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9/11 Commission Report Recommendations

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Testimony before the Joint House Financial Services Subcommittees

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Madam Chairman, Mr. Chairman and distinguished Members of the Subcommittees:

Thank you for the opportunity to discuss with you today the Department of State's views on the terrorist finance elements of the 9/11 Commission's report. First, my Department commends the Commission for its solid recommendations, which advance our deliberations on how best to use financial tools to foil terrorists' attempts to kill, maim and intimidate Americans and other innocent targets. I would also like to underscore the special usefulness of the staff monograph on terrorist finance, which focuses on how the United States government organizes itself to optimize the use of a range of tools to fight terrorism.

The Commission report and the staff monograph note that our efforts to combat terrorist finance serve many objectives and use many tools. My goal today is to sketch for you the role of the Department of State plays in the interagency process of finding the right balance of priorities and the right mix of tools to use in each case.

Tracking Terrorist Finances

The 9/11 Commission report presents a comprehensive and balanced assessment of the Administration's efforts to step up involvement in terrorist financing in the wake of 9/11. The report specifically highlights two major policy tools utilized by the Administration - the freezing of assets of terrorist financiers, and the use of information about financial facilitators of terrorism to disrupt actual terrorist networks.

We concur with the Commission's recommendation that "vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts." We also agree that operational law enforcement and intelligence cooperation on terrorist financing must be a priority, and can help disrupt the operations of terrorist organizations.

Since 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:

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

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 voice of the U.S. government in dealing with foreign governments and financial institutions on terrorism finance. In this sense, diplomats serve an even more crucial role in the many countries where we have no resident legal or Treasury attaché. With cooperation, intelligence and law enforcement officers can follow the money. With international cooperation on asset freeze designations (as well as travel bans 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 to terrorists when no one is looking; it is another to realize that such actions can bring unwanted official attention and potential legal prosecution.

Since 9/11 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:

- Ordered the freezing in the United States of the assets of almost 400 individuals and entities linked to terrorism;
- Submitted and supported the submission by other countries, including Saudi Arabia and several of our European partners, of 285 al-Qaida-linked names on the United Nations asset-freeze list, thereby requiring all countries to act against these names (50 countries banded together in one such submission to the UN);
- Frozen approximately \$142 million and seized approximately \$65 million in countries around the globe, including the United States;
- Instructed our embassies formally to approach every government around the world to freeze each name we designate;
- Developed a broad international coalition against terrorist finance;
- Acted against supporters of Jemaah Islamiyah, the Asian terrorist group linked to the Bali disco bombing; designated for asset freeze charities funding HAMAS; taken firm action against Saudi terrorism financiers; and worked with the European Union to strengthen their counter-terrorism finance regime;
- Supported changing national laws, regulations and regulatory institutions around the world to better combat terrorist finance and money laundering; 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 is effective U.S. interagency coordination. A Policy Coordination Committee (PCC), established under the auspices of 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, Defense and the financial regulatory agencies collectively pursuing an understanding of the system of financial backers, facilitators and intermediaries that play a role in this shadowy financial world. The overarching lesson I draw from my experience since 9/11 is the need for overall direction of the terrorist finance effort by a body that can choreograph all of the USG participants in the process to find just the right blend of instruments on a case-by-case basis. The NSC is ideally placed to play this coordinating role in terrorist finance as it has traditionally done in other national security areas.

The Treasury Department develops and coordinates financial packages that support public designations of terrorists and terrorism supporters for asset freeze action. The Department of Justice leads the investigation and prosecution in a coordinated campaign against terrorist sources of financing. And, the State Department 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. These efforts include the provision of training and technical assistance in coordination with Justice, Treasury, Homeland Security and the financial regulatory agencies. Our 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 have been essential partners in implementing this global strategy. They have each designated a senior official, often the Ambassador or Deputy Chief of Mission, as the post Terrorism Finance Coordination Officer (TFCO). These officers chair interagency meetings at posts on a regular basis not only to evaluate the activities of individual countries, but also to develop and propose individual strategies on most effectively getting at specific targets in certain regions. The increased level of interagency cooperation we are seeing on this front in Washington is generating new embassy initiatives focused sharply on terrorist finance. The ability of posts to develop high-level and immediate contacts with host officials in these efforts has ensured broad responsiveness around the world to various targeting actions.

Domestic (E.O. 13224) Actions

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, just 12 days after the terrorist attacks of September 11. That order provided the basic structure and authorities for an unprecedented effort to identify and freeze the assets of individuals and entities associated with terrorism across the board. Under that order, the Administration has frozen the assets of almost 400 individuals and entities on 60 separate occasions. The agencies cooperating in this effort are in daily contact, examining and evaluating new names and targets for possible asset freeze. However, our scope is not just limited to freezing assets. 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, or shaping new regulatory initiatives. While designating names is the action that is most publicly visible, it is, in no way, the only action.

United Nations Actions

Even before September 11, the United Nations 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, al-Qaida, Usama bin Laden and those associated with them. Following September 11, the UNSC stepped up its counter-terrorism efforts by adopting Resolutions 1373 and 1390. 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 bans on travel and arms sales to these individuals. Resolution 1390 (strengthened by Resolutions 1455 and 1526) continued sanctions, including asset freezes, against Usama bin Laden, the Taliban, al-Qaida 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 apply.

Through these actions, the UNSC has sent a clear and strong message underscoring the global commitment against terrorists and their supporters and giving international force and legitimacy to 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-Qaida, all 191 UN Member States are obligated to implement against those persons the applicable sanctions, which include asset freezes. The 1267 Sanctions Committee has added a total of 285 al-Qaida-linked names to its consolidated list since 9/11.

In those cases where the United States Government decides to propose addition of a terrorist and/or his financier to the UN list, the Department of State plays a key role in judging 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 pivotal to the success of this approach. Often we have a strong case based heavily on classified information and we must weigh competing priorities. If we go the UN to propose a designation and the case is weak, others will not support us. On the other hand, there are often compelling reasons not to declassify information. The Department and our embassies help the interagency team strike the right balance by providing advice and insights on what it will take to have a designation gain international approval. Once a designation proposal is decided, the Department seeks international support in the form of potential co-designators and convincing other members of the UN Sanctions Committee to support the U.S. proposal.

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 domestically to clamp down on terrorist financing. Since 9/11, at least 87 countries in every region of the world have either adopted new laws and regulations to fight terrorist financing or are in the process of doing so.

To ensure that the standards of these new laws and regulations are high enough to have an impact and be effective, the United States has worked very closely with the Financial Action Task Force on Money Laundering (FATF), a multilateral organization of 33 members individually and collectively 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 Eight 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 United Nations (respecting, ratifying and implementing anti-terrorist treaties and resolutions) and identifying, defining and criminalizing terrorist financial activity. FATF is monitoring compliance with its recommendations in coordination with the IMF, World Bank, and the FATF-Style Regional Bodies (FSRBs). In addition, FATF is working cooperatively with the UN Counter-Terrorism Committee (CTC) and the G-8-initiated Counter-terrorism Action Group (CTAG) to complete assessments of designated countries' needs for technical assistance to improve local ability to combat terrorist financing.

We have seen substantial progress recently in securing countries' commitment to strengthen their relevant laws and regulations in the area of anti-money laundering, which is inextricably linked to counter-terrorist finance. In large part due to FATF's focus and efforts on terrorist financing, for instance, the Indonesian Parliament passed important amendments to its anti-money laundering law on September 16, 2003 - amendments that will improve the country's ability to take actions against terrorist financing. Similarly, it was FATF's efforts that led the Philippines to pass legislation in March 2003 that will significantly increase that country's ability to carry out meaningful anti-terrorist financing measures. FATF advises on whether such regulations and legislation meet international standards as 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 countries via its Non-Cooperating Countries and Territories (NCCT) program, in the form of its ability to blacklist countries that are non-compliant with respect to anti-money laundering practices. FATF's NCCT program creates an incentive for states to vigorously address their regulatory environment when it comes to being able to take appropriate actions against money laundering. Nigeria and the Philippines, for instance, in December 2002 and February 2003 respectively, took meaningful legislative steps to strengthen their respective anti-money laundering laws to avoid imposition of FATF countermeasures. The Philippine Anti-Money Laundering Council has filed 62 cases: 31 for money laundering, 23 for civil forfeiture, and five freeze orders, and several applications for bank inquiry. Ukraine likewise passed legislation in January 2003 that removed the threat of immediate FATF sanctions and ultimately led to its removal from the NCCT 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 to set standards for tackling terrorist financing also have had to consider how to keep charities from being abused by those with malicious intentions, and how to keep cash couriers and alternative remittance systems, such as "hawala," from being used to finance terrorism. FATF, which has already addressed some of these issues through its Eight Special Recommendations on Terrorist Financing, is continuing to focus its efforts in this area.

Capacity Building

On the technical assistance front, the Terrorist Finance Working Group (TFWG), chaired by the State Department, has obligated over \$11.5 million to provide technical assistance and training to develop and reinforce counter-terrorist financing/anti-money laundering regimes of frontline states. To date, assistance offered by the 20 U.S. Government offices and agencies participating in the TFWG, which include the Departments of Justice, Treasury and Homeland Security, spans 25 priority countries on five different continents. These comprehensive training and technical assistance programs include legislative drafting, financial regulatory training, financial intelligence unit 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 counter-terrorist finance practices, including the detection of trade-based money laundering (moving money for criminal purposes by manipulation of trade documents), customs training, anti-terrorist finance techniques and case studies for bank examiners, and general financial investigative skills for law enforcement/counter-terrorist officials. Our international partners have welcomed this type of training, and we plan to provide it to other vulnerable jurisdictions in other regions.

U.S. efforts to assist Indonesia with the 2002 Bali bombing and 2003 J.W. Marriott attack cases demonstrate the seriousness of our counter-terrorism strategy, including our terrorist finance efforts. As the result of their hard work and U.S. and Australian assistance, Indonesian authorities have arrested over 80 Jemaah Islamiyah (JI) members associated with the Bali bombings and convicted 33 of them. Close law enforcement cooperation among the United States, Indonesia, Australia, and other Southeast Asian states has also led to an aggressive campaign against JI on all fronts including its financing. In the wake of the Bali bombings, the international community moved to "name and shame" JI with a record 48 countries supporting Australia and the U.S. in the UN terrorist designation of JI. Indonesia has made significant progress in reinforcing its counter-terrorism measures through stringent legislation, robust law enforcement investigations and prosecutions, and a more transparent financial system to combat money laundering and terrorist financing. . During my recent trip to Singapore and Malaysia, I was pleased to see both governments focusing on specific steps to improve their ability to combat

terrorist finance.

Burden sharing with our key coalition partners is an emerging success story. For instance, the governments of Australia, New Zealand and the UK, as well as the EU, FATF-Style Regional Bodies and the Asian Development Bank, have significant technical assistance initiatives underway in countries such as the Philippines, Indonesia, Pakistan, Malaysia and Egypt.

Areas of Focused Cooperation

The Administration is actively involved in combating terrorist financing through partnerships we have established across the globe. However, I would like to specifically highlight for you our recent cooperative efforts with Saudi Arabia and the EU.

Saudi Arabia has been one important focus of our efforts. An interagency team of experts travels regularly to Saudi Arabia to work with their counterparts to identify and block suspect accounts and assess technical assistance needs. Our terrorism finance cooperation with Saudi Arabia is real-time, ongoing, and fully embedded into our day-to-day counter-terrorism operations. We have jointly designated, with the Saudis, over a dozen Saudi-related entities and multiple individuals under E.O. 13224.

Demonstrating its commitment to address systemic factors contributing to the flow of funds to terrorists, Saudi Arabia has recently promulgated a number of laws that hold charities accountable for their actions and the funding of projects outside the Kingdom. Saudi Arabia has made some important changes to its banking and charity systems to help strangle the funds that keep al-Qaida in business. 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. 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, steps that are undoubtedly extremely challenging for Saudi Arabia, but that the Saudi Government has ordered because it understands that terrorists are more likely to use such funds than those channeled through regular banking channels.

Saudi Arabia is working with us closely in the context of the new joint task force on terrorist financing, led on the U.S. side by the FBI. As part of the State-led interagency terrorist financing assistance program, experts from the FBI and IRS have completed the first part of a training model designed to strengthen the financial investigative capabilities of the Saudi security forces, with more advanced courses to follow. That being said, this is a work in progress. We have reason to believe that the new task force on terrorist financing will be effective but we will need to see results. We believe the Saudi Government is implementing its new charity regulations, but there too, we will need to see results. The recent 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. We find this to be encouraging news. There is more to do, and we will continue to press ahead with our efforts with the Saudi government.

We also have a "good news" story to tell regarding our cooperation with the European Union on combating terrorist financing. The EU has designated for asset-freezing almost all the names designated by the United States under E.O. 13224 because of their links to terrorism, in addition, of course, to all the al-Qaida-related names listed on the UN's consolidated list. We have also reinvigorated our productive dialogue with the EU, based on the June 26, 2004, U.S.-EU Summit Declaration which outlines a realistic roadmap on moving ahead toward implementing effective measures to crack down on terrorist financing across Europe and beyond. At the heart of this declaration is a joint commitment to support the work of the Financial Action Task Force on all terrorism financing issues, including by ensuring that EU and national legal frameworks are fully adapted to the FATF's eight special recommendations on terrorist financing. Next week, I will lead an interagency team to Brussels to share U.S. best practices and lessons learned in the fight against terrorism finance with 200 experts from

25 EU countries who will gather to move ahead on fulfilling the commitments in the U.S.-EU Summit Declaration. Together, we will work to put in place effective laws and processes to freeze assets and block transactions; strengthen measures to regulate alternative remittance systems such as hawala and bulk cash couriers; ensure effective implementation of legislation criminalizing the financial support of designated names; and encourage appropriate enforcement agencies to analyze accounts of designated entities for law enforcement and intelligence leads.

This is an ambitious, far-reaching agenda, but the Dutch, who hold the EU Presidency for rest of 2004, are committed to pushing ahead with reforms that will enable all EU member states to improve their ability to combat terrorism. We are encouraged by their proactive approach on this issue, and we will continue to work with them and our other European partners.

Designations and Asset Freezes: Only Part of the Picture

The 9/11 Commission report provides a critique of the public designation of terrorist financiers and organizations for asset freeze, noting that while it is "part of the fight," it is not the "primary weapon." The report goes on to criticize multilateral freezing mechanisms because they require waiting periods that eliminate the element of surprise. It also notes that worldwide asset freezes have been easily circumvented.

We recognize there are shortcomings in the international designations and asset freeze process; however this cooperative process has helped us develop and deepen a set of long-term invaluable relationships with our interagency and international partners in the three years since 9/11. 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, the network of U.S. Government agencies meets 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 does not have to come at the expense of taking appropriate law enforcement action. On the contrary, sometimes the two approaches 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 is 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.

As noted above, we have used multilateral asset freezes, together with technical assistance and the FATF multilateral process, as valuable devices to isolate terrorist financiers, drive them out of the formal financial system, and unite the international community through collective action. We continue to work together with our international partners to strengthen the multilateral designation process. By quietly pre-notifying our allies before submitting names for designation to the UN 1267 Sanctions Committee, we seek to build international consensus early, thereby preventing unwanted delays in the process. At the same time, we approach foreign governments to urge them 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. As noted by the 9/11 Commission, 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 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 this broadening and deepening of international cooperation. This is our most important value added. Officers in our embassies and in Washington bring their overseas 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 we in the State Department are uniquely placed to help weigh options and craft tailor-made strategies to produce effective action.

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