic literature into the United States, publish Qurans that call for incendiary incitement against the West, against "crusaders or Zionists," i.e., Jews, and they continue to try to proselytize within prisons and the U.S. military, which I consider to be a major national security threat.

In summary, I would like to think that we can get ahead of the curve, because we have all the ingredients necessary to get ahead of the curve. We have dedicated public servants that are incredibly hardworking. We have a vast amount of data—perhaps too much data—and we have the technology, except we have not put this together. And so, what I would like to suggest are a series of recommendations that I have included at the end of my testimony. I am not going to recite all of them, but I would just like to mention several of them, which I think can enhance the war on terrorism.

One. I would like to see us create dedicated teams of forensic accountants that can be attached to roving Federal teams much like the old Organized Crime Strike Forces. Two, create and standardize the expertise needed to graduate new career paths in counterterrorism finance. We do not have that career track right now; the FBI, in its rotational process, basically shifts agents from one field to another, from one city to another, not long enough for them to develop the expertise or the sources needed to cultivate, to dominate in that arena of counterterrorism.

Three, we should create a special unit that tracks the charities, foundations supporting terrorism, and also Islamic extremism that operate out of the Middle East and Europe, and that unit should collect and distribute intelligence, both classified and open source; as well as do link analysis.

Last and perhaps even most importantly, this goes to the heart of the whole issue of whether, in fact, militant Islam is able to hide in the West under the veneer of serving as a "human rights group" or being a "moderate group." I believe that deception goes to the heart of why September 11 happened, and that goes to the heart of how these groups continue to operate in the United States and in the heart of Western Europe.

I think we have to ensure that when the Government engage in dialogue, they need to empower genuine, not ersatz, Islamic moderates who convey to their communities that they should cooperate with the FBI; that the United States is not engaged in a war against Islam, which unfortunately, is message that has been communicated repeatedly and disseminated by mainstream Islamic groups in the United States and Europe. We should insist that Islamic extremist groups be denounced by name; that it is not sufficient to simply denounce suicide bombings, but you must denounce the perpetrator and to acknowledge rather than deny the existence of a phenomenon of radical Islamic fundamentalism.

The denial that such a phenomenon exists by "mainstream groups" which end up getting meetings with high ranking Government officials that are legitimized as the official spokespeople for Islamic communities does a great disservice to the vast majority of Muslims in whose name they do not speak.

Finally, I do believe that we need to get a much more streamlined operational process inside the U.S. Government for the vast amount of data from open source intelligence that needs to be disseminated, collected, and subject to link analysis that I believe can provide us with phenomenal leads. And time permitting, during the question and answer period, I would like to show part of an analyst notebook PowerPoint presentation that would, I think, show how public source information can unravel hidden terrorist networks in the United States.*

Thank you.

Chairman SHELBY. Thank you. Dr. El-Gamal.

* 1APowerPoint presenatation held in Committee files.

STATEMENT OF MAHMOUD A. EL-GAMAL, Ph.D.
CHAIR OF ISLAMIC ECONOMICS, FINANCE AND MANAGEMENT, AND PROFESSOR OF ECONOMICS AND STATISTICS
RICE UNIVERSITY-HOUSTON, TEXAS

Mr. EL-GAMAL. Thank you, Chairman Shelby, Ranking Member Sarbanes, Senator Carper, and Senator Bunning. Thank you for inviting me, and as the Chairman kindly pointed out, while I did serve, did have the honor to serve last year for 7 months at the U.S. Treasury as Scholar in Residence, all of the remarks that I make and in writing are my personal views and do not necessarily represent views at Treasury.

In fact, my role at Treasury was mainly educational. I think it was part of due diligence. Islamic finance is a fast-growing financial industry that was not well-understood within Treasury, so I was appointed for a temporary period of time to educate staff both at Treasury and other parts of the Government and various regulators about the mechanics of Islamic finance, and that is what I hope also to discuss today.

In a nutshell, what Islamic finance tries to do as an industry is to provide services that adhere both to the legal and regulatory framework within whatever country it operates as well as classical Islamic jurisprudence, as documented in medieval texts. So trying to adhere to basically the stricter combination that is allowed under both legal systems creates regulatory arbitrage opportunities which are profitable to various financial institutions, be they funded and run by Muslims or others.

So at the very core, Islamic finance as an industry does not differ much from regular finance. It does the exact same things, whether at the retail level or at the investment banking level, and in my written statement, I have given examples of how various types of financial services and products are synthesized from simple contracts.

Now, this makes it, in a sense, an easier task for regulators and law enforcement officials to subject Islamic finance as an industry to the same standards to which regular finance is subjected, and it should do so both here and in the Middle East and everywhere else. Now, the negative side of this, of course, is that the sophisticated regulatory arbitrage methods that we invented here in the West, the United States and the United Kingdom, mainly for tax purposes, are quite complicated, and even here in the United States, regulators have been hiring ex-bankers, MBA's, Ph.D.s, and so on to be able to keep track of these complicated transactions.

So the negative side is that to the extent that regulators and law enforcement officials in the Middle East are not as sophisticated as their counterparts here in the West, this poses a challenge and requires more technical assistance, more training, both from governments and from private banks, multinational banks who have already been doing this, but more, definitely is needed.

On the positive side, however, since there is a large contingency of Muslims around the world who refuse to deal with the mainstream financial sector, inefficient as the Islamic finance sector may be, at least it brings these transactions potentially under full sunlight, which is the best disinfectant, and allows us to subject

those transactions to the same regulatory and law enforcement standards.

So it is a challenge, but I think it is not one that should cause anyone to panic. It just requires more work on everyone's part to train law enforcement officials and regulators.

Chairman SHELBY. Thank you.

Mr. Lormel, in your prepared statement, you state that as a result of some the successes in closing down certain funding sources in the United States like the Holy Land Foundation, terrorist activities have placed an increased emphasis on the use of criminal activities as a terrorist funding mechanism. As you heard from Mr. Emerson, those charitable organizations successfully targeted to date have been replaced by substitute mechanisms fronting as charitable organizations.

Do you agree with Mr. Emerson's assessment? If so, is it your opinion that the FBI's terrorist finance operations section is adequately responding to this alleged transformation?

Mr. LORMEL. I agree in part with Steve's assessment. I do not totally agree. I do agree that in certain instances, there has been a reconstitution, and I also believe that there are investigations ongoing addressing those entities, which obviously, I am not involved in now, so I cannot speak to but I do believe that in part, those are being addressed.

I am aware of one in particular, and I believe Steve and I have talked about that previously, in that area, I believe there is an ongoing investigation. I also believe that one of the areas from an intelligence standpoint that they are looking at are those instances where the potential for that reconstitution exists and developing the probable cause to initiate those investigations. I think that is one of the challenges they confront.

And if I may, I also believe that there are mechanisms in place from an investigative standpoint that, in terms of the financial investigations and analytical tools that do exist within the terrorist financing operation section that kind of mirror exactly what Steve wants to show you here.

Chairman SHELBY. Mr. Emerson, have you got a minute to expand on your knowledge of Hamas-affiliated entities in the United States?

Mr. EMERSON. Yes.

What I want to do is just show you part of a PowerPoint, and I just want to clarify one thing, because I do not disagree with anything Dennis said, and I hope he did not interpret my comments to mean that the Government was not trying to unravel these reconstituted entities. What I was trying to point out is that the entities and the officers associated with Hamas and other groups have been very cagey and very sophisticated in understanding the weaknesses of our system and understanding that it takes time to basically mount a prosecution to the extent you can.

Chairman SHELBY. Sure.

Mr. LORMEL. If I may just interject one thing in agreement with Steve is that that adaptability factor. These terrorists, people who are in the financial roles either as facilitators or as fundraisers, know our system all too well, and they fully know and they do take advantage and exploit where possible any gap in the system.

Mr. EMERSON. The reason that I wanted to show the PowerPoint is this is all based on open source information, and I think open source information sometimes gets discriminated against in the Government, because once you stamp something classified, everyone says, oh, this is wonderful, and the end result is that we do not look at something which is right before our eyes. These charts are based on information that my staff had collected. If you look at the screen, you will see the fact that Infocom, at the very top, was a web hosting company that was shut down by the U.S. Government, its officers convicted and associated with terrorism-related charges and illegal exports.

The two companies that are surrounded by red borders were reconstituted entities that we believe are Hamas-affiliated groups. One is called Synaptix, which essentially is a web hosting company, and it has taken the place of Infocom. Synaptix was created by the same people who created the Holy Land Foundation, which also has been shut down and is connected with the Islamic Association for Palestine, which has also been called a terrorist front.

The other entity that was created, was called *DonationForm.com,* which interestingly enough, actually processes donations for nonprofits, thereby giving the operators of that site and that software the ability to track other nonprofit groups and their donors.

Chairman SHELBY. Where did they originate out of?

Mr. EMERSON. I believe both companies originated out of Texas, although I would have to get back to you on the articles of incorporation.

Chairman SHELBY. Would you do that for the record?

Mr. EMERSON. Absolutely; in fact, we would like to supply this chart plus the associated backup material.

If you go to the next slide, these are Hamas front groups, and these are different clusters. Jason, if you will, zero in on, let us say, the Holy Land Foundation. You will see the relationships, in a myriad listing of bars and arrows, but the reality is with this direct information, phone numbers, dates of birth, corporate records, virtually any type of public source information, we are able to plug it all in and find the lines of authority between the different entities.

If you go back to the next chart, this gives an overview here. This is the larger overview of how these groups have been reconstituted. And again, it is all based on open source intelligence, which I think can be of immeasurable help to law enforcement, because part of the problem they face in these types of investigations is how much classified intelligence to release. This provides the basis, I think, for helping to ensure that prosecutions can be more efficiently mounted and for more designations to take place in an expeditious manner.

Thank you.

Chairman SHELBY. Mr. Lormel, given what is known about the financing of terrorist operations with funds obtained through the commission of crime and drawing on your long experience with the Bureau, is it your opinion that the Federal Government today possesses the legal instruments that it requires or needs to combat these activities, or are there additional legal authorities you believe are warranted? And if so, what?

Mr. LORMEL. I believe in general, the authorities that we currently have sufficiently deal with the criminal problems. It is just a matter of when you take the authority, for instance, overseas, basically, and in many of these instances, whether it is domestic or looking at the criminal activity or criminal activity international, it is the international side where we are going to have the issues and the concerns and the problems in terms of mutual legal assistance treaties or the ability to work jointly and the able to share information or the ability to trace information. Administrative subpoena authority in terrorism cases would be an important tool for the FBI.

Chairman SHELBY. Doctor, it is said by some that Islamic firms, by their very nature, are less likely to engage in money laundering and other illegal acts. What exactly is it about their nature in particular that makes them adverse to such acts, if that is true, and what is the Islamic banking industry's opinion of the Hawala system? It is said that the Islamic banking system can be thought of as bringing people into the sunlight that you mentioned; that is, banking the otherwise unbanked.

Would the further growth of Islamic banking in Muslim communities diminish the influence of the Hawala, or would it make no difference because of Islamic fee structures? What is the picture of Islamic banking today in this country, too? What is the licensing process like? Is it a difficult process to get an application through the OCC, for example, and so forth?

Mr. EL-GAMAL. You have three questions that I counted, sir.

Chairman SHELBY. Yes.

Mr. EL-GAMAL. The first question about Islamic establishments, be they banks or otherwise, are they necessarily more immune to abuse? I do not know that an institution by virtue of calling itself Islamic would necessarily be any more or less vulnerable to abuse by its officers. Islam, like all religions, abhors violence, abhors criminal activity, and so, if it is run truly Islamically, then, it would be more likely to stay away from criminal activities, but I do not know that the label necessarily indicates that it adheres to the spirit of the religion rather than just the letter.

So, I would not make a statement that any institution that claims to be Islamic necessarily by its very nature would have to be more immune. If run properly, it would be, but I would not know that.

The second question was about Hawalas. The Hawala system, as discussed in the media, is an informal money transfer system, but in Arabic, the term is also used for regular wire transfers. So to the extent that Islamic banks provide services for fees, including transferring money across countries as well as within various countries, they exercise a version of Hawala, but it is one that is documented the way it would be documented by other banks.

Would the spread of Islamic banking necessarily then drive the informal Hawala sector out of business I think is a question of cost. For that particular service, the person demanding the service does not care whether they conduct it through an Islamic bank or a regular bank. It is a fee-for-service. They go; they transfer the money; they pay the fee. I think the reason the Hawala system exists primarily for the legitimate purposes of expatriate workers sending

money to support their families, et cetera, is that its cost structure is much more advantageous. It is faster, and it is cheaper.

So, I believe the way to drive the informal Hawala system out of business is to make the formal sector faster and cheaper. There is no way about that; Islamic banks as well as regular banks go through the same channels, and it is still expensive. Driving at least all the legitimate transactions through the formal system would make it a lot easier to catch others.

The third about efforts to establish Islamic banks in the United States; there are not any right now. There has been one attempt to license an Islamic bank, which failed, and I do not know if there are currently applications which are under review, but the general view among providers of Islamic banking is that it is an uphill battle, as well it should be.

I think licensing is the gatekeeper; it is the way to reduce, in economist-speak, adverse selection problems, to make sure that whoever licenses a bank is going to run that bank according to the best standards. So the benchmark should be high. It is difficult. I do not have first-hand information as to whether there is anything prejudicial against it.

I know that Islamic banking products are being offered by regular banks, but there are some services, obviously, that are more difficult than others to offer unless you are licensed as an Islamic bank. I do not know how much demand there is for such an institution. I do not know exactly what the barriers are.

Chairman SHELBY. Thank you.

Senator Sarbanes.

Senator SARBANES. Thank you very much, Mr. Chairman. I want to thank the members of the panel for their very helpful testimony.

Mr. Emerson, I was struck by a statement you made in your statement right at the beginning, and I quote it. "All of the ingredients for a more vastly successful war on terrorism are present but underutilized or artificially compartmented from one another." And then, you go on to mention some of the things, and then, at the end, when we look at your conclusion and go through the steps that you think would be very helpful that you have listed at the end, the very specific steps, which I think is a very important contribution to this discussion, I mean, one is struck by the fact that if you had someone within the executive branch, I do not want to say waves a magic wand but had the backing or the authority and the determination to just drive these things through that they could be put in place on that basis alone.

You would have to knock some heads in order to do it, but there is hardly any legislation that is needed. You might need some additional resources to do some of these things, but I think those would be forthcoming from the Congress.

Would you agree with that perception?

Mr. EMERSON. One hundred percent. I mean, if you were to look at the flow chart of the channels of the relationships now within Treasury all of the myriad different departments, units, that do not have horizontal relationships, let alone the issues of transferring, exchanging intelligence with other agencies, with the FBI, with the CIA, with DHS, it is a vast problem.

And one reason why my organization exists is to basically fill the gap in public source dissemination. But you are 100 percent right. If you have somebody at that higher level who could wave that magic wand, there would not be a need for any kind of requirement for any type of new legislation here. The problem is getting the bureaucracies to give up—and we have seen this in the discussion of the post-September 11 changes, getting existing bureaucracies to give up some of the powers and the budget authority that they might have or to expand the budget authority of some other, higher ranking official that he could command other agencies to share the intelligence and streamline the whole issue of regulatory, prosecutorial, criminal, as well as other remedial actions needed to take on terrorist groups.

Right now, it is a massive Rube Goldberg machine. It works, but it could work a thousand times better.

Senator SARBANES. Let me ask you this question: How centralized is the financing of terrorism, or how decentralized is it? Can you work it back to just a few sources of the funds, or do they spring up as independent operations all over the place? Do you have a perception on that?

Mr. EMERSON. I think it mirrors today the structure of militant Islamic terrorism, which is decentralized, amorphous, nonconnected cells, organizations, clusters of people. It ranges everywhere from a financier in Saudi Arabia named Yassin al-Qadi, whom the United States has designated but Saudi Arabia has never arrested or frozen his assets, to Ahmed Rassam, the millennium bomber, or the involvement of those cells in Madrid that self financed their terrorist operations through criminal fraud or drug dealing.

And so, it ranges all over. That is why it is such a difficult problem, because there is not that one central source, repository from where the money flows. It is coming from all over. It is coming from the top down, and it is coming from the bottom up. And sometimes, would-be terrorists are told that if they want to carry out an operation, "Self-finance it yourself."

Senator SARBANES. Has that always been the case, or is that a new development?

Mr. EMERSON. Relatively new development following one, the breakup of the Al Qaeda structure, because when one looks at Al Qaeda and the bell curve, the highest point of its linear structure was on September 10, 2001. And then, it essentially was forced to disband because of what we did and how they dispersed.

Number two, you have essentially decentralized centers of gravity today of radical Islam around the world that did not exist 10 years ago; it took awhile for them to germinate and ferment. I am looking right now, for example, at a 1998 fatwa by Osama bin Laden. I came across this this morning. I was trying to grab things that would be interesting and relevant to the attacks in Britain, and I found something in one of my British folders, which was a fatwa issued on February 10, 1998, and it was issued out of Britain, and it was a fatwa against the United States to attack U.S. Government and British Government institutions, armies, interests, and airports.

This fatwa called upon all Muslims to carry out attacks, no matter where they were, against the United States and Britain. And

it was signed, interestingly enough, and very disturbingly by more than 40 prominent organizations and Islamic centers in Britain.

And this represents the mainstream here. These were centers that, in part, were funded by Saudi Arabia, but to the extent that Saudi funding has been morphed into U.S. funding or British funding today, it no longer has that connection to Saudi Arabia, and that is a real problem.

Senator SARBANES. Mr. Chairman, could I just ask a question to——

Chairman SHELBY. Go ahead. Take your time.

Senator SARBANES. The GAO stated in a report entitled "U.S. Agencies Should Systematically Assess Terrorist Use of Alternative Funding Mechanisms," issued in November 2003, the following:

> According to the FBI's terrorist financing operation section, most if not all terrorist cases involve a financial aspect known as a funding nexus, which is normally considered to be a component of the overall investigation. The FBI does not currently isolate terrorist financing cases from substantive international terrorism cases, and its data analysis programs do not designate the source of funding for terrorist financing.

Could you comment on that? What about this failure to look at terrorist financing as its own phenomenon against which specific efforts could be directed?

Mr. LORMEL. Well, I think that goes back, and quite frankly, I was the FBI official that they dealt with on that report, and we pointed out to them that we did not have traditional reporting mechanisms or that prior to September 11, there was no mechanism to track.

And even when they came in in 2003, we had not developed that mechanism; I mean, the case tracking as such and did not have the classifications, so we could not give them statistics, but I think what they were looking at more in the context of the overall report were the alternate remittance systems and those types of cases, and that, Senator, is so difficult to really quantify.

Mr. EMERSON. If I could add one thing, one problem is the institutional interests of the agencies doing the investigations. For the FBI, it wants to find a crime under which it can prosecute. And so, it is not necessarily going to investigate a local organized crime in Cleveland that is laundering baby food formula or counterfeit goods without a terrorist nexus, and so, that is left to local law enforcement, to prosecute; they can put some criminals away, but they cannot find a terrorist nexus, and you do not have the marriage there of the interests.

And what you really need is to go back to the first point is to have somebody wave a wand and say we are going to make sure you guys work together, share the intelligence, and force you to go against, necessarily, your narrow institutional interests. If the FBI does not prosecute, then it should go to the Treasury for a designation. But right now, there is too much competition right now and proprietary control over the information.

Mr. LORMEL. If I may just follow up on that, again, I disagree in part, because I think the policy coordinating committee within the Government addresses those issues, and when I was involved, particularly when David Aufhauser was General Counsel at Treasury, we had a pretty good mechanism in place to discuss the best alternatives, and it certainly was not formal. If there would be

something formalized, it probably would work well, Senator. But we did identify which were the best mechanisms: Was it an investigative response? Was it a designation response? Was it an intelligence response and in those cases, we went ahead, and we did that.

But, you know, we have to look at—and going back to your original question, I think terrorist financing, as such, we stood up our operation post-September 11, and it is an incremental process, and all of the concerns that are being raised are very good concerns, and I think mechanisms need to be put in place to ensure that we can come back with the accountability and reportability in those areas, and I also believe that or I would like to believe that those are being addressed and that those mechanisms are being developed. And I know that they have the institutional problems with the overall case management system, so that exacerbates their problem.

Senator SARBANES. Thank you, Mr. Chairman.

Chairman SHELBY. Senator Bunning.

Senator BUNNING. It is fascinating to listen to you gentlemen, because since September 11, the Congress of the United States, the Senate and the House, has cooperated and tried to streamline the ability of our Government to single out those things that you say were missing that are wide open on a daily basis, Mr. Emerson.

Are you telling me why do you not come and tell us exactly what to do if it is so dang easy? Why are we messing it up by creating a Department of Homeland Security or a number one intelligence coordinator for the Government? Why are they not able to focus in on the obvious things that you are able to focus in on?

Mr. EMERSON. In part, Senator, it is because I do not answer to a bureaucratic management, and I am not suggesting that these are "bureaucrats" in any pejorative sense, because the people involved, like Dennis and others and tens of thousands of agents, analysts, and investigators from local law enforcement to Federal are phenomenally dedicated, and the cases they have made are phenomenal.

But stepping back, I can see how agencies do not share; there are bureaucratic rivalries. I can recite case after case that have been stalled out because of the absence of sharing, and I deal with agents and investigators in the field all the time. To a certain extent, they can confide in you more than they can confide in their superiors, because there is nothing that can be done institutionally at this point, unless there is a——

Senator BUNNING. Why?

Mr. EMERSON. Because the nature of bureaucracies is essentially to become reconstituted when there is an external stick, such as the reconstitution of our national security and homeland bureaucracy, and that was DHS. And that was a good faith effort, and I think it has been working out quite well. But I also think we can improve tremendously the issue of the exchange of information and the issue of rationalizing our priorities.

Senator BUNNING. That is what we are trying to do. Where have we failed? Tell us where we have failed.

Mr. EMERSON. I think unfortunately, where we have failed is that there are too many different centers of gravity that have control over the information that they believe——

Senator BUNNING. But we put one person in charge of homeland security. We have put one person in charge of intelligence gathering, so one person is responsible.

Mr. EMERSON. But they are not responsible for all counterterrorism and financial issues, and that is spread over at least five to seven different departments. And those departments, in turn, have different division chiefs and heads, and honestly, they all try to make it work, but in the end, the fact of the matter is that they are operating under different lines of authority. And yes, within DHS they try to rationalize it——

Senator BUNNING. How do you correct it?

Mr. EMERSON. I have made some recommendations. I am not going to come up and suggest I have a panacea here, but I think that one, going back to Senator Sarbanes, perhaps there really is a need for some type of financial intelligence terrorism czar; number two, I think there should be an open source directorate of information, because I think that there is a terrible bias against using open source information. Let me give you a good example: Why is it that my organization, with no more than 10 to 15 analysts, come up with some of these discoveries before some Federal agency with multibillion dollar budgets? Remember that I am not tasked with stopping the next bomb coming across the border or the next airplane that——

Senator BUNNING. But if you stopped their money, you might be.

Mr. EMERSON. You might be, but that is a long range investigation. What we need to do is to detach some of the agents and analysts in the field from that immediate day-to-day struggle with stopping that next terrorist bomb, which is the immediate priority that they are tasked with, and being able to step back and say, all right, I am going to insulate myself from those day-to-day picture and look at that long range pressure and start crunching a lot of data coming in. It will take 6 months to a year before I may come up with anything.

But at the end of that one year, I will come up with all these new link analysis discoveries that will make our lives a lot safer in the next 5 years, and that long range detachment is difficult right now in the environment in which we live, and I am not suggesting it is done out of maliciousness or——

Senator BUNNING. No, I disagree with that, because the fact of the matter is there should be plenty of people that we can task to do that job within a department and task them to do it with open source information. If you know where those terrorist groups have relocated with the same names and the same gathering ability of monies for terrorist groups only different entities, my God, you should be able to put it up on the wall and do it.

Mr. EMERSON. You should be. The only thing I would add is that sometimes, the fear of collecting data that is not actionable or that it does not come under the criminal oversight is a fear sometimes within bureaucracies that they might be accused of invading the rights of Americans by looking at data about where they live and

which is freely available on certain databases that are commercially—

Senator BUNNING. In other words, do you think that maybe the USA PATRIOT Act should be improved on?

Mr. EMERSON. Yes, I do believe that, absolutely.

Senator BUNNING. Mr. Chairman, I think that we should get all the information we can from these three people and hand it over to the Department of Homeland Security and our intelligence czar, who is supposed to be coordinating our fight to stop terrorist financing, because that is the head, and if you kill the head, the body will die.

Chairman SHELBY. You have it right.

Doctor, I would like to ask you another question. Is it Shar'ia, is that what you call it, Shar'ia arbitrage? Your presentation makes it abundantly clear that the tradition underlying Islamic finance is to organize money according to the moral and ethical standards of the Quran. But as I listen to the discussion on all of the layering of transactions, I still see it merely as an avoidance of charging interest in the name of what you call Shar'ia arbitrage.

In order to compete with Western institutions, I read that many Islamic banks stress that taking and paying interest is worse than many other sins. What I am wondering is if the real nature of financial transactions is being thinly disguised, could an unhealthy culture of anxiety and guilt result here? Could this function as another brake on the integration of Muslims into the Western societies that many, you know millions live in now and function in now every day?

Mr. EL-GAMAL. That is a very difficult question. The first part is easier to address. Legal systems evolve with very strange trajectories, and so, while the moral content of the law of usury, which is not only Quranic but also Biblical, that moral tradition was interpreted differently in different traditions, and the vast majority of Muslim jurists adhere to a particular interpretation as to what constitutes interest in what types of contracts.

To the extent that economists like myself or sophisticated financial observers will say, well, this is just relabeling is beside the point. In the religious realm, there is a long history of suspension of reason, that this is religiously accepted because I say so. The important question is the one you posed at the end, would the spread of Islamic banking, in a sense, create an Islamic sub-economy as one writer, Timur Kuran, once wrote an article called "Islamic Economics and the Islamic Sub-Economy."

It would be very dangerous if that were to happen. The history of Islamic banking is not alarming in the sense that the providers of Islamic banking do not have to be Muslim, and the recipients or the customers of Islamic banking do not have to be Muslims. Islamic banks like to advertise that they have customers who are non-Muslims, and certainly, multinational banks like Citigroup, UBS Warburg, Credit Suisse, and so on have been offering Islamic banking.

So the fear that there is this disintegration of Muslims from society because of the spread of Islamic banking may be more theoretical than practical, but it is a point very much worth stressing that integration is important.

Chairman SHELBY. Mr. Lormel, I appreciate your attention here.

As a former leading Federal official in the war on terror financing and one of the fathers of the TFFOS, the Committee would be interested, for the record, in an expansion of your opening comments with regard to SAR's, suspicious activity reports, and currency transaction reports. Industry feels, and we hear from them, unfairly burdened by the reporting requirements, and the problem of defensive filing of SAR's is clearly out of control.

As a retired Federal official with the FBI and currently in private industry, could you provide your thoughts on the value of SAR's and CTR's to the effort of combatting money laundering and terror financing, and have your views on the matter changed? Have they evolved since you entered private practice? In other words, there are thousands of SAR reports coming in now, and how do you differentiate?

Mr. LORMEL. I think my level of sensitivity to the financial sector has changed.

Chairman SHELBY. Sure.

Mr. LORMEL. Particularly understanding their frustrations on some of the issues, but I think it is really a multidimensional——

Chairman SHELBY. And a cost burden on the industry.

Mr. LORMEL. Absolutely. It is one of the factors and clearly one of the principal factors. But I think the defensive filing plays right to the issue of inconsistent regulations or examinations, and I think that, in part, has caused the defensive filing.

But as Stuart Levey pointed out, on June 30, the regulators and FinCen came out with a new manual for examinations, so there has to be a lot of training and an awful lot of interaction between the banking community and the regulators in terms of implementation of the standards in that regard.

But on both sides, I go out and speak at a number of conferences involving bankers, and one of the areas where the Government was absolutely remiss is we did not provide feedback on the value of SAR's. So, I would look to go and talk to the compliance people and those bankers, in particular, who have the issues and concerns. And you need to balance the benefit and burden, and I think that is a very sensitive area, and that is where both sides need to get back together.

But it is critically important to understand that SAR's do play a very important role. The information, particularly now—my former section in TFFOS and what Bill Fox is doing at FinCen in terms of BSA Direct are going to create very robust capabilities in being able to analyze and cull out information from those SAR's that will link directly to terrorism cases or to potential cases that will be critically important, and there is a disconnect, because we do not go back, and particularly in those instances where the SAR was important, we do not go back to the financial institution and say hey, thank you for filing that SAR, because at the end of the day, we were able to do A, B, C, and D as a result.

So that is one of those areas where these needs to be a better middle ground, and I know there is tremendous dialogue between the American Bankers Association and FinCen in particular in dealing with those issues and to a much lesser degree, the Bureau.

When I was involved at the Bureau, we had working groups, and Senator, your concern about were you just dealing with the major banks? At one point, we were, but then, we reached out for mid-size banks and smaller banks to get them involved and find out what associations we needed to deal with. And unfortunately, there is not enough continuity in that process, and there needs to be, and there certainly needs to be a lot more.

Now, the area of CTR's, I know the ABA is looking to have—they do not see the necessity of CTR's being filed, but again, we derive some benefit out of that. I think there is a middle ground that should be looked at, and I think there should be some consensus between financial institutions the law enforcement community and the regulators in terms of the benefits and thresholds

And again, with the bank fraud working groups that exist, I think those issues are being addressed, but it would be certainly an issue that this Committee should look at pretty strongly.

Chairman SHELBY. Thank you.

Senator Bunning, do you have anything else?

Senator BUNNING. I have one more question. Mr. Emerson, so that we do not continue to add to the bureaucracy, I would like for you to write me a nice letter and explain how exactly I can get a czar to do exactly what you want done, in other words, somebody who is above all of the other bureaucrats and is responsible for terrorist financing and the discovery thereof.

Mr. EMERSON. I would be very happy to do so.

Senator BUNNING. Would you do that?

Mr. EMERSON. Without doubt, I will get that to you immediately.

Senator BUNNING. Thank you.

Chairman SHELBY. Gentlemen, thank you for your insights and also for your patience here. The hearing is adjourned.

[Whereupon, at 12:09 p.m., the hearing was adjourned.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

PREPARED STATEMENT OF STUART LEVEY

UNDER SECRETARY, OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE
U.S. DEPARTMENT OF THE TREASURY

JULY 13, 2005

Chairman Shelby, Ranking Member Sarbanes, and other distinguished Members of the Committee, thank you for the opportunity to speak before you today about terrorist financing and money laundering in the Middle East. I welcome this Committee's ongoing focus on this pressing topic, and your dedication to help stop the flow of funds to our Nation's enemies.

This hearing comes less than a week after the terrible attacks in London and I would like to express my sincerest condolences to the families of the victims. The brave resolve that the British people have shown resonated around the world in defiant response to cowards who seek to disrupt our very way of life. These acts of terror serve as a tragic reminder that our resolve to combat terrorism and terrorist financing must not waver.

As I approach the end of my first full year as Under Secretary of the Office of Terrorism and Financial Intelligence at the Treasury Department, I am constantly assessing our progress in the fight against the financing of terrorism. To be sure, we have achieved some important successes in this fight. We can point to multiple successes which reflect the excellent coordination and teamwork of all U.S. Government agencies over the past year. Thanks to the State Department's leadership and concerted work with us, we are witnessing a growing consensus in the world about the need to address terrorist financing in tangible ways. We have seen the culmination of a number of critical prosecutions investigated by the FBI-led Joint Terrorism Task Forces and prosecuted by the Department of Justice, as I will discuss later in this testimony. We at Treasury have designated numerous supporters of terrorism—including particularly significant figures such as Adel Batterjee—acting in close coordination with our interagency and international counterparts. We have used Section 311 of the USA PATRIOT Act judiciously and effectively against primary money laundering concerns, and we are seeing real results. One of the most promising developments is the President's issuance of Executive Order 13382, which applies the same methods we have used successfully to block assets of terrorist supporters to those who aid in the spread of weapons of mass destruction. Our other interagency partners—especially in the intelligence community—are constantly working to stem the tide of terrorist financing, with little glory or recognition for their tireless efforts. Our collective drive to hold financial supporters of terror personally responsible as terrorists is creating the desired pressure and deterrence. In the end, we are starting to see encouraging results: Terrorist groups like Al Qaeda and Hamas are feeling the pinch and do not have the same easy access to funds that they once did.

Our most significant progress has been in bringing about a change in mind-set. There is now near-unanimous recognition among nations that terrorist financing and money laundering pose threats that cannot be ignored and there is widespread agreement upon a shared set of standards to combat these dangers. We will not accept the protest that ideological differences or bureaucratic obstacles excuse nations from the obligation to comply with global standards. As we were all brutally reminded by the attacks in London last week, we are facing a global threat with global implications. All civilized nations must meet their basic responsibilities to prevent the financing and support of terrorism.

At the same time, we recognize that the range of threats and institutional frameworks across different countries necessitates flexibility and a range of approaches. We cannot apply a "one-size-fits-all" approach to terrorist financing, nor can or should we try to force countries to adopt a "U.S. model." So long as internationally established principles are given real effect, in law and in practice, there is room for a variety of approaches. Indeed, we learn from the successes and failures of others. Each country and institution presents unique challenges that require nuanced solutions.

The Middle East rightfully captures our attention at Treasury, and in the interagency community, as it is both a well-spring of and a target for terrorist financiers and those who spread extremist ideologies that justify and fuel terrorism.

Terrorism is increasingly targeted at innocents in the Middle East. Recent terrorist attacks in Turkey, Morocco, Saudi Arabia, Kuwait, and Qatar should be impetus to drive change throughout the region. Where the threat of terrorism does not generate the will to take effective action, however, my office, working in close cooperation with all of our interagency counterparts, will push for action.

It would not be feasible to include a complete catalogue in this testimony of all of our engagements in multilateral forums and bilateral discussions with respect to terrorist financing in the Middle East. Instead, I would like to try give the Committee a general description and some examples that show how we are simultaneously (1) driving the adoption and implementation of common global standards to prevent terrorist financing and money laundering, and (2) pressing individual countries and the private sector to do more to combat the terrorist threat we all face.

Common Approaches

In our common approach to the Middle East, one important objective is to persuade each country to attach the necessary priority to anti-money laundering and counter-terrorist financing. This is not only important from an enforcement perspective, but also a prerequisite for any country looking to attract international business and investment. For the most part, countries are increasingly recognizing this and looking to comply with global standards and reassure international businesses and investors.

I made a trip to Libya last month, representing the highest level delegation to visit that country since the lifting of sanctions eleven months ago. While there, I met with Colonel Qadhafi, the Central Bank Governor, and the Minister of Finance and pressed Libya to adopt anti-money laundering and counter-terrorist financing reforms as it attempts to emerge from isolation and engage increasingly in the world's financial community. The Libyan financial sector is in its infancy, but as it develops, I conveyed that the United States expects anti-money laundering and terrorist financing initiatives to be high on their agenda as part of an overall counterterrorism strategy.

We are also seeing that countries are responsive to the type of pressure that comes from international standard-setting bodies. The Financial Action Task Force (FATF) sets the global standards for anti-money laundering and counter-terrorist financing, and it is also through this venue that we promote results. Treasury, along with our counterparts at State, Justice, and Homeland Security, has taken an active role in this 33-member body which articulates international standards in the form of recommendations, guidelines, and best practices to aid countries in developing their own specific anti-money laundering and counter-terrorist financing laws and regulations. FATF maintains the authority and has demonstrated its willingness to take collective actions against jurisdictions that pose a threat to the financial system. We do our part to promote the multilateral effect of FATF standards through focused bilateral engagement.

As an example, I recently visited Turkey to speak with the Finance Minister, Justice Minister, and several other high-level members of the Turkish Government. While Turkey is not part of what we generally refer to as the Middle East, its geographic location—bordering on Syria, Iran, and Iraq—makes it an important part of our strategy when we think about the threat of terrorism emanating from the Middle East. Turkey has been a key NATO ally and has a long and painful history of fighting terrorism within its borders. I expressed our appreciation for the close cooperation we have enjoyed with the Turkish Government in combating terrorism and in many other areas. However, as a FATF member since 1991, Turkey's current anti-money laundering and counter-terrorist financing regimes need significant improvement. Turkey is looking to address these issues, and I encouraged Turkey to redouble its efforts to comply with FATF standards in advance of its mutual evaluation scheduled for early next year. Turkey is too important a partner to us, and too important a regional power to let its anti-money laundering and counter-terrorist financing regimes fall out of step. We look forward to seeing Turkey succeed in its reform efforts over the coming months.

Although not a member of FATF, Jordan, another regional ally, is working hard to bring its anti-money laundering and counter-terrorist financing practices up to international standards. The government has submitted a new AML law to the Parliament, which may consider it in its extraordinary session this summer. I visited Jordan this past February in large part to encourage them to pass this law and implement it as quickly as possible. These steps will inure to their own economic benefit—bolstering the health and attractiveness of their financial sector—while also aiding in the global fight against terrorist financing. Given Jordan's prominent role in the financial sector of the West Bank and Gaza, these improvements are also important to reduce the potential for terrorist financing in those areas of strategic concern.

The success and force of FATF lie not only in the mutual evaluation process to which it holds its own members, but also in the emergence of FATF-style regional bodies (FSRB's) that agree to adopt FATF standards and model themselves accordingly on a regional level. The Middle East and North Africa body, or "MENA FATF"

is one of the newest and potentially most effective organizations to emerge. Launched in November 2004, this 14-member body held its first plenary session in Bahrain in April 2005 and is preparing for its second plenary session in September of this year, currently scheduled to take place in Beirut. It remains too early to tell how effective MENA FATF will be, but the indications so far demonstrate considerable enthusiasm and energy. This body is already working on a process to assess its members for compliance with international standards and have formed working groups to address key issues like cash couriers, charities, and hawala. We support this initiative and hope that it will succeed on the difficult road that lies ahead of it.

The Egmont Group is an international body comprised of financial intelligence units (FIU's) across the globe. It is another example of a body that demands that its members comply with certain standards and maintain those standards over time. Treasury's Financial Crimes Enforcement Network is currently working closely with Saudi Arabia, Jordan, and Kuwait to develop their FIU's; we have seen some progress to date and are eager to see it develop further.

Implementation

Adoption of legislation and regulations is meaningless without strong and effective implementation. Some countries, eager to curry favor with their neighbors or the international community, may believe that adopting an anti-money laundering and counter-terrorist financing law will keep observers at bay. Such half-steps will neither fool nor satisfy the United States and the international community. We will continue to press for effective implementation, including investigations, prosecutions, designations, and other demonstrable actions.

Private Sector

Collective pressure to implement international standards has been effective in the drive to bring countries on board with anti-money laundering and counter-terrorist financing efforts. At the same time that we are pressing at the government level, though, we are also working with the international private sector. The potential, both for information exchange and for combating the flow of illicit funds, is enormous. As but one example, we have seen financial institutions in the Middle East and elsewhere voluntarily checking accountholders and transactions against Treasury's list of designated entities, as well as other lists, and using that information to determine whether or not to take on business or process a transaction. This means that the rigorous efforts by Treasury and the U.S. Government to identify and isolate key sponsors of terrorism, as well as sponsors of weapons proliferation, are being given wide effect in private banks in the Middle East and the world.

We have also solicited the cooperation of some of the larger and more responsible financial institutions to advocate for reforms among their colleagues and in their various host countries. These institutions typically exhibit diligent anti-money laundering and terrorist financing practices even when their host countries do not require it. This puts these institutions at a competitive disadvantage vis-a<k-vis institutions that are less conscientious. Furthermore, these institutions are forced to take measures to protect themselves when doing business with financial institutions in countries with weak anti-money laundering and counter-terrorist financing regimes. We therefore believe that it is in the interest of more responsible institutions to create a momentum for reform among their colleagues, not just in the Middle East but worldwide.

Alternative Financing Methods

One effect of U.S. and international action against terrorist financiers has been to push supporters of terrorism out of the formal financial system and into riskier, more expensive, and more cumbersome methods of raising and moving money, such as cash couriers, charities, and hawala. While this hearing is not focused on alternative financing methods, I wanted to give the Committee a brief overview of our work in these areas.

Charities

Terrorist groups have long exploited charities for several key reasons, including the following:

- The "legitimate" activities of these charities, such as the operation of schools, religious institutions, and hospitals, can—if abused—create fertile recruitment grounds, allowing terrorists to generate support for their causes and to propagate extremist ideologies.
- Charities attract large numbers of unwitting donors along with the witting, thus increasing the amount of money available to terrorists.

- To the extent that these charities provide genuine relief, which nearly all of them do, they benefit from public support and an attendant disinclination by many governments to take enforcement action against them.
- Charitable funds are meant to move in one direction only; accordingly, large purported charitable transfers can move without a corresponding return of value and without arousing suspicion.
- International charities naturally focus their relief efforts on areas of conflict, also prime locations for terrorist networks. Such charities provide excellent cover for the movement of personnel and even military supplies to and from high-risk areas.

The U.S. Government has confronted this problem head on in a coordinated manner. We have thus far designated more than 40 charities worldwide as supporters of terrorism. Two notable examples are our actions against the U.S. branches of the Al Haramain Islamic Foundation and the Islamic African Relief Agency (IARA), both Al Qaeda-linked charities that were operating in the United States. In both cases, law enforcement agents executed search warrants while Treasury's OFAC simultaneously blocked the organizations' assets, stopping the flow of money through these groups. Thanks to the work of the State Department, we have persuaded other nations to join us in bringing these and other charities to the United Nations Security Council for designation, and to shutter these dangerous organizations in their respective countries.

Designations and law enforcement actions are making an impact and are serving as a valuable deterrent. Anecdotal evidence suggests that once-willing donors are now thinking twice or balking altogether at sending money to terrorist groups. In this regard, I would note that one advantage we enjoy in the terrorist financing arena is the strength of deterrence—our targets have something to lose. In contrast to terrorist operatives who may be willing to die for their hateful cause, terrorist financiers typically live public lives with all that entails: property, occupation, family, and social position. Being publicly identified as a financier and supporter of terror threatens an end to all of this, lending our actions a real deterrent impact.

Hawala

Hawala, a relationship-based system of money remittances, plays a prominent role in the financial systems of the Middle East. Domestically, we have worked with our interagency partners to ensure that money service businesses like hawalas, register with the Financial Crimes Enforcement Network and comply with applicable anti-money laundering provisions. On the one hand, we are reaching out to this sector to educate businesses about their legal obligations. Enforcement of the USA PATRIOT Act's criminal provisions against operating an unlicensed money service business also plays a key deterrent role. Just this week, an ICE investigation led to a guilty plea by an unlicensed money service business, who had sent millions of dollars to Syria and other countries. While we are making progress, the effective regulation of money service businesses continues to present a significant challenge. Internationally, Treasury leadership in the FATF has brought the issue of hawala to the forefront, resulting in the implementation of FATF Special Recommendation VI, which requires all FATF countries to ensure that individuals and entities providing money transmission services must be licensed or registered, and subjected to the international standards set out by FATF. Regionally, the UAE is playing a key leadership role on this issue. We will continue to insist that hawala be subjected to appropriate regulation and oversight.

Cash Couriers

As governments apply stricter oversight and controls to banks, wire transmitters, and other traditional methods of moving money, we are witnessing terrorists and criminals resorting to bulk cash smuggling. FATF Special Recommendation IX was issued in late 2004 to address this problem and it calls upon countries to monitor for cross-border transportation of currency and to make sanctions available against those who make false declarations or disclosures in this regard. This recommendation has already prompted changes in legislation abroad. On the domestic front, Treasury is working with the interagency community, particularly the Department of Homeland Security's Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), to deter, disrupt, and apprehend cash smugglers. We are also looking into technologies that will allow us to detect secreted concentrations of cash, as well as tools that will allow us to track the movement of physical cash around the world.

Case Studies

Syria

As a serious national security threat and a state sponsor of terrorism, Syria has been the object of targeted Treasury action for some time. Syria continues to meddle in Lebanon's affairs, allows the Iraqi insurgency to be partially funded and fueled from within its borders, and allows terrorist organizations and supporters to flourish there as well. At Treasury, we are addressing this threat with a spectrum of targeted actions aimed at reversing this course.

On June 30, we designated Ghazi Kanaan, the current Syrian Minister of Interior, and Rustum Ghazali, the Chief of Syrian Military Intelligence for Lebanon pursuant to E.O. 13338 for their role in supporting Syria's military and security presence in Lebanon and support for terrorism. This was a very important first step at identifying high-level Syrian officials who are interfering in Lebanon's political developments. With respect to the Iraq insurgency, in January of this year, we designated the Syria-based supporter of Abu Mus'ab al-Zarqawi, Sulayman Darwish, pursuant to E.O. 13224 for acting as one of Zarqawi's operatives in Iraq and serving on his Advisory Council. The Syrian Government joined us in codesignating this individual at the United Nations pursuant to UNSC 1267. On June 17, we designated Muhammad Yunis Ahmad, pursuant to E.O. 13315, for providing funding, leadership and support from his base in Syria to several insurgent groups that are conducting attacks in Iraq. We also designated the Syria-based SES International Corporation and two associated individuals, General Zuhayr Shalish and Asif Shalish pursuant to E.O. 13315 for their support to senior officials of the former Iraqi regime. SES acted as false end-user for the former Iraqi regime and facilitated Iraq's procurement of illicit military goods in contravention of UN sanctions. Finally, President Bush specifically designated Syria's Scientific Studies Research Center (SSRC) as one of the eight entities (the others were in North Korea and Iran) designated pursuant to the newly issued Executive Order 13382, which blocks the property of proliferators of weapons of mass destruction and their supporters. SSRC is the Syrian Government agency responsible for developing and producing nonconventional weapons and the missiles to deliver them. While it has a civilian research function, SSRC's activities focus substantively on the acquisition of biological and chemical weapons.

Separately, in May of last year, we issued a proposed rule, designating the Commercial Bank of Syria (CBS) as a "primary money laundering concern," pursuant to Section 311 of the USA PATRIOT Act. The designation was premised on concerns about financial wrongdoing at that bank, including terrorist financing. In connection with the proposed rule, we presented a series of demands to Syrian authorities, ranging from reform of their banking sector to immediate, effective action to cut off the flow of funds across the Syrian border to the Iraqi insurgency.

We will continue to use the tools available to us to press Syria to take concrete actions to address our concerns.

Saudi Arabia

We have pursued a strategy of sustained pressure and cooperation with Saudi Arabia to address a number of challenges. This Committee is by now well-aware that Saudi Arabia has increased its counter-terrorism cooperation since the Riyadh bombings in May 2003, marked by ever more intense Saudi efforts to confront directly violent extremism in the Kingdom. The Committee is also well-aware that the challenges posed by terrorist financing from within Saudi Arabia are among the most daunting we have faced. Wealthy Saudi financiers and charities have funded terrorist organizations and causes that support terrorism and the ideology that fuels the terrorists' agenda. Even today, we believe that Saudi donors may still be a significant source of terrorist financing, including for the insurgency in Iraq.

Saudi Arabia-based and funded organizations remain a key source for the promotion of ideologies used by terrorists and violent extremists around the world to justify their hate-filled agenda. The Saudi Government has taken seriously the threats posed to both the Kingdom and the United States by all of these issues, and we have worked with and offered guidance to help confront the real threat of terrorist support. As a result, among other things, the Kingdom has made changes to its charitable system and regulations to address certain vulnerabilities. This progress is the result of focused interagency attention and cooperation, led by Homeland Security and Counterterrorism Advisor Frances Fragos Townsend's consistent and direct outreach.

However, Saudi Arabian charities, particularly the International Islamic Relief Organization (IIRO), the World Association of Muslim Youth (WAMY), and the Muslim World League (MWL) continue to cause us concern. The Kingdom of Saudi Ara-

bia announced that it would freeze all international transfers until it had established an oversight commission to regulate its charitable sector. While that would represent a satisfactory short-term solution if implemented fully, it is important that the announced commission take shape. As we have stated previously to our Saudi counterparts, these three charities must fall under the commission's oversight. I recently conveyed my views on these issues to Saudi officials, and was met with positive indications that they wish to redress these lingering concerns. I will keep this Committee informed of progress in this area.

At the same time, it must be noted that there have been real and tangible improvements in Saudi Arabia's cooperation on terrorism financing issues. Through the Joint Terrorist Financing Task Force (JTFTF), we have built the foundation for consequential and timely information exchange as well as selected joint action. We expect to continue building on the initial success of the JTFTF and look forward to broadening the cooperation in that area. In fact, the preliminary success of the JTFTF has prompted us to consider applying a similar model to our efforts elsewhere in the Gulf.

Our work on cash couriers offers another example of the need for continuing work with Saudi Arabia. Cash couriers present a serious danger, particularly because of their use to fund the deadly insurgency in Iraq. It is critical that Saudi Arabia and other Gulf countries lower reporting thresholds for cross-border transfers of cash and enforce these provisions aggressively. We intend to work with Saudi Arabia and others in the Gulf to pursue that goal.

Palestinian Territories

With respect to the Palestinian territories, we continue to grapple with the problem of charities being abused to support terrorism. Groups such as Hamas, Palestinian Islamic Jihad (PIJ), and others have infiltrated the charitable sector in the territories and have corrupted badly needed relief organizations. We have been very aggressive in acting against such charities. Most recently, Treasury designated a PIJ charitable front, the Elehssan Society on May 4. The Elehssan Society served as the fund-raising arm of PIJ in Gaza and the West Bank and distributed funds to the families of PIJ prisoners and suicide bombers. Just this February, PIJ claimed responsibility for a terrorist attack in Tel-Aviv that killed 5 and wounded over 50. We will continue to pursue this organization and any that rise up to take its place. The Justice Department has played a vital role in this arena. In April, for example, the Department of Justice secured the conviction of three brothers linked to the Holy Land Foundation for their conduct in concealing the continuing ownership interests of Hamas leader Mousa Abu Marzook in their closely held private company.

We recognize that enforcement actions have sometimes cut off sources of relief to communities in need and inadvertently decreased the support of charities and donors that deliver funds to legitimate causes. Our goal is not to deter charitable giving but instead to protect the charitable sector such that donors' generosity is not abused and they feel safe in providing their contributions. Therefore, there is therefore a particularly urgent need in this region for safe channels of assistance that donors can be assured will not be subverted by terrorists. When I traveled to the region in February, I discussed this problem with both Israeli and Palestinian officials. In speaking with President Abbas and in several follow-up meetings with Finance Minister Fayyad, I noted serious commitment on their part to cutting off the flow of funds to terrorism, and welcomed the message they expressed that responsibility for accountable financial systems begins with the government. The Israelis were also strongly of the view that it would be advantageous for all involved to find a way to provide needed humanitarian aid, outside the control of Hamas or any other terrorist group. We are currently working with the Palestinian Authority to develop options through which such aid could be provided in a safe and effective manner.

Conclusion

To combat terrorist financing and money laundering over the long-term, we are vigorously and effectively promoting international standards and encouraging countries in the Middle East to adopt appropriate legislation and to implement those laws. We are also taking the necessary actions to build political will at the highest levels of every government to combat the financing of terrorism. Still, we have a long way to go in the battle against terrorist financing in the Middle East, both in terms of robust implementation of those standards and in responding to specific threats and circumstances. Thank you again for holding this hearing and for your sustained commitment to this topic. I would be happy to take your questions.

PREPARED STATEMENT OF E. ANTHONY WAYNE

ASSISTANT SECRETARY FOR ECONOMIC AND BUSINESS AFFAIRS
U.S. DEPARTMENT OF STATE

JULY 13, 2005

Mr. Chairman, distinguished Members of the Committee, thank you for the opportunity to discuss with you the contribution of the Department of State to U.S. Government efforts to combat money laundering and the financing of terrorism in the Middle East and South Asia. My colleague, Ambassador Nancy Powell, Acting Assistant Secretary for the Bureau of International Narcotics and Law Enforcement Affairs is also here, and she can answer any questions on money laundering that you may have. Combating money laundering and the financing of terrorism are vital tasks and high priorities for the Department of State. Your interest and attention to this key area is extremely valuable and much appreciated.

The main theme that you will hear throughout my presentation today is that we have made significant strides at bolstering the political will and ability of governments in the Middle East and South Asia to act against the common threat of terrorism and the financing of terrorism but that we need to do more. We face a resilient, adaptable and ruthless foe and must constantly anticipate and help the countries of these key regions prepare for the next move before it happens. This is why your hearing today is especially important.

Mr. Chairman, your letter to the Secretary noted that your Committee is particularly interested in the Department of State's perspective on the interagency effort to execute this component of the war on terror. I have been working on the U.S. Government's campaign against terrorist finance since right after September 11, 2001 and agree with the September 11 Commission's view that the current interagency structure has improved the coordination and effectiveness of our ability to block funds to terrorists. Our efforts to combat terrorist finance serve many objectives and employ many tools. My goal today is to sketch for you the role the Department of State plays in the overall interagency process that aims to strike the right balance of priorities and use the right mix of tools in our efforts to keep funds out of the hands of terrorists in the Middle East and South Asia.

Tracking Terrorist Finances

The two major policy strategies utilized by the Administration in the terror finance area are: Freezing the assets of terrorist financiers and using information about terrorist financiers to disrupt the terrorist networks themselves. As terrorists largely operate internationally, a key component of the fight is to build international cooperation. To achieve this goal, our approach has been to draw as appropriate on a wide range of flexible policy tools, including:

- Bilateral and multilateral diplomacy;
- Law enforcement and intelligence cooperation;
- Public designations of terrorists and their supporters for asset-freeze actions;
- Technical assistance; and
- Concerted international action through multilateral organizations and groups, notably the Financial Action Task Force on Money Laundering (FATF) and the United Nations.

Effective diplomacy is a key element in winning the political commitment from which cooperation in other areas flows. Our diplomats are the overseas eyes, ears, and voices of the U.S. Government in dealing with foreign governments and financial institutions on terrorism finance. Our diplomats meet additional responsibilities in the many countries where we have no resident legal or Department of Treasury attaché. With enhanced cooperation, intelligence and law enforcement officers are able to follow the money trail. With international cooperation on asset-freezes (as well as travel bans and arms embargoes under UN resolutions), we force terrorists into less reliable and more costly means of moving money. Designations also chill support for terrorism—it is one thing to write a check or transfer money to terrorists when no one is looking; it is quite another to realize that such actions can bring unwanted official attention and lead to prosecution. Public identification of charitable groups that funnel some of their donations off to support terrorists has also proven a powerful tool to discourage further donations and to encourage other governments to monitor more effectively the activities of nongovernmental organizations.

Since September 11, we have ramped up our efforts and made substantial progress. We also acknowledge that much remains to be done. Since September 11, 2001, we have:

- Developed a broad and strong international coalition against terrorist financing;
- Ordered the freezing of the U.S. assets of 400 individuals and entities linked to terrorism;
- Submitted and supported the submission by other countries, including Saudi Arabia and several of our other Middle Eastern partners, of over 300 Al Qaeda- or Taliban-linked names to the UN 1267 Sanctions Committee (also known as the Al Qaeda/Taliban Committee) for sanctions, including asset-freezing, thereby requiring all countries to act against these names;
- Worked closely with concerned agencies to designate three financiers of the Zarqawi network, or Al Qaeda in Iraq, since the beginning of 2005 pursuant to E.O.13224. The designations of Bilal Mansur al-Hiyari on April 13, 'Ayyad al-Fadhli on February 15, and Sulayman Kahlid Darwish on January 25 are helping stem the funding of the Iraqi insurgency;
- Designated Jama'at al-Tawhid wa'al-Jihad (JTJ) both as a Foreign Terrorist Organization and separately under E.O. 13224 on October 15, 2004 for having ties to the al-Zarqawi network. At the request of the United States, the United Kingdom, Jordan, and Iraq, this organization was also listed by the UN 1267 Sanctions Committee on October 18. On November 30, the USG amended the previous designation of Jama'at al-Tawhid wa'al-Jihad (JTJ), to include its new alias Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn and all its possible translations. On December 2, Japan, joined by the United Kingdom and Germany, submitted to the Sanctions Committee the new alias Tanzim Qa'idat al-Jihad fi Bilad al-Rafidayn and all its possible translations and transliterations. The USG fully supported those efforts.
- Designated charities funding Hamas for asset freeze; and taken action against Saudi terrorism financiers and financial support networks;
- Frozen approximately $147.4 million and seized approximately $65 million in assets located internationally, including in the United States;
- Through our embassies, formally approached world governments internationally to freeze the assets of each and every name we designate;
- Supported changing national laws, regulations and regulatory institutions around the world to better combat terrorist finance and money laundering; including working with the European Union, APEC, the Organization of American States, and the Financial Action Task Force and their Members to strengthen their counterterrorism finance regimes; and
- Made it harder for terrorists and their supporters to use both formal and informal financial systems.

Effective U.S. Government Coordination

Key to our success in tackling terrorism finance in the Middle East and worldwide is effective U.S. interagency coordination. A Policy Coordination Committee (PCC), chaired by the National Security Council, ensures that these activities are well-coordinated. This strong interagency teamwork involves the intelligence agencies and the law enforcement community, led by the FBI, as well as State, Treasury, Homeland Security, Justice, and Defense collectively pursuing an understanding of the system of financial backers, facilitators and intermediaries that play a role in this shadowy financial world. As appropriate, PCC members also draw on the expertise of financial regulators. The overarching lesson I draw from my experience since September 11 is the importance of overall direction of the terrorist finance effort by a body that can direct all of the USG participants in the process to find the right blend of instruments to use on a case-by-case basis. The NSC is ideally placed to play this coordinating role against terrorist finance, as it has traditionally done in other national security areas.

Treasury develops and coordinates financial packages that support public designations of terrorists and terrorism supporters for asset freeze action. Treasury also leads our outreach to FATF and the international financial institutions. Justice leads the investigation and prosecution in a coordinated campaign against terrorist sources of financing. And, State initiates asset-freeze designations of terrorist groups and shepherds the interagency process through which we develop and sustain the international relationships, strategies and activities to win vital international support for and cooperation with our efforts, including through UN action. These efforts include the provision of training and technical assistance in coordination with Justice, Treasury, Homeland Security, and the financial regulatory agencies. The U.S. Government's task has been to identify, track, and pursue terrorist financing targets and to work with the international community to take measures to thwart the ability of terrorists to raise and channel the funds they need to survive and carry out their heinous acts.

Our diplomatic posts around the world are essential partners in implementing this global strategy. They have each designated an official, generally the Deputy Chief of Mission, as the Terrorism Finance Coordination Officer (TFCO). These officers chair interagency meetings at posts on a regular basis, not only to evaluate the activities of their host governments, but also to develop and propose individual strategies on most effectively getting at specific targets in their regions. The increased level of interagency cooperation we in Washington are seeing on this front is generating new embassy initiatives focused sharply on terrorist finance. The ability of diplomats at our embassies to develop high-level and immediate contacts with host officials in these efforts has built broad responsiveness around the world to various targeting actions.

U.S. Asset Freezing (E.O. 13224) Actions

One of our tools to prevent terrorism is to starve its practitioners of financial resources. A key weapon in the effort to disrupt terrorist financing has been the President's Executive Order (E.O.) 13224, which was signed on September 23, 2001. That order, issued pursuant to the International Emergency Economic Powers Act and other authorities, provided new authorities that have been fundamental to an unprecedented effort to identify and freeze the assets of individuals and entities associated with terrorism. Under that order, the Administration has frozen the assets of 400 individuals and entities on 65 separate occasions. The agencies cooperating in this effort are in daily contact, examining and evaluating new names and targets for possible designation resulting in asset freezing. However, our actions in relation to E.O. 13224 are not taken in isolation. We consider other actions as well, including developing diplomatic initiatives with other governments to conduct audits, exchange information on records, law enforcement and intelligence efforts; and shaping new regulatory initiatives. While using E.O. 13224 to designate entities and organizations as "specially designated global terrorists" is the action that is most publicly visible, it is by no means the only action or the most important in seeking to disrupt the financing of terrorism.

Foreign Terrorist Organizations

A second tool the Secretary of State has in the war on terrorist finance is the designation of Foreign Terrorist Organizations (FTO). The Congress gave the Secretary of State this authority in 1996, and 40 organizations are currently designated as FTO's. In addition to requiring the freezing of FTO assets by U.S. financial institutions that know they control or possess FTO funds, this authority renders FTO members who are aliens inadmissible to the United States, and permits their removal under certain circumstances. Once an organization is designated as an FTO, it becomes a criminal offense to knowingly provide material support or resources to the organization. Offenders are subject to prison terms of up to 15 years (or, if death results from the offense, life imprisonment). The designation of groups under this authority is one of the steps most widely recognized by the American public in the war on terrorism and terrorist finance.

United Nations Actions

Even before September 11, the UN Security Council (UNSC) had taken action to address the threat of terrorism. It had adopted resolutions 1267 and 1333, which collectively imposed sanctions against the Taliban, Osama bin Laden and Al Qaeda. Following September 11, the UNSC stepped up its counterterrorism efforts by adopting Resolutions 1373 and 1390. Among other things, Resolution 1373 requires all states to prevent and suppress the financing of terrorist acts and to freeze the assets of terrorists and their supporters. It also imposes travel restrictions on these individuals. Resolution 1390 (strengthened by Resolutions 1455 and 1526) expanded sanctions, including asset freezes, travel restrictions, and arms embargos, against Osama bin Laden, and members of the Taliban and Al Qaeda and those associated with them. The UN 1267 Sanctions Committee maintains and updates a list of individuals and entities subject to these sanctions, which all states are obligated to implement.

Through these actions, the UNSC has sent a clear and strong message underscoring the global commitment against terrorists and their supporters and obligating UN Member States to implement asset freezes and other sanctions. This is extremely important, because: (1) most of the assets making their way to terrorists are not under U.S. control; and (2) when the 1267 Sanctions Committee designates individuals or entities associated with Al Qaeda, all 191 UN Member States are obligated to implement against those persons the applicable sanctions, which include asset freezes. The 1267 Sanctions Committee has listed over 300 persons and over 100 entities that are subject to the sanctions. With respect to South Asia, we re-

cently convinced the UN 1267 Sanctions Committee to list Pakistani supporters of Al Qaeda for worldwide asset freeze and travel ban.

In January, then-Treasury Assistant Secretary Zarate and I met with the 1267 Committee to detail U.S. implementation of the resolution's asset freeze, travel ban, and arms embargo provisions. At this meeting I proposed several ideas aimed at reinforcing current sanctions, including enhancing the sanctions list, promoting international standards, and furthering bilateral and multilateral cooperation. The Committee is actively encouraging other members to make similar presentations. In mid-May, the UK addressed the Committee on their implementation efforts, with an emphasis on oversight of charitable organizations. In July, Dutch and Australian officials addressed the Committee on their implementation efforts. We have also begun initial discussions with other Security Council Members on further steps to strengthen the implementation and reach of these UN sanctions in the context of a new resolution that the Council will consider this month; the United States is taking the lead in drafting that resolution.

In those cases where the U.S. Government decides to propose the inclusion of a terrorist and/or the terrorist's financier on the 1267 Committee list, State plays a key role in recommending how best to gain the broadest international support. First, we need to be sure that we can make an effective public case. This is much more difficult and time-consuming than it sounds—but is crucial to the success of this approach. Often, strong cases are based heavily on classified information, and we must weigh competing priorities. If we go to the UN to propose a designation and the unclassified information standing alone is weak, other Member States will not support us. On the other hand, there are often compelling reasons not to declassify further information. The Department and our embassies help the interagency team strike the right balance by providing advice and insights on what it will require for a designation to gain international approval. Once a designation proposal is decided, the Department seeks international support in the form of potential cosponsors and must garner unanimous support from members of the UN Committee. When a new name goes onto the Committee's list, we bring it to the attention of world governments to ensure that they are able to take effective and quick action against the designee.

Improving National Laws, Regulations, and Standards

In addition to advances on the UN front, we have witnessed considerable progress on the part of countries around the world to equip themselves with the instruments they need to clamp down on domestic terrorist financing. Since September 11, about 90 countries in every region of the world, including the Middle East and South Asia, have either adopted new laws or regulations to fight terrorist financing or are in the process of doing so. This is an ongoing process with many countries refining their laws and regulations to assure they have all of the tools needed to combat terrorist financing.

To ensure that these new laws and regulations are effective, the United States has worked very closely with the Financial Action Task Force (FATF), a multinational organization whose 33 members are devoted to combating money laundering. In 2003, FATF revised its 40 Recommendations to combat money laundering to include terrorist financing provisions. These Recommendations along with the complementary Special Recommendations on Terrorist Financing, adopted in 2001, provide a framework for countries to establish a comprehensive regime to fight money laundering and terrorist financing. The two guiding principles the FATF has identified as critical to fighting terrorist finance are cooperation with the UN (respecting, ratifying, and implementing antiterrorist treaties and resolutions) and identifying, defining, and criminalizing terrorist financial activity.

The FATF continues to provide critical guidance on the development of comprehensive regimes to attack the full range of financial crimes, including terrorist financing. In October 2004, the FATF added Special Recommendation IX on terrorist financing (to those approved in 2001), addressing the problem of cash couriers. It also continues its efforts to clarify and refine these Special Recommendations by publishing interpretive notes and best practices guidelines to help regulators, enforcers, financial institutions, and others better understand and implement the most technical recommendations. The FATF has also worked closely with the IMF and World Bank to develop a common methodology to incorporate FATF's Recommendations into the financial sector reviews that all three entities undertake.

The FATF-Style Regional Bodies (FSRBS) worked throughout the year to adapt the Recommendations to their particular regional requirements. The FATF approved two new FSRBS in 2004, (bringing the total to eight FSRBS): The Eurasian Group (EAG) and the Middle East and North African Financial Action Task Force (MENA FATF). These two new groups filled in critical gaps in global coverage, and

the United States is an observer in both. The EAG was inaugurated on October 6, 2004 by six member states: Belarus, China, Kazakhstan, Kyrgyz Republic, Russia, and Tajikistan. Seven jurisdictions and nine international organizations were admitted as observers. EAG's second plenary was held just this past April in Shanghai, China. The fourteen founding members of MENA FATF are Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the UAE, and Yemen. The group was inaugurated on November 29, 2004, and held its inaugural plenary meeting the next day. Another plenary session was held in mid-April in Bahrain at which the MENA FATF agreed to begin the first round of mutual evaluations in 2006.

FATF is also working cooperatively with the UN Counterterrorism Committee (CTC) and the G–8-initiated Counterterrorism Action Group (CTAG) to conduct assessments of selected countries' needs for technical assistance to improve local ability to combat terrorist financing. FATF has conducted six of these assessments: Morocco, Egypt, Nigeria, Cambodia, Indonesia, and Tunisia. FATF did not conduct an assessment in Thailand as was requested because a recent IMF survey had been done, or in Cote d'Ivoire due to political instability there. The UAE did not accept a FATF assessment, indicating to the USG that a prior United States-conducted assessment was enough. CTAG donors have established a gaps/assistance matrix based on the counterterrorism finance needs identified in FATF's assessment. Although donors made a good start in meeting the needs of these countries, CTAG agreed that sustained assistance over time would be required to close the gaps.

We have seen substantial progress in securing countries' commitment to strengthen their anti-money laundering laws and regulations, which is inextricably linked to combating the financing of terrorism. In large part due to FATF's focus and our technical assistance and diplomatic pressure, governments pass amendments to improve their ability to combat terrorist financing. For instance, the Indonesian Parliament passed important amendments to its anti-money laundering law on September 16, 2003 that will improve the country's ability to take actions against terrorist financing. Similarly, it was FATF's efforts, in conjunction with our diplomacy and technical assistance, which led the Philippines to pass legislation in March 2003 that will significantly increase that country's ability to carry out meaningful antiterrorist financing measures. FATF advises on whether such regulations and legislation meet international standards and are effective instruments to combat money laundering and terrorist financing.

In addition to providing countries with the guidance they need to develop effective regimes, FATF also places pressure on difficult countries via its Non-Cooperating Countries and Territories (NCCT) program, which provides for listing countries that are noncooperative with respect to internationally accepted anti-money laundering practices. FATF's NCCT program creates an incentive for States to vigorously address their legal and regulatory environments to allow appropriate action against money laundering. Nigeria and the Philippines, for instance, in December 2002 and February 2003 respectively, took meaningful legislative steps to strengthen their anti-money laundering laws to avoid imposition of FATF measures. Our extensive efforts with the Philippines and Indonesia also played a key role in their removal from the FATF Non-Cooperative Countries and Territories list.

As we, together with others in the international community, began to look into how terrorist groups raised and moved their funds, the fact that much of this took place outside regular banking systems quickly became apparent. As a result, international efforts underway to set standards for tackling terrorist financing are also addressing how to prevent charities and not-for-profit organizations from being abused by those with malicious intentions and also how to help keep cash couriers and alternative remittance systems, such as "hawala," from being used to finance terrorism. The FATF, which has already addressed some of these issues through its Special Recommendations on terrorist financing, is now working to develop guidelines and standards on wire transfers and regulation of charities and nongovernmental organizations. Setting new standards and norms in these areas is key to making our international efforts more effective.

Economic Tools

U.S. policies to counter terrorism do include economic policies that encourage development. An important tactic to stamp out terrorism is to improve the economic prosperity and employment opportunities in priority countries. Extremism and terrorism thrive in countries that lack freedom, political expression, and economic and educational opportunity. People, especially youth, who live in poverty and have no voice are more likely to be susceptible to extremist ideologies and to join terrorist organizations. To support the reforms already underway in the region, the United States and its G–8 partners joined at the 2004 Sea Island Summit to launch the

Broader Middle East and North Africa (BMENA) Initiative in partnership with governments and civil society groups from the region. BMENA includes initiatives to increase democratic participation, promote the development of civil society, fight illiteracy, and support job-creating small businesses. These reforms will allow the people of the Broader Middle East more opportunity to have a say in the direction their societies are taking and help combat extremism.

As a matter of United States policy, development is central to the President's National Security Strategy. Well-conceived and targeted aid is a potential leveraging instrument that can help countries implement sound policies, reducing any attraction that anti-Western terrorist groups may have in failing states.

The Millennium Challenge Account represents a new compact for development—a new way of doing business. It provides assistance to those countries that rule justly, invest in their people and encourage economic freedom. Good governance, which attracts investment and allows the private sector to flourish, not foreign aid, is the key to economic development. U.S. trade and investment flows to the developing world dwarf our foreign aid. Unutilized capital in developing countries, owing to weak policies and poor property rights, is estimated to be as high as $9 trillion.

Debt relief for the poorest countries is another element of our development strategy. Our long-standing support for the Heavily Indebted Poor Countries (HIPC) initiative promotes debt sustainability and enables the poorest countries to devote additional resources to reducing poverty and promoting economic growth.

Our aggressive multilateral and bilateral trade agenda to open agricultural and nonagricultural markets and liberalize financial services, transportation, telecommunications, and government procurement all support development. Free trade and open markets can be drivers for greater prosperity and job opportunities, especially for the young people in these key regions who are thirsting for a stake in the future. Under the President's vision for a Middle East Free Trade Area (MEFTA) by 2013, the United States has concluded a bilateral free trade agreement with Jordan. Agreements with Morocco and Bahrain should go into effect in the near future; and Free Trade Agreement (FTA) talks with Oman and the United Arab Emirates have just been launched. We also have Trade and Investment Framework Agreements (TIFA), which typically serve as precursors to an FTA, in place with most Arab countries. We are also aiming to conclude a TIFA with Afghanistan. The United States is working with countries in both the Middle East and South Asia, such as Saudi Arabia and Afghanistan, to assist them in their efforts to join the World Trade Organization and become more fully integrated into the global trading system.

Bilateral Investment Treaties (BIT's) are another tool to promote the adoption of market-oriented economic policies that can promote growth and new employment opportunities. Historically, investors in many countries in the Middle East and South Asia have too often faced discrimination or otherwise been treated in a biased and nontransparent manner by host governments. As a result, foreign investors have turned elsewhere. Our bilateral investment treaties address this problem by assuring that certain core investment protections are available to investors, and by providing access to an independent, nonpolitical mechanism for investors to enforce those protections. We have held two rounds of BIT negotiations with Pakistan since February, with a further round likely in August. Saudi Arabia has expressed interest in exploratory discussions on possible BIT negotiations, and we have also identified Algeria as a possible BIT candidate.

Capacity Building

On the technical assistance front, the interagency Terrorist Finance Working Group (TFWG), chaired by the State Department, has provided over $11.5 million in Foreign Assistance funding to provide technical assistance and training to develop and reinforce counterterrorist financing/anti-money laundering (CTF/AML) regimes of frontline states, many of which are in the Middle East and South Asia regions. To date, over twenty U.S. Government offices and agencies participating in the TFWG, which include the Justice, Treasury, and Homeland Security Departments and financial regulatory agencies, have provided assistance to eighteen countries on five different continents including Saudi Arabia, the UAE, Kuwait, Qatar, Jordan, and Egypt in the Middle East and Bangladesh and Pakistan in South Asia regions. These comprehensive training and technical assistance programs include legislative drafting, financial regulatory training, Financial Intelligence Unit (FIU) development, law enforcement training, and prosecutorial/judicial development.

We have provided several countries in the Gulf and South Asia with different types of training related to sound counterterrorist finance practices, including the detection of trade-based money laundering (moving money for criminal purposes by manipulation of trade documents), customs training, antiterrorist finance tech-

niques, and case studies for bank examiners, and general financial investigative skills for law enforcement/counterterrorist officials. Our international partners have welcomed this type of training, and we plan to provide it to other vulnerable jurisdictions in other regions.

Burden sharing with our key coalition partners is an emerging success story. For instance, the Governments of Australia, New Zealand and the United Kingdom, as well as the EU, and the Asian Development Bank, have significant technical assistance initiatives underway in countries such as the Philippines, Indonesia, Pakistan, Malaysia, and Egypt. We have also funded the UN Global Program Against Money Laundering to place a yearlong mentor in the Philippines to assist with further development of its FIU. Despite its importance in the overall counterterrorism effort, and all the discussions about it, relatively few dollars are devoted to training and technical assistance for AML and CTF. Congress could strengthen this tool by fully supporting the Administration's funding request for this crucial task.

Areas of Focused Cooperation

The Administration is actively involved in combating terrorist financing through partnerships we have established throughout the Middle East and South Asia. These activities rely on the full range of tools in our toolkit.

Saudi Arabia

We are working on this approach with many countries, but I want to highlight for you the range of activities in Saudi Arabia, where we have used each of these elements in a process steered by the NSC-led Terrorist Finance PCC. We have instituted a regular high-level diplomatic effort to urge enhanced emphasis by the Saudis on combating terrorist finance. Homeland Security Advisor Frances Townsend has traveled regularly to Saudi Arabia to engage with the highest-level Saudi authorities on this issue. The U.S. Ambassador to Saudi Arabia and his staff also reinforce these messages in their daily dialogue with a wide range of Saudi officials.

We have jointly designated, with the Saudis, over a dozen Saudi-related entities and multiple individuals under UNSCR 1267.

As part of a State-led interagency assistance program, Federal banking regulators have provided specialized anti-money laundering and counter terrorist financing training to their Saudi counterparts.

Demonstrating its commitment to address systemic factors contributing to the flow of funds to terrorists, Saudi Arabia is working to establish a Charities Commission to regulate all charitable donations leaving the Kingdom. Saudi Arabia has made important changes to its banking and charity systems to help strangle the funds that support Al Qaeda. Saudi Arabia's new banking regulations place strict controls on accounts held by charities. Saudi Arabia has also ordered an end to the collection of donations at mosques and instructed retail establishments to remove charity collection boxes from their premises. These steps have been extremely challenging for the Saudi government, but they have been ordered because it understands that terrorists are more likely to use funds collected anonymously and without an audit trail than those that move through regular banking channels. We believe that Saudi actions have, in fact, significantly reduced the flow of cash from Saudi Arabia to Al Qaeda and other terrorist groups in the region.

The Saudi Government has continued to publicize counterterrorism efforts and to speak out denouncing terrorism. The declaration from the February 2005 International Counterterrorism Conference, hosted by the Saudi Government, in Riyadh stated that there can be no justification for terrorism and called for greater religious tolerance. Homeland Security Advisor Townsend led a large U.S. interagency delegation to the conference and spoke at the plenary session, emphasizing the need to block the financing of terrorism. I participated in the working group on terrorist finance. The Saudi Government plans to establish an international counterterrorism center in Riyadh which can further international efforts at curbing all aspects of terrorism, including terrorist finance. We plan to continue to work with the Saudis on ways to make this center most effective. On the issue of greater religious tolerance, the Saudi Government, on its own initiative, recently completed a comprehensive revision of textbooks to "remove objectionable language," and these new textbooks are now being used in Saudi schools. In 2005, the Saudis intensified their wide-ranging antiterror public relations campaign. The campaign condemns terrorism and encourages moderation through statements by politicians and religious leaders. A mix of television programs, advertisements, and billboards depict the graphic results of terrorism to send a strong antiterror message to the Saudi public. For the last 4 years, the State Department has sponsored special International Visitors programs for Saudi religious educators, to expose them to the nature of U.S. religious diversity

and the role of religion in U.S. society. Two groups of 10 had visited so far in fiscal year 2005, with another group of 10 scheduled in the fall.

Saudi Arabia has been working with us for a year and a half in the context of the Joint Task Force on Terrorist Financing, led on the U.S. side by the FBI. As part of the State-led interagency counterterrorist financing assistance program, experts from the FBI and IRS have completed a training module designed to strengthen the financial investigative capabilities of the Saudi security forces, with more advanced courses to follow. The Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE) will provide a week of cash courier-related training to Saudi customs officials starting July 16. That being said, this remains a work in progress. We have reason to believe that the new task force on terrorist financing will be effective, but we need to see results.

We believe the Saudi Arabian Government is implementing its new charity regulations, but there too, we continue to stress in our discussions with the Saudis the need for full implementation, including a fully functioning Charities Commission. Additionally, appropriate regulatory oversight of organizations headquartered in the Kingdom such as the World Muslim League, the International Islamic Relief Organization (IIRO) and the World Assembly of Muslim Youth (WAMY) is absolutely necessary. The Saudi Government is working to train personnel to staff its nascent Financial Intelligence Unit (FIU) and we will encourage the Saudi FIU to join the Egmont Group in 2006. On June 19, a Ministry of Interior spokesman announced that a "special department for tracing illegal financial activities in the Kingdom" (the FIU) will be completed soon. The September 2003 FATF mutual assessment of Saudi Arabia found that the Kingdom has taken essential steps—closer bank supervision, tighter banking laws, enhanced oversight—critical to curbing terrorist financing and money laundering. On June 14, for example, the Council of Ministers adopted a recommendation that private donations to beneficiaries outside the Kingdom be channeled only through the National Commission for Relief and Charitable Work Abroad. There is more to do, and we will continue to press ahead with our efforts with the Saudi Arabian Government and with other governments in the region.

Beyond these activities, the Saudis are also continuing to fight terrorism on the ground. On June 28, Saudi Arabia issued a new list of 36 "most wanted" terrorists in the Kingdom. At least one has been killed and one has surrendered since the list was released.

Other Gulf States

The governments of the Arabian Peninsula are themselves on the front lines in the war on terrorism, and have become essential partners of the United States in countering the threat of terrorism in the region. We have developed highly cooperative and mutually beneficial relations with the Gulf States in the areas of law enforcement, intelligence sharing, and terrorist finance. However, there is still more that can be done. We will continue high-level engagement and will focus on sustaining the capacity of these governments to effectively address the terrorist threat.

Our efforts to combat the financing of terrorism are working, and now Al Qaeda and other terrorist groups are increasingly resorting to cash couriers to move their funds across borders to fund their terrorist activities. The USG is working with the governments in the Gulf to combat the illicit use of cash couriers, which is especially pertinent to these cash-based economies. We have recently provided training to the Saudi Customs Service to identify cash couriers. We look forward to supporting these governments as they enhance their cash courier regulations. Additionally, FATF issued Special Recommendation IX in October 2004, under which member countries should ensure that they have measures in place to detect, and appropriately sanction, those moving currency if suspected of money laundering or terrorist financing.

The Gulf States have made significant progress to improve their ability to combat terrorist financing and have worked closely with us in this area. These nations have diligently implemented UNSC sanctions.

Kuwait formed a ministerial committee to develop strategies to combat terrorism and extremism, and forbade Kuwaiti Ministries and other institutions from extending official invitations to 26 Saudi clerics who reportedly signed a statement in support of Jihad in Iraq. There are regular consultations between United States and Kuwaiti officials on ways to strengthen measures to combat money laundering and terrorist finance. During a recent visit to Kuwait by Treasury Deputy Assistant Secretary Daniel Glaser, the Kuwaitis discussed some of the additional measures they are taking to combat terrorist financing. The GOK has formed a working group to draft a new piece of legislation that would specifically criminalize terrorist finance and strengthen Kuwait's anti-money laundering/terrorist finance (AML/TF) regime.

The legislation is intended to address weaknesses in Kuwait's current antiterrorist finance legal regime (absence of a law specifically criminalizing terrorist finance; prohibition of direct information-sharing by the Financial Intelligence Unit (FIU) without prior case-by-case approval of the Public Prosecutor's Office; lack of restrictions on cash couriers). The USG has offered, and the GOK has accepted, USDOJ Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) assistance in reviewing Kuwait's legislation. GOK officials have also indicated that they may ask the IMF and FinCEN for assistance. The Embassy is also working with the Department of Justice, the Federal Reserve, and other agencies on a counterterrorism training package for the Government of Kuwait.

In November 2004, Bahrain hosted the inaugural meeting of the Middle East and North Africa (MENA) FATF, which will promote the implementation of the FATF Recommendations to combat money laundering and terrorist finance. In April 2005, Bahrain hosted a 2-day plenary session of the MENAFATF followed by a 2-day anti-money laundering/counterterrorist finance workshop cohosted by the World Bank and IMF.

The UAE aggressively enforces anti-money laundering regulations and in 2004 enacted legislation criminalizing terror finance. In April, the UAE hosted the third international conference where ways to prevent use of the hawala (informal money transfer) system by terrorist financiers was discussed. We sent U.S. delegates and a speaker to this conference, and over 400 participants from 74 different countries attended. Conference attendees included representatives from financial institutions, Central Banks, law enforcement agencies, FATF, the IMF, and the World Bank, as well as other international officials involved in regulating money transfer systems. The government registers hawala dealers.

Oman has implemented a tight anti-money laundering regime that monitors unusual transactions. Financial institutions plan to verify customer identities using sophisticated biometrics technology.

Qatar has enacted laws to combat terrorist financing and to monitor all domestic and international charity activities.

Yemen routinely cooperates with United States law enforcement and took action against Al Qaeda by arresting several individuals suspected of Al Qaeda ties and prosecuting the perpetrators of several terrorist acts, including the 2002 attack on the USS Cole.

We have conducted Anti-Terrorism Assistance (ATA) programs with all of the Arabian Peninsula states.

Now that MENAFATF is set up, it needs to become an effective, practicing institution. Members of MENAFATF should all set up operational FIU's, conduct mutual assessments, establish best practices, and meet overall FATF standards.

Jordan

The Government of Jordan has cooperated with us on a wide range of terrorist finance issues, including designations at the UN. We urge passage of the new anti-money laundering legislation, which will strengthen significantly Jordan's legal basis for tackling the financing of terrorism and its international cooperation on AML and counter-terrorism financing cases.

Syria

In May 2004, Treasury designated the Commercial Bank of Syria (CBS) as a "primary money laundering concern" pursuant to Section 311 of the USA PATRIOT Act and proposed to implement a special measure against the bank. Since then, we have worked with the Syrian Government and the CBS to strengthen their anti-money laundering controls and their cooperation with the U.S. on money laundering and terrorist financing issues. We have not implemented the special measure, which would require U.S. financial institutions to sever their correspondent relationships with CBS, pending an assessment of Syrian progress toward resolving United States concerns. In addition, the Syrians joined us on the submission of Sulayman Khalid Darwish to the UN 1267 Committee.

However, the Syrian Government needs to do more to address United States concerns about Syria's continued efforts to influence Lebanese political developments, its pursuit of WMD, and the use of Syrian territory by those supporting terrorism and the insurgency in Iraq. On June 9, the Treasury Department designated a Syrian-based entity and its two managers pursuant to EO 13315, which is aimed at blocking the property of the former Iraqi regime or those who acted for on its behalf. On June 29, the Treasury Department designated another Syrian entity pursuant to its newly issued Executive Order on WMD Proliferation Financing. On June 30, the Treasury Department designated two Syrians for an assets freeze pursuant to the provision in EO 13338 that is aimed at financially isolating those individuals

and entities contributing to the Syrian Government's military and security presence in Lebanon.

South Asia

South Asia, and especially Pakistan, is a priority region for counterterrorist financing, due to the presence of Al Qaeda and other terrorist groups, porous borders, and cash-based economies that often operate through informal mechanisms, such as hawala. All countries in the region need to improve their terrorist financing regimes to meet international standards, including the establishment of functioning Financial Intelligence Units. Both political will and technical assistance are needed to make this region a more effective partner.

Turning to Pakistan specifically, we welcome the concrete actions it has taken to implement its obligations under UN Security Council Resolutions, including the freezing of over $10 million of Al Qaeda assets. Pakistan has also apprehended terrorists, including Abu Farraj Al Libbi, Al Qaeda's operational leader. We are encouraged by Pakistan's concern about the infiltration of terrorist groups into charitable organizations, and would welcome the opportunity to provide technical assistance to help Pakistan meet international standards on preventing abuse of its nonprofit sector.

We have provided Pakistan assistance on drafting an anti-money laundering/counterterrorist financing (AML/CTF) law that meets international standards, but this legislation is still awaiting parliamentary consideration. As soon as a law that meets international standards is enacted, we will be able to accelerate training efforts, including assistance for the establishment of a Financial Intelligence Unit (FIU). In the absence of an anti-money laundering and counterterrorism financing law, the State Bank of Pakistan has introduced FATF-compliant regulations in know-your-customer policy, record retention, due diligence of correspondent banks, and reporting suspicious transactions. Also in compliance with FATF recommendations, the Securities and Exchange Commission of Pakistan has applied know-your-customer regulations to stock exchanges, trusts, and other nonbank financial institutions. All settlements exceeding Rs 50,000 ($840) must be performed by check or bank draft, as opposed to cash.

Afghanistan recently passed anti-money laundering and counterterrorist financing legislation, and many efforts are being made to strengthen police and customs forces. However, there remain few resources and little expertise to combat financial crimes, or to produce meaningful financial intelligence, and they have requested the United States for assistance in building capacity to do so. Arrangements are underway to send an assessment team. The most fundamental obstacles continue to be legal, cultural, and historical factors that many times conflict with more Western-style proposed reforms to the financial sector generally.

In India, the Prevention of Money Laundering Act (PMLA) became effective on July 1. The Act provides the statutory basis for the Financial Intelligence Unit (FIU) to perform its functions. It criminalizes money laundering and requires banks and other financial institutions and intermediaries to report individual transactions valued over $23,000 to the FIU. Two accounts belonging to terrorist individuals/entities have been identified, but the Government of India (GOI) has not frozen any assets to date. It is aware of the UN 1267 Committee list, however, and has conducted investigations. India has indicated that it wants to join FATF. However, at a recent FATF Plenary meeting in Paris, concerns were raised regarding India's ability to provide effective international cooperation in a timely manner, and to extend mutual legal assistance. The GOI maintains tight controls over charities, which are required to register with the government. The November 2004 amendment of the 1967 Unlawful Activities (Prevention) Act criminalized terrorist financing.

Speaking generally, South Asian countries lack sophisticated tools to combat the financing of terrorism. Not one country in the region is a member of the Egmont Group of countries with operational FIU's, which is unusual given the large numbers and regional spread of Egmont's membership. Anti-money laundering programs also tend to be absent or not up to international standards. Nonetheless, there is a degree of interest in all countries of the region, and we have seen some progress.

Efforts are underway to develop and implement international AML/CTF standards bilaterally and regionally through such organizations such as the Asia Pacific Group on Money Laundering (APG). Bilaterally the United States has conducted training and technical assistance assessments for most countries in South Asia. We have provided AML/CTF legal drafting assistance, financial regulatory training, and FIU development support. In Bangladesh we support a Resident Legal Advisor to assist authorities in drafting and implementing AML/CTF laws as well as providing specialized training for prosecutors and other law enforcement officials.

Designations and Asset Freezes: Only Part of the Picture

The international designations and asset freeze process has helped us develop and deepen a set of invaluable long-term relationships with our interagency and international partners. Through this collaborative international effort, we have built cooperation and the political will necessary to fight terrorism, both through designations and asset freezes, as well as through operational law enforcement actions. As described above, U.S. Government agencies meet regularly to identify, track, and pursue terrorist financing targets and to determine, on a case-by-case basis, which type of action is most appropriate. Designation for asset freezing should not come at the expense of taking appropriate law enforcement action. On the contrary, the two approaches frequently complement each other. There are cases where operational law enforcement action can be initiated quickly to trace, prosecute, and shut down terrorists. In other cases, for instance where long-term investigations are under way, the better option may be to designate for asset freezing in order to stop the flow of money that might be used to carry out terrorist activity until law enforcement actions can be taken.

We have used multilateral asset freezes, together with technical assistance and the FATF multilateral standard setting process, as valuable devices to isolate terrorist financiers, drive them out of the formal financial system, and unite the international community through collective action. In these cases, designations are preventative, making it harder for terrorists and their supporters to operate. We continue to work together with our international partners to strengthen the multilateral designation process. By carefully working with our allies, we seek to build international consensus, thereby preventing unwanted delays in the process. We urge all foreign governments to fulfill their UN obligations to freeze assets without delay. In cases where an individual or entity assumes a new name, we initiate action to designate the alias, thwarting their efforts to simply continue "business as usual" under a new name. These actions prevent open fundraising, diminish support to illicit charities, and act as an element of diplomacy to demonstrate international resolve.

In the fight against global terrorism, the Administration must continue to use vigorously all of the tools at its disposal—including designations/asset freezing, law enforcement/intelligence cooperation, and the establishment and enforcement of international norms and standards. Given that the money that gets into the hands of terrorists flows around the world, the only way we will be successful in drying up their financial resources is through continued, active U.S. engagement with allies, friends, and other countries around the globe. We must continue to broaden and deepen our efforts worldwide. These efforts have paid off—and they will continue to do so.

The Department of State plays a pivotal role in, and adds great value to, this broadening and deepening of international cooperation. Officers in our embassies and in Washington bring their experience to bear in judging the best approach to a specific terrorist or group in a specific country or region. Their political, economic, and cultural expertise allows them to weigh the pros and cons of various approaches given the other political and economic dynamics of the countries whose help we are enlisting in the war against terrorism. There are no "off-the-shelf" answers in this field. Each case is different, and the State Department is uniquely placed to help weigh options and craft tailor-made strategies to produce effective action.

PREPARED STATEMENT OF DENNIS M. LORMEL

SENIOR VICE PRESIDENT, ANTI-MONEY LAUNDERING
CORPORATE RISK INTERNATIONAL, FAIRFAX, VIRGINIA

JULY 13, 2005

Good morning Chairman Shelby and distinguished Members of the Committee. Thank you for affording me the opportunity to participate in this forum. I applaud the time, attention and consideration you have committed to the extremely complex issue of terrorist financing. In my previous position as Chief, Terrorist Financing Operations Section (TFOS), Counterterrorism Division (CTD), Federal Bureau of Investigation (FBI), I testified and/or participated in numerous Congressional hearings and briefings. In addition, in many instances, I was responsible for preparing the written statements of other FBI executives in hearings which focused on terrorist financing. This is a subject which is extremely important to me because I have witnessed first hand investigative successes which have disrupted or deterred funding

intended to support terrorist activities. I am an ardent believer that terrorist financing is a critical component of the war on terrorism.

Terrorist financing is every bit as challenging today as it was in the immediate aftermath of September 11, 2001 and as it was one year ago. Law enforcement, regulators, and intelligence agencies here, in the United States, and abroad, have achieved noteworthy and meaningful accomplishments. New proactive and progressive methodologies have been developed and implemented in furtherance of such efforts. However, lingering concerns and the resiliency of terrorists to adapt to change, coupled with the ease of exploitation of systemic vulnerabilities in the financial sector will perpetuate the challenge of addressing the issues presented by terrorist financing.

By way of background, immediately following September 11, I was responsible for the formation and oversight of the FBI led, multiagency, Financial Review Group, which evolved into the TFOS. In that capacity, my perspective was government and investigative driven. In my current position, as Senior Vice President, Anti-Money Laundering (AML), Corporate Risk International, I continue to address AML and terrorist financing issues. My perspective has shifted to one that is industry and compliance driven. This provides me with a unique understanding of the responsibilities, sensitivities, challenges, and frustrations experienced by the Government and financial sectors in dealing with AML and terrorist financing considerations.

One fact is quite evident; those responsible for addressing terrorist financing in government and in industry share the desire and resolve to deny terrorists funding mechanisms. The level of cooperation between the Government and the financial sector has been consistently outstanding since September 11. Overall, financial firms have been vigilant with respect to AML and terrorist financing compliance consideration. However, an area of concern, which warrants this Committee's continued scrutiny, pertains to the issues involving the benefits and burdens of Bank Secrecy Act (BSA) reporting requirements. Such issues include adequacy of suspicious activity reporting, lack of guidance by regulators, consistency of regulatory examinations, and feedback from the Government to the financial sector concerning results of suspicious activity reporting. Interested parties on both sides of this issue need to do more to establish a middle ground in terms of better understanding their respective sensitivities and balancing the benefits and burdens of BSA reporting requirements. The Financial Crimes Enforcement Network (FinCEN) and the American Bankers Association (ABA) have taken a leadership role in addressing and resolving these issues through the Bank Secrecy Act Advisory Group. Bill Fox, Director, FinCEN and John Byrne, Director, Center for Regulatory Compliance, ABA, deserve recognition for visibly leading this effort in a responsible manner. As a result of the regulators and industry constructively addressing the issue of inconsistent regulatory examinations, the Bank Secrecy Act/Anti-Money Laundering Examination Manual was released on June 30, 2005. This was an important step forward in ensuring consistent future bank examinations are conducted and in emphasizing the responsibility of banking organizations concerning AML and terrorist financing BSA compliance.

Although financial activity that supports terrorism is often simplistic, terrorist financing presents a myriad of complex challenges. By its nature, in most applications, the movement of funds to support terrorism is through legal and undetectable means. We should be mindful that terrorist financing encompasses a wide variety of activities. There are fundraising mechanisms, operational and administrative support mechanisms, and other considerations, which require use of the formal and informal financial systems. This variance is exacerbated by the range of positions and responsibilities individual terrorists and terrorist supporters assume to include leaders, fundraisers, financiers, facilitators, operatives, and suicide bombers. Financial requirements and funding flows for the full gamut of terrorists and terrorist supporters vary according to factors to include their role, location, culture, and affiliations. This is particularly true with respect to the Middle East.

Terrorist and terrorist financing warning signs are constantly evolving due to changing dynamics in world events, such as the global response to terrorism and the ability of terrorists to adapt to changing dynamics. Like characteristic indicators, warning signs are nonstatic. For example, in response to the September 11 terrorist attacks, the U.S. and international community took decisive steps to disrupt and dismantle terrorist groups and their financing. In return, terrorists adapted new methodologies to exploit systemic vulnerabilities. The same cycle was repeated following other significant terrorist activities, such as in the aftermath of the Madrid bombings of March 11, 2004. As the investigation into the London bombings of July 7, 2005, unfolds, it will be important to assess the methodologies employed by the terrorist group responsible for the attack, to include the operation, logistical support, communications, and financing.

One of the true challenges in dealing with terrorist financing is the recognition of the dynamics of change and understanding that terrorist and terrorist financing methodologies will constantly change to avoid detection. As this Committee continues hearings addressing terrorist financing, it is recommended you assess mechanisms developed by Government agencies and the private sector to identify emerging trends adapted by terrorist and criminal elements. In view of the international response to the London bombings, terrorist groups will likely be challenged to again adapt to changing dynamics.

Lessons learned since September 11 should play a significant role in formulating future detective and preventive measures. First, we must understand vulnerabilities in terms of systemic societal vulnerabilities and areas of vulnerability to terrorist interests. Systemic vulnerabilities represent systemic weaknesses that terrorists and criminal elements, especially fraudsters, exploit in furtherance of their activities. It is incumbent that individuals and entities responsible for controls recognize such weaknesses and implement mechanisms to minimize such exploitation.

The unfortunate reality is that terrorists will always have access to financing. We cannot be discouraged by this fact and must use every tool in our arsenal to disrupt and minimize funding flows to terrorists. The greater the level of disruption the more difficult it is for terrorists to raise funds and carry out terrorist operations. On September 25, 2003, former Treasury General Counsel David Aufhauser stated before this Committee "Money is the fuel for the enterprise of terror. It may also be its Achilles' heel. It can leave a signature, an audit trail, which, once discovered, might well prove the best single means of identification and capture of terrorists and pinpointing their donors. Financial records are literally the diaries of terror. Stopping the flow of money to terrorists may be one of the very best ways we have of stopping terror altogether. That is a dramatic statement, but it is not possible to overstate the importance of the campaign against terrorist financing. If you follow and stop the money, you have gone a long way to diminish the killing and destruction."

Like terrorism itself, terrorist financing is not limited to the homeland but is global in scope. In dealing with terrorist financing, all solutions must be considered. Outreach initiatives between government and private sectors within the U.S. and internationally is important in establishing frameworks for cooperation and information sharing.

In view of the combination of law enforcement, regulatory, and diplomatic actions taken in the U.S. and internationally, certain of the lucrative funding sources, such as charity and wealthy donors, have significantly diminished. Anecdotal information points to the difficulty terrorists have in raising, moving and storing money. This has been particularly true in the Middle East where cases such as Holy Land Foundation, Al-Haramain Islamic Foundation and the Islamic American Relief Agency have achieved significant deterrence value. As a result, there has been a greater reliance on criminal activities as a terrorist funding mechanism. This is noteworthy because it exposes terrorists to greater risk of detection.

Since September 11, terrorist financing methodologies have been changing. Terrorists rely on two tracks of funding, the formal and informal financial systems. To operate in western society, terrorists must rely more on formal mechanisms. To operate in less advanced financial venues, such as Afghanistan, more informal mechanisms are used. Following September 11, Al Qaeda took steps to exploit informal financial structures in the Middle East and other venues, and to use formal facilities on a more limited basis because of the investigative scrutiny and international pressure placed on the formal banking system. As just illustrated, the degree one system is used in preference over the other depends on a number of factors to include culture, sophistication of the banking system in various parts of the world, accessibility, timing, situational considerations, the level of investigative scrutiny, and other factors. Whichever system is used, terrorists move funds with the intent to avoid attention and detection.

The specific regulatory and investigative focus on terrorist financing surfaced following September 11. Prior to that, there were no consistent and continuous mechanisms to prevent or deter terrorists from raising and moving funds. Anti-terrorist financing efforts, both domestically and internationally, have consistently improved and evolved with growth and maturation in an incremental fashion. It should be noted that mechanisms developed and implemented in the U.S. have been in the forefront worldwide. For example, the template established by the FBI's TFOS, has been mirrored by numerous countries. Even with being further advanced, it is incumbent that U.S. agencies continue to enhance their capabilities on a steady incremental basis with a focus on emerging trends.

Agencies should gauge, assess, and utilize financial information in three dimensions, strategic, tactical, and historic. Accomplishments should also be measured in

accordance with these dimensions. Strategic financial information is intelligence oriented and should be used for trend analysis. This is an area that is emerging and whose law enforcement and intelligence functionality has not reached it's potential. Stuart Levey, Under Secretary Terrorism and Financial Intelligence, U.S. Department of the Treasury, is in the process of developing a strategic intelligence capability, collateral to his primary responsibility of cutting off the flow of support to international terrorist groups. It is important that Under Secretary Levey strive to articulate to the government community the strategic mission and value of his recently formed entity in order to establish a sense of credibility and fraternity.

After we established the TFOS at the FBI, the importance of strategic intelligence was a primary consideration. We established a Financial Intelligence Unit, to produce actionable financial intelligence. A component of this unit was the Proactive Exploits Group. This group has evolved into a new unit, that has developed and implemented advanced technological and data mining capabilities. It's ability to access and analyze BSA information, in conjunction with FinCEN, and other data sources, has come to fruition and is generating significant intelligence information that is actionable intelligence and can be utilized to initiate new investigations or supplement ongoing investigations. The value of this intelligence cannot be understated. Often times it is a traditional financial crime that enables the FBI to execute search warrants, make arrests, and in certain instances gain the cooperation of terrorist subjects. The robust data mining search capabilities of the Proactive Exploits Group have enabled the FBI to identify and link pertinent data from multiple date sources in a time sensitive, effective and efficient manner. I encourage the Committee request a briefing about the emerging capabilities of the Proactive Exploits Unit at the TFOS, FBI.

FinCEN is acutely aware of the differences between money laundering and terrorist financing. In its quest to effectively differentiate between the two, yet be able to collect and assess data to detect both money laundering and terrorist financing, FinCEN developed BSA Direct. The system, which is in the design and implementation phases, will assist investigators at identifying anomalies, trends, and patterns. BSA Direct will assist in the process of connecting the dots and ferreting out money laundering and terrorist financing. It relies on data mining and analytical applications with improved access for law enforcement and regulators. It is anticipated that the BSA Direct initiative will be the cornerstone of FinCEN's technology architectures.

FinCEN Director Bill Fox considers his agency to be a "collector" of information. He believes it to be critically important to collect the best quality of information and to share it with all constituencies in furtherance of efforts to diminish money laundering and terrorist financing. This underscores the critical importance of Suspicious Activity Reports (SAR's). Individuals responsible for completing and submitting SAR's should ensure they are thoroughly completed.

This is one area where the Government and the financial sector need to do a better job. The financial sector must move away from filing defensive SAR's and ensure SAR's contain thorough descriptive information. The Government, especially FinCEN and the FBI, has developed more robust data mining capabilities, which can better link descriptive data to terrorism investigations. In turn, the government must do a better job of delineating new and emerging capabilities to industry. In addition, the Government should more consistently provide financial firms feedback concerning the investigative benefits derived from information reported in SAR's.

The area that has generated the most significant level of success has been the tactical investigative application of financial information. In this context, financial information is used in a tactical operational capacity. For instance, during my tenure at the TFOS, FBI, we had a mechanism to track financial transactional information which assisted a foreign intelligence service in preventing six potential terrorist attacks in their country. The tracking and tracing of financial information is an incredibly powerful financial investigative tool. The tactical dimension is best suited to proactive investigative techniques.

The historic approach is the most challenging because it is reactive and relies on historic tracing of funds. As money is moved from point of origination to point of receipt, the ability to trace funds into the hands of terrorists becomes increasingly remote. This is especially true when attempting to trace funds through conduits such as charities and banks in the Middle East to groups such as Hamas and Hezbollah, who are adept at disguising the end beneficiary of funds.

There is a school of thought which subscribes to the theory that terrorist financing is not a significant component of the war on terrorism and has limited impact. In part, that may be true when looking at the historic dimension of terrorist financing. However, when taken in context with the strategic and tactical dimensions, terrorist financing plays a critically important role in the war on terrorism.

One of the most significant lessons learned in the post-September 11 environment is the importance of developing and implementing time sensitive investigative techniques, particularly time sensitive financial investigative techniques. The immediacy and severity of terrorist threats require investigative strategies that present a sense of urgency. More often than not, circumstances cause investigative strategies to the threats at hand to be reactive and not proactive. More focus must be dedicated to developing proactive investigative techniques. One area where proactive investigative strategies can be implemented is in terrorist financing. From a tactical standpoint, strategies have been implemented which allow the near real time tracking of financial transactions. To reiterate, this is a truly powerful technique. It requires close coordination and cooperation between law enforcement and the financial community. As mentioned above, this methodology was used to assist another country to prevent potential terrorist acts.

With specific focus on the Middle East, U.S. Government agencies have made a consistent, for the most part coordinated, and concerted effort to establish and maintain viable working relationships with countries in that region. With respect to Al Qaeda, and the threat to the region caused by Al Qaeda, most countries have been more willing to openly cooperate with the United States. A prime example of this is Saudi Arabia. In the aftermath of the May 12, 2003, bombings in Riyadh, the Saudis became consistently engaged in the war on terrorism, whereas before that, they were less consistent and more selectively engaged. Countries such as Kuwait and Qatar have been formidable partners. The recent threats posed by Al Qaeda in those venues have appeared to strengthen their spirit of cooperation. In my experience, Jordan, Israel, and Oman have been strong allies in combating terrorism. With respect to the broader terrorist financing issues, the United Arab Emirates (UAE) and Bahrain have been outstanding to deal with. Being two of the principal financial centers in the region, their level of cooperation has been critically important to the United States. As an example, shortly after September 11, the UAE passed strong AML provisions. In addition, they openly accepted training enabling them to better implement and enforce AML and antiterrorism regimes. In conjunction with the U.S. State Department's Coalition Building initiative, the Internal Revenue Service (IRS) and the FBI's TFOS provided a series of two week training courses in the UAE focused on financial investigative techniques to include money laundering and terrorist financing. The resulting goodwill led to development of a close working relationship with the Central Bank in the UAE. This enabled the FBI's TFOS to gain direct access to important banking records.

As was the case in the United States, countries in the Middle East and throughout the world have improved their ability to address terrorist financing in an incremental fashion. The Financial Action Task Force (FATF) is the most important vehicle in the world for promoting uniform standards for governmental action against money laundering. In November 2004, countries in the Middle East and North African (MENA) region established the MENAFATF. The FATF, World Bank International Monetary Fund and other groups have endorsed the formation of the MENAFATF. The purpose of its establishment was to create a platform for member states to better join forces with the international community in the global fight against money laundering and terrorist financing. One of the initial areas of focus for the MENAFATF has been on the unregulated informal value transfer system (frequently referred to as hawala or hundi). This system is one of the most vulnerable areas for exploitation by criminals and terrorists. The informal value transfer system is especially prevalent throughout the MENA region and has grown throughout the world. The 14 founding members of MENAFATF are Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the UAE, and Yeman. Lebanon currently holds the MENAFATF presidency and is leading it commendably. Lebanon has progressed as a country in building anti-money laundering and counter-terrorist financing mechanisms.

Qatar will be receiving training through a private security consulting firm, which will include anti-money laundering and terrorist financing components. Kuwait, the UAE, Bahrain, and Egypt have taken active leadership roles in the MENAFATF.

Issues and concerns involving most countries in the Middle East in their relations with the United States is not one of will or desire. Their resolve for dealing with money laundering and terrorist financing is generally strong. The issue is rather one of capacity in terms of limited resources and capability. This is where a sustained training initiative is critical to the incremental capacity building necessary for these countries to progress. This specialized training places a strain on the U.S. Government agencies involved, particularly State, the IRS and the FBI.

Concerning organizations such as Hezbollah, Hamas and Palestinian Islamic Jihad (PIJ), which have active fundraising mechanisms in the United States, international consensus is lacking as to whether they are terrorist organizations. Clearly,

the United States has designated them as such. The lack of consensus makes it more challenging to receive information in certain instances. This is an area that the U.S. Government must continue to push vigorously and regularly in an effort to gain international consensus recognizing these groups as terrorist organizations. This will become increasingly more difficult as Hamas and Hezbollah, in particular, become more engaged in political processes. With respect to Hezbollah, Hamas, and PIJ, the United States has a very close working relationship with the Israelis. This is especially true in matters concerning terrorist financing.

Saudi Arabia is one of the U.S. Government's most important, yet heavily criticized, allies in the war on terrorism. Since the May 12, 2003, Al Qaeda attacks in Riyadh, the Saudis have been aggressively involved in fighting Al Qaeda. Saudi Arabia has been one of the most significant funding mechanisms for terrorist organizations, especially Al Qaeda. The Saudis have enacted strong legislation concerning money laundering and charitable giving in order to attempt to stem the flow of funding to terrorists. They formed a Charities Commission to regulate the giving and distribution of money for charitable purposes. The Saudis have taken actions against charities to diminish the flow of funds to terrorists. This was best illustrated by the closure of Al-Haramain Islamic Foundation, the largest Saudi Charity. The Saudis have received FATF acknowledgement for steps they have taken. However, the Saudis are by their nature a closed society and as such lack transparency. This is a matter of culture rather then intent. In any case, the lack of transparency is a source of ongoing concern for the United States. The State Department and National Security Counsel (NSC) have worked very closely with the Saudis to ensure they do more then merely enact laws and make statements about establishing certain mechanisms, such as creation of a Financial Intelligence Unit (FIU). Their lack of transparency makes this a daunting challenge. Recently, Representative Sue Kelly (R–NY), took the Saudis to task in a hearing she chaired in the House Financial Services Committee, Subcommittee on Oversight and Investigations, and through a follow up letter and subsequent visit to Saudi Arabia for failure to take substantive actions such as establishment of a FIU. The Saudis, to their credit, responded by providing their view and inviting Representative Kelly to Saudi Arabia for further discussion. The Saudis have since identified officers trained in financial crimes by the FBI through the Joint Terrorism Financing Task Force (JTFTF) who have been designated for assignment to the FIU. However, the FIU does not appear to be functional at this juncture. A measure of the Saudis resolve concerning formation of an FIU will be for them to join the Egmont Group, which members consist of FIU's from 101 countries, who share information and support for their respective AML programs. MENAFATF countries who are members of the Egmont group include the UAE, Bahrain, Egypt, Lebanon, and Qatar.

In May 2003, Saudi Arabia and the United States agreed to establish the JTFTF, mentioned above. The purpose of the JTFTF was to establish a mechanism for the consistent, continuous and timely exchange of financial information of mutual benefit. The JTFTF is located in Riyadh. FBI and IRS personnel are assigned in a capacity to facilitate the exchange of information in a timely manner. The functionality of the JTFTF is not a best case scenario situation but one that is a good case scenario. The FBI and the Saudis are satisfied with the information exchange and spirit of cooperation. An early sign of the Saudis desire to succeed in this initiative was the Saudis willingness to accept comprehensive financial training from the FBI and IRS. This training was considered a foundation building step. Since then, the flow of information has improved over time and benefited counterterrorism investigations.

As numerous FBI and DOJ representatives have recently testified, to include Director Mueller and Attorney General Gonzalez, at various House and Senate hearings, the USA PATRIOT Act has served as an invaluable tool and has contributed to significant investigative results. It is incumbent that Congress renew those provisions due to "sunset" at the end of the year. This will ensure that investigative, intelligence, and regulatory agencies maintain the level of ability to proactively prevent or deter terrorist activities.

Terrorist financing investigations must consistently be conducted in a time sensitive, time urgent manner. Two areas where this Committee can be of assistance in that regard include supporting Congressional approval for the FBI to issue administrative subpoenas in terrorism cases and encouraging financial institutions to provide law enforcement with the production of financial records in electronic format.

The FBI has administrative subpoena authority for investigations of crimes to include drug trafficking, health care fraud, and child exploitation. Such authority is lacking for terrorism cases. Approval of administrative subpoenas for terrorism investigations would enhance the FBI's ability to conduct time sensitive, time urgent

investigations. The Bureau has a proven record of issuing administrative subpoenas in an appropriate manner. The FBI, as Director Mueller has consistently stated, is mindful of and dedicated to protecting the civil rights of the American people.

Testimony I was responsible for preparing for current FBI Deputy Director John Pistole for a hearing before this Committee on September 25, 2003, discussed the importance of production of financial records in electronic format. Again, in this era of time sensitivity, time urgency, the ability to work with electronic documents instead of paper documents is critical. Comments extracted from Mr. Pistole's statement continue to be relevant today:

> "One of the biggest challenges facing law enforcement when it comes to financial records analysis is the unavailability of financial records in electronic format . . .. Future law enforcement investigations would be significantly enhanced if financial institutions were to develop and adopt standards of best practices for the storage and production of financial records in electronic format. Countless hours and resources on the part of private industry and the government could be saved if these records were stored and produced in a format that eliminated the need for investigators to reinput or type the information back into financial analysis programs . . .. However, as long as relevant records remain in paper form whether held by the financial institution or the government, investigators are impeded in their timely dissemination and analysis. This can have an impact on our preventative efforts."

I encourage the Committee to address this issue in greater depth with investigative agencies and the financial sector. This is one of those areas where a middle ground needs to be better identified that best addresses the interests and concerns of the two sides.

Timely and actionable information sharing initiatives are critically important keys to succeeding in preventing terrorist attacks and diminishing their ability to raise and move funds. There must be continued consistent communications, cooperation and coordination in the interagency and business communities across all lines domestically, as well as internationally. All sectors must develop and maintain strong working relationships. In certain instances, this will require establishment of a middle ground to address impediments. Through risk and vulnerability assessments, as well as through other mechanisms, we must continue to identify emerging trends and systemic vulnerabilities. Agencies and institutions must adapt and implement methodologies to counter such trends and vulnerabilities. A final thought is that regular candid operational assessments should be performed in order to sustain the level of scrutiny necessary to disrupt and prevent terrorist activities, and to ensure the most forward thinking deterrent methodologies are developed and effectively employed.

Testimony of Steven Emerson

Before the

United States Senate
Committee of Banking, Housing, and Urban Affairs

"Money Laundering and Terror Financing Issues in the Middle East."

July 13, 2005

Steven Emerson
Executive Director
The Investigative Project on Terrorism (ITP)
5505 Connecticut Avenue, NW #341
Washington DC 20015-2601
Email: Stopterror@aol.com
Phone 202 363 8602 Fax 202 966 5191

I. Overview and Introduction: Money Laundering and Terror Financing Issues in the Middle East

Chairman Shelby, Ranking Member Sarbanes and distinguished Members of the Committee: thank you for holding this hearing today about developments and trends in Money Laundering and Terror Financing Issues in the Middle East. In light of the terrorist attacks that have occurred in London last week and the determination that they were carried out by local subjects, this hearing is a timely reminder that the war on Islamic and Middle Eastern terrorism needs to be constantly fine tuned and improved. Tracking the financiers of terrorism and the collection of reliable intelligence are probably the most reliable ways of identifying terrorist cells.

The United States government has been a worldwide leader in tracking the money of terrorist financiers and entities due to the heroic dedication of so many who serve our government without credit or public recognition. But since the earlier achievements following 9-11, it is my belief that we are now behind the curve in the financial war on terrorism relative to the potential range of achievements we could achieve. That problem is a function of the system in place today that hinders, obstructs an impedes the abilities and capabilities of our government agencies and officials tasked with tracking terrorist assets.

The unsung heroes is the war on terrorism are those public servants—from FBI and DHS agents to Treasury analysts, from state law enforcement agencies to IRS accountants--who work out of the glare of publicity and who have tracked hidden terrorist assets around the world. But we are in constant need of self-improvement and must be intellectually honest about the war we are fighting. All of the ingredients for a more vastly successful war on terrorism are present but underutilized or artificially compartmented from one another—talented agents, analysts and prosecutors; a vast amount of data and open source intelligence; forensic expertise and unrelenting dedication. Yet, in the end, there is no rational allocation of resources nor is an integrated methodology that would insure that proper involvement of all agencies involved in tracking terrorist financing.

To the extent that Islamic terrorists have been able to learn from their "mistakes" and evade detection, as has been the case so far in London, the United States needs to be at the forefront of trying to pre-empt terrorists by anticipating the new ways in which terrorists will finance their operations. It has been often stated that an army is only as good as its last war. But in this war, we cannot afford to be fighting the last war. We have to be able not only to fight the present war but the future war. In this regard, our successes will depend much on our ability to digest on a timely basis current open source information and intelligence which is available in abundant form. In certain respects, our inabilities to get ahead of the terror financing curve is an unforgivable self-inflicted wound; the information needed to fight this war is widely and instantly available but because of bureaucratic rivalries and continued compartmentalization of U.S. law enforcement and intelligence, there has been a spectacular failure to distill data on a real time basis. Yes, the amount of data can be daunting, but make no mistake: our own provincial bureaucratic culture of not sharing information, coupled with parochial self-justifying bureaucratic funding imperatives have, for the past two years, driven our counter-terrorism finance policies more than what should have been driving them: our national security interests.

To the extent we do not update our repertoire of available legal options alongside the intelligence, we are undermining our own war on terrorism. The only way to properly understand where we are in this critical component on the war on terrorism is to examine our successes and failures in the nearly four years since 9-11 and to analyze trends and developments that are pivotal in how we adjust our strategy.

As you know, in the immediate months following the September 11th attacks on the World Trade Center and the Pentagon, the federal government seized the assets of several major U.S.-based Muslim charities, which had been funneling money and resources to various terrorist groups overseas.

The U.S. government shut down the Holy Land Foundation, based in Richardson, Texas, and the Illinois-based Global Relief Foundation and Benevolence International Foundation. Various officials from these organizations have been arrested, indicted and even deported in an attempt to stop the flow of funds earmarked for terror. Additionally, the federal government shut down another Richardson, Texas-based for-profit corporation, the web-development firm Infocom, Inc., for violating sanctions against dealing with state sponsors of terrorism and money laundering in support of the terrorist group Hamas. Other charities serving as fronts for suspected terrorist activities have also been shut down, including the U.S. branch of the Al Haramain Foundation and Islamic African Relief Agency. In another example, the Department of Justice indicted officers of CARE, an Islamic charity in Boston, for lying about the true agenda of their organization, among other charges, on their application to the IRS for non-profit status. Rather than actually existing to support humanitarian causes, evidence shows that CARE, an offshoot of the Al Kifah Refugee Center which spawned Al Qaeda, was deeply involved in promoting Islamic terrorism. And finally, the US has listed scores of terrorist entities abroad in an effort to isolate them, freeze their assets, and empower the host governments to take legal action against them.

Aside from direct law-enforcement action on the part of the government, Congressional legislation has given rise to a civil cause of action against U.S.-based organizations linked to foreign terrorist groups, on the part of American victims of terrorism overseas, and their family members. This legal avenue allows victims to attach the assets of terrorist front groups, and thereby further hampers the ability of U.S.-based extremist organizations from supporting terrorist groups abroad.

While these developments have dealt a severe blow to the ability of terrorist organizations to raise funds within the United States, various individuals involved with these organizations have formed new ones, reconstituting their ability to provide support to terrorist groups under the veneer of legitimate charitable and business enterprises.

Additionally, U.S.-based operatives of terrorist groups have increasingly turned to standard criminal endeavors such as drug trafficking, organized retail theft and black market smuggling, the production and sale of counterfeit name-brand goods, and car theft rings in order to raise money to fund their training and operations.

An added impediment to successfully put a full court brace on terrorist groups has been the refusal of Western allies to list known terrorist groups as officially designated terrorist organizations. This craven attitude has deep consequences. Not only has Europe indirectly

allowed terrorist groups to continue their murderous attacks on Israeli civilians, but these European policies of appeasement have also endangered the United States.

Finally, the role of Saudi Arabia in continuing to finance, subsidize and sponsor militant Islamic causes needs to be highlighted. Unless and until the Saudi regime is forced to scale back the export of its radical Wahhabi ideology, the problem of militant Islam and therefore of Islamic terrorism will continue to grow.

II. Regeneration of Terror-Linked Entities

a. Charities

A number of former officers and representatives of charities that have been closed down by the Treasury Department are currently associated with other charitable organizations in the U.S. and are involved in their fundraising activities. This is a particularly troublesome development since it shows that those involved with terrorist fronts have been able to successfully reconstitute new charities that, upon closer scrutiny, have maintained the same ties to terrorist fronts and militant Islamic leaders, and have engaged in activities that belie the stated nature of their organizations. This new development will require the IRS to be more resourceful and for Congress to allocate new resources to new Treasury and IRS units whose mission should be to exclusively focus on the hunt for reconstituted charitable fronts for terrorism.

i. KindHearts for Charitable Humanitarian Development

According to its website, KindHearts "is a non-profit charitable organization providing immediate disaster relief and establishing programs to improve the quality of life and foster future independence for those in need." The organization claims that its "program emphasis" is emergency relief; water and general sanitation; sheltering refugees; sponsorship of orphans, widows, and poor families; medical and health care; rehabilitation and renovation; vocational training and education; and independent income generation and economic growth.[1]

There is evidence, however, that KindHearts may possibly be filling the void created by the closure of the Holy Land Foundation (HLF). In early 1994, Hamas leader Musa Abu Marzook, who had given the Holy Land Foundation (HLF) $210,000 in initial funding,[2] decided that the

[1] "Mission Statement and Objectives," Kind Hearts Website. http://www.kind-hearts.org/ramadhan/KH_mission.htm.

[2] "1993 Holy Land Foundation Form 990." Internal Revenue Service (IRS). *See Also* "Action Memorandum, Holy Land Foundation for Relief and Development International Emergency Economic Powers Act." From Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury. November 5, 2001 at p. 15.

charity would serve as the primary fundraising arm of HAMAS in the US.[3] The HLF was in operation until the Treasury Department froze its assets in December 2001.[4]

KindHearts was incorporated in Toledo, Ohio in 2002,[5] and is registered in a number of other states, including Oklahoma,[6] Nevada,[7] Indiana,[8] Colorado[9], while awaiting renewal in Pennsylvania.[10] An assessment of its operations indicates a close business relationship with the Holy Land Foundation network as well as with other charities that have been designated for being conduits for terrorist financing.

KindHearts Founder & CEO: links to Global Relief Foundation (GRF) and NAIF

Khalid Smaili, founder[11] and CEO[12] of KindHearts, also served as the Public Relations representative for the Global Relief Foundation (GRF).[13] The U.S. government shut down GRF on December 14, 2001 for financially supporting HAMAS and Al Qaeda.[14] Notably, in 2000, HLF had provided $18,521 to GRF.[15]

Smaili also donated $15,000 in July 2000 to a program created and managed by Imam Ismaa'eel H. Hackett, the director for the Wilmington, Delaware-based North American Islamic Foundation (NAIF).[16] Hackett was the spiritual advisor to Abdullah Hameen, a convicted murderer on death row. Prior to Hameen's execution, Hackett and the NAIF filed a motion in court to postpone the execution, arguing that Hameen's rights were being violated. Hackett claimed that, "God states that a Muslim cannot be put to death for killing a disbeliever [non-

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[3] "Action Memorandum, Holy Land Foundation for Relief and Development International Emergency Economic Powers Act." From Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury. November 5, 2001 at p. 13.
[4] "Shutting Down the Terrorist Financial Network," U.S. Department of Treasury. December 4, 2001. http://www.ustreas.gov/press/releases/po841.htm.
[5] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Ohio Secretary of State. Filed January 22, 2002.
[6] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Oklahoma Secretary of State. Filed September 29, 2003.
[7] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Nevada Secretary of State. Filed August 18, 2003.
[8] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Indiana Secretary of State. Filed October 17, 2003.
[9] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Colorado Secretary of State. Filed September 29, 2003.
[10] "KindHearts for Charitable Humanitarian Development Unified Registration Statement for Charitable Organizations." Filed September 9, 2002.
[11] "KindHearts for Charitable Humanitarian Development Articles of Incorporation." Ohio Secretary of State. Filed January 22, 2002.
[12] "KindHearts Newsletter." Kind Hearts Issue 2, No. 2, Fall 2003. http://www.kind-hearts.org/publications/Fall-03.pdf
[13] "Global News." Global Relief Foundation. Winter 2000 at p. 10.
[14] "Recent OFAC Actions: Designation of Benevolence International Foundation and Global Relief Foundation." U.S. Department of Treasury, Office of Foreign Assets Control. December 14, 2001. http://www.ustreas.gov/offices/eotffc/ofac/actions/20011214a.html
[15] "2000 Global Relief Foundation Form 990." Internal Revenue Service (IRS).
[16] Nelson, Crystal. "Youth Project Starts Up." The News Journal. August 3, 2000.

Muslim]. Based on those premises, we have to say that Abdullah Hameen should not be put to death."[17]

KindHearts, the Islamic Association for Palestine (IAP) and the Holy Land Foundation (HLF)

The IAP has a long history of links to Middle East terrorism and its financial support. A 2001 INS memo extensively documented IAP's support for HAMAS and noted that the "facts strongly suggest" that IAP is "part of HAMAS' propaganda apparatus."[18] Indicted HAMAS leader Musa Abu Marzook served on the IAP Board of Directors in 1989,[19] and just as he had arranged for the HLF, Marzook provided IAP with funds -- notably $490,000.[20] In August 2002, a federal judge ruled that there was evidence that "the Islamic Association for Palestine has acted in support of HAMAS."[21] And most significantly, in November 2004, a federal magistrate judge held the IAP civilly liable for $156 million in the 1996 shooting of an American citizen by a HAMAS member in the West Bank.[22] Further, in November 2004, an immigration judge labeled IAP a "terrorist organization" and noted its "propensity for violence."[23]

Annual conferences allowed IAP to promote and financially support the HAMAS agenda. As the October 1988 edition of IAP's Arabic language publication, *Ila Filastin*, noted, "[t]he Islamic Association for Palestine held conferences and activities to celebrate [the] one year anniversary of the blessed Intifada and…the inception of the HAMAS movement."[24] HAMAS members made frequent appearances at IAP's conferences.[25] At these conferences, IAP raised significant amounts of money for HLF. In fact, all of the money IAP raised during its *Intifada* celebrations in the late 1980's and early 1990's went to HLF, or the Occupied Land Fund as it was then known.[26] Additionally, all the proceeds from IAP's 1996 convention went to HLF.[27]

Following the HLF shutdown, KindHearts appears to have assumed the close relationship with the Islamic Association for Palestine (IAP) that was previously held by HLF. Notably, each group uses the other to assist in raising funds: KindHearts lists the Islamic Association for Palestine as its "Fundraiser Organizer" in its tax exemption filings,[28] while IAP has prominently

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[17] Chase, Randall. "Death Row Inmate Loses Last-Minute Bid for Commutation." The Associated Press. May 24, 2001.
[18] In the matter of Hasan Faisal Yousef Sabri, Notice of Revocation of Petition for Amerasian, Widow, or Special. Immigrant (Form I-360), Attachment.
[19] "Ila Filastin." February 1989 at p. 27.
20 In the matter of Hasan Faisal Yousef Sabri, Notice of Revocation of Petition for Amerasian, Widow, or Special. Immigrant (Form I-360), Attachment.
[21] Holy Land Foundation for Relief and Development v. Ashcroft, 219 F. Supp. 2d 57, 70 (D.D.C. 2002).
[22] Boim v. Quranic Literacy Institute, et al. NDIL 00-CV-2905 "Memorandum and Order." November 10, 2004.
[23] In the matter of Abdel Jabbar Hamdan. United States Department of Justice, Executive Office for Immigration Review, Immigration Court, San Pedro, California, November 22, 2004.
[24] "Ila Filastin" October 1988.
[25] Videotape, Islamic Association for Palestine Annual Conference, Kansas City, Missouri, December 27-30, 1989.
[26] Boim v. Quranic Literacy Institute, et al. NDIL 00-CV-2905 "Deposition of Rafeeq Jaber." July 28, 2003 at pp. 77-78.
[27] Boim v. Quranic Literacy Institute, et al. NDIL 00-CV-2905 "Deposition of Rafeeq Jaber." July 28, 2003 at pp. 253-55.
[28] "2003 KindHearts Form 990." Internal Revenue Service (IRS).

featured a clickable advertisement for KindHearts on its website. Kindhearts was the only charity advertised for on IAP's homepage.[29] IAP used its list serve to distribute KindHearts messages.[30] In one such instance, IAP's list serve distributed an email from KindHearts CEO Khaled Smaili that stated:

> "It is also with great satisfaction that I am able to report that just prior to the start of Ramadan, we received our 501-C(3) Tax exemption status from the U.S. government; therefore, all of your contributions are now tax exempt. Please rush your Zakat and Sadaqa in the return envelope today, or donate online at www.kind-hearts.org."[31]

Additionally, Abdelbaset Hemayel – who has served as the IAP's Director and Secretary General[32] – is listed as KindHearts' representative in Illinois and Wisconsin, according to a business card produced in April 2004.[33]

KindHearts and Al-Nojoum

Additionally, as was commonplace at IAP and HLF events, Kindhearts fundraisers have featured "entertainment" by the Al-Nojoum band.[34] Al-Nojoum, which was previously known as the Al-Sakhra band, frequently performed at IAP conventions. According to the HLF indictment, Al-Sakhra's "skits and songs…advocated the destruction of the State of Israel and glorified the killing of Jewish people." Mufid Abdulqader, who is a half-brother of HAMAS leader Khalid Mishal, was a member of the Al-Sakhra band. Abdulqader, an HLF fundraiser, was indicted with HLF in July 2004 on material support charges.[35]

KindHearts and the Mosque Foundation

Additionally, KindHearts has received funds from a controversial organization, the Mosque Foundation. The Mosque Foundation (MF) is intimately linked to Hamas. Hamas operatives Mohammad Salah and Mohammad Jarad attended the mosque, while IAP President[36] Rafeeq Jaber has served as a Mosque Foundation officer.[37] Former IAP Chairman[38] Sabri Samirah has

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[29] Web Archive of The Islamic Association for Palestine Website. http://web.archive.org/web/20021201230251/www.iap.org/index2.html and http://web.archive.org/web/20030602045953/www.iap.org/index2.html.

[30] *See also* "Eid Cards from KindHearts." Web Archive of The Islamic Association for Palestine Website. February 10, 2003. http://web.archive.org/web/20030407163035/http://www.iap.org/febmarch2003headlines.htm.

[31] "Message from KindHearts." KindHearts. November 18, 2002. Distributed through iapinfo@iap.org.

[32] "IAP Board of Directors/Shura Council." Web Archive of The Islamic Association for Palestine Website. http://web.archive.org/web/20030803052043/http://www.iap.org/contactus.htm.

[33] Business Card of Abdelbaset Hemayel. http://www.sakkal.com/Graphics/logos/kindheart/kindhearts_bc03.html.

[34] "KindHearts Benefit Dinner for Palestine." Orlando, Florida/ October 19, 2002. Flyer available at http://www.sakkal.com/Graphics/logos/kindheart/kindheart_orlando_flyer.html *See Also* "KindHearts Benefit Dinner for Palestine." Fort Lauderdale, Florida October 20, 2002. Flyer available at http://www.sakkal.com/Graphics/logos/kindheart/kindheart_lauderdale_flyer.html.

[35] USA v. HLFRD et al. NDTX 04-CR-240. "Indictment." July 26, 2004.

[36] "IAP Board of Directors/Shura Council," http://web.archive.org/web/20030803052043/http://www.iap.org/contactus.htm.

[37] Boim v. Quranic Literacy Institute, et al. NDIL 00-CV-2905 "Deposition of Rafeeq Jaber." April 9, 2003 at pp. 23-24.

also headed the Mosque Foundation. And, the MF's imam and registered agent, Jamal Said[39], served as the Treasurer of the Al Aqsa Educational Fund,[40] an entity identified by the FBI as a Hamas charitable front.[41] The MF has also employed Kifah Mustapha, the head of HLF's Chicago office,[42] and donated thousands of dollars to HLF.

According to its spring 2004 newsletter, KindHearts honored the Mosque Foundation with its "Mosque of the Year in recognition of their members' tremendous support." The newsletter noted that "this community as a whole donated $195,000 for KH to fund its relief efforts for the innocent victims of home demolitions in Rafah Refugee Camp, Gaza." KindHearts President Khaled Smaili presented the award to Mosque Foundation President Osama Jammal.[43]

Federal authorities are reportedly investigating the Mosque Foundation and associated individuals for suspected involvement in money laundering related to terror fronts. MF made sizable donations to other organizations later shut down by the US government for funding terrorism, including Benevolence International Foundation[44] and Islamic American Relief Agency (IARA), Al Qaeda fronts; and Global Relief Foundation (GRF)[45]. Furthermore, MF has raised over thousands of dollars for Sami al-Arian who had been indicted for serving as the head of Palestinian Islamic Jihad in North America.

Other KindHearts representatives associated with radical Muslim groups in the U.S.: Omar Shahin and Khalifah Ramadan

Other KindHearts representatives have been linked with radical Muslim groups in the U.S. According to a business card produced in April 2004, Omar Shahin, a former Tucson imam, is a KindHearts representative.[46] Shahin served as the Imam at the Islamic Center of Tucson (ICT) for three years until he "left abruptly" in June 2003. The ICT – which has hosted IAP conferences and has an extensive history of terror links – raised thousands for HLF in 2001.

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[38] "IAP Board of Directors/Shura Council." Web Archive of The Islamic Association for Palestine Website. http://web.archive.org/web/20011017003533/http://www.iap.org/contactus.htm.

[39] "Mosque Foundation Corporation File Detail Report." Illinois Secretary of State.

[40] "1995 Al Aqsa Educational Fund Form 990." Internal Revenue Service (IRS).

[41] "Action Memorandum, Holy Land Foundation for Relief and Development International Emergency Economic Powers Act." From Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury. November 5, 2001 at p. 13

[42] "In a beautifully decorated hall, dinner guests participated in a silent auction and fundraising event, graciously led by Sh. Jamal Said and Sh. Kifah Mustapha, both of the Mosque Foundation, Bridgeview." "From the Field - MAS Freedom Foundation - Chicago: Legendary Civil Rights Leader Addresses Annual MAS Chicago Fundraising Dinner." Muslim American Society. www.masnet.org/takeaction.asp?id=2455

[43] "KindHearts Newsletter." KindHearts. Issue 2, No. 1, Spring 2004, http://www.kind-hearts.org/publications/KHSpring04.pdf

[44] "Benevolence International Foundation Form 990: Contributions of $5,000 & More." Internal Revenue Service (IRS). *See also* "Benevolence International Foundation Form 990: Schedule of Contributor Donating $5,000 or More in Money Securities or Other Property." Internal Revenue Service (IRS).

[45] "1997 Global Relief Foundation Form 990: Donation of Cash & Property Over 5,000." Internal Revenue Service (IRS). *See Also* "1999 Global Relief Foundation Form 990: Donation of Cash & Property Over 5,000." Internal Revenue Service (IRS). *See Also* "2000 Global Relief Foundation, Form 990: Statement of Donors in Excess of $5,000 Each." Internal Revenue Service (IRS).

[46] Business Card of Omar Shahin. http://www.sakkal.com/Graphics/logos/kindheart/kindhearts_bc03.html.

In the mid-1980s, the ICT was one of the U.S. satellite offices of the Mektab al Khidmat (MAK) the precursor organization to al-Qaeda. MAK was founded by Wael Julaidan, Osama Bin Ladin, and Sheikh Abdullah Azzam, Bin Ladin's mentor.[47] Julaidan was ICT's President from 1983 to 1984.[48] ICT was one of the US offices listed on the masthead of *Al-Jihad* magazine, a publication edited by Al Qaeda co-founder Abdullah Azzam (the other US office listed was the MAK office in Brooklyn). In April 1988, Azzam penned an article titled "The Solid Base (al Qaeda), which in effect announced the formation of al Qaeda."[49]Other notable ICT attendees include Wadih El-Hage,[50] convicted for his role in the 1998 East Africa embassy bombings, and Ghassan Dahduli, the manager of the IAP information office in Tucson.

Additionally, Khalifah Ramadan, who has served as KindHearts' Director of Domestic Programs,[51] has been a training and evaluation consultant for the Council on American Islamic Relations (CAIR) and the Islamic Society of North America (ISNA).[52] There are a number of significant connections between CAIR and HLF, as well as other HAMAS front groups – the Islamic Association for Palestine, the United Association for Studies and Research, the Muslim Arab Youth Association, and the SAFA Group. For example, less than two months after CAIR filed its Articles of Incorporation, the organization received a $5,000 wire transfer from HLF.[53] Moreover, CAIR assisted in raising funds for HLF throughout the 1990's and until the government shut down.[54] And Ghassan Elashi, a founding Board Member of CAIR-Texas,[55] was also Chairman[56] and Treasurer[57] of HLF.

Further evidence placing CAIR in the HAMAS US network is the fact that it is an offshoot of IAP. Both Omar Ahmad and Nihad Awad – two of CAIR's incorporators – held leadership positions with IAP prior to founding CAIR.[58]

ISNA also has significant links to terrorism. Co-founded by Sami al-Arian[59] – indicted on criminal racketeering charges and for his alleged role as the head of Palestinian Islamic Jihad in

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[47] "PO-3553: Treasury Department Statement Regarding the Designation of the Global Relief Foundation." U.S. Department of Treasury, Office of Public Affairs. October 18, 2002. http://www.treas.gov/press/releases/po3553.htm.
[48] "Islamic Center of Tucson Annual Reports." Arizona Secretary of State. Filed May 21, 1984 and Feb.12, 1985.
[49] Azzam, Dr. Abdullah. "Al-Qa'ida." Al-Jihad. No. 41, April 1988.
[50] USA v. Bin Laden, et al. SDNY 98-CR-1023. "Trial Transcripts: Day 6." February 15, 2001 at p. 789.
[51] "KindHearts Newsletter." KindHearts. Issue 1, No. 2, Summer 2003, http://www.kind-hearts.org/publications/summer-03.pdf.
[52] "Biographical Sketch: Khalifah Ramadan," Web Archive of the Council on Islamic-American Relations Website. http://web.archive.org/web/20031017201654/www.cair-nj.org/bjokramadan.htm.
[53] NationsBank Wire Transfer // 941031011157000, Federal Reference // 941031001492082 4. October 31, 1994.
[54] *See Also* "CAIR Action Alert: American Muslims Asked to Pray for Palestinians" September 9, 1996.
[55] "CAIR Articles of Incorporation." Texas Secretary of State. Filed September 29, 1998.
[56] "1999 Holy Land Foundation Form 990." Internal Revenue Service (IRS).
[57] "1993 and 1998 Holy Land Foundation Form 990." Internal Revenue Service (IRS).
[58] Awad, Nihad. "Muslim-Americans in Mainstream America." The Link. February-March 2000.
[59] "Bio of Sami Al-Arian." American -Arab Anti-Discrimination Committee (ADC) program of Speakers, Moderators, and Award Recipients, 17th National Convention. Arlington, Virginia, June 8-11, 2000. *See Also* American Muslim Council (AMC) Program, 10th National Convention. Alexandria, VA, June 21-24, 2001, AND Mull, Yasmin. "A Shattered Dream." Egypt Today. December 10, 2003.

the U.S. – ISNA has employed an array of convicted or indicted terrorists, such as Abdulrahman Alamoudi[60] and former HLF head Shukri Abu Bakr.[61]

ISNA's funding is also highly suspect. ISNA provided $170,000 in start-up capital to the Islamic African Relief Agency (IARA),[62] which the U.S. government shut down in October 2004 for funding HAMAS and Al Qaeda.[63] And it has been reported that U.S. officials are aware of ISNA's receipt of funds from Saudi sources that are under investigation for terror links.

ii. KinderUSA

Like Kindhearts, KinderUSA, a Dallas-based Islamic charity, was formed by individuals who had high level positions at charities frozen by the U.S. government. Riad Abdelkarim served as HLF's Secretary in 2000 and was an HLF Board Member when the organization was shut down in December 2001.[64] Following the HLF shutdown, Abdelkarim formed KinderUSA[65] with former HLF fundraiser and spokeswoman Dallel Mohmed.[66] And KinderUSA received funds from KindHearts in 2002.[67]

In December 2004, KinderUSA suspended operations and entered a "period of evaluation and review" in the face of an FBI investigation.[68]

b. For-profit companies

As we have seen with charities, we have noted a trend of for-profit companies reconstituting themselves with individuals previously involved with the HAMAS fronts in the United States. One example is the Infocom-Synaptix entity.

Infocom- Synaptix Connection

Incorporated in Richardson, Texas, in 1992 and run by Ghassan Elashi and his four brothers, InfoCom sold computer systems and networking, telecommunications, and Internet services, and also exported computers to the Middle East. According to the U.S. government, in or around July 1992, Mousa Abu Marzook, a top Hamas official who is married to the Elashis' cousin Nadia, "sent, or caused to be sent, $150,000" to InfoCom. The government alleges that in total,

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[60] Resume of Abdelrahman Alamoudi.
[61] Boim v. Quranic Literacy Institute, et al. NDIL 00-CV-2905 "Deposition of Shukri Abu Baker." January 30, 2003 at pp. 13-14.
[62] "1989 Islamic African Relief Agency Form 1023.: Internal Revenue Service (IRS).
[63] "Treasury Designates Global Network, Senior Officials of IARA for Supporting bin Laden, Others." U.S. Department of the Treasury, Office of Public Affairs., October 13, 2004. http://www.treas.gov/press/releases/js2025.htm
[64] "2000 Holy Land Foundation Form 990." Internal Revenue Service (IRS).
[65] "202 Kinder USA Form 990." Internal Revenue Service (IRS).
[66] "S.H.A.R.E. Newsletter." Holy Land Foundation. August 1999.
[67] "2002 KindHearts Form 990." Internal Revenue Service (IRS). *See Also* "KindHearts Newsletter." KindHearts. Issue 1, No. 1, Fall 2002. http://www.kind-hearts.org/publications/Fall-02.pdf.
[68] KinderUSA response to Dallas Morning News, Letter from KinderUSA Board Members." KinderUSA Website. http://www.kinderusa.org/index.php?option=com_content&task=view&id=44&Itemid=2

InfoCom received at least $250,000 in investment capital from accounts controlled by Marzook.[69]

In September 2001, federal agents raided InfoCom's Richardson offices. The investigation into the business dealings of InfoCom culminated in the arrests of four Elashi brothers—Bayan, Ghassan, Basman, and Hazim—on December 17, 2002. The fifth Elashi brother, Ihsan ("Sammy"), was already in custody on an unrelated charge. Marzook and his wife, Nadia Elashi, were also indicted, along with InfoCom itself. The two-part trial was comprised of a thirty-three count indictment which included export violations involving Syria and Libya, money laundering, and conspiracy to deal in the property of a Specially Designated Terrorist.[70]

In July 2004 Bayan Elashi, Ghassan Elashi, Basman Elashi, Hazim Elashi and Ihsan Elashi along with the Infocom Corporation were "convicted on charges they conspired to violate the Export Administration Regulations and the Libyan Sanctions Regulations. Specifically, each of the five brothers was also found guilty of conspiracy to file false Shipper's Export Declaration forms. All of the brothers were convicted of the false statements charges and all of the defendants except Ihsan Elashi were also convicted on money laundering charges."[71]

In addition to the Infocom conviction, Ghassan Elashi and his two brothers Basman and Bayan Elashi were each found "guilty of conspiracy to deal in the property of a Specially Designated Terrorist and conspiracy to commit money laundering."[72]

Reconstitution of Infocom

Shortly after Infocom was shut down, another web-hosting company was opened in December 2002. This company is called Synaptix.Net (also referred to as Synaptix and Synaptix Corporation)[73] and it is run by several individuals including Majida Salem and Fadwa Elafranji.[74] Fadwa Elafranji was the former President of Infocom and coincidentally she is also the mother of the Elashi brothers.[75] According to a LEXIS reports, Majida Salem is also known as Majida Elashi, Ghassan Elashi's wife.[76] According to Ghassan Elashi's bail bond hearing from July 7, 2004, Elashi states that he is an employee of Synaptix and works in their sales division.[77]

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[69] USA v. Infocom et al. NDTX 02-CR-52. "Superceding Indictment." December 17, 2002.
[70] USA v. Infocom et al. NDTX 02-CR-52. "Superceding Indictment." December 17, 2002.
[71] "More Federal Convictions for Elashi Brothers and Infocom Corporation at Second Trial." USDOJ United States Attorney Northern District of Texas. April 14, 2005.
http://www.usdoj.gov/usao/txn/PressRel05/elashi_conv_part2.pdf
[72] "More Federal Convictions for Elashi Brothers and Infocom Corporation at Second Trial." USDOJ United States Attorney Northern District of Texas. April 14, 2005.
http://www.usdoj.gov/usao/txn/PressRel05/elashi_conv_part2.pdf
[73] USA v. Infocom et al. NDTX 02-CR-52. "Bail bond hearing of Ghassan Elashi." July 7, 2004 at p.23.
[74] USA v. Infocom et al. NDTX 02-CR-52. "Bail bond hearing of Ghassan Elashi." July 7, 2004 at p.23. According to a LEXIS/NEXIS business search, Fadwa Elafrangi and Majida Salem (also known as Majida Elashi) are listed as the associated entities for the company.
[75] USA v. Infocom et al. NDTX 02-CR-52. "Bail bond hearing of Ghassan Elashi." July 7, 2004 at p.23.
[76] "Majida Elashi Person Summary Report." LEXIS/NEXIS. According to LEXIS/NEXIS Smartlinx Person Search of Majida Elashi, there are several name variations given for Majida Elashi including the following: Elashi, Majida;

One of the organizations that Synaptix.net hosted was KinderUSA (see section above on KinderUSA). It should be noted that when one retrieves the domain information of KinderUSA, Synaptix is not listed as the Internet hosting company or the technical contact. However, via an old version of KinderUSA's website, there is an option to join KinderUSA's mailing list. Upon receiving a confirmation e-mail to join Kinder USA's mailing list, subscribers are sent to a Synaptix.net link to confirm their subscription to the KinderUSA list serve as follows:

> "Hello, This has been sent to you just to confirm that you want to be subscribed to: kinderusa-news to confirm, simply follow the link below: http://www.synaptix.net/cgi-bin/mojo/mojo.cgi?f=n&l=kinderusa%2dnews&e=riyyam%40yahoo.com&p=5794
> (Click the link above or copy and paste the link into your browser)
> Powered by Mojo Mail 2.8.9 http://www.synaptix.net/cgi-bin/mojo/mojo.cgi?f=smtm" [78]

Synaptix Partnership with Donationform.com, linked to HLF

Synaptix not only provides Internet hosting and email services to its customers, but it is also partnered with a company called DonationForm.com which specializes in providing online donation portals for non-profit organizations.[79] According to Donationform.com's website, "Synaptix.net's DonationForm.com secure online donation form solution is developed specifically for non-profit organizations."[80] A LEXIS business report of Donationform.com showed that one of its associates is former Holy Land Foundation (see HLF section above) spokesperson[81] and Infocom employee[82], John Janney.[83] Under the contact information section on Donationform.com's website, Synaptix is listed as the contact address.[84]

Although Infocom and Synaptix.net are not charities, the existence and reconstitution of Synaptix.net help explain the regeneration of groups and individuals who have acted as terrorist fronts in the United States.

Elashi, Mojida; Mousa, Majida; Salem, Majida; Salem, Majida M. USA v. Infocom et al. NDTX 02-CR-52. "Bail bond hearing of Ghassan Elashi." July 7, 2004.

[77] USA v. Infocom et al. NDTX 02-CR-52. "Bail bond hearing of Ghassan Elashi." July 7, 2004 at p. 23. According to a lexis business search, Fadwa Elafrangi and Majida Salem (also known as Majida Elashi) are listed as the associated entities for the company.

[78] "KinderUSA List Serve Email Invitation." KinderUSA. February 15, 2004. www.kinderusa.org

[79] Synaptix Website. http://www.synaptix.net/ *See Also* Donationform Website. http://www.donationform.com/

[80] Donationform Website. http://www.donationform.com/non-profit.php.

[81] "Letter to OFAC from Richard Alan Anderson regarding Application for License to Provide Legal Representation for Employees of the Holy Land Foundation." Dated March 14, 2002. HLF v Ashcroft DDC 02-442 HLF Binder #7 p.3017-3019.

[82] "Janney and other employees at InfoCom, an Islamic-owned Richardson computer company, have designed a Web site, dallasNOTnews.com, that urges its readers to boycott the newspaper and cancel subscriptions--to do whatever is legally permissible to change what they contend is the paper's anti-Islamic bias...InfoCom allowed Janney, its employee, to create a protest Web site, dallasNOTnews.com, that mocked the News' own Web site. Oddly, in his original 1996 HLF article, McGonigle reported that the wife of Hamas leader Mousa Abu Marzook had invested $250,000 in InfoCom." *See* Donald, Mark. "War of Words; Morning News Reports of a Charity's Ties to Terrorism Spur Muslim Protests." The Dallas Observer. May 18, 2000.

[83] "Donationform.com Business Summary Report." LEXIS/NEXIS.

[84] Donationform Website. http://www.donationform.com/contact.php Address given is: Synaptix.net 401 International Pkwy, Ste 108 Richardson, TX 75081

III. Expansion of Non-traditional Methods of Terror Financing

Another area of concern is the explosion of non-traditional methods of terror financing. While organizations use traditional methods of financing such as charities and donation boxes, terrorist fronts have implemented more non-traditional methods for moving funds.

a. Organized Retail Theft: A Major Conduit for Terrorist Financing

Organized retail theft (ORT) has links to money laundering and financing of Middle Eastern terrorism. It targets everyday household commodities and consumer items affecting a variety of retail enterprises, including supermarkets, chain drug stores, independent pharmacies, mass merchandisers, convenience stores, and discount businesses. The supermarket industry alone loses $15 billion annually from ORT while the loss is estimated to run as high as $34 billion throughout all retail operations.[85] Strong evidence indicates that profits from this chain of illegal activity are funneled to terrorist groups in the Middle East, posing a serious threat to national and international security.

Because state laws have few teeth and there is a lack of federal law addressing the issue, retail theft is becoming increasingly attractive as a high-profit, low-risk avenue of crime for criminal organizations and terrorist groups. ORT rings operate in almost every region of the United States and several of these rings are led by foreign nationals, many of whom are illegal immigrants.

This black market trade employs two groups of individuals. The first group consists of professional shoplifters, or boosters [often illegal immigrants from Central American countries such as Honduras and El Salvador], who steal consumer merchandise through a variety of techniques that include organized shoplifting, armed robbery, cargo theft, and hijackings. Products targeted for theft by these groups include infant formula, cigarettes and smokeless tobacco, health and beauty aids, diabetes test strips, over-the-counter medications, and colognes and perfumes.[86]

The second group of individuals is comprised of fences, or low-level buyers [mostly immigrants from various Middle Eastern and East Asian countries such as Egypt, Jordan, Lebanon, and Pakistan] who purchase the stolen merchandise and distribute it back to retail outlets. This group owns a variety of businesses such as convenience stores, grocery stores, gas stations, grocery wholesale businesses, travel agencies, used car dealerships, shipping companies, book keeping firms, and night clubs. While the main activity of this group focuses on the theft and resale of stolen merchandise, members also engage in a number of side activities that include narcotics trafficking, prostitution, extortion, alien smuggling, organized auto-theft, currency smuggling,

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[85] Food Marketing Institute Website. http://www.fmi.org/loss/ORT/

[86] Testimony of Randy A. Merritt before the United States House of Representatives Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources titled "National and International Consumer Products Fencing Operation Suspected of Providing Support to Terrorist Organizations" on November 10, 2003.

credit fraud, bank fraud, and welfare fraud. Proceeds from the aforementioned illegal businesses are frequently used in financing terror-related activities.[87]

In his February 2005 Congressional testimony, FBI Director Robert Mueller highlights the strong linkages between organized criminal enterprises operating in the U.S. and terrorist groups:

> Middle Eastern Criminal Enterprises involved in the organized theft and resale of infant formula pose not only an economic threat, but a public health threat to infants, and a potential source of material support to a terrorist organization.[88]

Recent federal investigations of retail theft rings have resulted in indictments and subsequent arrests of Arab and Muslim criminal enterprises throughout the country. The Ghali Family organization is a particularly chilling example in its size, impact and ability to continue its illicit operations, despite incarceration of leaders.

The Ghali Family Organization – Incarceration of Leaders Is No Obstacle

In February 2005, Mohammed Khalil Ghali was sentenced to 14 years imprisonment, following his conviction in April 2004 on 15 counts of a superseding indictment charging him and seven other individuals with various federal felony violations linked to organized retail theft in North Texas.[89] According to the indictment, Ghali was the organizer and leader of a Palestinian gang known as the "Ghali" organization, which ran one of the nation's most notorious retail theft rings from Fort Worth, Texas. At the direction of Mohammed Ghali, members of his organization purchased stolen property that was being held at various metroplex convenience stores by store owners/operators who served as "fences" for the Ghali organization. Stolen property, including infant formula, pharmaceuticals, cigarettes, health and beauty aids, medicinal products, glucose test strips, nicotine gum and transdermal patches, razors and razor blades, were then delivered to warehouses where price tags and anti-theft devices were removed and the merchandise repackaged and shipped to customers throughout the United States.[90]

Despite incarceration of its top leaders, the "Ghali crime family" continues to operate its illegal business from behind bars with the aid of unjailed associates. Testimony at the sentencing hearing accused Ghali of making inquiries as to how much it would cost to have the Texas prosecutor and federal agent killed by gang members.[91] According to court transcripts, jailed family leader Mohamed Ghali attempted to hire Crip gang members to arrange the hits for

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[87] Testimony of Randy A. Merritt before the United States House of Representatives Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources titled "National and International Consumer Products Fencing Operation Suspected of Providing Support to Terrorist Organizations" on November. 10, 2003.

[88] Testimony of Robert S. Mueller, III, Director of the Federal Bureau of Investigation before the United States Senate Committee on Intelligence on February 16, 2005.

[89] "Leader of Organized Infant Formula Theft Ring Sentenced to 14 Years in Federal Prison." USDOJ Press Release. Feb. 2, 2005.

[90] USA v. Ghali, et al. 03-CR-212. "Superseding Indictment." Dec. 17, 2003.

[91] "Leaders of Organized Retail Theft Ring Sentenced to 14 Years in Federal Prison." USDOJ United States Attorney Northern District of Texas. February 2, 2005.
http://www.usdoj.gov/usao/txn/PressRel05/Ghali_sen1_amd.pdf

$500.[92] Members of the Ghali family also made attempts to bribe U.S. Immigration and Customs Enforcement (ICE) supervisors to get the charges against Ghali dismissed.[93] More recently, federal authorities unraveled a plot targeting Fort Worth Police Detective Scott Campbell, his family, and ICE agent Scott Springer.[94] It has been reported that profits generated from the sale of goods were wired to banks in the Middle East.

Huge profits from thefts of infant formula

The Jamal Trading Company case demonstrates the huge amounts of money that is generated through the theft of infant formula. A wholesaler in infant formula, the Tempe-based company owned and operated by Samih Fadl Jamal, was the center of a fencing operation for stolen or fraudulently obtained infant formula, which generated more than $11 million dollars in profits.[95] Stolen infant formula was repackaged at the JTC warehouse and distributed and sold to various retail and wholesale businesses.[96] Most of the defendants indicted in the case were from Iraq, Jordan, or Lebanon. Of the 27 defendants indicted, 22 were located and arrested, 17 have pleaded guilty and four have been sentenced and deported. Jamal, a naturalized US citizen born in Lebanon, was convicted in April 2005 on 20 counts of conspiracy to traffic in stolen infant formula, money laundering, and other related charges. All counts carried a fine of $250,000. Sentencing is set for September 12, 2005.[97]

Similarly, a June 8, 2005 indictment charged Carlos Javier Medina-Castellanos, Mahmoud Bassar and Jose Franseisco of organized theft of baby formula, over-the-counter medicines, and other items related to personal health and hygiene. According to the indictment, the stolen items would be collected from different locations in North Carolina and Georgia and delivered to various depositories that included private residences or temporary storage facilities. The stolen merchandise would then be transported by passenger vehicles and rented trucks to commercial trucking firms where it was loaded onto larger trucks. The merchandise would then be shipped to various destinations across the country. The retail value of particular shipments of the stolen merchandise shipments in some instances exceeded $50,000.[98]

The use of mosques, bookkeepers and law firms in ORT

The organized retail theft ring is not only sophisticated in its operations, but also in its exploitation of resources. Investigators of various organized retail theft rings have reported that often mosques are used by the criminals as meeting places to discuss logistics for burglaries or

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[92] Benson, Todd and Robert Riggs. "Feds Uncover Alleged Plot to Assassinate Fort Worth Cop, Federal Agent." CBS-11 News. May 11, 2005.
[93] "Leaders of Organized Retail Theft Ring Sentenced to 14 Years in Federal Prison." USDOJ United States Attorney Northern District of Texas. February 2, 2005.
[94] Benson, Todd and Robert Riggs. "Feds Uncover Alleged Plot to Assassinate Fort Worth Cop, Federal Agent." CBS-11 News. May 11, 2005.
[95] USA v. Jamal, et al. DAZ 03-CR-261. "Indictment." March 13, 2003.
[96] USA v. Jamal, et al. DAZ 03-CR-261. "Indictment." March 13, 2003.
[97] "Stolen Infant Formula Ringleader Convicted of Twenty Counts." USDOJ United States Attorney District of Arizona. April 26, 2005. http://www.usdoj.gov/usao/az/azpress/2005/2005-080.pdf
[98] USA v. Medina-Castellanos, et al. EDNC 05-CR-155. "Indictment." June 8, 2005.

shoplifting operations.[99] Surveillance of mosques has proven to be difficult not only because mosques are places of worship but also because of the arduous process involved in obtaining a warrant to surveil in the first place.

In addition to using the same mosques for planning operations, many of the different rings, which often work in concert, use the same bookkeeping firms. Of these firms, certain ones have been known to represent individuals suspected of criminal activity and in some cases, the firms themselves are actually involved as investors in the schemes. Moreover, many of the individuals involved in ORT operations use the same law firm for their defense, creating conflicts of interest that make it more difficult, if not impossible, for law enforcement to approach individual defendants to become cooperating witnesses. Examples of this tactic have been reported in Texas where the same law firm represented "high profile defendants" over several years and thereby "appear[ed] to be acting as an organizational firm for the criminal enterprise Texas operations."[100]

b. Increase of Illegal Drug Operations by Terrorist Organizations

Illegal drug trafficking continues to be a source of income for various terrorist organizations, including Al Qaeda and Hizballah. Most recently, this past June, the Ecuadorian government broke up a drug ring run by a local Lebanese restaurant owner. The bust resulted in multiple arrests, including individuals in the United States. Ecuadorian authorities report that at least 70% of the profits from the drug trafficking operation went to help finance Hizballah.[101]

A growing area of concern is the involvement of Hizballah financiers in large-scale drug operations involving methamphetamine in North and South America. The first case that documented the direct flow of illegal drug sales money to the Middle East involved a massive drug trafficking ring that smuggled tractor-trailer loads of pseudoephedrine from Canada to Detroit, and then from Detroit to California. Once in California, the Mexican-run criminal organizations would use the pseudoephedrine to produce large quantities of methamphetamine.[102] Organized Crime Drug Enforcement Task Force (OCDETF) investigators from the Drug Enforcement Agency, Customs, the Internal Revenue Service, and the Royal Canadian Mounted Police launched Operation Mountain Express III to unravel the drug ring. In doing so they discovered that the drug traffickers had been funneling profits to Middle Eastern terrorist groups, including Hizballah.[103]

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[99] Testimony of Randy A. Merritt before the United States House of Representatives Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources titled "National and International Consumer Products Fencing Operation Suspected of Providing Support to Terrorist Organizations" on November. 10, 2003.

[100] Testimony of Randy A. Merritt before the United States House of Representatives Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources titled "National and International Consumer Products Fencing Operation Suspected of Providing Support to Terrorist Organizations" on November. 10, 2003.

[101] "'Hezbollah drugs ring' broken up." BBC News. June 22, 2005.

[102] "Budget of the United States Government, Fiscal Year 2004—Appendix: Department of Justice." Office of Management and Budget (OMB).

[103] "Budget of the United States Government, Fiscal Year 2004 Appendix: Department of Justice." Office of Management and Budget (OMB).

Although it is not known how much of the profits went specifically to Hizballah, former DEA chief, Asa Hutchinson, confirmed to the press when announcing the arrests that "a significant portion of some of the sales are sent to the Middle East to benefit terrorist organizations."[104] The Mountain Express III investigation resulted in the arrest of defendants in twelve cities across the United States and Canada, along with the seizure of more than 35 tons of pseudoephedrine (which could be used to produce 30,000 pounds of methamphetamine), 179 pounds of finished methamphetamine, six clandestine drug laboratories, and $4.5 million in U.S. currency.[105]

Other cases have documented Hizballah connection to drug money.[106]

Similarly, Al Qaeda cells have, in certain instances relied on drug sales to finance its operations. For example, the Moroccan terrorist who financed the 3/11 attacks in Madrid not only was a drug dealer of Hashish but also purchased the explosives used in the attacks with the drug.

Pseudoephedrine and Methamphetamines

While drugs such as heroin, hashish and marijuana have been traditionally used by some terrorist organizations to help supplement thee financing of their operations, the United States is a facing larger problem with methamphetamines, now considered the top drug in most counties across the country.[107] "The DEA has documented the involvement of ethnic Middle Eastern crime groups in the smuggling of precursor chemicals used in methamphetamine production in both the United States and Canada."[108] While most of the illegal sales and distribution of methamphetamine is not conducted by Middle Eastern individuals, Middle Eastern men have been involved in the acquisition and distribution of pseudoephedrine, the precursor drug required for methamphetamine production. According to the website of the Drug Enforcement Administration (DEA), "domestic labs that produce methamphetamine are dependent on supplies

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[104] "DEA probe links first illegal drug profits in U.S. to Middle Eastern terrorists." The Associated Press. September 2, 2002.

[105] "Budget of the United States Government, Fiscal Year 2004—Appendix: Department of Justice." Office of Management and Budget (OMB). Hizballah's ties to the drug trade were also verified by the now-defunct Operation Green Quest, a multi-agency task force on terrorist financing created in 2001 after the 9/11 attacks. Though not directly aimed at Hizballah, Green Quest exposed laundered drug money for the group. Testimony of Kenneth W. Dam, Deputy Secretary, Department of the Treasury before the Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on International Trade and Finance on August 1, 2002. Under a May 13, 2003 agreement between the FBI and the Department of Homeland Security, "ICE shut down its successful 'Operation Green Quest' program that had yielded 38 arrests, 26 indictments and nearly $7 million in seized terrorist assets during the first nine months of its existence -- handing over jurisdiction in terrorist cases to the FBI." Seper, Jerry. "Senator Questions FBI Probe." The Washington Times. June 6, 2005.

[106] For example, Ohio resident Mohammad Shabib was involved in a sprawling drug enterprise used to finance Hizballah. Beginning in the early 1990s, Shabib hauled about 3 tons of pseudoephedrine from Canada to California, where his colleagues sold the medicine to Mexican gangs that would turn it into the street drug methamphetamine. It is unclear exactly how much of this money went to finance terrorism, but Shabib's drug trade did contribute to Hizballah's financing. Garrett, Amanda. "Terrorists' Money Takes Convoluted Path in U.S." The Cleveland Plain Dealer. January 18, 2004: A1.

[107] Leinwand, Donna. "Meth is Top Drug Problem, Survey Says." The Chicago Sun Times. July 6, 2005.

[108] "Chemical Diversion and Synthetic Drug Manufacture." Drug Enforcement Administration (DEA). September 2001. http://www.usdoj.gov/dea/pubs/intel/intel010621.html

of the precursor chemical pseudoephedrine, which is sometimes diverted from legitimate sources."[109]

One of the largest drug rings to be busted in the United States was the Esawi organization out of Chicago. In May 2002, twin brothers, Khaldon Esawi and Khaled Obeid were indicted on charges for possessing a drug with the knowledge that the drug would be used to manufacture a controlled substance, specifically methamphetamine.[110] The drug trafficking operation began in Canada and moved from Chicago to California, involving 13 defendants. Although there were no explicit terrorist financing accusations, the possibility that the monies that were transferred to the Middle East by the defendants to be used for terrorist financing operations has been suspected by investigators on the case.

Drug Trafficking and the Palestinian Islamic Jihad

Of similar note, connections between indicted drug trafficker Tariq Isa and two of the defendants in the Palestinian Islamic Jihad (PIJ) case, currently in progress in Tampa, Florida, were uncovered. In May 2004, Isa, the Imam of the Al-Qassam Mosque in Chicago, was indicted for conspiracy to possess a controlled substance, conspiracy to possess narcotics and illegal transfer of firearms.[111] In February 2003, two other officials from the same mosque officials, Ghassan Ballut[112] and Hatem Fariz, had been indicted in Florida along with Sami al-Arian for their involvement with PIJ, a federally designated terrorist organization responsible for the deaths of two Americans and over 100 Israelis.[113] In seeking Isa's detention, an AUSA from the Northern District of Illinois stated in court on August 10, 2004 that Isa had been photographed with Ramadan Shallah, the Secretary General of the PIJ.[114] Isa, Ballut and Fariz were identified both as officers of the Chicago mosque and the only three individuals to hold signatory authority over its bank account.[115]

c. Dual Use: Counterfeit Drugs for Funds and as a Means of Terror Attack?

The manufacture and distribution of counterfeit pharmaceuticals is yet another criminal endeavor, which is being used as a direct conduit for financing terrorist attacks. Several examples of counterfeit drug operations have been uncovered throughout the country. This scenario is especially troubling as terrorist groups could use these methods for both financial gain and to further their violent schemes by simply adding toxins or infectious agents to them.[116] Experts have documented the fact that Hizballah has manufactured and exported counterfeit

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[109] "Methamphetamine & Amphetamines." Drug Enforcement Administration (DEA). http://www.dea.gov/concern/meth_factsheet.html
[110] USA v. Esawi, et al. NDIL 02-CR-38 "Indictment." May 07, 2002.
[111] USA v Isa. NDIL 04-CR-473 "Superseding Indictment."September 7, 2004.
[112] "Al-Qassam Mosque Business Summary Report." LEXIS/NEXIS. July 6, 2005. The business summary report lists Ghassan Ballut, Hatem Fariz, and Tariq Issa on the property transfer record for the mosque.
[113] USA v. Al-Arian, et al. MDFL 03-CR-77. "Indictment." February 19, 2003.
[114] O'Connor, Matt. "Mosque Official's Release Denied." The Chicago Tribune. August 11, 2004.
[115] USA v. Al-Arian, et al. MDFL 03-CR-77. "Trial Exhibits: Al-Qassam Mosque Corporation Filings"
[116] Testimony of Timothy Trainer before the House International Relations Committee titled "International/Global Intellectual Property Theft: Links to Terrorism and Terrorist Organizations" on July 16, 2003.

pharmaceutical products. While terror groups have raised funds from counterfeit sales for years,[117] this is a new twist on an old problem, with even greater consequences.

d. Stored Value Cards

According to the United States Department of Treasury, "stored-value cards (SVCs) are smart cards with electronic value…The technology eliminates coin, currency, scrip, vouchers, money orders, and other labor-intensive payment mechanisms."[118] While it is often difficult to move large sums of cash across international borders, stored value cards make it easy to transfer large amounts of money without a trace. The stored value cards operate as gift cards and can be obtained in a variety of different places. The cards are able to be obtained without real identification using, fake names and can be recharged at a number of different places. Experiments have been conducted showing the ease of obtaining and using these stored-value cards without divulging personal information. Although we have no evidence that stored value cards have been used in any terrorist financing schemes, SVCs do raise suspicion in terms of money-laundering.

A core requirement of the financial industry when dealing with international financial transactions such as the movement of funds overseas includes the careful monitoring of the Department of Treasury's Office of Foreign Assets Control (OFAC) Financial Operations and Designations lists. The Industry must perform due diligence on all clients in order to ensure that funds are not reaching individuals or nations, which have been "specially designated" by United States agencies. In terms of money-moving conduits such as stored value cards, enforcement of such regulations prove to be challenging.

Although the sole purpose of this card is to replace currency, and until now it has rarely been used for Internet purchases, there are new methods being developed to use SVCs to make payments over the web.

Stored-value cards while otherwise a convenient invention, have the potential to facilitate and abridge anti-money laundering efforts, depending on the amount of money that can be retained per card. Due to their portability and the fact that they can change hands a dozen times in one day without leaving a trace, stored-valued cards eliminate intermediaries such as financial institutions, allowing for virtually undetected global movement of funds. The implications of this

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[117] Hizballah has also made use of counterfeit goods, particularly in the South American tri-border region of Paraguay, Brazil, and Argentina. There, in February 2000, Ali Khalil Mehri was arrested for selling millions of dollars worth of counterfeit Sega, Sony, and Nintendo software and funneling the money to Hizballah. In his home, authorities found videos and CDs of known suicide bombers rallying others to the cause. Faiola, Anthony. "U.S. Terrorist Search Reaches Paraguay." The Washington Post. October 13, 2001. In July 2003, while searching the offices of suspected Hizballah financiers in Paraguay, police discovered boxes of counterfeit goods. "Document Seized in Cuidad Del Este from Alleged Hizballah Financier Offices." Agence France Presse. July 4, 2003. In October 2003, authorities in Beirut intercepted counterfeit brake pads and shock absorbers valued at $1.2 million. Interpol Secretary General Ronald Noble told European and American legislators meeting in Dublin in April 2004 that "subsequent enquiries revealed that profits from these consignments, had they not been intercepted, were destined for supporters of Hizballah." "'Terror' Groups Cashing in on Fake Goods – Interpol." Reuters. April 7, 2004.

[118] "Stored-Value Cards." U.S. Department of Treasury, Financial Management Service. http://www.fms.treas.gov/storedvalue/

development in terms of terror financing and our government's ability to combat it are simply daunting.

e. Multiple use: Vehicle Theft for Funds, for Laundering and as a Means of Attack?

Vehicle theft is playing a burgeoning role in the financing of terrorist organizations. According to Greg Terp, chairman of the North American Export Committee (NAEC), an organization whose mission is to stem the export of stolen vehicles, auto theft "remains a staple of organized crime groups" and recent investigations have shown a "direct link" between these organized crime groups and the funding for terrorist organizations.[119] In a recent summit, the North American Export Committee (NAEC), and Arizona law enforcement officials came together to discuss how best to combat the exportation of stolen vehicles.[120] Arizona plays a significant role because it has the highest number of auto thefts per capita in the United States estimated to be more than 56, 000 a year.[121]

More alarming, however, is the use of stolen vehicles, not only in the financing of terrorism, but as part of future terrorist acts. Stolen cars in Arizona have been tracked to seaports outside of Los Angeles, Seattle, and Houston.[122] It is entirely conceivable that a number of shipping companies, in turn, would ship these stolen vehicles to places in the Middle East, where they would be prepped for future suicide attacks and car bombings. Thousands of cheap, second hand cars from Europe, the Persian Gulf and Asia, for example, flooded into Iraq after the U.S.-led occupation two years ago through parts of the Middle East.[123] And In a raid conducted last year by U.S. troops in Fallujah, soldiers discovered a bomb making workshop where an SUV registered in Texas was being converted into a car bomb.[124]

Money Laundering through Automobiles

While law enforcement officials have noted the sale of stolen vehicles by organized crime groups for the purpose of financing terrorist organizations, it is important to note that seemingly legitimate auto dealers have also been involved in laundering large amounts of cash through the sale of automobiles. In an ongoing investigation in Chicago, Illinois, four men were arrested for allegedly selling automobiles from their car dealership to drug dealers and gang members in exchange for cash proceeds of drug trafficking.[125] In turn, the defendants deposited the tainted cash in amounts under $10,000, to avoid reporting rules, in separate branches of local banks.[126] Although authorities have made no public statements about connections to terrorist organizations, one of the defendants, Amir Hosseini, who is of Iranian descent, is accused of

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[119] North American Export Committee Website. http://www.naec.ws/
[120] North American Export Committee Website: Scheduled Meetings. http://www.naec.ws/meetings.asp
[121] "Fiscal Year 2006 JLBC Budget: Automobile Theft Authority Report." Arizona State Legislature. http://www.azleg.state.az.us/jlbc/06recbk/ata.pdf
[122] "Lupita Murillo Reports: Arizona Auto Thefts Linked to Terrorism." Eyewitness News KVOA Tucson. May 18, 2005.
[123] Quinn, Patrick. "Iraq Car Bombings Kill 586 Since April." The Associated Press. June 24, 2005.
[124] Michael, Maggie. "U.S. Troops Find Suspected al Zarqawi Command Center; Fallujah Toll Put 51 U.S. Troops Dead, 425 Injured." The Associated Press. November 18, 2004.
[125] USA v. Amir Hosseni, et al. NDIL 05-CR-0254. "Criminal Complaint". Mar. 21, 2005 at p. 9.
[126] USA v. Amir Hosseni, et al. NDIL 05-CR-0254. "Criminal Complaint". Mar. 21, 2005 at p. 9.

funneling money back to Iran. It should also be noted that the defendant was previously arrested on INS violations for lying about his country of origin. Arresting officers also noted that Hosseini's residence was "covered with documents supporting the Ayatollah and his policies.[127]

IV. Cases of Terrorist Victims

Terror Cases filed by Victims: The David Boim case
A federal court in Illinois struck an important blow in the domestic War on Terror on December 9, 2004, against several Islamic groups that operated in support of the terrorist organization Hamas.

Federal Magistrate Judge Arlander Keys held three American Muslim organizations, the Islamic Association for Palestine (IAP), the Holy Land Foundation (HLF) and the Quranic Literacy Institute (QLI), along with high-level Hamas operative Mohammed Salah, liable for $156 million in damages in the 1996 death of David Boim, a seventeen year-old New York native who was murdered by a Hamas gunman while waiting at a bus stop in the West Bank town of Beit El. The jury returned a verdict in the amount of $52 million, which Judge Keys immediately tripled pursuant to U.S. anti-terrorism laws. This was the first time that the IAP was labeled part of Hamas' terrorist enterprise—a designation that the US government should have made years ago but did not for a variety of reasons, including the stringent pre-Patriot Act compartmentalization of intelligence versus criminal prosecutions.

HLF's assets had already been frozen by the federal government in the wake of September 11th, and several HLF officials were indicted by the Department of Justice this past July.

The Boim case represents the first successful use of the federal Anti-Terrorism Act of 1990, which allows American victims of violence overseas to sue domestic groups for terrorist acts committed outside the United States, and provides for treble damages. While this victory sets a precedent which could serve to shut down other domestic institutions which act to support foreign terrorist organizations, through fundraising and dissemination of propaganda, the Boim Family has been unable to collect a dime because the defendants disposed of all traceable assets and denied that they possessed any assets, thus denying payment of the judgment to the Boim family. Congress ought to consider some remedial legislation designed to assist plaintiffs in such actions to collect damages that are awarded. New laws could ensure that defendants in terrorist civil trials are not allowed to legally dispose of their assets in order to evade a court judgment. Additionally, Congress should consider allowing collection from the assets frozen by the U.S. government and those that are held under personal control by officers in terrorist fronts.

V. The Need for Consistency of action by European Authorities: Designation of Terrorists

[127] USA v. Amir Hosseini, et al. NDIL 05-CR-254. "Government Memorandum in Support of Revoking the Release of Amir Hosseini." June 27, 2005 at pp. 1-2.

As the United States and the Western world braces itself for a renewed hatred against them, the United States and European Union must form a strong alliance in response to the worldwide terror attacks. The United Kingdom has joined the United States and Spain as victims of the most recent terrorist attack. Although the U.S., the E.U., and United Kingdom all see eye-to-eye on Al Qaeda, Europe has, for the most part, refused to designate other terrorist groups such as Hizballah. Although the E.U. and the U.K. have designated Hamas as a terrorist organization, only a few of the numerous branches of Hamas, constituted as front groups in Europe, have been shut down by European authorities. The U.K. has studiously avoided shutting down its Hamas branch. Moreover, the E.U .has recently initiated a "dialogue" with officials of Hamas and Hizbollah, a course of action that has only served to reward both terrorist groups for their murderous terrorist acts.

The Shiite extremist group Hizballah has a long and bloody history of violence in the Middle East against Israel, its citizens and the United States. Less reported is its continuing public declarations of violent intent against American interests, its covert criminal activity in America to raise funds and its ominous partnership with Al Qaeda.

Hizballah has also launched organizational meetings with other terrorist groups that share its view of the need for the Islamic Caliphate or a global Islamic state. It opened its training facilities to Al Qaeda, even after 9/11, providing a critical liaison and resources for Al Qaeda. As the working relationship between Hizballah and Al Qaeda grows, so too does the concern that the result may be increased attacks against American targets.

The U.S. Department of State, Office of Counterterrorism officially designated Hizballah as a foreign terrorist organization (FTO)[128] in 1997. On November 2, 2001, President Bush amended Executive Order 13224 of September 23, 2001,[129] to include the freezing of the assets of organizations and individuals linked to Hizballah in the United States.[130]

Despite these facts, the European Union has still not designated Hizballah as a terrorist group. I would like to thank both houses of Congress for passing bills earlier this year, urging the European Union to add Hizbollah to its list of terrorist organizations. Interestingly, the European Union has designated the Al Aqsa Martyrs Brigade, the terrorist wing of the Palestinian Fatah party, yet they do not list Hizballah on their designation lists.[131] Taking one positive step, the E.U. has attempted to show that it is against Hizballah's anti-Western and anti-Semitic propaganda by banning Hizballah's television station, Al-Manar, from being broadcast in Europe. Al-Manar condemned the move, stating that it "represents a flagrant aggression against the freedom of the press and contradicts the simplest principles of the human rights charter and the principles that Europe claims to promote."[132] And while the E.U. has included several Hizballah officials on its designation list, it still does not include the terrorist organization itself.

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[128] "Foreign Terrorist Organizations." U.S. Department of State, Office of Counterterrorism. October 23, 2002.
[129] "What You Need to Know About U.S. Sanctions." U.S. Department of Treasury, Office of Foreign Assets Control. September 23, 2001. http://www.ustreas.gov/offices/enforcement/ofac/sanctions/terrorism.html
[130] "Comprehensive List of Terrorists and Groups Identified under Executive Order 13224." U.S. Department of State, Office of the Coordinator for Counterterrorism. October 23, 2002.
[131] "Council Decision." Office Journal of the European Union. April 2, 2004. http://www.statewatch.org/news/2004/apr/eu-terr-list1.pdf
[132] "Al-Manar Flays EU Broadcast Ban." Al-Jazeera. March 19, 2005.

The E.U.'s list of designated terrorist groups is much smaller than that of the US. More importantly, the E.U.'s list does not mean much in practical terms. It entails an obligation for every single member country to take action against the designated group, but there is no mechanism to really enforce it. Therefore it is not much more than a "suggestion." It is up to the individual country to act. Moreover, designating Hamas on a list does not mean all that much in practical terms as Hamas charities and bank accounts are held under various names.

There are several reasons E.U. countries have not done much. First, the governments have not put in place the resources needed to track terrorist finances. OFAC in the U.S. has more than 100 people tracking down terrorist finances. In contrast, the corresponding offices in European countries that do the same type of work are overwhelmingly understaffed; by comparison, the Bank of England has four, Germany has one and France has two. That situation is a consequence of the lack of political will to act on the part of European governments. In 2003 U.S. authorities designated a group of Hamas-linked charities based in several European countries: some countries (Denmark) decided to follow suit and designated them too, while others (France, Austria) said they saw no evidence of terrorism-links and decided to let them operate on their territory.

Saudi Arabia's Role

Any discussion of terrorist financing trends and developments would not be complete unless there was a frank analysis of whether Saudi Arabia has truly changed its policies on terror financing as it claims to have done. Close scrutiny of continued Saudi funding of Islamic charities worldwide and the behavior of Saudi charities such as the Muslim World League (MWL) and the World Assembly of Muslim Youth (WAMY) show that despite making claims to the contrary, Saudi money continues to be pumped into radical Islamic entities and mosques around the world by Saudi charities.

The Investigative Project on Terrorism has examined tens of thousands of reports, publications, internal records and statements of MWL and WAMY and their officials in prior years and conclusively found that chapters of both organizations, numerous officials and employees of the organizations and designated grants and publications of both groups have been linked or tied to Al Qaeda, Hamas and other terrorist groups. The evidence in this study is overwhelming, and much of the evidence is from open source materials.

Even after being confronted by U.S. officials about the operations of both "charitable" conduits, Saudi officials continue to deny that either group has been tethered to terrorist organizations or that the Saudi regime has imposed strict rules to ensure that no Saudi charity can be exploited by terrorists. In fact, the rules allegedly imposed by the Saudis are illusory. With great ceremony, Saudi officials announced that charities including WAMY and MWL would be officially subsumed under a new umbrella organization with tight government controls to ensure that no monies were diverted to terrorism. In fact, this new Saudi charitable oversight group does precious little. Saudi Arabia funds continue to be channeled to Hamas and other Islamic fundamentalist groups while MWL and WAMY have continued their primal agenda of promoting, subsidizing and sponsoring Islamic extremist ideology.

In response to U.S. pressure to regulate its charities, Saudi Arabia set up, together with the US, the Joint Terror Financing Task Force. Has it been effective? I would submit to you that based on the declared objectives of insuring transparency and regulating the activities of charities in the Kingdom, there is still a lot of work to do on the part of the Saudis. There have been some positive steps taken by the Saudis, but in the larger mix of things, the Joint Task Force has been a relative failure. This is due in large part to the fact that in order for the Joint Task Force to succeed, Saudi Arabia would have to effectively renounce its Wahhabist religious ideology. Its ideology drives its religious institutions, which in turn drive its funding of radical Islam. In the United States, Wahhabist Saudi tracts and publications continue to be exported here to mosques, Islamic centers, prisons, the US military, and radical Islamic groups that operate under false veneer as "civil rights" and "charitable" organizations. Accused terror financiers Wael Jalaidan and Yassin Al Qadi continue to operate with total impunity despite (false) assurances by Saudi officials that their terrorist careers had had been shut down, or that they had been put under house arrest.

Conclusion

1). Too often, comprehensive counter-terrorist financial investigations are undermined by a series of factors including the refusal to share intelligence between the FBI, CIA and Treasury; the shortage of highly skilled forensic accountants attached to different field offices; the fact that FBI priorities, understandably, are to stop the next terrorist attack and thus leave little extra time or resources for long range financial investigations; the failure to exploit open source intelligence, thus circumventing the restrictions on agency dissemination of sensitive source-collected intelligence; and the numerous competitive divisions of labor on counter-terrorist financing at Treasury preventing a horizontal integration of assets and resources.

Let me suggest several steps that might be considered to improve the process:

1. Create dedicated teams of forensic accountants who could be attached to roving federal teams much like the old Organized Crime Strike Forces.
2. Mandate more formal exchanges of information between myriad government units and agencies which participate in the war on terrorism, especially those that collect financial intelligence
3. Create and standardize the expertise and knowledge base needed to graduate new classes of counter-terrorism financial experts and forensic auditors.
4. Authorize additional funds to create new counter-terrorism financial intelligence positions at Treasury, the Department of Justice, DHS and the FBI.
5. Streamline decision making between the federal agencies on asset forfeiture, asset freezing, terrorist designation and terrorist prosecution.
6. Create an Open Source Directorate at each of the federal agencies whose mission is only to mine, collect and disseminate open source intelligence and data.
7. Develop a cross agency standardized link analysis intelligence base that can exploited by numerous agencies.
8. Create special link-analyst positions at respective agencies.

9. Digitize the vast amount of evidence and documentation submitted into evidence at the more than 300 prosecutions, indictments, deportations and other legal procedures initiated against suspected terrorists and terrorist fronts since 9-11.
10. Create a special unit that tracks charities and foundations supporting terrorism that operate out of the Middle East. This unit should collect and distribute intelligence, both classified and open source, about the operations, funding flows, meetings and activities of these groups.
11. Create a cross agency database on known terrorist financiers, entities, links and affiliations.
12. Appoint prosecutors with substantive authority and oversight at the FBI in order to help insure the efficacy of investigations and prosecutions.
13. Implementing legislation to ensure payment to families of terror victims.
14. Create a new streamlined process of exchanging information—both ways--between federal agencies and state agencies.
15. Insure that the government empowers genuine, not ersatz, Islamic moderates who convey to their communities that they should cooperate with the FBI, that the US is NOT engaged in a war against Islam (a message that has been deliberately disseminated by numerous "mainstream" Islamic groups designed to estrange Muslim populations against their own country), that Islamic extremist groups must be denounced by name, and who acknowledge rather than deny the existence of radical Islamic fundamentalism.
16. Utilize existing statutory authority to designate or freeze Saudi "charities" such as MWL and WAMY.
17. Begin systematically tracking the massive influx of Saudi and other money that comes into the United States for Wahhabist "dawah" (proselytization).
18. Create incentives for career paths within government agencies for specialized counter-terrorism financial experts.

PREPARED STATEMENT OF MAHMOUD A. EL-GAMAL, Ph.D.

CHAIR OF ISLAMIC ECONOMICS, FINANCE AND MANAGEMENT, AND
PROFESSOR OF ECONOMICS AND STATISTICS, RICE UNIVERSITY—HOUSTON, TX

JULY 13, 2005

Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee, thank you for inviting me to speak to you today about the modes, strengths and weaknesses of Islamic finance as practiced in the Middle East, narrowly defined.

The conclusion of my analysis, as presented below, is that there is no reason—in theory—to suspect that Islamic finance would be particularly immune or particularly vulnerable to abuse by money launderers or terrorist financiers. In this regard, it is important to recognize that Islamic finance utilizes relatively sophisticated financial methods—originally devised for regulatory arbitrage purposes—to synthesize modern financial practices from simple contracts such as leases and sales. The emergence of those sophisticated regulatory arbitrage techniques in the United States and other developed economies has prompted regulators and enforcement agencies in those countries to increase the level of sophistication of their staff (hiring Ph.D. economists, MBA's, ex-bankers, etc.).

Unfortunately, regulators and enforcement officials in the middle-east may possess significantly lower levels of sophistication than Islamic finance practitioners who utilize state-of-the-art regulatory arbitrage techniques. Moreover, the Islamic finance industry has been—thus far—largely self-regulating. This suggests that development of a comprehensive regulatory framework for Islamic finance, and training regulators and enforcement officials in the region, should be priorities for governments in the region, as well as international financial institutions and other governments providing technical assistance.

U.S. Treasury Efforts to Understand Islamic Finance

Islamic finance has attracted increasing levels of interest and scrutiny in Washington recently, due to its phenomenal growth, but especially following the terrorist attacks of September 11, 2001. Shortly after those attacks, then Secretary of Treasury O'Neill and Under Secretary Taylor visited Bahrain—one of the main centers of Islamic finance in the Gulf Cooperation Council (GCC) region. They met with various leading practitioners of Islamic finance in the area at Citibank's facility in Manama. Needless to say, the primary concern that prompted interest at the time was fear that Islamic finance may invite disproportionate participation of terrorist financiers, and/or exhibit particular vulnerabilities to abuse thereby.

Having learned some of the basics about Islamic financial practices and regulation during the Secretary and Under Secretary's visit to Bahrain, U.S. Treasury organized an "Islamic Finance 101" workshop in April 2002, to educate Government as well as Capitol Hill staffers about this fast-growing industry. Also, Treasury Secretary Snow and then Under Secretary Taylor attended the Second International Islamic Finance Conference held in Dubai, September 2003, where they gained additional information and understanding about Islamic finance.

Following that second visit, Treasury decided to create a post of "Scholar-in-Residence on Islamic Finance", which I had the privilege to occupy June through December 2004. During my tenure at Treasury, I provided more than a dozen workshops for staffers of U.S. Departments, Government agencies, regulators, and House staffers. In addition, we coordinated our staff efforts with those of World Bank and International Monetary Fund staffers, the latter having simultaneously and independently increased their involvement in Islamic finance. The interest of International Financial Institutions in Islamic finance aims—in part—to ensure the application of best practices in anti-money laundering and combating the financing of terrorism. Those efforts also aim to integrate Islamic finance within a regulatory framework that ensures systemic stability and economic efficiency at national, regional, and global levels.

In the remainder of this written statement, I shall describe briefly the roots of Islamic finance, its current modes of operation in the Middle East, and its emerging regulatory framework in the region. Before I proceed, I need to highlight two limitations of my testimony before you:

1. I cannot quote any accurate figures regarding the size of this industry, or its rate of growth, mainly due to the lack of official and/or credible statistics from reliable and objective sources. Recent media reports quoted British Financial Services Authority estimates of assets under management in Islamic finance in the range of US$200 to US$500 billion. Other semi-official statements by GCC officials suggested that "Islamic" deposits account for 10 percent to 20 percent

of total deposits in those countries. However, with Islamic banking being practiced by dedicated Islamic banks as well as conventional banks, and with no official and publicly available data, one cannot rely excessively on those guesstimates.

2. I recognize that one of your objectives for this hearing is to obtain a better understanding of the implications of Islamic financial modes of operation and regulatory framework for efforts to combat money-laundering and terrorist financing worldwide. I shall try my best to answer your questions in this regard. However, I must admit that my understanding of this area, and any statements that I may make about the relative vulnerability or immunity of Islamic financial institutions to abuse by money launderers and terrorist financiers, must be—like myself—academic in nature.

Historical Roots of Islamic Finance

The Canonical Texts of Islam—echoing and elaborating on Biblical Texts—forbade "usury" under the name *riba* (equivalent to the Hebrew term *ribit*), classically interpreted as any interest charge on matured debts or loans. While some Islamic scholars have argued for more restrictive definitions of the forbidden riba, the vast majority of contemporary Muslim jurists and scholars have equated the classical term *"riba"* with "interest." This equation has led to paradoxical statements about Islamic finance being "interest-free." In fact, Islamic finance replaces interest on loans and pure debt instruments (for example bonds) with interest characterized as rent in leases or price mark-up in sales.

As Islamic finance began to take shape in the mid 1970's, jurists also considered the more subtle prohibition of *gharar* (excessive risk or uncertainty), which impacts modern forms of insurance, management tools for credit and interest rate (rate of return) risks, derivatives, etc. Islamic finance as practiced today aims to mimic modern financial practices (banking products, insurance products, money and capital market instruments, etc.) with variations on classical (medieval) contract forms that were deemed devoid of forbidden *riba* and *gharar*.

The historical roots of Islamic finance date back to the 1950's and 1960's, and the theoretical literature from that period continues to shape the industry's rhetoric to this day. Islamic finance was mainly envisioned by leaders of Islamist movements, such as Abu al-'A'la al-Mawdudi, Sayid Qutb, and M. Baqir al-Sadr. They created a field of study known as "Islamic economics", which subsequently flourished particularly in Pakistani and Indian-Muslim areas, and coincided with political independence movements in various Muslim countries.

This literature gave rise to numerous hypotheses about how Islamic finance would operate within an "Islamic economy", one envisioned to thrive in an "Islamic society", ostensibly arising in newly independent nations like Pakistan. The main paradigm that emerged suggested that all finance would be interest-free, based on the sharing of profits and losses. In particular, bank-alternatives were envisioned to function on an equity basis, like mutual funds. Instead of lending, Islamic banks were envisioned to engage in equity participations with their clients, thus sharing in their profits and losses. The bank's funds would in turn be raised through equity participation in the bank's portfolios of investments, thus "depositors" would share in the pooled profits or losses of the bank.

When the oil boom of the 1970's made Islamic banking a reality, emerging Islamic banks—following a series of reported losses on their financing—quickly learned to abandon profit and loss sharing in favor of debt-based forms of financing. Thus, conventional bank loans were replaced in Islamic banks with receivables from credit sales or leases. More recently, other assets of conventional banks (including corporate and sovereign bonds, asset backed securities, etc.) have been replicated through Islamized structures. On the liabilities side, however, Islamic banks have continued to maintain that "investment depositors" must share in the banks' profits and losses, and Islamic finance promoters have continued to speak of profit and loss sharing generally as "the ideal Islamic form of financing."

Contemporary Methods of Islamic Finance

Contemporary Islamic finance emerged in the mid-1970's, with funding from the oil-rich GCC region, following the first oil price shock of 1973 (the industry has been booming in recent years, mainly fueled by high oil prices). Among the first Islamic financial institutions were Kuwait Finance House, Dubai Islamic Bank, and Faisal Islamic Banks in Egypt and Sudan. The GCC region remains to-date the primary financier of Islamic finance worldwide. In addition, countries such as Saudi Arabia, which had originally resisted the growth of Islamic finance within its own borders, have recently allowed the "Islamization" of some of their largest retail banks, including National Commercial Bank of Saudi Arabia.

Indeed, while some of the earliest Islamic banks were pioneered and funded by Saudis (Prince Muhammad b. Faisal Al-Saud and Sheikh Saleh Kamel), those pioneers were not allowed to operate Islamic banks within Saudi Arabia. The first Islamic bank in Saudi Arabia (and the largest in the Middle East) was Al-Rajhi, which was only allowed to operate on the condition of avoiding the use of "Islamic" in its name. In recent years, excess liquidity in Saudi Arabia (due to high oil prices and repatriation of funds after September 11, 2001) was migrating to Bahrain and Dubai—which established themselves as competing centers of Islamic banking in the region, attracting to Islamic finance international financial providers such as Citi, HSBC, Credit Suisse, UBS, etc. To retain those funds, Saudi Arabia finally allowed the current trend of Islamization of its banking system to emerge. Given contemporary Islamic banks' abilities to emulate most operations of conventional banks, it is likely that banking systems within the GCC will become mostly or completely "Islamized" within few years.

Financing Modes—Murabaha (Credit Sale with Mark-Up)

As mentioned in the previous section, Islamic banks started from their earliest days in the late 1970's to mimic the asset structures of conventional banks. The instrument of choice to replace loans was murabaha (cost plus) financing. Under this arrangement, the bank would first purchase the property desired by its customer, and then sell it on credit at a mark-up price determined by market interest rates (typically tied to the London Inter-bank Offer Rate—LIBOR; the industry in GCC is heavily staffed and influenced by London-trained bankers). Many innovations were introduced in this practice to eliminate the bank's risk exposure beyond normal banking risks (such as interest-rate, credit and liquidity risks). For instance, Islamic banks were permitted to obtain binding promises by virtue of which customers were obliged to buy financed properties from the bank once the latter acquired them—thus eliminating nonbanking commercial risks.

In the early years of Islamic banking, this transaction was used mainly for financing the purchase of durable goods (for example automobiles, real estate, etc.), which made it tantamount to an elaborate form of secured lending.[1] However, the practice was soon utilized for trade financing, within which it can be used easily to synthesize conventional loans. For instance, a customer can obtain financing for the purchase of $10 million-worth of aluminum or diamonds (owing the bank, say, $11 million at a later date), and then sell the commodities to obtain cash—thus obtaining credit without formally violating the prohibition on interest-based loans.

Financing Modes—Tawarruq (Credit Sale at Markup Followed by Spot Sale)

A retail banking variation on this multitrade synthetic-loan transaction has emerged in recent years in GCC countries under the name of *tawarruq* (literally: Monetization—of the traded commodity). Under this form, the bank commonly performs all the necessary transactions to synthesize a loan: Purchasing the commodity in its own name, selling it to the customer on credit, and then selling it on behalf of the customer for its cash price. Banks now have standing agreements with commodities dealers for repeated use of their commodities in this type of transaction, thus reducing transaction costs through large trading volumes/frequencies, and logistical economies of scale. In addition, agreements with dealers eliminate residual market risks (associated with commodity prices) to which banks and customers may be exposed in *murabaha* financing followed by independent cash-sale of the financed property.

It is noteworthy that *tawarruq* was only deemed acceptable by a small minority of Islamic jurists, most of whom later rejected its systematic use by Islamic banks. Despite that general rejection by the majority of jurists, this practice has been one of the fastest growing forms of retail Islamic finance in the GCC.

Financing Modes—Ijara (Operating Lease)

Responding to criticism of credit-sale financing as thinly veiled interest-based lending, Islamic bankers slowly migrated to lease financing as a favorite alternative form of secured lending. In some instances, operating lease forms adopted by Islamic financial institutions also provided tax benefits in western jurisdictions, where they were eventually used to structure corporate leveraged buyouts for subsequent private placement to GCC investors.

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[1] Indeed, when this practice was applied in the United States by United Bank of Kuwait, the OCC interpreted both murabaha financing, and lease-based ijara financing (discussed below) as forms of secured lending, see: OCC interpretive letters #806 of 1997 and #867 of 1999 at *www.occ.treas.gov*.

More recently, the volume of lease-based Islamic financing has also increased due to its potential for securitization. In this regard, the majority of Muslim jurists have maintained that accounts receivable (for example from credit sales) represent debts, which may not be securitized or traded in secondary markets. In contrast, they argued, lease receivables represent rent based on ownership of underlying physical assets, and thus may be traded in secondary markets. The most significant application of this paradigm has been in the area of Islamic bond-alternatives.

Financing Methods—Lease-Based Long-Term Bonds

The Monetary Authority of Singapore recently estimated that the outstanding volume of Islamic *sukuk* (an Arabic term meaning certificates or bonds) worldwide stood at US$30 billion at end 2004. Long-term bonds are obviously intended for trading on secondary markets, and thus the structure of choice is lease-based. For instance, the US$700 million issuance by the State of Qatar (Qatar Global Sukuk) in December 2003 was structured as follows: A special purpose vehicle (SPV) was created for the bond (sukuk) issuance. The SPV issued the certificates and used their proceeds to buy some land in a medical complex from the State of Qatar. The SPV then leased the land back to the State of Qatar, thus collecting principal and interest in the form of rent, which was passed through to the certificate holders. At lease-end, the SPV is obliged to give the land back as a gift to the State of Qatar. In other structures, the SPV is forced to sell the land back to the lessee. Similar bond structures have been used by the governments of Malaysia and Pakistan, the German State of Saxony-Anhalt, Dubai Civil Aviation Authority, World Bank, among other governments and corporations.

While such lease-based certificates may—in principle—have financial risks different from conventional bonds, the legal structures are typically constructed to eliminate all such differences. Thus, in their justification of the A+ rating that they granted the Qatar Global Sukuk discussed above, Standard & Poors' analysts argued that the only relevant risk based on the sukuk's legal structure is the sovereign credit risk of the State of Qatar. In other words, despite the complicated structure, the end result is in fact replication of conventional bonds, on which the issuer (corporate or sovereign) pays the same interest it would have paid on regular bonds (or nearly the same, accounting for higher transaction costs).

Financing Methods—Forward-Sale-Based Short-Term Bills

For short-term (bill-type) government bonds, the lease-based structure imposes excessive transaction costs. Thus, Bahrain Monetary Agency (BMA) has pioneered the issuance of sale-based bills known as *sukuk al-salam* (certificates of prepaid forward sales). In those structures, BMA collects the proceeds of bill sales as prepayment of a forward price for the purchase of some commodity (say aluminum). Ostensibly, BMA promises to deliver aluminum at the bill maturity date. However, BMA also promises to arrange for the aluminum to be sold on the sukuk-holders' behalf at a predetermined price (equal to the collected proceeds plus interest based on the appropriate LIBOR plus credit spread). Those bills have been traditionally held to maturity—mostly by Islamic banks looking for permissible instruments to manage liquidity. In its effort to develop a liquid Islamic money market, BMA has recently announced the development of a repo (repurchase) facility structure that will allow for liquid trading of those bills.

Islamic Mutual Funds

Perhaps the easiest segment of the Islamic finance industry to develop was that of equity investment in mutual funds that shun certain types of stocks. Providers of those funds exclude stocks of "sin industries" (casinos, breweries, etc.), as well as other industries whose primary business is deemed un-Islamic (for example participating in certain types of genetic research potentially leading to human cloning). In addition, stocks of companies that pay or earn excessive interest are excluded through various screens (for example, debt to moving average of market capitalization, or receivables as a percentage of revenues, exceeding certain thresholds.)

Within the remaining universe of securities, conventional portfolio management techniques are utilized. It is interesting to note that despite the high publicity received by those Islamic mutual funds and their index-provider licensors (for example, Dow Jones Islamic Indexes), the total volume of assets managed by those Islamic funds remains very small (compared, for instance, to the estimated US$1 trillion of Saudi funds being invested in U.S. assets). One traditional explanation of this phenomenon has been that customers who prefer "Islamic" structures may have relatively low levels of risk tolerance, and the bulk of high net worth individuals and institutional investors (with more tolerance for financial risks) in the GCC are too sophisticated to participate in costlier "Islamic finance" (for instance, the most

famous Saudi investor, Prince Al-Walid b. Talal, is not known to have shown much interest in the industry).

Islamic Investment Banking

More sophisticated investors with an appetite for Islamic finance often invest in United States and other western equities through investment banking and private equity boutiques. Those Islamic investment bankers often operate independent or semi-independent branches in the home countries of target companies, and use "Islamic" forms of leverage (for example lease-based as discussed above) in their acquisitions. Their generated assets are then privately placed through their GCC-based home institutions and networks of investment advisers.

Advanced Financial Structures

To address the high level of risk aversion among retail GCC Islamic investors, Islamic financial practitioners have developed complicated financial structures to replicate payoffs that normally require trading in derivative securities (which is not permitted by the vast majority of Muslim jurists). For instance, Al-Rajhi and National Commercial Bank in Saudi Arabia both provided protected-principal index participation structures to their clients in the early 2000's.

Those structures involved a partner or adviser, who is typically a conventional investment bank, with no qualms about trading in derivative securities. The partner or adviser provided investors full or partial protection of their principal (which is tantamount to a put option), and was compensated with a portion of returns and/or returns above a certain threshold (which are tantamount to call options). In some instances, call options were also directly synthesized from earnest-money-like down-payment trades known as *'urbun,* and used in those protected-principal structures. In all cases, providers highlighted the fact that the principal was not "guaranteed" by the provider, and thus positive returns did not represent forbidden riba.

With investment bankers pursuing fees from new structures, Islamic finance providers have most recently begun marketing "Islamic hedge fund" structures that promise "absolute returns." It has been interesting to note that some of the indirect publicity associated with one of those "Islamic hedge funds" has been—purposefully or otherwise—playing on the confusion caused by the misnomer "hedge fund" (translated literally as *sanadiq al-tahawwut*). In one web article and at two conferences in the middle-east, I have witnessed two jurists associated with an "Islamic hedge fund" actively providing examples of hedging, and arguing that "hedge funds" are vehicles for investors to hedge their market exposure.

Insurance Alternatives

The majority of jurists deem conventional insurance contracts to be impermissible due to two reasons. First, the high-quality debt instruments in which insurance companies normally invest their premiums (for example bonds, mortgage backed securities, etc.) are deemed forbidden based on *riba.* Second, the insurance contract itself is deemed by those jurists to be a form of gambling (since the insured pays a premium, but knows not whether he will ever file a claim), and hence forbidden based on the canonical prohibition of *gharar.*

To solve both problems, providers of a cooperative insurance form—known by the Arabic name *takaful*—have emerged. To solve the first problem, premiums are invested in Islamic variations on bonds, asset-backed securities, etc., like the ones discussed earlier. To solve the second problem, the relationship between insurer and insured is not viewed as a commutative financial contract (in which the uncertainty associated with claims would deem the contract impermissible). Instead, the takaful company is said to pay claims based on voluntary contribution *(tabarru',)* as a form of social cooperation. Paradoxically, none of those companies ostensibly providing cooperative insurance are in fact structured in a mutual corporate form. Instead, the companies are commercially owned by stockholders, but offer binding promises to policyholders that they will make "voluntary contributions" whenever valid claims are filed by an insured party.

Investment Accountholders at Islamic Banks

A number of thorny issues regarding corporate governance have been raised by the quasi-equity position of investment account holders at Islamic banks. The most important issue, which has been under study in a working group of the recently created Islamic Financial Services Board (IFSB, based in Kuala Lumpur, Malaysia) relates to protection of those investment account holders (IAH's). In this regard, IAH's lack the protections of fiduciary depositors (who are creditors and first claimants on the Islamic bank's assets, but earn no interest), but also lack the protections of shareholders (who are equity holders represented on the bank's board of directors).

Paradoxically, the solution through mutual corporate structures (for example as used by mutual savings banks and credit unions in the United States.) has not been a subject of serious discussion in the industry, despite having been utilized in the earliest days of Islamic finance in Pakistan in the 1950's. One explanation is that growth in Islamic finance has been driven by profitability of providing financial products to a trapped market segment with minimal competition, while mutual structures are oftentimes implemented in nonprofit settings.

Issues Related to Criminal Financing

Investment Accountholders' Liability

For the purposes of this hearing, one must address two aspects of Islamic bank liability structure that relate to potential criminal financial abuses, especially in the aftermath of the September 11, 2001 terrorist attacks: (1) Are investment account holders to be deemed owners of the Islamic financial institutions; and if so, how responsible can they be held for any criminal financial activities in which the institution may engage? (2) In case of dissolution of an Islamic bank (perhaps due to its prior engagement in criminal financial activities), what is the seniority of investment accountholders' claims on the bank?

The answer to the second question is a difficult one that has been the subject of intense study at the Islamic Financial Services Board. It is clear that IAH's theoretically have lower seniority than fiduciary depositors (who receive no return on their deposits), but higher seniority claims relative to shareholders. However, since management determines the magnitudes of profits or losses disbursed to the IAH's, and consequently the amounts assigned to the residual claimant shareholders, it is not clear how liquidation would in fact take place. The Islamic Financial Services Board and the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) have attempted so far to reduce this problem by setting transparency standards for the mechanisms used to assign profit and loss distributions. However, the final standards have yet to be set on issues of ownership, control, and seniority of claims to Islamic bank assets.

The answer to the first question may seem at first to be rather straightforward: Since investment accountholders lack operational control of the bank's activities (even if in some cases they can earmark their funds for investment in specific sectors), it would seem most unlikely that they can be held responsible for the bank's illegal or criminal activities. On the other hand, complications might arise from differences of views on what constitutes criminal financial activities. For instance, an Islamic bank may be known to disburse charitable contributions on behalf of its customers in certain venues. In this regard, it is no secret that certain charitable organizations and destinations of funding thereof were (and in some cases may continue to be) viewed differently by different governments and different bankers.

This issue is clearly relevant for all Islamic banks' and Islamic financial providers' customers (mutual funds may also disburse charitable *zakat* contribution on behalf of investors). Moreover, it is also a valid concern for most Muslims whose charitable contributions are disbursed by specialized institutions.

Solutions to this problem require addressing the thorny issue of harmonizing standards of anti-money laundering and terrorist financing agencies worldwide, and establishing clear criteria upon which Islamic charities and financial institutions can rely in their future dealings. Significant convergence has occurred over those issues, but some confusion continues to this day.

Relative Vulnerability to Abuse

It seems rather naïve to think that a group intent on committing criminal activities would favor Islamic financial venues, especially since they are likely to come under closer scrutiny in that domain following the terrorist attacks of September 11. On the other hand, it is natural to ask whether the mechanics of Islamic finance make it particularly vulnerable to abuse by money launderers and terrorist financiers. In this regard, one cannot escape the fact that regulatory-arbitrage methods used in Islamic finance to camouflage interest and other factors deemed forbidden by the industry (an activity that I have labeled Shariʿa-arbitrage) bear striking resemblance to methods used in criminal financial activity in recent years. The "asset (or commodity)-based" nature of Islamic finance, which the industry advertises as its main virtue, may in fact be viewed as a source of weakness, since multiple-hop commodity and asset trading at losses or profits is a standard method used to hide the source (in money laundering) or destination and transmission route of funds (in terrorist financing).

Of course, one must remember that this is merely a historical accident. The most sophisticated methods used by Islamic financiers to hide debt and by criminal financiers to hide sources or destinations of funds, as well as the routing of those

transactions through offshore financial centers, are simply methods of the regulatory-arbitrage structured-finance revolution of the 1980's, meant initially to capitalize on various tax and regulatory advantages. Due to the increased utilization of those methods, bankers, regulators and law enforcement officials have grown more sophisticated in analyzing such dealings, and uncovering the underlying objectives of their parties. With offshore centers also applying increasingly better prudential standards, the risk of abuse has been diminished greatly, though obviously not eliminated.

In this regard, one must admit that regulators and law enforcement officials in the Middle East are relatively unsophisticated in dealing with those complicated financial structures, at least compared to their western counterparts. In this regard, technical assistance through direct intergovernment interactions, indirect private sector initiatives of multinational banks, and involvement of the World Bank and International Monetary Fund, have all contributed to increased awareness.

On the other hand, with the possible partial exception of Malaysia, I am not aware of any country that has a *comprehensive* regulatory framework for Islamic financial institutions. Such a comprehensive framework would have to take into account peculiarities of Islamic finance: For example, assets and commodities used as degrees of separation in purely financial dealings, resembling "layering" methods of criminal financiers. Laws passed for regulation of Islamic banks in GCC (for example in Kuwait, Bahrain, etc.) appear to be simple augmentations of conventional bank regulations, with the additional provisions of appointing a religious "Shari'a supervisory board", etc. However, conventional bank regulators in those countries generally lack the sophistication required to understand complicated financial dealings fully.

There may not be major cause for concern, since central bankers in the GCC region, where the bulk of Islamic finance takes place, are among the most sophisticated in the Middle East. That being said, regulatory standards and talents in the region continue to lag behind those in advanced countries, and Islamic finance does exist in a number of countries with inferior regulatory infrastructures, and does operate across borders—seeking regulatory arbitrage opportunities.

My recommendation in the short-run would be to bring all Islamic finance under the same standards applied to conventional financial practice through a simple conversion operation: Reduce all Islamic transactions for regulatory and enforcement purposes to their conventional counterparts. This has been the approach, for instance, partially used in Turkey with relative success. For the longer-term, we need to enhance and support efforts by AAOIFI and IFSB toward developing a set of standards for Islamic finance that harmonize their accounting and regulatory methods with best accepted international standards.

Concluding remarks

In conclusion, Islamic finance differs from conventional finance only superficially. However, that superficiality entails degrees of separation through superfluous trades and leases that make regulation and law enforcement more challenging. There is no reason in theory to assume that Islamic finance would be more or less vulnerable to abuse by criminal financiers, based on its utilization of those methods. On the other hand, fighting criminal financing in the traditional banking sector of the Middle East is already a significant challenge, due to limited human resources and regulatory infrastructure. The extreme measures that can be (and are occasionally) taken to eliminate criminal financing in that region could also stifle legitimate financial activity—in a region that is in desperate need for enhanced economic efficiency and job creation.

To the extent that Islamic finance utilizes more sophisticated financial structures, the challenge faced by regulators and law enforcement agencies in the region is increased. The goal should be eliminating criminal activities, while fully allowing legitimate financial activity. toward that end, more coordination with regulators and enforcement agencies, including technical assistance and involvement in development of standards, remains crucial at this time.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM E. ANTHONY WAYNE

Q.1. Can you comment on the ramifications for the war on terrorism of the disparate approaches to enforcing regulations or freezing the assets of individuals designated by the United States but not by the United Nations?

A.1. Approaches to freezing terrorist assets in the United States and in other countries differ somewhat, but the general goal of denying funding for terrorists is broadly shared. Many prominent financial institutions worldwide, including several in the Middle East, vet customers and transactions by using both the UNSC 1267 Sanctions Committee and OFAC lists. While using both lists may not be required by host government regulation, it has the practical impact of extending the reach of U.S. designations far beyond U.S. borders. Moreover, the European Union (EU) and the United States continually work together to expand cross-coverage on the EU Financial Sanctions and OFAC lists. In general, there are some variations on both lists, but this is the result of differences in authorities, and not ethnic or religious biases.

In addition, United Nations Member States have obligations to freeze terrorist assets that go further than those of the United Nations 1267 Sanctions Committee list, as it is limited to those associated with the Taliban, Al Qaeda, or Osama bin Laden. UNSC Resolution 1373 requires Member States to "Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities." However, UNSC Resolution 1373 does not have a mechanism for listing specific names and thereby creating an international obligation to freeze assets belonging to specific individuals and entities. The OFAC list also includes terrorists and their supporters not associated with Osama bin Laden, Al Qaeda, or the Taliban, thereby underscoring our commitment to put an end to the financing of terrorism in line with the obligations of UNSC Resolution 1373.

In August 2005, the United Nations Security Council adopted UNSC Resolution 1617, which improves the international community's efforts to combat terrorism by more clearly identifying those who may be listed by the UNSC 1267 Sanctions Committee. It also extends the mandate of the Analysis and Monitoring Team by assisting the United Nations Security Council to oversee the implementation of these sanctions originally imposed by UNSC Resolution 1267 and successor resolutions. The United States worked closely with other members of the United Nations Security Council in the drafting of UNSC Resolution 1617, which passed unanimously. The UNSC 1267 Sanctions Committee continues to update the consolidated list of individuals and entities associated with the Taliban, Osama bin Laden, or Al Qaeda.

Q.2. Have improvements in the Saudi financial and law enforcement communities improved to the point where senior members of the world's deadliest terrorist organization can no longer apply for and receive credit cards?

A.2. Since the May 2003 terrorist bombings in Riyadh, Saudi Arabia has dramatically strengthened its efforts to combat terrorism and the financing of terrorism, including more rigorous banking regulations, thus making it more difficult for terrorists to obtain access to credit cards and other financial services. At the same time, United States-Saudi counter-terrorism cooperation has increased to an unprecedented level, particularly in financial regulation and law enforcement. The United States and Saudi Arabian Governments established a Joint Task Force on Terrorism Finance (JTFTF) in Saudi Arabia in August 2003. The task force is mainly composed of FBI officials with representation from the Internal Revenue Service (IRS).

The Saudi Arabian Monetary Agency (SAMA), the Saudi Arabian Central Bank, established a counter-terrorism finance program, including enhanced due diligence and "know your customer" policies, which is enforced throughout the Kingdom. In August 2003, the Saudi Arabian Government adopted a law making money laundering and terrorist financing criminal offenses. To further enhance the countering of terrorism finance, the Saudi Arabian Government recently established a Financial Intelligence Unit (FIU). Once the FIU meets Egmont standards, Saudi Arabian FlU officials plan to apply for membership to the Egmont Group of FIU's.

Since 2003, the FBI provided training for Saudi Arabian law enforcement officials to assist them in combating more effectively the financing of terrorism and money laundering. While efforts to improve the implementation of the Saudi Arabian counter-terrorist financing and anti-money laundering regimes need to continue, the results the Saudi Arabian Government shows in these areas will be important indicators of its commitment to deprive terrorists of access to financial services in the Kingdom.

Q.3. Secretary Levey, Secretary Wayne, a lot has been made of the conflict diamond story. Can you tell us if representatives of Hezballah or Al Qaeda were ever present in West Africa and engaged in any way with the diamond, precious metal, or other commodity business? To your knowledge, has Hezballah or Al Qaeda ever used diamonds, precious metals, or other commodities as a vehicle to move money out of the formal financial sector and into a less obvious medium of exchange?

A.3. Hezballah continues to engage in fundraising activities, particularly in West Africa. We have found no evidence to confirm allegations that Al Qaeda engaged in trade in diamonds to finance terrorist operations. The September 11 Commission's Terrorist Financing Staff Monograph concluded that there is some evidence that specific Al Qaeda operatives may have traded in precious stones, but it cannot be extrapolated from the evidence that Al Qaeda has funded itself in that manner. We are continuing to coordinate with other agencies to monitor these allegations.

RESPOSNE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM NANCY POWELL

Q.1. Organized crime is a factor in money laundering in places like Dubai and Israel. Yet, it does not receive much attention, and information on organized crime groups, particularly the Russian and Indian organizations operating in Dubai, has been difficult to come by. What is the known extent of organized crime in the Middle East and how much of a factor is it in money laundering? Is there a nexus between organized criminal activity and terrorism?

A.1. United States Government analysts believe that criminal organizations with international networks centered in Turkey, Pakistan, India, the United Arab Emirates, and Cyprus operate within a centuries-old commercial tradition of moving contraband merchandise through the South Asia, Middle East, and Eastern Mediterranean regions. These groups use major commercial centers—such as Istanbul and Dubai—to ship their illicit gains to and from Europe and to launder their illicit proceeds both through formal and informal financial sectors. The analysts agree that the extent of organized crime activity in the region is increasing, although the exact dimension is not known.

Since the collapse of the Soviet Union, Israel has been a significant operating area for Russian criminal organizations. Prior to the passage of an anti-money laundering law in 2000, strict bank secrecy laws made Israel a money-laundering haven. According to Israeli police sources, organized crime groups have invested some $4.5 billion in Israel since the 1990's. A number of U.S. Government analysts have pointed to growing ties between some terrorist groups and organized crime syndicates. Dawood Ibrahim, whom the U.S. Treasury placed on its terrorism list in 2003, has pursued dual careers as both a crime lord and terrorist leader.

Q.2. Secretary Wayne, Ambassador Powell: Pakistan has recently strengthened its anti-money laundering regime through the passage of longer prison sentences if convicted. The most recent International Narcotics Control Strategy Report is critical of Pakistan's failure to have an effective anti-money laundering statutory regime in place despite its role in the trans-shipment of narcotics from Afghanistan.

In your observation, will the recently announced actions represent a significant improvement in Pakistan's approach to combating money laundering and terrorist financing? Is the will there, in the first place, on the part of the Pakistanis? What is the status of Pakistan's financial intelligence unit?

A.2. There is significant political will at the highest level of the Government of Pakistan to combat crime, corruption, and terrorism and to reform Pakistan's financial sector.

Pakistan's draft anti-money laundering law was approved by the Cabinet and sent to the Parliament. However, the draft law has serious deficiencies and loopholes. For example, money laundering itself is not an autonomous crime and can only be brought forth if the defendant has been convicted of a predicate crime.

The draft mandates the creation of a Financial Intelligence Unit (FIU), but only financial institutions are required to report suspicious transactions. Non-financial institutions, professions, and

businesses such as legal and accounting firms and money remittance businesses, are excluded from reporting requirements.

Terrorist financing is not explicitly mentioned in the draft law; nor is it an autonomous crime in Pakistan. Pakistan is not a party to the 1999 UN Convention against the Suppression of the Financing of Terrorism. We will continue to request that the Government of Pakistan criminalize the financing of terrorism and become a party to all relevant United Nations terrorist-related conventions and resolutions, and we will continue to offer advice and assistance to the Government of Pakistan in order to bring its anti-money laundering law into compliance with international standards.

Q.3. Ambassador Powell, you are now here in your capacity as acting assistant secretary for International Narcotics and Law Enforcement. I would be remiss, however, were to ignore your recent history as U.S. Ambassador to Pakistan.

As you know, the relationship of some in the Pakistani Inter-Services Intelligence Agency to the Taliban is extremely close. While President Musharaff has proven a committed ally in the war on terrorism, and has recognized problems with the ISI relationship to the Taliban, are there continuing problems in working with the ISI in combating the Taliban and Al Qaeda allies?

A.3. Since my service in Pakistan ended approximately 1 year ago, I am not in a position to respond to the issues raised in the question. I would refer you to the Department's Bureau of South Asian Affairs.

Q.4. The countries of the Gulf Cooperating Council, known as the GCC region, are the primary financiers of Islamic finance worldwide. In that connection, it seems likely, as Dr. El-Gamal will soon point out on the next panel, that the banking systems within the GCC will become mostly or completely "Islam-ized" within a few years. This is a thorny issue to the extent that a number of countries, even non-GCC countries, may not have the technical sophistication to enforce strong anti-money and terrorist finance programs.

The questions coming to my mind are: What are your individual assessments of the capability of the GCC regulatory and enforcement authorities, generally, to effectively manage the problems of money laundering and terrorist financing? Which of your agencies have sufficiently trained personnel in the art of Islamic financing to render regulatory and enforcement assistance to nations practicing this form of finance? Which of your agencies will actually be involved in providing assistance to the GCC, and any other country that may request it? Do we need more than one agency involved in extending this assistance?

A.4. The capabilities of the GCC countries to counter money laundering and terrorist financing have improved substantially since September 11. Bahrain and the UAE have the most comprehensive anti-money laundering and counter-terrorist financing regimes in the GCC. Bahrain and the UAE played key roles in establishing the Middle East and North Africa Financial Action Task Force, and Bahrain hosts its Secretariat. As of September 2005, three countries—Bahrain, Qatar, and the UAE, aided by United States assistance—have Financial Intelligence Units that belong to the Egmont

Group, and three other GCCC countries are working to establish FIU's that meet the Egmont Group's standards for membership.

All GCC countries have criminalized money laundering beyond drugs and all are taking steps to better monitor and control charities.

However, only three GCC members—Qatar, Saudi Arabia, and the UAE—have criminalized terrorist financing.

Bahrain is the leader in the Gulf in regulating and monitoring Islamic banking. Through its Monetary Agency, Bahrain endeavors to establish the same strict monitoring system for its 28 Islamic banks as it employs with non-Islamic banks. Bahrain is home to the Accounting and Auditing Organization of Islamic Financial Institutions that sets standards for accounting, auditing, and transparency for Islamic financial institutions throughout the region. As a demonstration of its leadership in this rapidly expanding area, Bahrain hosted the first international Islamic financial conference in May of this year.

All Islamic banks throughout the world, including the growing number within the United States, also come under the domain of a Shariah Advisory Board of Islamic Scholars.

The Advisory Board reviews Islamic banks' investments to ensure that these banks are operating in consort with Shariah law. Given the uneven quality of regulation for non-Islamic banks throughout the Gulf region, it is reasonable to assume that regulation of the Islamic banks is also uneven.

The rapid expansion of Islamic banking and financing globally, including in the United States, requires adherence to international standards regarding prudential supervision of Islamic banks and their adherence to international standards regarding anti-money laundering and terrorist financing. While the U.S. Government has few experts in Islamic banking, we have many experts in prudential supervision and adherence to money laundering and terrorist financing standards. These experts have provided advice globally for several decades. In an effort to assist Islamic banking and financial institutions in their compliance with international standards, a team of banking and financial service regulators from the Federal Reserve and Department of the Treasury's Office of the Comptroller of the Currency could assist in advising in prudential supervision and compliance with anti-money laundering and terrorist financing standards.

The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) could assist in the establishment of Financial Intelligence Units in those Gulf countries that do not have them, as well as instruct Islamic banks and financial institutions how to report suspicious transactions to existing FIU's. Another Treasury expert could offer advice on adherence to international money laundering and terrorist financing standards.

A Justice attorney could advise on the drafting of any required laws and regulations.

We will contact both Bahrain and Malaysia requesting that they host a weeklong seminar for United States Government experts. The seminar would discuss Islamic banking/financing and international standards.

After this seminar, the United States team and the Islamic experts could jointly provide training to Gulf and North Africa countries that requested such training.

Q.5. The Department of State's "International Narcotics Control Strategy Report" (INCSR) released in March 2005, was critical of both Pakistan's failure to have an effective anti-money laundering (AML) regime and its role in the transshipment of narcotics from Afghanistan. Recently, however, Pakistan has announced measures to strengthen its AML regime, the imposition of longer prison sentences among these measures.

Would you please identify the proposed AML measures and explain how close those measures are to being enacted? In your observation, will the measures represent a significant improvement in Pakistan's approach to combat money laundering and terrorist financing? Is the political and national will present, in the first place, on the part of the Pakistani? Finally, please provide an update on the status of Pakistan's Financial Intelligence Unit.

A.5. There is significant political will at the highest level of the Government of Pakistan to combat crime, corruption, and terrorism and to reform Pakistan's financial sector. Pakistan's draft anti-money laundering law was approved by the Cabinet and sent to the Parliament. However, in spite of our repeated efforts to assist the Government of Pakistan in constructing a law that comports with international standards, the draft has serious deficiencies. For example, money laundering itself is not an autonomous crime and can only be brought forth if the defendant has been convicted of a predicate crime. The draft mandates the creation of a Financial Intelligence Unit (FIU), but only financial institutions are required to report suspicious transactions. Non-financial institutions, professions, and businesses such as legal and accounting firms and money remittance businesses, are excluded from reporting requirements.

Terrorist financing is not explicitly mentioned in the draft law; nor is it an autonomous crime in Pakistan. Pakistan is not a party to the 1999 UN Convention against the Suppression of the Financing of Terrorism. We will continue to request that the Government of Pakistan criminalize the financing of terrorism and become a party to all relevant United Nations terrorist-related conventions and resolutions, and we will continue to offer assistance to the Government of Pakistan so that its anti-money laundering law comports with international standards.