

SENATO DELLA REPUBBLICA

X LEGISLATURA

Doc. XXII-*bis*

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COMMISSIONE PARLAMENTARE D'INCHIESTA SUL CASO DELLA FILIALE DI ATLANTA DELLA BANCA NAZIONALE DEL LAVORO E SUE CONNESSIONI

(deliberazione 19 febbraio 1991)

ALLEGATO ALLA RELAZIONE

DOCUMENTI ACQUISITI DALLA COMMISSIONE

ROMA 1992

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Documento n. 379

1



379

Ministero del Commercio con l'Estero

13 GEN. 1992

IL CAPO DI GABINETTO
DEL MINISTRO

80162

Gentile Dott. Laurenzano,

per rispondere al Suo quesito circa la pretesa discordanza delle cifre relative alla fornitura di navi all'Iraq, ritengo che la cosa migliore sia farLe pervenire un prospetto di fonte Fincantieri e che reca la data del 18.7.1988 (v. all.1).

Nella seconda colonna risulta che a quella data gli incassi erano stati di \$ USA 1.166 e non 441 come si pretenderebbe nel libro di Timmerman e d'altra parte l'esatta indicazione degli incassi non può essere fatta che dai fornitori.

Credo però che non ci siano stati ulteriori pagamenti anche a causa dell'embargo, poi tolto (ma solo teoricamente) con l'intesa del 26.1.1989, (V. all.2) in realtà non entrata in vigore per controversie tra committente e fornitori su aggiornamenti tecnici e nuove forniture accessorie.

La richiesta irachena di ottenere dilazioni di pagamento per la parte residua comportò a suo tempo ulteriori complicazioni, così come la richiesta di altri crediti.

Si giunse quindi al 2 agosto 1990, giorno dell'invasione irachena del Kuwait che provocò l'embargo totale non solo delle forniture militari ma addirittura di tutte le operazioni e del blocco dei fondi iracheni depositati presso le banche dei Paesi aderenti all'embargo.

Attualmente sono consentite forniture all'Iraq dei beni considerati di prima necessità dall'ONU qualora il pagamento avvenga senza ricorso ai citati fondi bloccati entro il limite del 10% di tali fondi (v. G.U. 10.1.92 n. 7, all. 3).

Gentile Dott. Laurenzano, spero di aver corrisposto alla Sua richiesta, in ogni caso sono a Sua disposizione

cordialmente,
Giuseppe Massa

Egr. Dr.
Ettore LAURENZANO
Senato della Repubblica
Commissione Parlamentare di
Inchiesta sul caso F.le Atlanta
della Banca Nazionale del Lavoro
ROMA

SITUAZIONE COMMESSA IRAQ

(importi in mil. \$ USA)

All. 1

a) SITUAZIONE FINANZIARIA	Importo contrattuale	Incassi	Residuo	di cui :	1988	1989	1990
Contratto n. 4 (navi)	1290	654	636		562	74	-
Contratto n. 5 (munizioni)	795	344	451		200	130	121
Contratto n. 6 (supporto logistico)	399	168	231 (1)		112	56	63
	<u>2484</u>	<u>1166</u>	<u>1318</u>		<u>874</u>	<u>260</u>	<u>184</u>

Interessi di sfasamento
(ex amendments. 1983 e 1986)

150 200 (2)

Spese di conservazione

60 (3)

b) FIDEJUSSIONI

	Emesse	Restituite	In vigore	(di cui scadute e non restituite)
Contratto n. 4 (navi)	723	208	515	(" " " " " " ")
Contratto n. 5 (munizioni)	397	22	375	(" " " " " " ")
Contratto n. 6 (supporto logistico)	192	-	192	(" " " " " " ")
	<u>1312</u>	<u>230</u>	<u>1082 (4)</u>	

(1) Di cui 10,5 mil. \$ per spese da sostenere presso la base.

(2) Con ipotesi di sblocco della fornitura entro 30/9/88 (compresi interessi maturati dal Dicembre 86-sospensione di esecutoriet al 30/9/88).

(3) Escluse eventuali sostituzioni di materiali e prodotti.

(4) Di cui coperti da SACE Mil. \$ 866; in caso di escussione oltre al capitale dovranno essere rimborsati gli interessi, computati dalla data di ogni singolo pagamento (dall'aprile 1981) valutabili in ca. \$/Mil. 900.

18/7/88
[Signature]

100 2

STATEMENT ON BILATERAL RELATIONS

During his visit to Italy on 25 and 26 of January 1989, HE Mr. Taha Yasin Ramadan, Member of the Revolutionary Command Council and First Deputy Prime Minister of the Government of Iraq, has met with HE the Hon. Ciriaco De Mita, President of the Council of Ministers of Italy and discussed the development of the overall bilateral relations between their two Countries. Aiming at strengthening the bilateral economic and trade relations, they agreed on the following:

1. The Italian Government lifts the embargo on the naval contracts as from the date of signing of this statement;

2. The two relevant parties of the naval contracts from the Italian side and the Iraqi side will meet immediately to discuss all problems and issues connected with said contracts and to reach a final settlement for all those problems and issues.

3. The Iraqi Government lifts the embargo on the outstanding amounts due to Italian Companies.

4. The two Chairmen of the Italian-Iraqi Joint Commission shall convene on a later date the meeting of the Joint Commission to discuss possibilities of developing the cooperation between the two Countries in all aspects.

Rome, 26 of January 1989

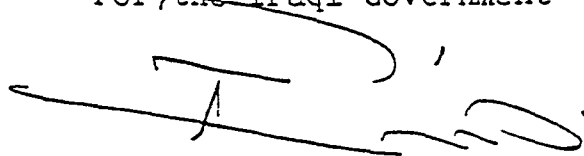
For the Italian Government

For the Iraqi Government

(HE Ciriaco De Mita)

(HE Taha Yasin Ramadan)

Ciriaco De Mita



Muhammad

Decreta:

È approvato il seguente atto di indirizzo e coordinamento.

Art. 1.

1. Le regioni possono individuare, ai sensi dell'art. 9 del decreto del Ministro dell'ambiente in data 20 maggio 1991, relativo ai criteri per la raccolta dei dati inerenti la qualità dell'aria, zone a rischio del territorio regionale, comprendenti i comuni destinatari delle ordinanze citate in premessa, nelle quali possono verificarsi episodi acuti di inquinamento atmosferico. Per queste zone le regioni provvedono alla definizione delle autorità competenti alla gestione delle situazioni di allerta.

Art. 2.

1. Le restrizioni generalizzate della circolazione, ivi compresa quella a targhe alterne, sono adottate, ove non sussista altra misura alternativa, dai comuni o dalle autorità competenti, sulla base di accertamenti che rivelino condizioni generali di comprovata gravità.

2. Ai fini della individuazione delle misure necessarie, anche alternative a restrizioni generalizzate della circolazione, i comuni e le autorità competenti possono avvalersi della commissione tecnico-scientifica di cui all'art. 5 della ordinanza del Ministro dell'ambiente in data 28 dicembre 1991.

Art. 3.

1. Le regioni promuovono intese affinché i comuni provvedano al completamento delle reti di monitoraggio della qualità dell'aria secondo le modalità indicate nel decreto in data 20 maggio 1991 del Ministro dell'ambiente, di concerto con il Ministro della sanità, avvalendosi del parere della commissione di cui al comma 2 dell'art. 2.

Art. 4.

1. Sulla base di intese con le regioni ed i comuni, l'Amministrazione dei trasporti adotta procedure semplificate per l'applicazione sugli autoveicoli dei dispositivi per la riduzione delle emissioni dei gas di scarico e per il rilascio delle relative attestazioni.

Il presente decreto sarà pubblicato nella Gazzetta Ufficiale della Repubblica italiana.

Dato a Roma, addì 10 gennaio 1992.

COSSIGA

ANDREOTTI, *Presidente del Consiglio dei Ministri*

MARTINAZZOLI, *Ministro per le riforme istituzionali e gli affari regionali*

RUFFOLO, *Ministro dell'ambiente*

CONTE, *Ministro per i problemi delle aree urbane*

92A0095

DECRETO DEL PRESIDENTE DEL CONSIGLIO DEI MINISTRI 8 gennaio 1992.

Deroga ai divieti di cui all'art. 1 del decreto-legge 6 agosto 1990, n. 220, convertito dalla legge 5 ottobre 1990, n. 278, recante misure urgenti relative ai beni della Repubblica dell'Iraq.

IL PRESIDENTE
DEL CONSIGLIO DEI MINISTRI

Visto il decreto-legge 6 agosto 1990, n. 220, convertito dalla legge 5 ottobre 1990, n. 278, recante misure relative ai beni della Repubblica dell'Iraq ed in particolare al disposto dell'art. 4;

Considerato che il Comitato del Consiglio di sicurezza delle Nazioni Unite istituito con la risoluzione 661 è venuta alla determinazione di rimettere agli Stati membri la facoltà di decidere in merito all'utilizzazione da parte dell'Iraq, per il regolamento delle esportazioni colà dirette e debitamente autorizzate, dei fondi iracheni a suo tempo bloccati a causa dell'embargo;

Ritenuta l'opportunità di consentire che il pagamento di forniture dall'Italia intese a soddisfare le esigenze civili essenziali possa essere effettuato dall'Iraq con parte dei fondi bloccati presso il sistema bancario italiano;

Decreta:

Articolo unico

In deroga ai divieti di cui all'art. 1 del decreto-legge 6 agosto 1990, n. 220, convertito dalla legge 5 ottobre 1990, n. 278, a decorrere dalla data di pubblicazione nella Gazzetta Ufficiale del presente decreto, i fondi accreditati dalla Repubblica dell'Iraq o da istituti di credito iracheni presso le banche italiane anteriormente al 6 agosto 1990, e tuttora ivi giacenti, sono utilizzabili dalla menzionata Repubblica o da altri soggetti dell'Iraq per il pagamento di esportazioni italiane verso quel Paese o per la prestazione di garanzie rilasciate a fronte del regolamento delle esportazioni stesse, sempreché queste ultime siano autorizzate ai sensi delle disposizioni vigenti.

Le somme impiegate all'uopo non dovranno superare una quota del 10% delle somme liquide di pertinenza irachena disponibili presso ciascun istituto di credito.

Roma, 8 gennaio 1992

Il Presidente
del Consiglio dei Ministri
ANDREOTTI

Il Ministro degli affari esteri
DE MICHELIS

92A0087

Comunicazione del SISMI, in data 10 gennaio 1992.

Documento n. 381

M
F



SERVIZIO PER LE INFORMAZIONI
E LA SICUREZZA MILITARE

381

Roma, 10 GEN. 1992

Prot.n. 000265 /137.1-114/08.3

OGGETTO: B.N.L. - Filiale di Atlanta.

ALL'UFFICIO DI SEGRETERIA DELLA COMMISSIONE
PARLAMENTARE DI INCHIESTA SUL CASO
DELLA FILIALE DI ATLANTA DELLA B.N.L.
E SUE CONNESSIONI

ROMA

-
1. Nel corso dell'audizione del 20.12.1991 è stato chiesto allo scrivente se esistono:
 - a. una richiesta scritta da parte del Servizio che ha originato la risposta dell'F.B.I. (la cui traduzione è stata consegnata a codesta commissione);
 - b. agli atti del Servizio, documenti del periodo '86 (embargo) - '89, da cui emergano elementi di coinvolgimento della B.N.L. in "traffici", anche di modesta entità, o che comunque possano dimostrare che rapporti del genere si erano già instaurati.
 2. Di seguito, dalle ricerche effettuate è risultato:
 - a. nell'ambito dell'attività informativa del Servizio sulla filiale di Atlanta della B.N.L., avviata all'inizio del mese di settembre 1989, è stata rivolta una richiesta "verbale" al collegato "F.B.I.", che fece pervenire la sopraindicata risposta;
 - b. successivamente al settembre 1989, furono acquisiti elementi secondo i quali le ditte italiane EUROMAC e CONSER, precedentemente evidenziate in presunti traffici illeciti a favore dell'IRAQ, avevano beneficiato di operazioni finanziarie con la B.N.L. di Atlanta.

Tali elementi, che non consentivano alcuna correlazione a specifiche operazioni, furono comunque comunicati ai competenti Organi.

IL DIRETTORE DEL SERVIZIO
(Gen. C.A. Luigi RAMPONI)

Traduzione di articoli apparsi sulla stampa americana (New York Times e International Herald Tribune, 25-26 gennaio 1992).

Documento n. 388

11

NEW YORK TIMES - 26/1/1992

GLI USA AIUTARONO SADDAM DALLA PRIMAVERA '82

Seymour M. Hersh

Washington. - L'amministrazione Reagan decise segretamente di fornire all'Iraq informazioni riservate nella primavera del 1982 - più di due anni prima della data precedentemente rivelata - permettendo inoltre la vendita a Baghdad di armi di fabbricazione americana nel tentativo, coronato da successo, di aiutare il presidente Saddam Hussein a scongiurare il pericolo di una sconfitta nella guerra contro l'Iran, secondo quanto dichiarato da ex funzionari dei servizi di sicurezza e del Dipartimento di Stato.

La decisione americana di prestare un aiuto decisivo a Baghdad in questa fase iniziale del conflitto Iran-Iraq, durato dal 1980 al 1988, venne adottata in seguito all'avvertimento da parte dei servizi di sicurezza di un'imminente sconfitta dell'Iraq da parte dell'Iran, il cui esercito era stato rafforzato l'anno precedente da spedizioni segrete di armi di fabbricazione americana.

L'anno scorso il New York Times, insieme ad altri giornali, rivelò che l'amministrazione Reagan decise segretamente, poco dopo il suo insediamento nel gennaio 1981, di consentire ad Israele l'invio in Iran di armi e pezzi di ricambio americani, per un valore di svariati milioni di dollari.

L'intervento e la decisione di aiutare l'Iraq direttamente nel 1982 provano che Washington svolse un ruolo molto più importante di quanto si pensasse nel corso del conflitto Iran-Iraq.

Gli interventi citati sollevano inoltre una serie di interrogativi circa l'insistenza, spesso reiterata dalla Casa Bianca

nei primi anni '80, sulla propria neutralità nella guerra Iran-Iraq, posto che l'America armava entrambi i contendenti al fine di evitare che uno di essi potesse dominare quella regione petrolifera di importanza vitale.

Alla fine, riconoscono i funzionari interpellati, le armi, la tecnologia e le informazioni americane aiutarono l'Iraq ad evitare la sconfitta e a diventare, grazie all'ingente aiuto successivamente fornito dall'Unione Sovietica, quella potenza regionale che nel 1990 invase il Kuwait, iniziando così la guerra del Golfo dello scorso anno.

La decisione segreta dell'amministrazione Reagan di fornire informazioni all'Iraq fu inizialmente rivelata dal Washington Post nel dicembre 1986; il giornale sosteneva che la collaborazione era iniziata alla fine del 1984. Da allora la stampa ha ripetutamente dato notizia di altri elementi del programma.

Ma le interviste condotte negli ultimi due mesi con decine di funzionari del Dipartimento di Stato, della Casa Bianca e dei servizi di sicurezza, in servizio attualmente o all'epoca dei fatti, confermano che la decisione risale a molto prima, che inoltre l'amministrazione tollerava il trasferimento illegale di armi di fabbricazione americana dagli alleati arabi all'Iraq, rimpiazzando alla fine le armi che erano state spedite in Iraq.

Dalle interviste è inoltre emerso che:

* L'amministrazione non informò le competenti commissioni del Senato e della Camera che la CIA stava passando informazioni all'Iraq. I responsabili dell'amministrazione asserirono che il programma rientrava nei normali collegamenti tra servizi di sicurezza - una categoria generica delle attività della CIA, non soggetta a vigilanza.

Alcuni collaboratori delle commissioni parlamentari, sospettando che la CIA stesse nascondendo alcune operazioni,

tentarono senza successo, nel 1983, di acquisire giurisdizione su tutte le operazioni di collegamento.

* La CIA non informò le commissioni parlamentari che aveva autorizzato la vendita di armi di fabbricazione americana all'Iraq. A partire dal 1983, l'Agenzia inoltre non interferì nelle attività dei commercianti privati americani di armi, che avevano cominciato a vendere all'Iraq sofisticate armi di fabbricazione sovietica acquistate nell'Europa dell'Est.

Uno dei maggiori mercanti era il libanese Sarkis Soghenalian, che operava da Miami e negli ultimi venti anni era stato più volte implicato nel contrabbando di armi per conto della CIA. Nello scorso autunno Soghenalian è stato accusato a Miami di traffico illegale di armi con l'Iraq ed è attualmente in attesa di giudizio.

* Secondo molti esperti americani d'affari mediorientali, William J. Casey, all'epoca direttore della CIA, si sarebbe recato a Baghdad all'inizio degli anni '80 per incontrare segretamente la controparte irachena, il fratellastro di Saddam, Barzan.

Un ex funzionario della CIA ha dichiarato che Robert M. Gates, attuale direttore della CIA e all'epoca assistente di Casey, era responsabile della preparazione delle informazioni da passare agli iracheni. La CIA non ha risposto ad una nostra telefonata di richiesta di un commento.

Durante le audizioni svoltesi in ottobre presso la Commissione del Senato sui servizi di sicurezza, per la nomina di Gates alla direzione della CIA, né Gates, né altri testimoni della CIA rivelarono che lo scambio di informazioni USA-Iraq, che si credeva cominciato nel dicembre 1984, era in realtà iniziato due anni prima.

Nessuno degli auditi rivelò inoltre che l'amministrazione Reagan aveva permesso agli alleati dell'Iraq in Medio Oriente di spedire a Baghdad armi americane.

Nel corso dell'audizione di Gates, il senatore democratico Bill Bradley, del New Jersey, domandò se lo scambio d'informazioni con l'Iraq potesse considerarsi una "azione segreta", che, in base alla legge avrebbe dovuto essere resa nota alle competenti commissioni parlamentari.

"All'epoca ero convinto", rispose Gates, "che le attività in questione fossero pienamente conformi all'interpretazione" della legge allora in vigore.

La legge del 1975, che modifica il Foreign Assistant Act del 1961, vieta l'utilizzazione dei fondi della CIA per iniziative segrete "a meno che e fino a quando il Presidente ritiene che ciascuna operazione ... è rilevante per la sicurezza nazionale degli Stati Uniti, riferendo tempestivamente" ai Comitati per i servizi di sicurezza della Camera dei rappresentanti e del Senato.

Un esponente dell'amministrazione Reagan che ha testimoniato per ore davanti alla Commissione sui servizi, dichiarò che il programma iracheno avrebbe dovuto essere reso noto alle commissioni, ma che non lo fu perché si temevano le reazioni negative dei componenti che appoggiavano Israele.

La decisione di aiutare l'Iraq "non fu un'iniziativa autonoma della CIA" ha spiegato un ex alto funzionario del Dipartimento di Stato, tale politica venne studiata dal Dipartimento di Stato e "approvata la più alto livello". L'idea, ha inoltre aggiunto, non era quella di "attaccarci al carro di Hussein", bensì di "evitare la vittoria di entrambe le parti".

Altri funzionari affermano che ai comandi iracheni furono forniti immagini satellite, intercettazioni di comunicazioni e valutazioni della CIA che individuavano "i punti deboli degli iraniani." Gli Stati Uniti continuarono a fornire informazioni coperte da segreto fino alla fine della guerra Iran-Iraq (1988).

Washington inoltre "chiuse un occhio", come espresso da un ex ambasciatore americano nella regione, quando, a partire dal 1982, armi di fabbricazione americana cominciarono a riversarsi su Baghdad dagli alleati dell'Iraq in Medio Oriente.

La Giordania e l'Arabia Saudita spedirono in Iraq armi leggere e mortai, mentre il Kuwait vendette agli iracheni migliaia di missili anticarro.

Un ex stretto collaboratore di Casey ricorda che "i kuwaitiani mandavano in Iraq un sacco di soldi e armi e noi lo sapevamo." Ammette inoltre che nel 1982 i militari giordani dirottavano normalmente in Iraq gli elicotteri americani Huey.

Gli americani non fecero nulla per fermare queste vendite note a molti nell'amministrazione, nonostante le leggi americane vietino il trasferimento di armi di fabbricazione americana da parte di terzi senza l'autorizzazione di Washington.

L'amministrazione Reagan aveva segretamente cambiato la propria politica nei confronti dell'Iran poco dopo il suo insediamento (1981), permettendo agli israeliani, acerrimi nemici di Saddam, di consegnare a Teheran, armi americane per un valore di diversi miliardi di dollari.

Quelle armi, ammettono ora ex dipendenti dell'amministrazione, aiutarono l'Iran a contraddire le iniziali previsioni di una rapida vittoria irachena e a conseguire importanti successi all'inizio della guerra, iniziata con un attacco iracheno nel settembre 1980.

La posizione dell'Iraq divenne precaria soprattutto perché l'Unione Sovietica, vecchio alleato di Baghdad, si era rifiutata nei primi due anni del conflitto di inviare forniture militari, nella vana speranza di guadagnare influenza sull'Iran.

A fine marzo 1982, i servizi americani predicevano un imminente crollo dell'Iraq, alimentando i timori di Washington e della regione circa un futuro dominio del governo integralista islamico dell'Iran sul Golfo e sulle sue ingenti riserve petrolifere.

Una nuova politica venne rapidamente messa a punto, ricorda un alto dirigente dell'amministrazione: "Non vogliamo che l'Iraq perda la guerra". L'Iraq andava aiutato, come lo era stato l'Iran.

Nicholas A. Veliotis, allora Vice Segretario di Stato per il Vicino Oriente e l'Asia meridionale, dirigeva il gruppo di lavoro incaricato di dare attuazione a questa politica. Un altro personaggio chiave era Morris Draper, un influente esperto del Dipartimento di Stato, all'epoca inviato speciale del presidente Reagan in Medio Oriente. Nelle audizioni, alcuni membri del gruppo di lavoro hanno affermato di aver autorizzato soltanto la comunicazione di informazioni all'Iraq. Hanno ribadito di non essere stati al corrente della vendita di armi di fabbricazione americana a Baghdad effettuata dagli alleati dell'Iraq. Ma questi funzionari hanno riconosciuto che anche l'atto di fornire informazioni a Saddam Hussein costituiva un notevole cambiamento di politica estera, destinato a rimanere segreto.

"Si conveniva sul fatto che la politica ufficiale di neutralità dell'Amministrazione non era confacente all'interesse del Paese", ha dichiarato un funzionario. Egli ha aggiunto: "Decidemmo che non era nell'interesse della Nazione annunciare pubblicamente un mutamento di indirizzo nella politica estera".

Un consulente della precedente amministrazione ha dichiarato che il re Hussein di Giordania avrebbe persuaso l'amministrazione Reagan a prestare aiuto all'Iraq. Nello stesso periodo il re sollecitò i suoi sudditi ad arruolarsi come volontari nell'esercito iracheno, e Thomas A. Twetten, responsabile della CIA ad Amman, riferì a Washington la posizione del re.

"Il punto di vista del re - ha affermato un funzionario - era il seguente: 'Attenzione all'Iraq. E' la seconda potenza petrolifera mondiale quanto ai depositi, ha una popolazione con un elevato livello di istruzione ed è la nazione più industrializzata del Medio Oriente, con un grande esercito. E tutto ciò è governato dalla personalità di Saddam Hussein. E voi non gli state dando nessuna possibilità. Hussein può costituire un fattore di crisi, oppure può essere integrato. Io penso che possa essere integrato, e lo aiuterò."

Con l'esplicito consenso del presidente Reagan, ha aggiunto il funzionario, informazioni di alto livello cominciarono a passare a Mr. Twetten, incaricato di fornirle all'Iraq tramite la Giordania. In capo a pochi mesi, continua il funzionario, la CIA inviò un suo agente a Baghdad, "con il compito esclusivo di gestire il passaggio di informazioni".

Dalla scorsa primavera, almeno due commissioni del Congresso hanno indagato sul coinvolgimento degli Stati Uniti nell' armamento dell'Iraq. Esse si sono chieste per quale motivo sia l'amministrazione Reagan che l'amministrazione Bush hanno continuato ad appoggiare militarmente l'Iraq, anche dopo la fine della guerra con l'Iran. In particolare, la Sottocommissione per l'agricoltura della Camera dei rappresentanti sta indagando sull'uso delle garanzie al credito concesse dal Dipartimento dell'agricoltura per sottoscrivere accordi di vendita di tecnologie americane di importanza strategica all'Iraq. Durante un'audizione nello scorso agosto, il presidente del comitato, il deputato democratico Charles Rose, della Carolina del Sud, ha chiesto se Saddam Hussein "possa aver mal valutato fino a che punto potesse spingersi con George Bush per quanto riguarda la vendita di armi di questo Paese all'Iraq".

Sam Gejdenson, un democratico del Connecticut, appartiene ad una sottocommissione per gli affari esteri della Camera dei rappresentanti che sta indagando sull'esportazione di tecnologie

strategiche statunitensi. Egli ha asserito che il sistema di controllo sulle esportazioni del Dipartimento del commercio "non è stato aggirato".

"Saddam Hussein ha ottenuto tutto l'equipaggiamento che il Dipartimento di Stato voleva fargli avere.", ha affermato.

L'assistenza al regime di Saddam Hussein costituiva una scelta di politica estera per gli Stati Uniti.

GLI STATI UNITI DIETRO LE RAMPE MOBILI DEGLI SCUD IRACHENI

Seymour H. Hersh

Washington, 25 gennaio.- L'assistenza segreta degli Stati Uniti all'Iraq può aver aiutato Saddam Hussein a condurre a termine una delle più grandi e meno attese operazioni della guerra del Golfo: l'uso di una incontrollata squadra di rampe mobili, per lanciare dozzine di Scud su Israele e sull'Arabia Saudita.

Gran parte di queste rampe potrebbero essere state fabbricate per l'Iraq da ditte americane.

Durante la guerra del Golfo, l'Iraq ha lanciato più di ottanta Scud, uccidendo ventotto americani ed almeno un israeliano. Dopo la guerra, i servizi di informazione americani hanno stimato in almeno 225 i camions convertiti in rampe di lancio mobili - un numero di gran lunga superiore a quello valutato prima della guerra.

Subito dopo il primo attacco di Scud contro Israele, un americano di nome Richard C. Fuicz prese a raccontare agli investigatori del Governo degli Stati Uniti di una sua visita, nel settembre 1987, ad un impianto per la fabbricazione di camions, di proprietà della Terex Corporation, una sussidiaria della KCS di Westport, Conn.

Mr. Fuicz ha trattato affari in Medio Oriente per molti anni e nel 1987 rappresentava una famiglia saudita interessata all'acquisto di una compagnia per la produzione di grandi attrezzature. Nel mese di settembre, fu impegnato in una visita del principale impianto della Terex, a Motherwell, in Scozia. In una testimonianza giurata scritta resa alla sottocommissione del Congresso impegnata in un'inchiesta sulla materia, Mr. Fuicz ha affermato di

aver notato in quella occasione due grandi veicoli corazzati, mimetizzati per il deserto e muniti sul retro di uno speciale rivestimento in acciaio. Ha dichiarato anche di aver interrogato il direttore dell'impianto, Art Rowe, su di essi; gli venne risposto che erano "rampe di lancio missilistiche, per l'esercito iracheno".

Più tardi, fu detto a Mr. Fuicz che gli speciali rivestimenti in acciaio erano stati realizzati dietro indicazione degli iracheni, al fine di potervi installare gli Scud.

La testimonianza di Fuicz prosegue così: "Allora io dissi che si trattava di una cosa illegale. Lui (Rowe) replicò arrogantemente: 'Le voglio spiegare il trucco: basta cambiare in parte il numero di serie per farli sembrare mezzi di uso civile, per le miniere'".

Randolph Lenz, presidente della Terex, era presente al colloquio, ha scritto Mr. Fuicz, e al momento non disse nulla. Più tardi, tuttavia, Lenz rivelò a Fuicz che "stava lavorando per il nostro Governo, ed era un eroe, ma non era autorizzato a parlarne."

Alla fine dell'anno scorso, David J. Langevin, vice presidente della Terex, espresse a Fuicz analoghe considerazioni.

" 'Vi sbagliate completamente sul conto della Terex e dei militari iracheni'" disse Langevin, secondo la testimonianza di Fuicz "'queste spedizioni avvennero su richiesta della CIA con la collaborazione dei servizi di sicurezza britannici'. Io dissi di essere sorpreso che gli inglesi fossero coinvolti in questa faccenda insieme alla CIA. Lui rispose: 'Sei un ingenuo'".

Langevin negò di avere mai avuto un simile colloquio con Fuicz. Alla domanda sulle vendite di camions all'Iraq, Langevin aggiunse: "Non ho proprio nessuna indicazione da darvi". Ma

l'avvocato della società Marvin B. Rosenberg dichiarò che la Terex "non ha mai fabbricato attrezzature militari".

La sottocommissione operations della Commissione parlamentare per l'agricoltura sta attualmente indagando su queste affermazioni. Un componente della sottocommissione ha detto in un'intervista concessa questa settimana di aver ascoltato un ex dipendente della Terex il quale ha confermato che i camion della ditta erano stati venduti all'Iraq. John J. Clements del New Jersey, nominato vicepresidente della Terex nel 1987, ha dichiarato che quando entrò a far parte della società uno dei più pressanti bisogni della Terex era quello di ottenere prestiti per l'acquisto di una fabbrica di camion in Scozia.

Clements afferma di aver spesso sentito Lenz confidare ai potenziali investitori: "Abbiamo un ordine di acquisto dall'Iraq da 90 a 100 unità. E' un grosso affare."

"Sapevo che c'erano affari in corso con l'Iraq", ha affermato Clements.

Lenz lo esonerò alla fine del 1988, ha detto Clements, a causa di obiezioni che lui stesso aveva sollevato circa la tenuta dei registri della società. Negli ambienti della Terex si sostiene che Clements ha motivi di risentimento nei confronti del suo ex datore di lavoro. Peraltro, egli ha citato in giudizio la Terex sulle circostanze relative al suo esonero.

GIUDICE FEDERALE ACCETTA LA DICHIARAZIONE DI COLPEVOLEZZA DELLA BCCI

Dalla nostra redazione

Washington- Venerdì scorso un giudice federale ha accettato la dichiarazione di colpevolezza della Bank of Credit & Commerce International in relazione all' accusa di estorsione illecita, rendendo possibile il sequestro di tutti i beni della banca negli Stati Uniti, per un valore di 550 milioni di dollari.

L'accordo prevede che, di questi fondi, 250 milioni verranno usati per puntellare la principale consociata americana della BCCI, la First American Bankshares di Washington, 275 milioni andranno a saldare i debiti contratti con creditori esteri ed il resto farà fronte alle sanzioni civili e penali imposte dagli Stati Uniti.

Dopo l'accettazione della dichiarazione, il giudice Joyce H. Green ha dichiarato: "Il crollo mondiale della BCCI di sei mesi fa ha rappresentato per le sue vittime una tragedia di enorme portata. Qualunque cosa si faccia adesso non cancellerà tale tragedia. Ma nessuno ha suggerito alla corte un'alternativa migliore".

La confisca di 550 milioni di dollari, le attività americane della BCCI, rappresenta la maggiore sanzione pecuniaria mai comminata negli Stati Uniti.

Le pretese nei confronti della BCCI ammontano a circa 30 miliardi di dollari contro un valore di attività stimato in 2 miliardi di dollari.

Lo Stato di Panama e un azionista del mercato assicurativo dei Lloyd's di Londra avevano chiesto ad un giudice fallimentare federale di New York di bloccare il patteggiamento, ma questi non ha accolto la richiesta.

L'American Express Bank e la Bank of New York, che detengono diversi milioni di dollari in depositi della BCCI, si sono opposte argomentando che tali beni potrebbero essere rivendicati da altri paesi.

L'accordo comprendeva un'ammissione di colpevolezza della BCCI del 20 dicembre in relazione alle imputazioni contestate alla banca dal procuratore distrettuale di Manhattan, Robert Morgenthau, le cui indagini si dice abbiano svolto un fondamentale ruolo di impulso dell'azione del Dipartimento della giustizia.

Le operazioni della BCCI in Gran Bretagna, Stati Uniti e Canada vennero sospese il 5 luglio dalle autorità governative di vigilanza bancaria, in seguito alle accuse di uso improprio di fondi, truffa e riciclaggio di denaro sporco per conto di Panama e di altri governi. Circa 1.2 milioni di depositanti in tutto il mondo sono rimasti vittima dello scandalo BCCI.

La BCCI, che era arrivata ad avere più di 20 miliardi di dollari di attività e filiali in 69 paesi, era specializzata nel servire la clientela del Terzo Mondo.

Ma gli inquirenti sostengono che essa era direttamente implicata in attività di riciclaggio e di assistenza a gruppi criminali.

Il Dipartimento della giustizia, la procura dello Stato di New York e i rappresentanti della screditata banca hanno dato l'annuncio del raggiunto accordo a dicembre. In virtù di esso, la BCCI riconosce la propria colpevolezza in relazione ai capi d'imputazione contestati dalle autorità statali e federali e cede 550 milioni di dollari - tutte le sue attività negli Stati Uniti.

L'accordo è stato raggiunto dopo settimane di negoziati segreti condotti a Washington, New York e Londra ai quali hanno partecipato i liquidatori esteri della BCCI, le autorità di vigilanza e la procura federale degli Stati Uniti.

In base all'accordo, la BCCI si dichiara colpevole delle accuse mosse nei suoi confronti dal procuratore distrettuale di New York, Morgenthau, nonché delle accuse di violazione delle leggi federali sull'estorsione per aver segretamente acquisito informazioni e influenzato alcune banche nella regione di Washington, in California e in Georgia.

I capi d'imputazione federali comprendono inoltre il riciclaggio internazionale, reati fiscali e truffa nella vendita di azioni della Centrust Savings Bank di Miami, un ente creditizio fallito che costerà al governo più di 2 miliardi di dollari.

Nell'accettare l'accordo raggiunto con la banca, il giudice Green ha osservato che tale accordo farà sì che "le vittime innocenti in tutto il mondo recuperino almeno in parte le loro perdite".

Il giudice ha poi aggiunto che l'accordo vieta alla BCCI di tornare a operare negli USA e servirà a minimizzare le perdite derivanti al governo dai problemi delle banche americane segretamente controllate dalla BCCI.

L'accordo risolve tutte le pendenze di natura penale tra Stati Uniti e BCCI. Tuttavia il governo ha in corso un procedimento contro il fondatore della banca, Agha Hasan Abedi e altri.

Dichiarazioni di Gonzalez nell'aula della camera dei
rappresentanti (3 febbraio 1992).

Documento n. 391

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3-febbraio 1992

Come l'Iraq costruì la propria macchina bellica grazie alle risorse americane.

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Dichiarazione dell'onorevole Henry B. Gonzalez
Presidente della Commissione banche, finanza e affari
urbani

Signor Presidente,

da più di un anno la Commissione banche, finanza e affari urbani sta conducendo un'indagine sulle attività negli Stati Uniti della Banca Nazionale del Lavoro, o BNL. Nel corso di tale indagine, abbiamo appurato che la BNL fornì al governo dell'Iraq 4 miliardi di dollari in prestiti apparentemente illeciti. Mentre circa la metà di questi prestiti finanziarono l'acquisto di derrate alimentari, è molto meno noto il fatto che l'altra metà fu utilizzata per finanziare la costruzione da parte dell'Iraq di un'industria bellica autosufficiente - un'industria in grado di fabbricare missili, che era quasi riuscita a dotarsi di armi nucleari, che ha prodotto armi chimiche, in grado inoltre di costruire un supercannone con una gittata senza precedenti, nonché di produrre armi convenzionali.

Ho utilizzato questo tempo, come avevo promesso, per redigere una relazione sulle attività e sui risultati delle indagini della Commissione.

-- Nell'autunno scorso, in una relazione al Congresso, il Presidente affermò che nessuna società americana aveva contribuito direttamente alla capacità bellica, convenzionale o non convenzionale, dell'Iraq. In realtà, invece, l'Iraq gestiva una estesa e clandestina rete di forniture che ottenne finanziamenti essenziali dalla BNL, e che operava in questo paese per procurarsi tecnologie e know-how americani destinati ai programmi di riarmo

iracheni. Ho scritto al Presidente per metterlo al corrente di queste conclusioni e per chiedere la sua piena collaborazione al nostro sforzo diretto a chiarire tutte le circostanze. Purtroppo, la Commissione ha incontrato numerosi ostacoli ai suoi tentativi di verificare come l'Iraq abbia utilizzato la BNL e altre fonti in questo paese per sviluppare un'importante tecnologia militare. Nonostante tali deprecabili ostacoli, abbiamo appreso molto. Spero che il Presidente Bush vorrà adesso dare disposizioni di piena collaborazione al fine di far piena luce sulla vicenda. Spero inoltre che il Presidente presenti una propria relazione, che corregga quella inviata al Congresso l'anno scorso.

In attesa di ulteriori indagini, vorrei descrivere quanto già accertato dalla Commissione sulla rete di forniture dell'Iraq, sul suo funzionamento, e su come alcune ditte americane abbiano direttamente partecipato, volontariamente o a loro insaputa, alla messa a punto in Iraq di armi per la distruzione di massa.

Spero di poter presentare una relazione completa sulle risultanze dei lavori della Commissione, ma nel frattempo fornirò a questa assemblea ulteriori informazioni, come promesso.

Il lavoro svolto dalla Commissione in merito alla BNL ha già prodotto l'emanazione di un'importante normativa che impone una più efficace regolamentazione e vigilanza sulle banche estere operanti in questo paese. Tuttavia, probabilmente bisognerebbe fare molto di più. Infatti sto preparando un nuovo progetto di legge diretto ad incoraggiare gli enti creditizi multilaterali - la Banca Mondiale ed altri - a prestare maggiore attenzione alla necessità di prevenire l'ulteriore proliferazione di sofisticati armamenti in paesi che, come l'Iraq, dipendono da tali enti per l'aiuto economico di base. Di conseguenza,

le nostre attività d'indagine hanno importanti obiettivi di natura legislativa.

Il governo iracheno, operando con il finanziamento della BNL e attraverso una rete di forniture segreta, ha potuto ottenere assistenza persino dalla Export-Import Bank. Questa rete ottenne 2,155 miliardi di dollari in prestiti dalla sola BNL, per prodotti utili a fini militari - macchinari specializzati, diversi tipi d'acciaio, attrezzature industriali, prodotti chimici, computer, eccetera. Inoltre, la BNL finanziò l'acquisto di prodotti agricoli per un valore di 2 miliardi di dollari mediante il programma della Commodity Credit Corporation (CCC).

Uno dei primi obiettivi di Saddam Hussein era quello di diventare un produttore indipendente di armi - comprese le armi nucleari e i missili necessari per lanciarle. Il mondo sa già che Saddam utilizzò senza scrupoli armi chimiche contro il suo stesso popolo. Con ogni probabilità le avrebbe impiegate nella guerra del Golfo se non avesse temuto rappresaglie. In ogni caso, riuscì ad avvicinarsi a molti dei suoi obiettivi - la produzione di bombe nucleari, di un supercannone e di sofisticati missili - e sicuramente costruì armi chimiche, e missili SCUD potenziati, che poi usò.

La guerra con l'Iran interruppe il programma iracheno di costruzione autonoma di armi, perché era più pressante il bisogno di acquistare beni militari finiti necessari per combattere quella lunga e cruenta guerra. Ma una volta concluso il conflitto, Saddam diede immediatamente inizio al suo programma per lo sviluppo e la produzione di una gamma completa di armi.

La principale fonte americana di crediti per l'acquisto di derrate alimentari e armi era la BNL - una banca di proprietà del governo italiano, con filiali in questo paese e, per quanto ci interessa, ad Atlanta, Georgia. Alcuni

dirigenti di quell'ufficio, ed altre persone che ebbero rapporti con esso, sono state rinviate a giudizio per i loro reati. Alcune di esse sono state condannate. Ma finora gli Americani sanno ben poco di come l'Iraq agiva in questo paese per perseguire i suoi scopi illeciti.

L'Iraq non avrebbe potuto raggiungere tali scopi senza l'aiuto dell'Occidente. Saddam non aveva soltanto bisogno di cibo dall'America. Aveva bisogno di tecnologia, attrezzature e forniture disponibili solamente in Occidente. Nonostante gli ostacoli ufficiali, non incontrò troppe difficoltà per ottenere ciò che voleva.

Struttura della rete segreta

Il sistema delle forniture militari dell'Iraq era strettamente controllato, così come il resto del governo. Al vertice c'era il Consiglio della Direzione Rivoluzionaria, guidato da Saddam Hussein e dai suoi stretti familiari. Questo organo era al centro del sistema di potere.

Da esso dipendeva il Consiglio per l'Industrializzazione Militare (MIB), paragonabile ad un ministero, responsabile della pianificazione e della sorveglianza dello sforzo bellico. Il MIB era probabilmente presieduto da Hussain Kamil, genero di Saddam.

Le operazioni ordinarie della struttura militare erano condotte attraverso il Ministero dell'Industria e dell'Industrializzazione Militare, che chiamerò MIMI.

Il MIMI a sua volta si serviva di una serie di enti statali per acquistare e costruire la potenza bellica che Saddam desiderava per l'Iraq. Esisteva almeno una dozzina di enti gestiti dal MIMI che acquistavano beni e tecnologie occidentali per il programma di armamento. Furono il MIMI e le sue affiliate ad utilizzare i 2.1 miliardi di dollari di crediti forniti dalla Banca Nazionale del Lavoro. Infatti,

impiegati della BNL incontrarono Hussain Kamil in diverse occasioni durante visite in Iraq. Chiaramente, era questo l'uomo che aveva l'ultima parola sull'impiego dei fondi BNL.

Hussain Kamil, sia ben chiaro, aveva altre funzioni. Oltre a presiedere il MIB e il MIMI, era a capo dell'Organizzazione dei Servizi Segreti (SSO). Attraverso quest'organizzazione Kamil costruì la rete clandestina di forniture tecnologiche, indispensabile per il successo dell'Iraq. Un membro chiave dell'Organizzazione dei Servizi Segreti era Safa Al-Habobi, direttamente responsabile del funzionamento del programma delle commesse militari. Safa Al-Habobi era il cervello delle operazioni del MIMI.

Ogni anno, il MIMI fissava i propri obiettivi. Il MIMI identificava ciò che serviva per raggiungerli, e poi si metteva in moto per ottenere i beni necessari.

Questo è un esempio del funzionamento del sistema:

Un impianto militare iracheno conosciuto come la Fabbrica dei Martiri aveva bisogno di un tornio a controllo numerico computerizzato per raggiungere il suo obiettivo di produzione, ovvero la fabbricazione di parti metalliche di complessa lavorazione. Il MIB ricevette l'ordinazione dalla fabbrica e l'inoltrò all'ambasciata dell'Iraq in Germania. L'ambasciata irachena comunicò a sua volta l'ordinazione a società di comodo controllate dalla SSO negli Stati Uniti, in Gran Bretagna, in Germania e in Italia. Le società prescelte ottennero delle offerte che vennero comunicate alla fabbrica di armi. La fabbrica decideva poi quale offerta accettare e, dopo aver ottenuto dall'alto l'autorizzazione necessaria, otteneva i beni richiesti, la cui consegna spesso dipendeva dal finanziamento della BNL.

Vi sono migliaia di esempi di questo tipo di transazione.

L'assistenza USA al programma missilistico iracheno

Il MIMI si serviva di un ente noto come Corpo Tecnico per i Progetti Speciali, o TECO, per i suoi sofisticati programmi di sviluppo missilistico e nucleare. Attraverso il TECO, l'Iraq riuscì ad ottenere un importante aiuto americano per questi programmi, compreso il progetto Condor II, noto in Iraq come Progetto 395.

Il Condor II sarebbe stato avviato nel 1984 come parte di un progetto comune tra Iraq, Egitto ed Argentina per mettere a punto un missile con una gittata compresa tra 500 e 1000 chilometri.

L'Argentina doveva mettere a disposizione le strutture di produzione, l'Iraq s'interessava del finanziamento e l'Egitto doveva procurarsi la tecnologia. Un consorzio di ditte in maggioranza europea si occupò di diverse parti del progetto. Tuttavia, tra la fine del 1987 e l'inizio del 1988, l'Iraq non era più soddisfatto della lentezza del progetto, e cominciò a sospettare che i suoi partner stornassero ad altri fini parte dei miliardi investiti. Inoltre, nell'estate del 1988, Abdel Kader Helmy venne arrestato in California per trasferimento illegale di tecnologia destinata al Condor II in Egitto. Il ruolo di questo personaggio è dettagliatamente descritto negli estratti dalla documentazione del processo che allegherò agli atti.

Alla fine del 1988, l'Iraq aveva rafforzato il proprio impegno nel progetto Condor II. Attraverso il TECO, che, ricordiamolo, era un affiliato del MIMI, furono siglati alcuni accordi con molti dei fornitori che avevano già lavorato nel consorzio. Fu allora che la TECO assegnò al programma Condor II la denominazione di Progetto 395.

Il Progetto 395 aveva almeno tre siti in Iraq, ognuno dei quali assolveva ad una funzione diversa ed era identificato da un proprio numero di codice. Inoltre, venne costruito nel nord dell'Iraq un impianto di Ricerca e

Sviluppo missilistico. Nonostante tutti gli sforzi però, il Condor non sarebbe stato prodotto in quantità adeguata in tempo per l'invasione del Kuwait nell'agosto 1990. E' chiaro tuttavia che molto era già stato fatto, che i prestiti della BNL avevano avuto un'importanza vitale e che numerose fonti occidentali, comprese società europee ed americane, avevano preso parte al progetto.

Come molti membri sanno, una società di Cleveland nota come Matrix Churchill, era in realtà una società di comodo irachena controllata del TECO.

Per illustrare il ruolo svolto dalla Matrix Churchill, allego alla documentazione un telex inviato del Teco alla Matrix Churchill, contenente i particolari della visita di una delegazione di Baghdad. Lo scopo della visita era di far incontrare alcuni dipendenti del TECO con i rappresentanti di più di una decina di società americane che avrebbero dovuto fornire beni destinati al programma Condor II, noto anche come Progetto 395, ma al quale ci si riferiva, ai fini dell'ottenimento di forniture, come Diga di Badush o progetto Badush. Il telex in questione è datato 6 agosto 1988.

Una diga era effettivamente in costruzione in quell'area, ma vi si trovavano anche uno o più impianti collegati al programma missilistico. E' stato accertato che i beni apparentemente acquistati per la diga furono in realtà impiegati nel programma missilistico. La Commissione ha acquisito numerosi documenti di spedizione che mostrano chiaramente che l'acquirente era il TECO e la destinazione era il Progetto 395.

Fornitori americani coinvolti nel Progetto 395

Tra le società che rifornivano il progetto vi erano:
Mack Truck, Pennsylvania -- trattori, camion e rimorchi;

Lincoln Electric, Ohio -- saldatrici e forniture;
Rotec Industries, Illinois -- attrezzature per la
lavorazione del cemento;
Hewlett Packard, California -- sistemi informatici;
EMCO Engineering, Massachusetts -- impianto per il
trattamento dell'acqua;
IONICS, Massachusetts -- impianti di demineralizzazione
dell'acqua e sistemi di pompaggio;
Dresser Construction, Illinois -- attrezzature per
costruzioni;
Mundratech, Ltd., Illinois -- autocarri con cassoni
ribaltabili;
Caterpillar Tractor Co., Illinois -- trattori e macchine
movimento terra;
Grove Manufacturing, Pennsylvania -- autogru;
Ingersoll Rand Co., New Jersey -- macchine di compattazione
del cemento;
Liebherr-America, Virginia -- betoniere Liebherr montate su
autotelai da camion Hack;
Mannesmann Demag, Illinois -- attrezzature pesanti da
costruzione.

L'elenco non è completo, in quanto molti documenti
devono essere ancora esaminati. Tuttavia, esso è un esempio
di come un governo straniero possa ottenere segretamente
aiuti per lo sviluppo di progetti militari, approfittando
del nostro mercato aperto. Il Progetto 395 non è l'unico.
Altri due programmi missilistici iracheni, noti come
Progetto 144 e Progetto 1728, ottennero assistenza
americana. Si trattava di programmi riguardanti i missili
SCUD. Lo stesso SCUD che venne lanciato contro le truppe
americane e molti altri obiettivi durante la guerra del
Golfo.

La rete irachena, oltre alle forniture relative alle armi nucleari, era inoltre responsabile della fornitura di tecnologia relativa ad armi di tipo convenzionale, quali mine e pezzi d'artiglieria.

Inadeguata reazione dell'Amministrazione

Il governo è in possesso di migliaia di documenti della Matrix Churchill, ma non li ha ancora esaminati in maniera approfondita. Il vero problema è che il personale incaricato di farlo è insufficiente. Ma sono proprio questi i documenti che mostrano chiaramente l'esistenza e il funzionamento della rete irachena, nonché l'importanza dell'appoggio finanziario della BNL. Oggi la massima priorità è impedire la proliferazione di armi sofisticate in paesi come l'Iraq - eppure, non si cerca neanche di ricostruire che cosa sia andato storto nel caso dell'Iraq per trarne la dovuta lezione.

In centinaia di casi le esportazioni verso l'Iraq richiedevano licenze d'esportazione americane. I documenti di autorizzazione mostrano che l'utente finale era spesso un ente impegnato in attività militari. Ciononostante, è evidente che gli Iracheni non incontrarono eccessive difficoltà per ottenere le autorizzazioni dal Dipartimento del commercio. Inoltre, nel caso del TECO, sia il Dipartimento del commercio che il Dipartimento di Stato erano a conoscenza dell'identità e degli scopi di quel gruppo. E' purtroppo evidente che il sistema di concessione delle autorizzazioni all'esportazione non è riuscito ad impedire all'Iraq di ottenere i beni necessari al suo programma di riarmo - sebbene i Dipartimenti di Stato e del commercio fossero sufficientemente informati sulla vera natura dell'acquirente.

Rapporto fuorviante

La Legge sulle sanzioni all'Iraq imponeva al Presidente di presentare al Congresso un rapporto sulla vendita, l'esportazione ed il trasferimento da parte di terzi all'Iraq di tecnologia nucleare, biologica, chimica e relativa ai missili balistici. Il rapporto presentato al Congresso è classificato come "segreto". Tuttavia, vi è ben poco di quanto contenuto nel rapporto che non sia già stato pubblicato e di dominio pubblico. Ma il fatto significativo è che il rapporto era quanto meno fuorviante nelle sue conclusioni, secondo le quali nessuna società americana era direttamente coinvolta nella fornitura all'Iraq di armamenti convenzionali e non. Questa non è soltanto la mia personale opinione; le Nazioni Unite hanno raggiunto la medesima conclusione.

In base alla Risoluzione 687, le Nazioni Unite impongono di "distruggere, smantellare o rendere inoffensive" le armi irachene per la distruzione di massa. Ciò comprende i missili di gittata superiore a 150 chilometri, componenti missilistici e attrezzature di supporto - per esempio lo SCUD potenziato e il Condor II. Tale compito è affidato ad una Commissione Speciale delle Nazioni Unite e all'Agenzia Internazionale per l'Energia Atomica, o IAEA, che, come tutti sanno, l'Iraq ha ostacolato in vario modo. Ciononostante, le Nazioni Unite hanno ottenuto informazioni che confermano quanto scoperto dalla Commissione circa il sistema di forniture e l'utilizzazione delle società americane.

La Commissione ha chiesto di acquisire la pertinente documentazione O.N.U., che però può essere ottenuta solo tramite il Dipartimento di Stato. Inspiegabilmente, l'Amministrazione non ha dato seguito alla nostra richiesta. Lo scorso 13 novembre, chiesi al Segretario di Stato Baker

di procurarsi quella documentazione e di fornirla alla Commissione. Finora il Segretario non ha risposto - non ha inoltrato la richiesta e non ha dato alcuna spiegazione dell'inerzia dell'Amministrazione a questo riguardo. Allego agli atti la lettera del 13 novembre.

E' inaccettabile che l'Amministrazione non ottenga le informazioni di cui ha bisogno per appoggiare la propria politica. Essa non ha neppure assegnato il personale necessario per esaminare in modo approfondito la documentazione di cui è in possesso riguardante il programma di riarmo dell'Iraq ed il suo funzionamento.

Sappiamo che Saddam Hussein è giunto ad un passo dai suoi obiettivi. Sappiamo che altri paesi sono sicuramente impegnati nello stesso tipo di attività, e che essi devono utilizzare fonti tecnologiche disponibili solo nel nostro paese. E tuttavia, non sembra esservi nessun serio sforzo per imparare la lezione offertaci dall'episodio iracheno, né per adottare le misure necessarie ad assicurare che fatti del genere non si ripetano in futuro.

La documentazione da me presentata rappresenta un buon inizio verso la necessaria comprensione dei fatti. Ci sarebbe molto di più da dire. Ma oggi, voglio semplicemente che i miei colleghi sappiano come agiva l'Iraq, e che comprendano che l'Amministrazione ha solo una conoscenza superficiale dei fatti e che essa non sta facendo abbastanza per cercare di rimediare ai propri errori o per chiedere all'ONU le informazioni di cui è in possesso.

In successive relazioni, tratterò altri aspetti del programma iracheno: che cosa sapeva il nostro governo e qual'è stata la sua reazione. Ma per oggi, i fatti essenziali sono questi:

1. L'Iraq decise già dall'inizio del regime di Saddam Hussein di rendersi indipendente dalle fonti sovietiche ed occidentali di sofisticate armi;
2. L'Iraq creò un sistema attentamente controllato per la messa a punto e la fabbricazione di armi chimiche e nucleari, e per la costruzione di missili in grado di trasportare tali armi;
3. L'Iraq si servì a questo scopo di una rete di forniture clandestina;
4. L'Iraq controllava in questo paese una serie di società che fornirono un importante sostegno al programma di armamento;
5. A tal fine, l'Iraq si servì di società americane;
6. Il Dipartimento del commercio, con l'acquiescenza di altri rami dell'amministrazione, autorizzò prontamente l'esportazione in Iraq di beni utili a fini militari, pur conoscendone, o avendo dovuto conoscerne il vero scopo;
7. Il Presidente ha presentato al Congresso una relazione imprecisa su questo argomento; e
8. Il Dipartimento di Stato ha finora rifiutato di ottenere dalle Nazioni Unite informazioni relative al programma di riarmo iracheno e inoltre, al pari di altri rami dell'amministrazione, non sembra attribuire adeguata importanza a questo episodio.

Comunicazione del 3 febbraio 1992 dell'Amministratore delegato
della Fincantieri.

Documento n. 399

41

42

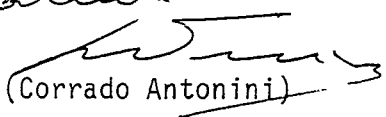
Roma, 3 Febbraio 1992

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Gentile Dr. Laurenzano,

anche se con qualche ritardo - sono stato fuori sede, come Le avevo preannunciato - accludo un promemoria, elaborato dagli uffici, con alcune osservazioni sulle due pagine del libro di Timmerman che mi ha cortesemente fatto pervenire.

A disposizione per ogni eventuale ulteriore occorrenza, porgo a Lei ed al Sen. Carta i migliori saluti.

cordialmente

(Corrado Antonini)

All.c.s.

Egr.Dr. Ettore LAURENZANO
Segretario Commissione Parlamentare
di Inchiesta sul Caso Filiale di Atlanta
Senato della Repubblica
Piazza Madama
00186 - ROMA

NOTE SUL LIBRO TIMMERMAN

- Una delegazione ufficiale irachena guidata dal Vice Primo Ministro Ramadam giunse in Italia nella seconda metà di Gennaio 1989 per discutere con il Governo italiano problemi in essere tra i due Paesi.

Al termine dei colloqui venne diramato in data 26.1.89 un comunicato congiunto Ramadam-De Mita che demandava alle parti (Marina Militare Irachena - Aziende italiane) l'esame dei problemi collegati all'esecuzione dei contratti navali. Non risulta che della delegazione facesse parte il Gen. Amer.

- La situazione contrattuale all'epoca era la seguente (in milioni di dollari)

. Ammontare contrattuale	2.484
. Importo pagato	1.166

oltre agli interessi derivanti dalla rinegoziazione dei pagamenti nel 1983 e nel 1986 (208 milioni di dollari, di cui 150 pagati).

- Le Aziende e la Marina Militare Irachena (presente il Comandante Gayib) si incontrarono a Roma nel febbraio/marzo 1989 individuando una ipotesi di accordo.

L'esame venne proseguito a Baghdad fra le parti nell'aprile e nell'agosto 1989 con la partecipazione del Gen. Amer.

In quella sede l'ipotesi di accordo venne ulteriormente approfondita con la richiesta da parte irachena di forniture e lavori aggiuntivi, per un importo valutato in 400 milioni di \$. Come noto, l'ipotesi di accordo non ha mai avuto seguito.

- Uno dei conti della SBS di Zurigo citati nel libro è molto simile a quello utilizzato - su indicazione del mediatore - per il pagamento di una quota della provvigione. La Fincantieri non ha mai avuto alcun rapporto con la Kapital Beratung AG.

- La quota della BNL sull'ammontare delle controgaranzie rilasciate da un pool di banche italiane alla Rafidain Bank di Baghdad, che a sua volta garantisce i pagamenti della Marina Irachena, è di 195 milioni di \$.

3 Febbraio 1992

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Lettera del dott. Formosa e dell'avv. Garone al Presidente Carta
del 12 febbraio 1992.

Documento n. 400

47

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DIREZIONE CENTRALE

STRETTAMENTE RISERVATA ALLA PERSONA

400

Illustre Presidente,

In relazione alle notizie apparse sulla stampa circa un eventuale patteggiamento della società Entrade con la magistratura statunitense ed ai riferimenti fatti alla Banca Nazionale del Lavoro, ci preme precisare che la Banca, dopo avere analizzato e approfondito la sua posizione con l'assistenza dei propri legali italiani e americani, è pervenuta a una valutazione di convenienza a definire transattivamente la vertenza che la oppone, in sede civile, alla società Entrade.

Da un lato, infatti, la causa presenta aspetti di aleatorietà sotto il profilo dell'accoglimento, in linea di diritto, delle pretese della Banca;,,dall'altro lato, appaiono estremamente ridotte, per non dire inesistenti, le concrete possibilità di recupero, attesa la impossidenza patrimoniale di Entrade negli Stati Uniti e la problematicità di eventuali azioni di recupero anche nei confronti della capogruppo Enka, società avente sede in Turchia.

Ma prima ancora delle anzidette valutazioni, è di fondamentale rilievo che la transazione sarà subordinata all'adempimento dell'impegno, che l'Entrade dovrà assumere in sede di patteggiamento con la magistratura americana, di fornire le prove irrefutabili delle tangenti incamerate da Drogoul o da altri eventuali responsabili della frode perpetrata ai danni della B.N.L..

Ove, inoltre, non si pervenisse alla transazione della causa civile, Entrade rinuncerebbe al patteggiamento con il magistrato americano e, di conseguenza, secondo quanto riferitoci dai consulenti della Banca, potrebbe non comparire al processo ovvero, comparendo, rendere una generica dichiarazione di colpevolezza senza fornire alcun apporto probatorio.

Sotto questo profilo, un rifiuto della Banca a consentire alla transazione potrebbe addirittura essere interpretato come una mancata cooperazione con la Giustizia nell'accertamento della verità e delle conseguenti responsabilità.

DIREZIONE CENTRALE

.2

In definitiva, quindi, la transazione è volta a produrre un risultato diametralmente opposto a quello ipotizzato dalla stampa, secondo la quale la posizione di Drogoul ne verrebbe "alleggerita dall'accusa pesantissima di avere percepito una considerevole somma come frutto delle sue attività illecite".

Va altresì rimarcato che la transazione verrebbe effettuata senza pregiudizio di ogni possibile azione della Banca nei confronti di ogni altro responsabile ed alla condizione che l'efficacia della transazione stessa venga meno qualora, in sede penale, la Entrade venisse ritenuta inadempiente ai suoi impegni di cooperazione con la Giustizia o risultasse il mendacio delle attestazioni da essa rese in tale sede.

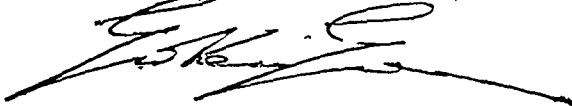
Non può essere, pertanto, neanche adombrata come ipotesi, la possibilità che la Banca pervenga a qualsiasi tipo di accordo con Drogoul.

Cogliamo l'occasione per informarla che nessun avvocato della Banca accompagnerà Miss Gale McKenzie nella sua trasferta in Svizzera.

Confidando di avere contribuito a rendere trasparente la posizione della Banca sulla questione, La preghiamo di volere assegnare alla presente il carattere di una informativa strettamente riservata, avendo attinenza con una transazione allo stato non ancora definita.

Voglia gradire i nostri migliori saluti.

(Giovanni Garone)



(Giovanni Domenico Formosa)



Roma, 12 febbraio 1992

Ill.mo Senatore
Avv. Gianuario Carta
Presidente della Commissione Parlamentare
d'Inchiesta sul caso della Filiale di Atlanta
della Banca Nazionale del Lavoro
e sue connessioni
Largo dei Chiavari, 79
ROMA

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Discorso di Gonzalez del 24 febbraio 1992, con allegati.
Documento n. 402

51

INTERVENTO IN AULA DI HENRY B. GONZALEZ, PRESIDENTE DELLA
COMMISSIONE BANCHE, FINANZE E AFFARI URBANI

24 febbraio 1992

Il caso Iraq & la Export-Import Bank

Signor Presidente:

Questo intervento è l'ultimo di una serie dedicata all'indagine della Commissione Bancaria sulla filiale di Atlanta della Banca Nazionale del Lavoro (BNL). Oggi spiegherò come il Dipartimento di Stato esercitò continue pressioni sulla Export-Import Bank per l'approvazione di prestiti all'Iraq nonostante questo paese non fosse solvibile.

La BNL e la Eximbank

La BNL era il secondo partecipante bancario al programma Eximbank per l'Iraq. La Eximbank assicurò 51 transazioni finanziate dalla BNL per un valore complessivo di 47 milioni di dollari.

Nel corso degli anni, diversi esponenti di massimo livello dell'Amministrazione, compreso il Presidente Bush, intervennero ripetutamente presso la Eximbank a favore dell'Iraq. Per tutta la durata delle relazioni USA-Iraq, il Dipartimento di Stato e altri organi esercitarono pressioni sulla Eximbank affinché questa ignorasse il proprio statuto per poter fornire all'Iraq assistenza creditizia.

La politica verso l'Iraq è in assoluto il più tragico episodio di politica estera delle amministrazioni Reagan e Bush. Che tale politica avesse lo scopo di usare l'Iraq per fermare l'Iran o, più tardi, di rovesciare Saddam Hussein, o di ottenere la stabilità della regione, essa ha portato ad

una guerra e alla perdita di numerose, preziose vite umane - senza peraltro ottenere alcun risultato a lungo termine. Eppure su tale politica deve essere ancora fatta piena luce.

L'invasione irachena del Kuwait ha comportato un costo finanziario a carico del contribuente americano perchè l'Iraq è ora inadempiente per 2 miliardi di dollari di crediti garantiti dal Dipartimento dell'agricoltura e dalla Eximbank.

Il seguente resoconto illustra come la Export-Import Bank venne persuasa a concedere crediti all'Iraq nonostante gli analisti finanziari della Banca avessero ripetutamente messo in guardia contro l'estensione di crediti all'Iraq, ritenuto non in grado di offrire ragionevoli garanzie di restituzione. Infatti, l'Iraq è poi risultato inadempiente ai suoi impegni con la Eximbank.

Introduzione

Il 15 giugno 1990, il Vicesegretario di Stato John Kelly espose, nel corso di un'audizione al Congresso, gli ultimi obiettivi della politica governativa nei confronti dell'Iraq. Tali obiettivi erano: 1) il mantenimento delle forniture di petrolio dall'Iraq; 2) il mantenimento della stabilità nella regione del Golfo e delle forniture di petrolio da quell'area; 3) assicurare un atteggiamento moderato dell'Iraq nel processo di pace mediorientale; 4) prevenire la proliferazione di missili e armi nucleari, chimiche e biologiche; 5) promuovere il rispetto dei diritti umani in Iraq.

L'evento più importante, all'inizio delle relazioni USA-Iraq, fu la decisione dell'Amministrazione Reagan, del 1982, di cancellare l'Iraq dall'elenco dei paesi che appoggiavano il terrorismo. Con questo atto, l'Amministrazione concedeva a Saddam Hussein un immediato

accesso all'assistenza agricola americana e apriva le porte alla partecipazione irachena ai programmi Eximbank, oltre a rendere disponibili per il settore militare iracheno sofisticate tecnologie americane.

A partire dal 1983, l'Iraq sfruttò il suo nuovo status utilizzando i prestiti garantiti dalla CCC per acquistare derrate agricole americane per un valore di 365 milioni di dollari. Nel 1990, il valore delle vendite all'Iraq di prodotto agricoli americani, garantite dall'amministrazione, aveva superato il miliardo di dollari all'anno. Questa politica non solo fece fronte ai bisogni alimentari del popolo iracheno, aiutando Saddam Hussein a rimanere al potere, essa fornì inoltre assistenza ai produttori agricoli americani, allora in cattive acque a causa della crisi agricola subita nella prima metà degli anni '80.

Gli Stati Uniti non erano gli unici a seguire questa politica. Al momento dell'invasione del Kuwait, l'Iraq doveva ai suoi 10 maggiori creditori occ: oltre 12 miliardi di dollari.

Mentre la cancellazione dell'Iraq dall'elenco dei paesi fomentatori del terrorismo consentì immediatamente le esportazioni agricole garantite dal governo, l'accesso ai programmi Eximbank fu più difficile.

I rapporti tra la Eximbank e l'Iraq, cominciati nel 1984, hanno avuto una storia lunga e movimentata. La Eximbank entrò in affari con quel paese poco dopo la cancellazione dell'Iraq, operata da Reagan, dall'elenco delle nazioni che appoggiavano il terrorismo. Prima di allora, non vi era stato alcun rapporto con l'Iraq perchè lo statuto della Eximbank vietava all'istituto di intrattenere rapporti con paesi legati al terrorismo.

La Legge che disciplina l'attività della Export-Import Bank prevede che tutte le transazioni garantite dalla Banca devono, "...a giudizio del Consiglio di Amministrazione,

fornire una ragionevole certezza di restituzione...". Ma nel corso degli anni '80, l'Iraq ha soddisfatto raramente, per non dire mai, tale condizione. Sono occorsi interventi e pressioni, spesso di alti responsabili del Dipartimento di Stato e perfino del Presidente Bush, per consentire all'Iraq di avvalersi dei programmi Eximbank.

Sia l'amministrazione che l'Iraq attribuivano al programma Eximbank importanza vitale per i loro interessi. Dal punto di vista degli Stati Uniti, esso promuoveva le vendite di tecnologia, e in teoria serviva a stabilizzare la regione, permettendo all'Amministrazione di sfruttare il programma per influenzare le azioni dell'Iraq.

Per l'Iraq, il programma Eximbank consentiva l'accesso alle merci americane ad alto contenuto tecnologico e, soprattutto, rappresentava un segnale per gli altri paesi che la più forte nazione del mondo, gli Stati Uniti, riteneva l'Iraq solvibile. Ciò avrebbe reso possibile l'apertura di nuove fonti di credito che, a loro volta, avrebbero potuto essere usate dall'Iraq per mantenere il paese durante la crisi economica seguita alla guerra con l'Iran.

In base al programma Eximbank, gli esportatori americani erano assicurati contro il rischio di insolvenza degli acquirenti iracheni mediante uno strumento a breve termine - ciò significa che solitamente la garanzia durava soltanto un anno. Dall'avvio del programma, nel 1984, fino al marzo del 1986, quando l'Iraq fu sospeso dal programma, l'Iraq utilizzò il programma per acquistare dagli Stati Uniti derrate agricole, pesticidi, piccoli motori per condizionatori d'aria, forniture mediche, attrezzature petrolifere e macchinari pesanti. Il settore militare iracheno utilizzò il programma per l'acquisto di 250 ambulanze corazzate e attrezzature portatili per comunicazioni.

Mentre la maggior parte delle transazioni era di importo relativamente piccolo, la più grossa operazione approvata dalla Eximbank fu il progetto dell'oleodotto di Aqaba. La Eximbank coprì con la propria garanzia 484 milioni di dollari relativi ad un progetto del valore di un miliardo di dollari, affidato al gigante Bechtel. Per motivi ignoti tale progetto non fu mai portato a termine, ma nel seguito del mio intervento rivelerò come questa sia stata la prima occasione in cui l'allora Vicepresidente Bush intervenne presso la Eximbank per ottenere l'approvazione del progetto iracheno.

Nel marzo 1986, la Eximbank sospese l'Iraq dai propri programmi a causa dei continui problemi di pagamento. Tale sospensione rimase vigente fino al luglio 1987, quando il Consiglio d'amministrazione della Exim riannodò i rapporti d'affari con l'Iraq. Dal luglio 1987 al 2 agosto 1990, la Eximbank prestò la sua assistenza finanziaria a 187 transazioni per esportazioni americane, per un valore totale di 267 milioni di dollari.

Cronologia della decisione della Eximbank del 1984 di finanziamento dell'oleodotto di Aqaba

Il 16 marzo 1983, il Segretario di Stato George Schultz ricevette un rapporto sulla posizione della Eximbank nei confronti dell'Iraq. Il rapporto recitava: "La Eximbank sta scoraggiando le scarse richieste degli esportatori americani per l'Iraq a causa dell'effetto della guerra sull'economia irachena. Questo atteggiamento è basato sul requisito di 'una ragionevole certezza di restituzione' prevista dalla legge istitutiva della Eximbank." Nei 7 anni successivi, il Dipartimento di Stato e la Casa Bianca esercitarono ripetutamente pressioni sulla Eximbank per ottenere

l'accesso alle garanzie sui finanziamenti ai progetti iracheni.

Il più consistente di tali progetti riguardava la costruzione di un oleodotto iracheno con un terminale sul Mar Rosso, nel porto giordano di Agaba. Questo contratto, da solo, aveva un valore di un miliardo di dollari per la Bechtel, la società ingegneristica californiana incaricata dell'esecuzione. Il segretario di Stato George Schultz intratteneva con la Bechtel rapporti d'affari da lunga data. Schultz aveva lavorato per la Bechtel prima della sua nomina a Segretario di Stato, e vi tornò subito dopo aver lasciato il suo incarico governativo.

Tra gli alti esponenti dell'Amministrazione Reagan coinvolti nel progetto figuravano il Presidente Bush, l'attuale Vicesegretario di Stato Lawrence Eagleburger, l'ex Ministro della giustizia Ed Meese, l'ex direttore del NSC [Consiglio per la Sicurezza Nazionale] Robert McFarlane, e l'ex direttore della CIA William Casey. In momenti diversi, ciascuno di questi contattò la Eximbank per ottenere finanziamenti destinati al progetto dell'oleodotto di Agaba. Tutti questi personaggi avevano una cosa in comune - consideravano il finanziamento della Eximbank cruciale per le relazioni USA-Iraq.

Per illustrare questo punto si considerino i seguenti dati:

-- Un telex datato 21 dicembre 1983, inviato dalla sezione interessi americani di Baghdad al Segretario di Stato, recita: "Dovremmo seriamente valutare la possibilità di offrire crediti Eximbank...Nuovi crediti USA, insieme ai nostri crediti CCC, dimostrerebbero la nostra fiducia nell'economia irachena."

-- In un rapporto diretto a Lawrence Eagleburger del 22 dicembre 1983, Richard W. Murphy, del Dipartimento di Stato, dice: "Le relazioni politiche USA/Iraq potrebbero migliorare

attraverso i finanziamenti Exim, finora resi impossibili da ragioni politiche...Considerato in combinazione con i crediti CCC già concessi all'Iraq, un gesto Exim sarebbe significativo per manifestare il nostro appoggio all'Iraq in un contesto pratico, neutrale..."

-- In una lettera a William M. Draper III, allora Presidente della Eximbank, Lawrence Eagleburger scrive: "Vorrei sottoporre alla sua attenzione l'importante ruolo che la Exim potrebbe svolgere per favorire gli interessi politici ed economici a lungo termine degli Stati Uniti, finanziando le vendite americane e i progetti in Iraq. Dal punto di vista politico, i finanziamenti Exim mostrerebbero l'interesse americano in un contesto pratico e neutrale. Questa dimostrazione del nostro interesse per l'incremento delle relazioni commerciali arrecherà inoltre vantaggi di natura politica."

Eagleburger, Scowcroft e l'Iraq

A questo punto vorrei inserire agli atti un paio di documenti relativi al ruolo svolto da Lawrence Eagleburger nell'elaborazione della politica verso l'Iraq. Questi documenti rivelano che:

-- Nel 1983, l'allora Sottosegretario di Stato per gli Affari Politici, Lawrence Eagleburger, scrisse al Presidente della Export-Import Bank, Draper, per indurre la Eximbank ad aprire i suoi programmi all'Iraq.

-- Nel 1989, Eagleburger scrisse al Dipartimento del tesoro esprimendo il proprio appoggio al programma da un milione di dollari della CCC a favore dell'Iraq.

In precedenti interventi, avevo dato conto di come Eagleburger fosse stato un dirigente della Banca jugoslava LBS fino alla sua nomina a Vicesegretario di Stato.

Eagleburger diede un contributo fondamentale all'affermazione della LBS negli Stati Uniti.

Avevo inoltre già spiegato come anche la BNL avesse svolto un ruolo importante nell'affermazione in America della LBS, per la quale costituiva la principale fonte di finanziamento. Il coinvolgimento della BNL e di Eagleburger negli affari della LBS avvenne nello stesso periodo.

Un'altra circostanza che avevo già rivelato in precedenza è che la BNL era cliente della Kissinger Associates nel periodo in cui Eagleburger e Scowcroft erano nel consiglio d'amministrazione della Kissinger Associates.

I seguenti fatti invece non erano ancora stati rivelati:

Eagleburger, attivo partecipante alla gestione della politica americana in Iraq, fu coinvolto nella gestione dello scandalo BNL presso il Dipartimento di Stato nel periodo 1989-1990. La Commissione ha inoltre appurato che la BNL fornì crediti per milioni di dollari ad una ditta di New York chiamata IMPEX OVERSEAS CORPORATION. La IMPEX, anch'essa jugoslava, servì a introdurre negli Stati Uniti l'automobile Yugo. Anche Eagleburger svolse un ruolo chiave nell'introduzione della Yugo negli Stati Uniti.

In qualità di Direttore della Sicurezza Nazionale, l'attività di Scowcroft è fondamentale per l'attuazione della politica americana nei confronti dell'Iraq. Avevo già reso noto che Henry Kissinger faceva parte del Consiglio di Consulenza Internazionale della BNL a Roma. Una nuova rivelazione concernente Scowcroft è che quando questi lavorava alle dipendenze di Kissinger per la Kissinger Associates, prestò la propria consulenza in due occasioni e dietro compenso al Consiglio di Consulenza Internazionale della BNL.

La BNL prestò all'Iraq oltre 4 miliardi di dollari - 2 miliardi alla rete clandestina irachena per le forniture

militari. Inoltre, la BNL era in assoluto il maggiore partecipante bancario ai programmi americani di credito all'Iraq, finanziando esportazioni americane in Iraq per oltre un miliardo di dollari. Infatti, fu proprio a causa dello scandalo BNL che gli USA congelarono 500 milioni di dollari in crediti CCC destinati all'Iraq per il 1990. Lo scandalo BNL ebbe inoltre l'effetto di tagliar fuori la rete di approvvigionamento irachena dalla sua principale fonte di finanziamento. E' fuor di dubbio che lo scandalo BNL abbia rappresentato un punto critico per le relazioni USA-Iraq. E' altresì fuor di dubbio che sia Eagleburger che Scowcroft continuarono a prestare il loro contributo alla politica americana verso l'Iraq nonostante i loro passati legami con la BNL.

A prescindere dall'importanza del programma Eximbank per le relazioni USA-Iraq, numerosi indizi disponibili all'epoca indicavano che l'Iraq non era solvibile.

Per illustrare questo punto, si consideri che:

-- In un'analisi della Eximbank sul rischio paese del 21 febbraio 1984, è detto: "A giudizio dello staff, sia a causa delle insoddisfacenti condizioni economiche del paese che della possibilità di danni fisici ai nuovi progetti derivanti dalla guerra in corso, non vi sarebbe alcuna ragionevole certezza di restituzione per le transazioni a medio e lungo termine..."

-- Un telex da Baghdad diretto al Dipartimento di Stato, datato 28 novembre 1984 recita: "Da uno sguardo alle stime sulle statistiche economiche irachene bisognerebbe concludere che l'economia irachena ha subito un serio declino."

-- Il 15 aprile 1984 la Eximbank rifiutò una richiesta di garanzie per esportazioni all'Iraq per un valore complessivo di 159 milioni di dollari. La Eximbank argomentò che la

transazione non soddisfaceva la previsione legislativa della "ragionevole certezza di restituzione."

Ma la decisione della Eximbank di limitare la propria esposizione verso l'Iraq per ragioni pratiche e legali non fu accolta favorevolmente dal Dipartimento di Stato.

-- Un telex di Baghdad dell'8 marzo 1984, diretto al Segretario di Stato, dice: "La decisione della Exim di non finanziare grossi progetti in Iraq ha un effetto potenzialmente critico su vitali interessi americani."

-- Un telex del 25 marzo 1984, inviato a Baghdad dal Segretario di Stato, dice: "La Exim non approva crediti all'Iraq a medio e lungo termine a causa di dubbi sulle prospettive di restituzione. Abbiamo sollecitato la Exim a riconsiderare questa politica in generale...Stiamo cercando di assicurare, direttamente e attraverso il NSC, che [una] decisione non pregiudichi il futuro esame di crediti per l'oleodotto."

Data la reticente posizione della Eximbank riguardo all'Iraq, il Dipartimento di Stato giocò al rialzo coinvolgendo nel progetto l'allora Vicepresidente Bush.

La segreteria del Vicepresidente chiese al Dipartimento di Stato di preparare una traccia di supporto per una telefonata al presidente del consiglio d'amministrazione della Eximbank, William Draper, in relazione al finanziamento Exim dell'oleodotto.

L'appunto dice: "Data l'importanza di questi progetti per la nostra politica generale nella regione, il Vicesegretario Dam telefona a Draper (Presidente Eximbank) per reiterare i nostri interessi di politica estera...Ci risulta che anche il Consigliere per la Sicurezza Nazionale McFarlane avrebbe intenzione di chiamare Draper. Una telefonata del Vicepresidente sarebbe particolarmente utile per confermare l'appoggio dell'Amministrazione a questi progetti..."

Uno dei suggerimenti preparati per la telefonata del Vicepresidente recita: "La Eximbank potrebbe svolgere un ruolo cruciale per i nostri sforzi nella regione. Un'azione pronta e favorevole in risposta alle richieste provverebbe in modo chiaro e convincente l'impegno degli Stati Uniti per il raggiungimento di questi obiettivi."

Evidentemente, ai più alti livelli dell'amministrazione si attribuiva enorme importanza al progetto dell'oleodotto di Agaba. Il 19 giugno 1984, il consiglio d'amministrazione della Eximbank si riunì e, com'era prevedibile, approvò un impegno preliminare di 484 milioni di dollari per l'oleodotto di Agaba a favore della Bechtel. Per inciso, il rapporto diceva: "In normali condizioni di pace, questo progetto non sarebbe economicamente attuabile."

Questa non è stata l'ultima volta che il Dipartimento di Stato è ricorso al Vicepresidente Bush per assistere l'Iraq mediante la Eximbank.

Cronologia della decisione del 1987 di riprendere gli affari con l'Iraq

Vorrei ora inserire agli atti un memorandum del 26 febbraio 1987, contenente un appunto per una telefonata del Vicepresidente Bush al presidente della Eximbank, John Bohn. Il memorandum, preparato dal Dipartimento di Stato, si riferiva alla volontà del Dipartimento di comunicare all'ambasciatore iracheno Nizar Hamdoon la notizia che gli Stati Uniti avrebbero reso disponibili crediti per centinaia di milioni di dollari attraverso la Eximbank.

In breve, l'appunto rivela che il Dipartimento di Stato "suggerì" che il Vicepresidente telefonasse al presidente della Eximbank per "sollecitarlo insieme ai suoi colleghi del consiglio d'amministrazione a dare parere favorevole" alla richiesta irachena di altri 200 milioni di dollari in

crediti a breve termine. L'appunto era inoltre diretto a "sottolineare i vantaggi per la politica americana di una rapida decisione della Exim di riprendere la copertura assicurativa dell'Iraq a breve termine."

Il 15 maggio 1987, con una mossa a sorpresa, e contro il parere dei servizi economici della Eximbank, il Consiglio d'amministrazione dell'istituto ribaltò la propria politica e approvò un nuovo programma di crediti a breve termine all'Iraq per 200 milioni di dollari.

E' possibile che una telefonata del Vicepresidente abbia potuto indurre il consiglio d'amministrazione della Eximbank a modificare radicalmente il proprio orientamento sull'Iraq? Considerati i gravissimi dubbi sulle condizioni finanziarie dell'Iraq è difficile trarre una conclusione diversa. Per meglio comprendere la decisione del Consiglio, fornirò ampie prove del fatto che le precarie condizioni finanziarie dell'Iraq indicavano che esso "non forniva una ragionevole certezza di restituzione", come imposto dallo statuto della Eximbank.

Nei 18 mesi precedenti l'approvazione del nuovo programma di crediti per 200 milioni di dollari, la Eximbank aveva sospeso l'Iraq dai propri programmi a causa del costante arretrato del paese sui pagamenti. Ad un certo punto, durante questo periodo, l'arretrato dell'Iraq superò il 60% del suo debito con la Eximbank.

In diverse occasioni, nel corso del 1986 e del 1987, la sezione analisi rischio paese della Eximbank formulò il parere che "l'Iraq non forniva una ragionevole certezza di solvibilità". L'analisi più sfavorevole è contenuta in un rapporto al Consiglio del 5 maggio 1987, che vorrei inserire agli atti.

Il rapporto, inviato al Consiglio il 5 maggio 1987, così si esprime:

"La Eximbank dovrebbe restare fuori da tutti i programmi concernenti l'Iraq."

Non vi era alcuna possibilità di equivoco - l'Iraq non era solvibile e questa situazione non cambiò tra il 5 maggio e il 15 dello stesso mese.

Un altro esempio è costituito da un'analisi sulla solvibilità dell'Iraq del 17 aprile 1987. Tale analisi asserisce che "... non vi sarebbero sufficienti guadagni (dell'Iraq) per far fronte ai pagamenti sul capitale fino al 1990" e che, "i creditori dell'Iraq rinegozieranno la restituzione del debito per il prevedibile futuro."

Questa stessa analisi prosegue affermando, "Otto dei 12 principali (paesi) non garantivano le transazioni con l'Iraq a medio e lungo termine e sei non si occupavano degli affari a breve termine. La maggior parte dei paesi membri hanno riscontrato inadempienze..."

In effetti, al 1° gennaio 1987, solo alcuni mesi prima della decisione del Consiglio, l'Iraq si era reso insolvente per un totale di 240 milioni di dollari in prestiti concessi da diversi governi occidentali. I pagamenti in arretrato aumentarono dai 70 milioni di dollari della fine del 1985 ai 730 milioni della fine del 1986.

Com'era prevedibile, nei mesi successivi all'approvazione del Consiglio, l'Iraq risultò inadempiente in riferimento alla sua precedente esposizione nei confronti della Eximbank. Come se non bastasse, un rapporto al Consiglio della Exim del 2 luglio 1987 rivelava la preoccupazione del Dipartimento del tesoro per l'insolvenza dell'Iraq.

Il Dipartimento di Stato reclutò altre persone, oltre al Vicepresidente Bush, per influenzare il Consiglio della Eximbank. In una comunicazione dell'ambasciatore Newton al Segretario di Stato si legge:

"Sappiamo che state facendo il possibile e presumiamo che abbiate mobilitato i competenti uffici economici per indurre la Exim a riprendere la copertura."

Come ulteriore esempio si consideri un telegramma del 28 aprile 1987 del Segretario di Stato Schultz all'ambasciatore americano in Iraq, nel quale il Segretario afferma: "E' probabile che gli argomenti degli Esteri, del Commercio, dell'Agricoltura e di altri si siano fatti sentire."

La strategia del coinvolgimento del Vicepresidente Bush nella questione Eximbank si rivelò vincente. Il resoconto della riunione del Consiglio della Eximbank nella quale i crediti all'Iraq vennero discussi in dettaglio, nota che:

"Lo staff della Exim presentò una previsione economica coerente con la sua raccomandazione contro l'estensione di nuovi crediti all'Iraq. Tuttavia, i membri del Consiglio rivolsero una serie di domande che sembravano implicare un interesse a intrattenere rapporti d'affari con l'Iraq. ...diversi membri chiave del Consiglio, compreso il Presidente della Eximbank Bohn, propendevano per la concessione dei 200 milioni di dollari all'Iraq."

Il Dipartimento di Stato aveva vinto la sua campagna per ottenere la copertura Eximbank a favore dell'Iraq. Il 17 maggio 1987, l'ambasciatore Newton dichiarò che la decisione della Eximbank:

"Conteneva la migliore notizia economica che riceviamo da molto tempo. Nonostante le limitazioni...la decisione della Exim ci aiuterà politicamente e aiuterà il mondo economico americano a impiantare la sua testa di ponte sul mercato iracheno."

Le azioni del Dipartimento di Stato del 1987 non furono un incidente isolato. Il periodo tra la decisione della Exim del 1987 e l'invasione irachena del Kuwait vide ripetersi lo stesso schema per quanto riguarda i rapporti Eximbank-Iraq.

Nonostante la situazione finanziaria dell'Iraq non fosse cambiata in modo sostanziale in questo periodo, il Dipartimento di Stato continuò a esercitare pressioni sulla Eximbank affinché questa ampliasse il suo programma per l'Iraq. Tale forte sostegno avvenne malgrado l'utilizzazione di gas venefici da parte dell'Iraq per sterminare migliaia di Kurdi e nonostante le abbondanti prove del fatto che Saddam Hussein aveva accelerato il processo di costruzione di armi di distruzione di massa.

Le attività del 1987, dirette a modificare l'orientamento della Eximbank nei confronti dell'Iraq, non furono l'ultima occasione in cui il Dipartimento di Stato fece ricorso a Bush per consentire all'Iraq di seguire a beneficiare dei programmi Eximbank.

La deroga Eximbank

Il 17 gennaio 1990, il Presidente Bush emanò un 'decreto' che derogava al divieto legislativo di finanziamento dell'Iraq da parte della Eximbank. Solo due mesi prima, il Congresso aveva approvato una serie di misure sanzionatorie, riferite in modo specifico all'Iraq a causa del pessimo stato dei diritti umani in quel paese.

Il Dipartimento di Stato aveva cominciato a lavorare alla deroga per l'Iraq già prima del 21 novembre 1989, data di approvazione delle sanzioni da parte del Congresso. All'epoca, le efferate violazioni dei diritti umani commesse in Iraq erano già ampiamente note, ma il grosso del Congresso venne tenuto all'oscuro circa il livello raggiunto dall'Iraq nei suoi sforzi di riarmo, nonostante il conflitto con l'Iran fosse terminato da tempo.

All'epoca del dibattito sulle sanzioni, il Dipartimento di Stato disponeva di ampie informazioni sugli sforzi iracheni per la messa a punto di ulteriori armi chimiche,

biologiche e nucleari, nonché dei missili in grado di lanciarle. Inoltre, il Dipartimento era al corrente dell'esistenza di una rete irachena clandestina di forniture militari operante in Europa e negli Stati Uniti. Se il Congresso fosse stato pienamente informato di tali questioni, probabilmente esso non avrebbe concesso al Presidente l'autorizzazione alla deroga.

A questo punto vorrei inserire agli atti un rapporto preparato dal Dipartimento di Stato che illustra l'opinione del Dipartimento circa le sanzioni all'Iraq. Nel rapporto è espressa l'opinione che il Dipartimento di Stato avrebbe potuto sfruttare i 200 milioni di dollari del programma Eximbank come incentivo per moderare il comportamento di Saddam Hussein. Ovviamente questo ragionamento era viziato.

Il rapporto GAO

Voglio ora aggiungere che ho intenzione di chiedere al Comptroller General, Charles Bowsher, che il GAO svolga un'indagine per determinare se il Consiglio d'amministrazione della Eximbank, con la sua decisione di riprendere i rapporti con l'Iraq, abbia o meno violato lo statuto della banca. Numerosi indizi paiono indicare che, a dispetto dei reiterati avvertimenti che la concessione di crediti all'Iraq "non forniva una ragionevole certezza di restituzione", il Consiglio della Eximbank approvò ugualmente il programma iracheno.

Per tutti gli anni '80 l'Iraq si è trovato raramente, se non mai, nella condizione di garantire una "ragionevole certezza di restituzione". Guardando indietro, ci sono volute continue pressioni del Dipartimento di Stato e interventi di alti esponenti delle amministrazioni Reagan e Bush per indurre la Eximbank a consentire all'Iraq l'accesso ai suoi programmi, al fine di raggiungere obiettivi politici

A

spesso mutevoli, confusi / e che alla fine si sono rivelati
contrari ai nostri interessi nazionali.

SENT BY:

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(202) 225-4247

FAX MEMORANDUM

FROM: Dennis M. Kane, Professional Staff Member

TO: *Mastro* 0106
Gregori ~~670~~ 670 63607

DATE:

SUBJECT: *Lauro Nyano*

If you have any questions regarding this facsimile, please call me at 225-4247. My facsimile number is (202) 225-6580.



EXDIS

Department of State

8339267A

ACTION MEMORANDUM

Under Secretary's Assn.

DATE: DEC 24 1983

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CONFIDENTIAL / EXDIS

22 DEC 1983

TO: P - Mr. Eagleburger
 FROM: NEA - Richard W. Murphy *RW*
 SUBJECT: EXIM Bank Financing for Iraq

402

Issue:

Whether to sign a letter to EXIM President Draper recommending that EXIM approve financing for Iraq.

Essential Factors:

EXIM currently opposes loans to Iraq because it considers that loans to Iraq lack a reasonable expectation of repayment. EXIM points to Iraq's recent rescheduling of commercial contract payments, large transfers from Gulf governments, decreased oil production and the drop in Iraqi reserves to support its view. In addition, EXIM is concerned about the threat of war damage.

EXIM has virtually no exposure in Iraq because, until recently, EXIM was precluded from doing business with Iraq in light of that country's involvement with terrorists.

Recent analysis of Iraq's economic situation indicates that the crisis situation which prevailed during the early part of 1983 has been alleviated somewhat through imposition of an austerity program which included cutbacks in development projects and major cuts in imports. As a consequence, Iraq's estimated net foreign assets for 1983 are \$11 billion although the current account balance is - \$9 billion for the year. In addition, Iraq has been successful in obtaining supplier credits and deferred payments for ongoing projects. Current payments on these debts are being met. If present policies and external financing are sustained, the current account should be roughly in balance, but further rescheduling is a possibility.

Iraq's financial condition will remain dependent on petroleum export earnings and aid from the Gulf states. Iraq is determined to achieve alternative outlets for its petroleum exports in addition to the pipeline through Turkey (capacity 750,000 b/d). Iraq expects to increase its oil export capacity through Turkey to just over 1 million b/d in the spring of 1984 with a possible additional 50% increase in exports by the end of 1984. Cash transfers from the Gulf states to Iraq, at least \$30 billion since the start of the war, have been and will continue to be important

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-2-

to Iraq. For the Gulf States, there appears to be no alternative to a continuation of this aid flow because of their dependence upon Iraq to resist export of the Iranian revolution.

There is the possibility, on the political side, that internal frustrations resulting from economic deprivation and a seemingly endless war may produce problems for the government. On the military front, Iraq has suffered limited setbacks on the northern front. It is uncertain how long the status quo can be maintained by Iraq in its confrontation with a much more populous Iran as long as Iran exports three times as much oil as Iraq.


Discussion:

The U.S./Iraq political relationship could be advanced by EXIM financing which had previously not been possible for political reasons. EXIM financing would benefit U.S. manufacturers and workers and could serve marginally to bolster the Iraqi economy by freeing resources for use elsewhere in the country. Most importantly, EXIM financing would signal our belief in the future viability of the Iraqi economy and secure a U.S. foothold in a potentially large export market. Viewed in combination with CCC credits already granted Iraq, an EXIM gesture would go far to show our support for Iraq in a practical, neutral context. This would be especially important in the absence of other substantial U.S. gestures, to ease the military pressures of the war, and would provide some incentive for Iraq to comply with our urgings that it show restraint in widening the war.

Although Iraq's economy is confronted with significant problems, we are guardedly optimistic regarding Iraq's ability to manage these problems through 1984.

Recommendation:

That you sign the letter attached at Tab 1 recommending that EXIM consider financing for Iraq. Our Interests Section endorses this recommendation. (Baghdad 3134 attached).

Agree DEC 24 1983  Disagree _____

Attachments:

- Tab 1 - Proposed Letter to William Draper
- Tab 2 - Baghdad 3134

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SECRET

EXDIS

United States Department of State

**Under Secretary of State
for Political Affairs**

Washington, D.C. 20520

December 24, 1983

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Dear Bill:

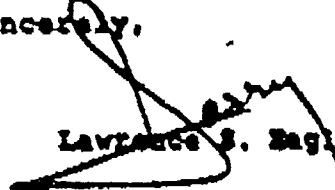
I would like to bring to your attention the important role EXIM can play in furthering long range political and economic interests of the United States by being receptive to financing American sales to and projects in Iraq.

I understand that there were legal constraints on EXIM financing for sales to Iraq arising from Iraq's links to international terrorists. Recently, the President of Iraq announced the termination of all assistance to the principal terrorist group of concern, among others. Iraq then expelled this group and its leader. The terrorism issue, therefore, should no longer be an impediment to EXIM financing for U.S. sales to Iraq.

Although we cannot know when the heavy burden of war will be lifted from the Iraqi economy, the threat of economic crisis has receded. A strict austerity program, supplier credits, foreign government project financing, and continued financial assistance from the Gulf states should continue to sustain the oil export capacity by 30% to one million b/d in the spring of 1984, and has plans well advanced for an additional 50% increase in its oil exports by the end of 1984.


From the political standpoint, EXIM financing would show U.S. interest in the Iraqi economy in a practical, neutral context. It could provide some incentive for Iraq to comply with our urgings that it show restraint in the war. This evidence of our interest in increasing commercial relations also will bring political benefits, as well as balance-of-trade and employment benefits to our economy.

Sincerely,


Lawrence S. Eagleburger

The Honorable
William H. Draper, III,
President and Chairman,
Export-Import Bank of the United States.

EX-104 2301

54 D 74
Box 9 

Iraq
United States Department of State
Washington, D.C. 20520
February 26, 1987 *EA*

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MEMORANDUM FOR MR. DONALD P. GREGG
THE WHITE HOUSE

~~CONFIDENTIAL~~
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SUBJECT: The Vice President's March 2 Meeting with Iraqi Ambassador Nizar Hamdoon

The Department forwards herewith additional background material which may be useful for the Vice President's March 2 meeting with Iraqi Ambassador Hamdoon. This material, supplementing the memorandum of February 14 on the same subject, covers issues which Hamdoon may raise during the meeting. *WT*

Since Hamdoon is planning to introduce the issue of Exim credit insurance for Iraq, the Department strongly recommends that, before meeting with Hamdoon, the Vice President telephone Exim Chairman Bohn to discuss the issue. We believe the Vice President should emphasize to Bohn the advantages for U.S. regional policy of resuming short-term credit insurance for Iraq. Recommended talking points for that call to Chairman Bohn are attached.

Melvyn Levitsky
Melvyn Levitsky
Executive Secretary

Attachments:

- Tab 1. Additional Issues to Be Raised
- Tab 2. Talking Points for Hamdoon Meeting: Licensing
- Tab 3. Talking Points for Call to Exim Chairman Bohn.

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MEETING WITH IRAQI AMBASSADOR NIZAR HAMDOON
MARCH 2, 1987

ISSUES TO BE RAISED (if introduced by Hamdoon)

1. EXPORT-IMPORT BANK CREDIT INSURANCE FOR IRAQ

In September 1985 Exim offered Iraq a Continuing Guarantee Agreement (CGA), which would have supplemented the short-term credit already available to Iraq with \$50 million in medium-term credit insurance. The Iraqis unceremoniously turned down Exim's offer of a CGA, professing to be insulted by the small amount of money called for in the agreement.

Shortly thereafter, the plunge in oil prices seriously set back Iraq's financial situation. During 1986 the Iraqis missed payments on loans from several Western governments, as well as on letters of credit to suppliers from a number of countries.

Among the unpaid L/Cs in 1986 were several insured by Exim. Under those circumstances, Exim stepped back from its offer of a CGA for medium-term credits, and stopped approving short-term credit insurance for Iraq as well.

In the fall of 1986, Iraq's Rafidain Bank began singling out Exim-insured L/Cs for repayment, and we understand that Rafidain has now paid all overdue L/Cs insured by Exim. Moreover, by means of improved internal procedures and bilateral debt rescheduling arrangements with creditors in third countries, the Iraqis have begun to regain some measure of control over their financial situation. Their short-term financial situation is still difficult, but -- with their great long-term potential based on vast oil reserves -- they should be able to manage in the short term, with an eye to reconstruction when the war winds down.

Considering Iraq's success in containing the latest Iranian offensive, its clear policy decision to give preference to Exim-insured debts, and its long-term potential, we believe that Exim should give favorable consideration to resuming short-term credit insurance for Iraq. The Exim Board plans to meet soon to decide the issue.

We recommend that, before meeting with Hamdoon, you telephone Exim Chairman Bohn to point out the advantages for U.S. policy of a quick Exim decision to resume short-term insurance cover to Iraq. As appropriate, you could then review the results of your call to Bohn during your conversation with Hamdoon.

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2. LICENSING FOR HIGH-TECH U.S. EXPORTS TO IRAQ

Commerce licenses for some high-tech U.S. exports to Iraq have been held up for extended periods because of DOD concerns, putatively about the risk of diversion to the Soviet bloc. From the Iraqi perspective, the long delays appear to be capricious. We agree with that assessment.

Licensing procedures are under interagency review at present, and we may be able to give the Iraqis and other interested trading partners more complete guidance soon. In the meantime, we can point to progress on a few specific cases: After extensive discussions with State and DOD, Commerce has issued long-pending licenses for two high-priority scientific projects, including one at the Iraqi Space and Astronomical Research Center.

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TALKING POINTS FOR THE VICE PRESIDENT'S CALL TO JOHN BOHN
(EXIM CREDIT INSURANCE FOR IRAQ)

EXIM CREDITS FOR IRAQ

-- Iraqi Ambassador Hamdoon is calling on me soon, and I expect him to raise the issue of short-term Exim credit insurance for Iraq. I would like to be as responsive as possible.

-- I understand that the Iraqis have resolved some outstanding arrearages to Exim, and that the Exim Board will decide soon whether to resume short-term credit insurance for Iraq. I urge you and your colleagues on the Board to give that favorable consideration.

-- As you know, there are major U.S. policy considerations at work in this issue. Iraq has apparently contained the latest Iranian offensive, and we are taking advantage of that to try to put some life into peace efforts. Exim's support for continued trade with Iraq would be a powerful, timely signal -- both to Iraq and to the Gulf Arab states -- of U.S. interest in stability in the Gulf.

-- Although in the near term Iraq will continue to face financial stress because of the war, Iraq's prospects for the medium- to long-term are good, considering the country's vast oil reserves. Now is the time to begin building a solid trade relationship with Iraq for the future.

CONFIDENTIAL

May 4, 1987

MEMORANDUM TO THE BOARD OF DIRECTORS

Country Limitation Schedule Recommendation: Iraq

BACKGROUND AND

COUNTRY SUMMARY: Eximbank has been "Off Cover" for all transactions since March 1986 when it ended FCIA insurance coverage under letters of credit from Bank Rafidain and the Central Bank of Iraq because Bank Rafidain became delinquent. At the highest point these arrears amounted to just over \$5 million. Some claims were paid. Commencing in late 1986, the Iraqi Government made payments on the delinquencies and brought the payments current by February 18, 1987. Rafidain's letters of credit became over due again on March 17, 1987, but subsequent payments of \$1.9 million brought the account current on April 13, 1987. A payment due April 21, 1987 was made on time; the next payment is due May 14, 1987.

The Board conducted an interagency review of Iraq on April 24, 1987. The discussion indicated that, for the first time, it now appears possible for Iran to win the 7-year old war. Over the short-term, the current situation, chiefly a stalemate with Iran making periodic probes and occasional advances, is likely to continue. But over the medium-term, a slow wearing-down of Iraq's defenses and morale could result in an Iranian victory. No predictions were given concerning the future of the existing Government in Iraq or what could be expected in the post-war period.

Economic conditions in the country have steadily worsened since the start of the war. Foreign exchange reserves are essentially exhausted. Payments on external debt have been rescheduled bilaterally each year since 1983. Berne Union members report payment delays have increased from \$70 million as of December 31, 1985 to \$730 million as of December 31, 1986; unrecovered claims increased from \$238 million as of September 30, 1986 to \$314 million as of December 31, 1986. Eight of the major Berne Union members are Off Cover for medium-term transactions and six are also Off Cover for short-term as well. All members have tight restrictions or reduced cover if they are open.

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Our balance-of-payments projections, even under the optimistic assumption that Iraq would export more than 3 million barrels of oil per day after 1989, indicate that Iraq will be unable to service scheduled debt repayments over the next 5 years and will require continuing reschedulings. This forecast and a detailed economic analysis are attached.

EXIMBANK
EXPOSURE:

Eximbank current exposure in Iraq, all short-term, is \$4.3 million with maturities falling due under letters of credit through December 12, 1987.

RECOMMENDATION:

Eximbank should remain Off Cover for all programs concerning Iraq.

Prepared by:



Charles Hammond
Financial Economist
Country Risk Analysis

Approved by:



Thomas A. Forbord
Vice President for
Country Risk Analysis

CONFIDENTIAL



United States Department of State
Washington, D.C. 20520

CONFIDENTIAL

ACTION MEMORANDUM

SR
S/S 11/6

8925977A
'89 NOV-08 12:00 PM



TO: The Acting Secretary
FROM:
SUBJECT: Letter to Treasury Deputy Secretary Robson
on a CCC Program for Iraq

In your conversation earlier today, Department of the Treasury Deputy Secretary John Robson asked that you send him a letter outlining the policy reasons for which State strongly backed USDA's proposal for a full, billion-dollar program of Commodity Credit Corporation (CCC) credit guarantees, with safeguards, for Iraq. Attached is a letter for your signature that outlines those policy considerations. It essentially follows the talking points provided for your telephone conversation with Mr. Robson.

Recommendation

That you sign the attached letter to Deputy Secretary Robson.

Attachment - Proposed letter to Deputy Secretary Robson

CONFIDENTIAL

SENT BY:

; 2-25-92 ;12:07PM ;

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'89 NOV -8 P3:54

DEPARTMENT OF STATE
WASHINGTON

November 8, 1989

CONFIDENTIAL

Dear John:

AGRIC:
Parnell
RF:rw

Further to our discussion, on foreign policy grounds we support the Department of Agriculture's proposal for a full, billion-dollar program of Commodity Credit Corporation GSM-102 export credit guarantees in FY 90, with adequate safeguards, for Iraq.

In addition to the near-term benefits for agricultural sales, the CCC program is important to our efforts to improve and expand our relationship with Iraq, as ordered by the President in NSD-26. Iraq is a major power in a part of the world which is of vital importance to the United States. Our ability to influence Iraqi behavior in areas from Lebanon to the Middle East peace process to missile proliferation is enhanced by expanded trade. Also, to realize Iraq's enormous potential as a market for U.S. goods and services, we must not permit our displacement as a major trading partner.

With regard to the real concerns which arise from the investigation into the operations of the Atlanta branch of the Banco Nazionale de Lavoro, we have received from the Government of Iraq a pledge of cooperation. Our intention is to hold Iraq to this commitment and to work with the Department of Agriculture to ensure that the problems with the program in the past are fully resolved in a new program. The safeguards proposed by USDA, including disbursement of the CCC guarantees in tranches, buttress the program and merit our backing.

I appreciate your support in this connection.

Sincerely,

Lawrence S. Eagleburger
Acting Secretary

The Honorable
John E. Robson,
Deputy Secretary of the Treasury.

CONFIDENTIAL
DECL: OADR

*Country Review*MYTHOLOGY ABOUT IRAQ

MYTH #1: Iraq is one of the largest markets for U.S. exports in the developing world.

Reality: The myth of the Iraqi market is based on two or three years of huge imports around 1980. The Iraqi market was not among the largest before that, nor is it now. Iraq in 1987 was the 28th largest importer (of civilian goods) among non-OECD countries. An end to the war alone does not imply a financial bonanza for Iraq. The conditions existing in 1981--simultaneous 4 mb/d production and \$30 per barrel oil-- will not return. Any dramatic increase in imports depends on the uncertain prospect of substantially higher oil revenues and the willingness of creditors (such as Exim) to finance the creation of a larger Iraqi market.

MYTH #2: Because of its vast oil reserves, Iraq must be a highly creditworthy country.

Reality: Large oil reserves do not imply high oil revenues. Oil revenues depend on oil export capacity and oil prices. In spite of valiant efforts to boost oil export capacity, Iraq's oil revenues remain at half their level of the early 1980s. Neither oil export capacity, nor oil prices, are guaranteed to work in Iraq's favor in the future.

MYTH #3: Iraq is perfectly willing to repay creditors; it just does not have the ability to repay right now.

Reality: Because its debt has a short maturity structure, Iraq cannot pay all its debt service. Moreover, Iraq has an attitude problem regarding foreign debt. Iraq only fully repays creditors who offer large new loans. If creditors don't offer new loans, Iraq simply fails to pay, and demands bilateral rescheduling arrangements involving oil barter. This strategy permits Iraq to secure project financing, as well as pure BOP assistance.

MYTH #4: Iraq hit rock-bottom in 1986; since then, Iraq's finances have already gotten a lot better.

Reality: The oil price collapse (and Iranian military victories) of 1986 took the Iraqis by surprise; for a time, they weren't even answering communications from creditors. Today, they are better organized, but within an Iraqi context. Iraq has become more sophisticated in its calls for bilateral reschedulings, and in its cultivation of potential creditors (such as Exim).

MYTH #5: Iraq's financial problems are temporary; when the next oil pipeline opens up, things will get better.

Reality: Pipeline capacity has more than tripled since 1984, without significant effect on total oil revenues. Weak oil prices, caused in part by Iraq's larger output, offset volume increases. In the long run, oil revenues will depend on Iraq's ability to influence OPEC decisionmaking, to the detriment of moderates like Saudi Arabia. Iraqi attempts to increase oil export volumes may lead to lower world oil prices and thus dampen Iraq's own oil revenues.

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MYTH #6: The end of the war with Iran, and thus of Iraq's financial problems, is just around the corner.

Reality: The "cease-fire" does not guarantee an effective peace accord. Even if the war with Iran should formally "end", Iraq is not likely to ignore the continuing threats posed by Iran and the Kurds, and will not drastically reduce military spending. Furthermore, Iraq will undertake a costly reconstruction, at the expense of debt repayment. To sustain the benefits of playing one creditor off the next, Iraq will avoid a multilateral Paris Club rescheduling, and continue to use default as a device to secure continued financial assistance.

MYTH #7: Closer ties between the U.S. and Iraq will ensure Exim repayment, even if other creditors are not being paid.

Reality: Relations between Iraq and the U.S. are not guaranteed to be warm, because the principal U.S. interest in the region is not in supporting Iraq's objectives (a peace settlement which favors Iraqi border claims, and an end to the Kurdish threat), but in ending the Gulf War. Even if the U.S. offered political and material support to Baghdad, Exim repayment is still not guaranteed. Iraq does not fully repay countries (such as France, Italy, Japan, or Turkey) which have been important to Iraq's military or economic effort, because Iraq believes these creditors have already received a payback in the form of greater access to the Iraqi market. Iraq will view Exim credits as something the U.S. does in its own self-interest, not in Iraq's.

MYTH #9: Iraq pays CCC; the Iraqis believe we're all one government so they'll repay us, too.

Reality: Iraq pays CCC, and two other export credit agencies, because they have been offering consecutively larger programs of new medium-term credit. Nizar Hamdon and other sophisticated observers of the American scene know that Exim and CCC do not speak with the same voice. If Exim becomes a "favored creditor", it is only because Baghdad believes that we too will eventually commit to larger and larger programs of long-term credit.

MYTH #10: Iraq is no less creditworthy than other heavily-indebted countries where Eximbank is open.

Reality: Creditworthiness has two components, ability and willingness. In the long run, Iraq may have greater ability to repay than many countries. However, Iraq has demonstrated a clear unwillingness to adopt normal debtor-creditor relations. Iraq is more aptly compared to Peru (which pays when it wants to), than to Yugoslavia (which makes a valiant effort) or Argentina (which at least pays lip service to the IMF and the Paris Club).

IRAQ COUNTRY REVIEW UPDATE

Since our April and June 1989 Country Reviews, Iraq's ability and willingness to repay foreign obligations appears not to have changed appreciably. Unable to service all of its debts, Iraq only pays creditors who it believes are willing to increase their exposure continuously. Recent events confirm this analysis.

- ECGD--once Iraq's "most favored" creditor--has suspended its \$600 million 1989 protocol because of major arrearages. Iraq was to repay over \$400 million in 1989, but permitted arrears because ECGD refused to consider a large increase in its program.

- Because of arrears this year, CCC's \$1 billion program has occasionally been suspended. Iraq permits arrears to CCC in spite of the program's size and attractive terms. Because of their concerns about Iraqi financial behavior, the Fed and Treasury want CCC to scale back this program.

- Other export credit agencies--COFACE, MITI, and SACE--are off-cover or suspended for medium- and long-term credits. Only HERMES has a medium-term program, but it is smaller than Exim's short-term program. Like Exim, most agencies now operate only on a revolving basis--providing cover only as Iraq makes payments.

- The BNL incident--which may have involved criminal behavior by both BNL and Iraqi officials--raises additional doubts about the nature of Iraq's financial behavior. Iraq does not wish to repay already-disbursed L/Cs unless disbursements are made on promised L/Cs, even those issued illegally.

- In spite of growing international pressure, Iraq continues to refuse to undertake a multilateral rescheduling exercise through the Paris Club. Paris Club reschedulings would force Iraq to treat creditors equally, and would require international scrutiny of Iraq's economic situation and priorities. U.S. policy requires multilateral reschedulings (see attached NAC policy).

- The BNL incident has revealed the extent of Iraqi efforts to attract Western financial support for Iraq's military industrialization program. Iraq is pursuing technologically advanced, import-substituting, dual civilian-military industrialization, possibly in violation of Western export restrictions.

- Iraq's oil revenues cannot cover Iraq's ambitious industrialization plans. Even before the recent completion of a second Saudi pipeline, Iraq had ample pipeline capacity; however, its OPEC quota permits no room for additional oil exports. Any Iraqi attempt at overproduction risks retaliation by other OPEC members and a revenue-offsetting price collapse.

- Iraq continues to cajole export agencies through offers of lucrative contracts to exporters, friendly visits, and promises of favored creditor status.

EXPORT-IMPORT BANK OF THE UNITED STATES
COUNTRY RISK ANALYSIS DIVISION
January 23, 1989

Alert Report - Iraqi Payments Situation Further Deteriorates

Iraq's payments situation has further deteriorated, according to recent reports from Embassy Baghdad, the CIA, and others.

o ECGD of the United Kingdom, once Iraq's paramount "favored creditor", suspended all cover in December after two months of significant (and clearly non-technical) arrearages. So far, the suspension has not resulted in any catch-up payments by Baghdad.

o The French Finance Ministry has been approached to reschedule interest payments falling due on already twice rescheduled debts. The French recently conducted a poll of export credit agencies to explore methods of negotiating payment from the Iraqis. However, COFACE is very nearly at the point of saying "enough is enough", and going off cover even for short term credit.

o Other creditors -- EFIC of Australia (previously a favored creditor), EDC of Canada, HERMES of West Germany, OeKB of Austria, and Japan's Marubeni, Mitsubishi, and Sumitomo trading houses -- also report significant new arrearages under previous bilateral rescheduling agreements.

o As for the U.S., payments under Eximbank's short term insurance facility are now current, after technical arrearages early last fall. Payments due CCC are also current, after a more recent arrearage (which brought a short suspension of CCC cover). No doubt, the Iraqis anticipate that Eximbank will approve a large medium-term program in early 1989 (assuming an improvement in the political climate), and do not want to spoil the atmosphere, even through technical arrearages.

o With export credit agencies off cover for medium-term project-related credit, Iraq has approached commercial banks and investment banks. Banks are reportedly considering extending credits secured by Iraqi oil export receipts placed in overseas escrow accounts (a la the new Venezuelan debt package). The banks are fully aware of Iraq's severe payments problems vis-a-vis official creditors, and will seek concrete legal mechanisms to ensure that they become Iraq's new favored creditors.

o Iraq's payments problems -- related to its low, uncertain oil revenues -- are likely to continue. In the heady days following the cease-fire, Iraq was convinced that oil prices would immediately rise to \$18 per barrel, and boast of plans for renewed exports of 4 million barrels per day. Since then, reality has set in. Oil prices plunged to \$11-12 per barrel, forcing Baghdad to come to terms with its fellow OPEC members and accept an output quota of 2.6 million barrels per day. Plans to rebuild the destroyed Gulf oil terminals -- a prerequisite to significantly higher oil output -- have been suspended.

Articoli del Los Angeles Times (23, 24 e 25 febbraio 1992).
Documento n. 403

87

Primo articolo

403 (1)

Los Angeles Times - 23 febbraio 1992

Azioni segrete di Bush nell'89 aiutarono Hussein a costruire la macchina bellica irachena

* Golfo Persico

Documenti dimostrano che, 9 mesi prima dell'invasione del Kuwait da parte di Hussein, il Presidente approvò aiuti per 1 miliardo di dollari. Ogni obiezione venne soffocata.

di

DOUGLAS FRANTZ

e MURRAY WAAS

(Traduzione di Sara Scrinzi)

WASHINGTON - Nell'autunno 1989, quando all'invasione irachena del Kuwait mancavano solo nove mesi e Saddam Hussein era alla disperata ricerca di fondi per riarmarsi, il Presidente Bush siglò una direttiva di Decisione per la Sicurezza Nazionale top secret che, secondo quanto riportano documenti riservati e quanto è stato dichiarato in interviste, imponeva legami più stretti con Baghdad e permetteva l'erogazione di 1 miliardo di dollari in nuovi aiuti.

L'impegno per \$1 miliardo, sotto forma di garanzie di credito per l'acquisto di prodotti agricoli americani, consentì a Hussein di comprare derrate alimentari a credito,

dando fondo alle sue scarse riserve di moneta forte per il massiccio riarmo che portò poi alla Guerra del Golfo.

A cavallo tra l'89 e il '90 era di fondamentale importanza per l'Iraq ricevere nuovi aiuti da Washington, poiché le banche internazionali avevano praticamente bloccato tutti i prestiti a Baghdad. Vi era allarme per il ritardo sul pagamento del debito, pur continuando l'Iraq a spendere milioni di dollari per acquistare armi, anche se la guerra Iran-Iraq era terminata nell'estate del 1988.

Oltre a facilitare nuovi aiuti finanziari, ancora nella primavera 1990, stretti collaboratori di Bush, ignorando le preoccupazioni di altri funzionari governativi, insistevano che ad Hussein doveva essere ancora permesso di comprare attrezzature high-tech cosiddette "a doppio uso", che potevano, cioè, essere utilizzate sia per fini civili che militari. Agli Iracheni fu consentito l'accesso continuo a tali attrezzature, nonostante emergessero prove che si stavano sviluppando armamenti nucleari ed altre armi di distruzione di massa.

"L'Iraq non dev'essere isolato", dichiarò durante un incontro ad alto livello tenutosi nell'aprile 1990 Richard Haas, funzionario del National Security Council - secondo quanto risulta da alcuni appunti presi da partecipanti all'incontro - quando il Dipartimento del Commercio propose di limitare le acquisizioni irachene di tecnologia suscettibile d'uso militare.

Facendo appello all'autorità personale di Bush, Robert Kimmitt, sottosegretario di Stato per gli affari pubblici, aggiunse: "Il Presidente non vuole isolare l'Iraq".

E le pressioni esercitate nel 1989 e 1990 per dare ad Hussein la fondamentale assistenza finanziaria e mantenere l'accesso a sofisticate tecnologie statunitensi non furono incidenti isolati.

Rispecchiavano invece - come rivelano documenti riservati ottenuti da The Times - una vecchia strategia segreta di azioni personali di Bush - sia in veste di Presidente che vice-Presidente - per appoggiare e "tenere buono" il dittatore iracheno. Più volte, quando in seno al governo furono sollevate forti obiezioni agli aiuti ad Hussein, Bush ed i collaboratori che ne seguivano le direttive intervennero per soffocare le resistenze.

Sabato la Casa Bianca ha evitato ogni commento.

Nel caso del \$1 miliardo in garanzie creditizie su prodotti alimentari, ad esempio, i collaboratori più stretti di Bush, armati di direttiva presidenziale (NSD 26), insistettero per l'approvazione dei crediti nonostante le obiezioni di funzionari appartenenti a tre diverse agenzie governative. Tali funzionari misero in guardia sul possibile uso di tali aiuti per l'acquisto di armi, in violazione della legge americana, sul fatto che il debito non sarebbe stato

restituito e che precedenti interventi di assistenza erano "macchiati" da irregolarità finanziarie.

Il diretto coinvolgimento di Bush cominciò nei primi anni '80 e rientrava nella cosiddetta "propensione" verso l'Iraq caldeggiata dall'allora presidente Reagan per spalleggiare Hussein nella sua guerra contro l'Iran. La sopravvivenza di Hussein era considerata indispensabile ai fini degli sforzi statunitensi per contenere la diffusione dell'integralismo islamico e bloccare ogni possibilità di predominio dell'Iran nel Medio Oriente.

Molti esponenti del governo americano, compresi Bush e Reagan, speravano inoltre che l'aiuto americano avrebbe pian piano condotto Hussein a moderare i termini e, addirittura, ad assumere un ruolo positivo nel Medio Oriente.

Ma documenti riservati dimostrano che gli sforzi di Bush a favore di Hussein sono continuati ben oltre la fine della guerra Iran-Iraq - e con pervicacia - nonostante i sempre più frequenti avvertimenti, all'interno dell'ambiente governativo americano, che la politica globale aveva preso una strada sbagliata.

Risulta inoltre che, invece di limitarsi a mantenere a galla Hussein come contrappeso all'Iran, il programma di aiuti statunitensi lo aiutava a diventare una pericolosa potenza militare autonoma, in grado di minacciare quegli stessi

interessi americani che, in origine, il programma era tenuto a proteggere.

E' chiaro che l'aiuto americano non è servito perché Hussein diventasse un baluardo della pace in quell'instabile regione. Nella primavera del 1990, mentre funzionari anziani dell'Amministrazione si adoperavano per fargli avere maggiori aiuti finanziari, il leader iracheno si vantava che l'Iraq era in possesso di armi chimiche e minacciava di "bruciare mezza Israele". Né modificò i suoi crudeli metodi repressivi. Nell'estate dell'88, ad esempio, scioccò il mondo uccidendo varie migliaia di Curdi con gas velenosi.

Anche oggi i programmi iracheni di riarmo nucleare e chimico portati avanti con l'ausilio di sofisticate tecnologie americane continuano a preoccupare i funzionari degli Stati Uniti e delle Nazioni Unite che cercano di eliminare gli elementi di tali programmi sopravvissuti alla vittoria alleata nella Guerra del Golfo.

Non ci è dato sapere cosa abbia spinto Bush a perorare con tanto ardore e così a lungo la causa irachena, ma vi è motivo di credere che si sia trattato dell'ostinazione di un singolo a perseguire una politica sebbene i suoi fini fossero già stati superati dagli eventi e che si sia trattato dell'errore di valutazione della natura di Hussein stesso.

"Quando terminò la guerra Iran-Iraq e ormai l'Iran era solo un paese prostrato si sarebbe dovuto provvedere a rivedere la politica americana, in modo tale da non dare

all'Iraq l'impressione di essere sostenuto per diventare il paese egemone nella regione", disse William B. Quandt, esperto sul Medio Oriente della Brookings Institution.

"Abbiamo sottovalutato tante manifestazioni di Saddam che avrebbero dovuto darci da pensare. Non si comportava come ci si sarebbe potuto attendere da un leader provato da una dura guerra. Si boriava di aver appena vinto una guerra e di rappresentare una potenza con cui si doveva fare i conti, concludendo che gli Americani non ne erano troppo scossi", disse Quandt.

Gran parte della colpa per la mancata percezione delle mire espansioniste di Hussein e dei pericoli insiti nell'appoggiarne il rafforzamento è ricaduta su funzionari di medio calibro ed agenzie governative quali il Dipartimento del Commercio, che approvò la vendita all'Iraq di \$1,5 miliardi in tecnologia americana, e il Dipartimento dell'Agricoltura, che autorizzò \$5 miliardi in garanzie di credito.

Tuttavia documenti riservati di varie agenzie governative e le interviste degli ultimi due mesi dimostrano che furono iniziative di politica estera della Casa Bianca e del Dipartimento di Stato a guidare le relazioni con l'Iraq dall'inizio degli anni '80 fino alla vigilia della Guerra del Golfo, e che Bush ed i funzionari alle sue dirette dipendenze ebbero un ruolo determinante in tali iniziative.

Ad esempio:

* Nel 1987 il vice-Presidente Bush riuscì a convincere La Export-Import Bank federale a mettere a disposizione centinaia di milioni di dollari in aiuti all'Iraq - rivelano i documenti - nonostante le obiezioni dei dipendenti che difficilmente i debiti sarebbero stati ripagati nei termini previsti dalla legge.

* Dopo che Bush divenne Presidente, nel 1989, risulta dai documenti che alti funzionari della sua Amministrazione esercitarono pressioni affinché la banca ed il Dipartimento dell'Agricoltura concedessero miliardi di finanziamento per nuovi progetti iracheni.

* Nel 1987, quand'era vice-Presidente, Bush ebbe un incontro personale con Nizar Hamdoon, ambasciatore iracheno negli Stati Uniti, per assicurare che l'Iraq avrebbe potuto continuare ad acquisire tecnologie a doppio uso. Fu tre anni dopo che funzionari del National Security Council bloccarono il tentativo del Dipartimento del Commercio ed altre agenzie per limitare tali esportazioni.

* Dopo che Bush, nell'ottobre '89, ebbe firmato la NSD 26 il Segretario di Stato James A. Baker intervenne personalmente presso il Segretario dell'Agricoltura Clayton K. Yeutter affinché facesse cadere le opposizioni del suo dipartimento al miliardo di dollari in crediti alimentari. Yeutter, ora alto funzionario della Casa Bianca, approvò e la prima metà del miliardo di dollari fu messa a disposizione dell'Iraq all'inizio del 1990.

* Addirittura nel luglio 1990, solo un mese prima che le truppe irachene irrompessero a Kuwait City, alcuni funzionari del National Security Council e del Dipartimento di Stato premevano affinché venisse consegnata la seconda tranche del miliardo in garanzie al credito, nonostante il fatto che già si stesse profilando la crisi nella regione ed emergessero prove dell'uso illegale dei fondi fatto dall'Iraq per finanziare una rete segreta di forniture belliche al fine di acquisire la tecnologia necessaria al suo programma di riarmo nucleare e di missili balistici.

Un funzionario del Dipartimento dell'Agricoltura segnalò in un rapporto interno del febbraio 1990 che, quando tutti i fatti riguardanti le garanzie di credito all'Iraq erano ormai noti, il programma poteva essere visto come un altro "HUD o scandalo dei risparmi e prestiti".

Dei \$5 miliardi in aiuti economici erogati all'Iraq in un periodo di otto anni due, usciti dalle tasche del contribuente americano, sono tuttora scoperti.

La politica di Washington a sostegno dell'Iraq iniziò nel 1982. Hussein era al secondo anno di guerra contro l'Iran e il conflitto non volgeva a favore di Baghdad. L'Amministrazione Reagan, ufficialmente neutrale, decise di venire in aiuto dell'Iraq, come mezzo per contrastare l'Ayatollah Ruhollah Khomeini.

Le relazioni americane con l'Iraq si erano interrotte nel 1967 dopo la guerra arabo-israeliana, ma il maggior ostacolo ad una ripresa dei contatti era rappresentato dal fatto che l'Iraq compariva nella lista ufficiale di Washington dei paesi che appoggiavano il terrorismo internazionale. Automaticamente la maggior parte delle forme di aiuto statunitense gli era negata per legge.

Il Dipartimento di Stato risolse la questione derubricando l'Iraq dall'elenco nel febbraio 1982, azione cui opposero resistenza alcuni esponenti dell'Amministrazione. Quattro ex-funzionari intervistati dichiararono che non vi erano prove che l'appoggio dell'Iraq al terrorismo fosse venuto meno.

"Tutte le informazioni che ho avuto indicavano che l'Iraq continuava ad appoggiare il terrorismo nella stessa misura che in passato", disse Noel Koch, allora responsabile del programma antiterrorismo del Pentagono. "Abbiamo tolto l'Iraq dall'elenco, e non avremmo dovuto..., ma lo abbiamo fatto per motivi politici."

La dichiarazione era corroborata da un rapporto segreto del 1988 in cui il vice Segretario di Stato John Whitehead scrisse "Sebbene tolto dalla lista del terrorismo sei anni fa, [l'Iraq] aveva dato asilo a noti terroristi, compreso Abu Abbas, noto alla cronaca soprattutto per il sequestro dell'Achille Lauro."

Quasi subito dopo che l'Iraq era stato depennato dalla lista, Washington gli concesse garanzie di credito tali da permettergli di comprare prodotti alimentari americani, quali riso e grano, attraverso la Commodity Credit Corp. del Dipartimento dell'Agricoltura.

Documenti governativi riservati riportano che due anni dopo, nel 1984, Bush esercitò personalmente pressioni sulla Export-Import Bank affinché garantisse per \$500 milioni in prestiti, cosicché l'Iraq fu in grado di costruire un oleodotto molto controverso.

E per gran parte del periodo intercorso tra il 1982 e la fine dell'Amministrazione Reagan, si sono susseguiti interventi per convogliare armi e aiuti economici verso Baghdad - talvolta tramite il Pentagono, altre volte tramite gli alleati degli U.S.A. nel Medio Oriente. Alcuni dei piani di riarmo specifici fallirono, ma fonti governative riportarono che ingenti quantitativi di armi riscirono a raggiungere Baghdad grazie agli sforzi americani.

Nel 1982, ad esempio, ad un certo punto fu avanzata la proposta di scambiare quattro obici di produzione statunitense per un carrarmato T-72 sovietico, rivelano documenti riservati. Il T-72, secondo un rapporto segreto dei Servizi Segreti della Difesa del luglio 1982, era di fondamentale importanza, poiché era corazzato in modo tale da riuscire invulnerabile al fuoco americano. Un secondo piano, nel 1983,

avrebbe permesso all'Iraq di comprare armi a lungo raggio calibro 175mm e munizioni per un totale di 45 milioni di dollari in cambio di un carrarmato sovietico.

Funzionari del Pentagono, inoltre, riferirono all'allora Segretario della Difesa Caspar W. Weinberger "che funzionari iracheni dicevano che sarebbe forse stato possibile avere un elicottero [sovietico Hind] in cambio dell'autorizzazione a comprare 100 elicotteri Hughes" dotati di missili TOW, secondo quanto riporta un rapporto segreto del Pentagono.

Per una serie di motivi tutti questi piani vennero a cadere. L'operazione degli elicotteri fu messa da parte dopo che Richard Stillwell, generale in pensione ora scomparso che era allora vice Sottosegretario alla Difesa, si rifiutò di lavorare con un trafficante d'armi appoggiato dall'Iraq che di dubbia reputazione per via di affari poco puliti.

"Se da un lato riconosco perfettamente che è di somma importanza per gli Stati Uniti entrare in possesso di un MI-24 HIND, devo però esortare a non portare a termine questo progetto... essendo troppo grande il pericolo che il Governo americano si venga a trovare in una situazione estremamente imbarazzante", scrisse Stillwell in una nota coperta da segreto indirizzata a Weinberger nel 1983.

In una recente intervista Weinberger si è rifiutato di parlare di tutti queste proposte di scambio. Sebbene addetti del Pentagono abbiano considerato gli scambi o le vendite di armi all'Iraq come un mezzo per mettere le mani su tecnologia

sovietica, due funzionari sostengono che Weinberger li vedeva come pretesto per dare l'avvio a consegne di armi dirette e segrete all'Iraq. Ma Weinberger ammise di appartenere ad una corrente dell'Amministrazione Reagan che favoriva l'Iraq rispetto all'Iran. "Molti di noi pensavano che sarebbe stato meglio se fosse stato l'Iraq a vincere", disse Weinberger, che ora si è ritirato a vita privata e svolge la professione di avvocato.

Anche diversi telegrammi riservati del Dipartimento di Stato riportano le proposte avanzate nel 1982-83 da William Eagleton, diplomatico americano a Baghdad, di inviare armi all'Iraq tramite alleati nel Medio Oriente. "Possiamo togliere selettivamente eliminare le restrizioni a trasferimenti all'Iraq da parte di terzi di attrezzature militari costruite su licenza americana", scrisse in un telegramma dell'ottobre 1983.

Sebbene inizialmente rifiutata, altri documenti ed interviste con ex-funzionari statunitensi rivelano che questa politica fu perseguita, segretamente, con Egitto, Giordania e Kuwait e che armi furono trasferite all'Iraq.

"Consapevolmente si incoraggiavano paesi terzi ad inviare armi americane o tollerare che queste venissero inviate", disse Howard Teicher, che seguiva la politica per il Medio Oriente nel National Security Council dell'Amministrazione reagan. "Era una politica di annuendo e ammiccamenti".

Mentre le azioni di Washington erano dettate dal principio che Hussein fungeva da cuscinetto rispetto all'Iran, documenti riservati dimostrano che il sostegno americano al suo regime venne mantenuto inalterato dopo che il cessate-il-fuoco ufficiale della guerra Iran-Iraq era stato firmato nell'agosto 1988 e dopo l'attacco iracheno con armi chimiche a villaggi curdi del 19 luglio 1988.

E' un fatto che nell'agosto 1988 il vice Segretario di Stato Whitehead raccomandò in un rapporto segreto: "ora non si dovrebbero apportare cambiamenti radicali alla politica verso l'Iraq".

Bush abbracciò la strategia filo-irachena quando divenne Presidente. La sua Amministrazione continuò ad incoraggiare il trasferimento di armi di provenienza americana fornite dagli alleati arabi all'Iraq, secondo quanto si evince da interviste e documenti riservati.

Nella NSD 26 dichiarò: "L'accesso al Golfo (Persico) e a stati chiave nella regione amici filo-occidentali è di fondamentale importanza per la sicurezza nazionale degli Stati Uniti." Tra quegli stati rientrava anche l'Iraq, e Bush diede disposizioni affinché le agenzie federali rinsaldassero i legami politici ed economici con Baghdad.

La NSD 26 venne emessa nel periodo in cui il Dipartimento dell'Agricoltura ed altre agenzie governative tentavano di ~~far~~ *ridurre* ~~perdere~~ il più grande programma di aiuti americani all'Iraq, quello delle garanzie sui prestiti alimentari.

Messo a punto per aiutare gli agricoltori statunitensi ad incrementare le esportazioni, il programma garantisce la restituzione di prestiti bancari a governi stranieri per l'acquisto di prodotti alimentari americani. Se il governo straniero non ottempera al pagamento del prestito, sarà il contribuente americano, in ultima analisi, a farne le spese.

Vi sono regolamenti che prevedono che il Dipartimento dell'Agricoltura conceda le garanzie sulla base del fabbisogno agricolo del paese beneficiario, il suo potenziale di mercato e la probabilità che i prestiti siano restituiti. Documenti riservati rivelano, tuttavia, che considerazioni di politica estera ebbero un ruolo decisivo nella concessione di crediti all'Iraq.

Gli Iracheni stessi lanciarono l'idea di garanzie americane per aiuti alimentari nel 1983, in un periodo in cui i funzionari americani paventavano che Hussein potesse essere rovesciato a causa della penuria alimentare dovuta alla guerra Iran-Iraq.

Prima della fine dell'anno i primi \$402 milioni in garanzie al credito del Dipartimento dell'Agricoltura furono approvati per l'Iraq. Nel 1984 la somma venne portata a \$513 milioni e infine raggiunse \$1,1 miliardi nel 1988.

Man mano che crescevano le garanzie crescevano anche le preoccupazioni. La sede in cui tali preoccupazioni furono manifestate in modo più aperto fu un'organizzazione

interministeriale poco conosciuta, il National Advisory Council (Consiglio Consultivo nazionale).

Documenti dell'Advisory Council provano che, a cominciare dal 1985, vari rappresentanti del Federal Reserve Board, del Dipartimento del Tesoro e della Export-Import Bank a più riprese si pronunciarono o votarono contro l'aumento degli aiuti all'Iraq. Temevano che l'Iraq non fosse solvibile e non sarebbe riuscito ad onorare i miliardi di debito.

I loro timori crebbero quando, il 4 agosto 1989, agenti dell'FBI e della Finanza (Customs Service) irrupero nella filiale di Atlanta di una banca italiana, la Banca Nazionale del Lavoro, e soprirono \$4 miliardi in prestiti non autorizzati all'Iraq, compresi \$900 milioni garantiti con il programma del Dipartimento dell'Agricoltura.

Tuttavia alti funzionari dell'Amministrazione Bush, compreso il Segretario di Stato Baker, ignorarono le proteste del gruppo interministeriale e cercarono di ottenere un altro miliardo in garanzie di credito per l'Iraq nell'autunno del 1989, da erogare in due tranche.

Per l'inizio del 1990 l'Iraq aveva già usato i primi 500 milioni e chiedeva la seconda tornata. Il National Security Council e il Dipartimento di Stato premettero perché gli aiuti fossero erogati.

Ancora una volta vi furono resistenze. Funzionari iracheni erano risultati ancor più coinvolti nell'affare BNL, che stava assumendo sempre maggiori proporzioni, e gli esperti

del governo erano sempre più scettici rispetto alla capacità dell'Iraq di restituire il prestito, dal momento che spendeva tanto in armamenti.

"Nel peggiore dei casi gli inquirenti troverebbero un collegamento diretto con il finanziamento delle spese militari irachene, soprattutto per il missile Condor", scrisse Paul Dickerson, responsabile del programma del Dipartimento dell'Agricoltura che aiutò gli Iracheni, in una nota del 23 febbraio 1990 al suo superiore.

Condor era il nome dato al progetto di sviluppo di un missile intercontinentale in grado di trasportare una testata nucleare. Benché Dickerson abbia in seguito dichiarato ad una commissione parlamentare che le sue erano solo speculazioni riguardo a Condor, la sua segnalazione rivelava l'evidenza sempre più palese che gli aiuti agricoli erano finiti in spese militari.

Poi, il 27 marzo 1990, il Customs Service sventò il tentativo iracheno di ottenere detonatori per armi nucleari. E in un discorso, quello stesso mese, Hussein proferì la famosa minaccia di "bruciare mezza Israele". Pubblicamente, finalmente, Bush promise una interruzione delle esportazioni all'Iraq, dichiarando che "la proliferazione nucleare... continua a porre gravi minacce agli interessi americani e a quelli dei paesi amici nella regione".

Il 16 aprile 1990 il Direttore della CIA Robert M. Gates, allora vice-consulente/per la sicurezza nazionale, presiedette un incontro interministeriale sulla politica nei confronti dell'Iraq. Durante l'incontro il Sottosegretario Dennis Kioske sottopose una serie di proposte per limitare le autorizzazioni all'Iraq di alta tecnologia con potenziale uso militare. Le proposte furono respinte.

L'8 giugno Kioske inviò a Gates pure un documento riservato in cui raccomandava una proposta limitata per rendere più severi i controlli sulle esportazioni all'Iraq di tecnologia con possibili applicazioni per missili balistici. Anch'essa venne respinta.

Hussein aveva anche iniziato la campagna di aperte minacce contro il Kuwait, accusando il piccolo vicino di condurre una guerra economica e promettendo rappresaglie.

Eppure - ed era già il 9 luglio 1990 - risulta da un telegramma riservato che April Glaspie, ambasciatrice americana in Iraq, assicurò i funzionari iracheni che l'Amministrazione Bush stava ancora cercando di far erogare i \$500 milioni.

Solo il 2 agosto 1990 il Dipartimento dell'Agricoltura sospese ufficialmente le proprie garanzie all'Iraq. Lo stesso giorno i carri e le truppe di Hussein entrarono nel Kuwait.

Secondo articolo

4

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La lunga storia dell'appoggio di Bush agli aiuti all'Iraq. Controllo sugli armamenti: le azioni degli anni '80 sono un esempio di come i leader pieghino i programmi ai propri fini.

Los Angeles Times - Lunedì 24 febbraio 1992.

Di Murray Waas; Douglas Frantz; Special to the Times; Frantz è un giornalista della redazione del Times e Waas è un corrispondente speciale.

Serie: "Bush e gli aiuti all'Iraq" (2a di 3 puntate).

WASHINGTON - All'inizio del marzo 1987, il Vicepresidente Bush incontrò Nizar Hamdoon, ambasciatore iracheno negli Stati Uniti, per comunicargli una buona notizia: l'attività di lobbying di Bush stava per avere un ottimo risultato per Saddam Hussein.

In primo luogo, venne riferito a Hamdoon, due lungamente attese autorizzazioni all'acquisto, da parte del governo iracheno, di tecnologia americana dai delicati risvolti militari erano state concesse - superando le obiezioni del Pentagono, a quanto risulta da documenti riservati. Inoltre, con una telefonata al presidente della Export-Import Bank, Bush aveva esercitato pressioni per superare l'opposizione di quello alla concessione all'Iraq di nuove garanzie di credito.

Proprio ottime notizie. Nei mesi seguenti, come dimostrano documenti governativi e numerose interviste, venne autorizzata la vendita all'Iraq di tecnologie con applicazione sia commerciale che militare per un valore di 600 milioni di dollari. E poco tempo dopo la telefonata di Bush, la Export-Import Bank ribaltò la propria posizione approvando la concessione di 200 milioni di dollari in nuovi

crediti all'Iraq, paese al quale ulteriori crediti erano stati in precedenza negati perché non restituiva i debiti già contratti.

Gli sforzi di Bush erano in linea con la sua tendenza all'intervento personale e al sostegno alla concessione di aiuti all'Iraq, cominciata nei primi anni di vicepresidenza nell'amministrazione Reagan e proseguita durante il primo anno della sua presidenza fin quasi alla vigilia della guerra del Golfo.

E, mentre non sembra che le azioni di Bush abbiano violato alcuna legge, considerate insieme alle attività di altri alti funzionari, esse rappresentano un esempio da manuale di come potenti leader politici cerchino di piegare oscuri programmi governativi a propri fini - talvolta con risultati molto costosi.

Alla Exim, al Dipartimento del commercio e a quello dell'agricoltura, Bush e i funzionari suoi seguaci lavoravano costantemente per superare le obiezioni di altri responsabili a ciò che questi consideravano un imprudente aiuto all'Iraq.

Nel caso della Exim, Bush ed altri riuscirono in diverse occasioni a cambiare la politica dell'istituto, ma i funzionari della banca opposero una resistenza sorprendentemente ostinata ed efficace - un'azione dalle retrovie che alla fine ebbe il risultato di contenere il costo per il contribuente americano e di ridurre il contributo indiretto degli Stati Uniti alla macchina da guerra irachena che coinvolse il Medioriente nel conflitto.

3

Inizialmente, gli sforzi di Bush in favore dell'Iraq si inserivano nell'ambito di un'ufficiosa "inclinazione" degli USA verso Baghdad, diretta a puntellare Hussein durante la sua lunga guerra contro l'Iran. Dietro questa inclinazione vi era la volontà di usare l'Iraq come tampone contro l'influenza iraniana e del radicale fondamentalismo islamico nel Medioriente.

Ma questa politica fu perseguita ben oltre la fine del conflitto Iran-Iraq, avvenuta nell'estate del 1988.

A quanto sembra, Bush ed i suoi sostenitori non si resero conto del fatto che gli originali motivi dell'inclinazione a favore dell'Iraq erano stati superati dagli eventi e che i loro sforzi per ridurre Hussein a più miti consigli non stavano dando risultati.

Come risulta da decine di documenti riservati ottenuti da The Times, Bush e coloro che ne condividevano il punto di vista continuarono a fare pressioni per concedere all'Iraq aiuti finanziari e accesso a delicate tecnologie anche quando divenne evidente che Hussein stava costruendo un arsenale molto maggiore di quanto necessario a difendere il proprio paese e che stava attivamente sviluppando armi nucleari e chimiche.

La Casa Bianca ha rifiutato ogni commento.

Per esempio, fu approvata un'autorizzazione per la vendita all'Iraq di un sistema di saldatrici a guida laser del valore di \$1.4 milioni, nel gennaio del 1988, cioè nei mesi finali del conflitto Iran-Iraq, e nonostante la ditta esportatrice avesse ammesso nella sua domanda d'esportazione che il sistema sarebbe stato impiegato per riparazioni

militari su articoli quali motori d'aereo e rivestimenti di missili.

Quando gli ispettori ONU cominciarono, alla fine dello scorso anno, ad esaminare le attrezzature nucleari irachene, scoprirono che il sistema di saldatura era stato adattato per la costruzione di centrifughe, componente essenziale del massiccio programma iracheno di arricchimento dell'uranio per le armi nucleari.

Questa esportazione non fu un caso isolato. Società prestanome per ogni sito conosciuto presso il quale l'Iraq metteva a punto armi chimiche e nucleari acquistarono calcolatori americani con autorizzazioni approvate dal Dipartimento del commercio, secondo l'analisi svolta dal Wisconsin Project on Nuclear Arms Control, un gruppo di Washington impegnato nel monitoraggio delle questioni legate alla proliferazione nucleare.

Alla fine, alcuni funzionari del Dipartimento del commercio cominciarono ad opporre resistenza alla concessione di aiuti all'Iraq, ma non con la tempestività e la tenacia dimostrate da alcuni colleghi della Exim.

La Export-Import Bank, nota a Washington semplicemente come Ex-Im, venne istituita dal Congresso nel 1934 per aiutare le ditte americane a vendere di più all'estero. La banca persegue questo scopo offrendo garanzie di credito ai clienti esteri che acquistano merci americane. Praticamente tutti i paesi sviluppati hanno programmi analoghi.

Pur avendo sempre adottato le decisioni sulla concessione di crediti con un occhio agli interessi della politica estera americana, alla Exim è vietato per legge

concedere garanzie sui crediti a paesi che non offrono "una ragionevole certezza di restituzione".

Nel caso dell'Iraq, gli analisti economici della banca giunsero ripetutamente alla conclusione che esistevano ben poche possibilità che l'Iraq potesse o volesse saldare i suoi debiti.

Numerosi documenti riservati e interviste a funzionari dimostrano che gli sforzi per indurre la Exim ad allinearsi alla generale politica americana verso l'Iraq risalgono almeno al 1983. Ma solo quando Bush manifestò personalmente il suo interessamento, nel 1984, la Exim autorizzò le prime garanzie all'Iraq da dieci anni a quella parte.

L'iniziale strategia americana di aiuto all'Iraq fu esposta in un telegramma da Richard Murphy, sottosegretario agli esteri per il Medioriente. Gli elementi essenziali descritti da Murphy consistevano nel:

- * Liberalizzare i controlli sulle esportazioni in Iraq di beni ad alta tecnologia. Tra le merci di cui Murphy propone l'esportazione figuravano "ambulanze corazzate, attrezzature per comunicazioni e congegni elettronici per la protezione di velivoli VIP".

- * Aiutare l'Iraq a costruire un oleodotto da un miliardo di dollari fino al porto giordano di Aqaba. Questo progetto aveva lo scopo di consentire all'Iraq di aggirare il blocco iraniano ai suoi terminali petroliferi nel Golfo Persico.

- * Organizzare il finanziamento delle vendite americane all'Iraq mediante la Export-Import Bank. "Tali ingenti finanziamenti della Exim farebbero aumentare il rating

creditizio dell'Iraq, permettendo maggiori finanziamenti commerciali a quel paese", scrisse Murphy.

Bush svolse un ruolo di primo piano in ciascuno dei tre settori, a cominciare dall'oleodotto.

A corto di denaro per portare avanti la guerra e per nutrire la popolazione e tagliato fuori dal grosso dei creditori, Hussein persuase i responsabili del Dipartimento di Stato a procurargli i finanziamenti Exim.

Ma la Banca, che è gestita da un consiglio d'amministrazione indipendente, rifiutò. Le sue obiezioni furono delineate da Murphy in un appunto del 22 dicembre 1983, inviato da questi a Lawrence Eagleburger, allora sottosegretario di Stato per gli affari politici.

"La Exim è attualmente contraria ai crediti all'Iraq perché ritiene che per tali prestiti non vi siano ragionevoli garanzie di restituzione", scriveva Murphy.

Due giorni dopo, Eagleburger scrisse a William H. Draper III, allora presidente della Exim, sollecitandolo ad un atteggiamento "ricettivo al finanziamento delle vendite americane e dei progetti in Iraq...Dal punto di vista politico, il finanziamento Exim dimostrerebbe l'interesse degli Stati Uniti per l'economia irachena in un contesto pragmatico, neutrale."

La Exim rimase riluttante fino al giugno 1984 - dopo la personale intromissione di Bush. Documenti riservati mostrano che Bush telefonò a Draper, vecchio amico dai tempi dell'università a Yale, chiedendogli di riconsiderare il finanziamento dell'oleodotto.

Le agenzie governative sono solite preparare degli "argomenti di conversazione" come falsariga per conversazioni delicate. Nel caso della telefonata di Bush a Draper, l'appunto preparato suggeriva al vicepresidente di presentare la sua richiesta in termini di interesse dell'amministrazione a rafforzare l'Iraq per porre fine alla guerra.

"Una risposta tempestiva e favorevole alle richieste di finanziamenti Exim per questi progetti per l'oleodotto rappresenterebbe una prova chiara e ben accolta dell'impegno dell'America al raggiungimento di questi obiettivi", recitava l'appunto.

Nella settimana successiva, la banca approvò garanzie di credito destinate al progetto per 500milioni di dollari. Draper, attualmente funzionario delle Nazioni Unite, ha dichiarato in un'intervista di non ricordare la conversazione telefonica con Bush.

Per motivi estranei al caso in esame, l'Iraq alla fine abbandonò il progetto dell'oleodotto, per cui le garanzie non vennero mai usate.

Altri finanziamenti Exim cominciarono ad affluire in Iraq non molto tempo dopo l'intervento di Bush. A luglio del 1984, la banca cominciò a fornire all'Iraq crediti a breve termine per 200 milioni di dollari.

Nel giro di pochi mesi, tuttavia, l'Iraq rimase indietro nei pagamenti per un importo di 35 milioni di dollari, e la banca sospese l'assistenza. Solo a seguito di un nuovo intervento di Bush i crediti all'Iraq vennero rinnovati.

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Nel maggio 1986 David Newton, ambasciatore americano in Iraq, si recò presso la sede della Exim per persuadere il nuovo presidente della banca, John A. Bohn, a ripristinare le garanzie.

"L'Ambasciatore era decisamente oppresso, considerato l'andamento sia della guerra che dell'economia", si legge in un resoconto interno dell'incontro.

Eppure dall'appunto risulta che Newton insistette con Bohn non solo per ripristinare il programma ma anche per espanderlo. I 200 milioni di dollari su cui l'Iraq era in arretrato si riferivano a prestiti a breve termine, la cui restituzione era prevista entro l'anno. Newton voleva garanzie a medio termine, che potevano raggiungere importi di miliardi di dollari e che davano all'Iraq da 5 a 7 anni di tempo per la restituzione.

Bohn non si spostò di un centimetro. Il suo entusiasmo per "fare nuovi affari in Iraq varia da zero a non molto," riferisce il resoconto.

Le fortune economiche dell'Iraq continuarono a declinare per tutto il 1986, con la caduta mondiale dei prezzi del greggio e con l'aumento dei costi della guerra con l'Iran. Lo stato delle restituzioni del debito iracheno continuò a peggiorare, e la maggior parte delle banche commerciali tagliò i crediti, lasciando l'Iraq ad affannarsi per riuscire a pagare per i beni civili essenziali. Ma, nonostante questo, l'amministrazione Reagan continuava a far pressioni sulla Exim.

Nel novembre 1986, un membro del consiglio d'amministrazione della Exim, Richard Haldrige, venne

avvicinato da Murphy. Il funzionario del Dipartimento di Stato [Murphy] scelse un'occasione insolita - una cena presso la residenza dell'ambasciatore iracheno Hamdoon. Era presente anche A. Robert Abboud, esponente bancario di Houston, presidente del US-Iraqi Business Forum, un'organizzazione di uomini d'affari diretta a favorire il commercio con Baghdad.

Heldridge si dimostrò attento alle richieste, dicendo ad altri funzionari della Exim il giorno successivo in un appunto: "A prescindere dal cupo quadro finanziario dell'Iraq, ritengo che dovremmo rivedere la nostra posizione a tale proposito e discutere un'apertura per il breve termine (credito)."

Ma la banca restò ferma sulla precedente decisione di Bohn.

All'inizio del febbraio 1987, l'Iraq si mise in pari con i pagamenti relativi ai crediti garantiti dalla Exim. Tuttavia, numerosi rapporti governativi indicavano che gli unici creditori che venivano rimborsati dall'Iraq erano quelli che garantivano al paese nuovi prestiti.

Alla fine di febbraio, Bohn ricevette una telefonata da Bush. Il vicepresidente chiamava in preparazione del suo incontro, che sarebbe avvenuto da lì a pochi giorni, con l'ambasciatore iracheno.

"Mi risulta che gli Iracheni abbiano saldato alcuni arretrati insoluti verso la Exim e che il consiglio della Exim si pronuncerà presto sulla possibilità di riprendere i crediti a breve termine per l'Iraq," recitano i "punti di conversazione" preparati per Bush. "Vorrei sollecitare Lei e

i suoi colleghi del consiglio a considerare favorevolmente tale possibilità".

L'appunto suggeriva inoltre che Bush dicesse a Bohn: "Come Lei sa, in questa questione sono in ballo importanti considerazioni di politica estera. L'Iraq sembra aver respinto l'ultima offensiva iraniana, e noi stiamo approfittando di questo per ridare respiro agli sforzi di pace. L'appoggio della Exim al proseguimento del commercio con l'Iraq rappresenterebbe un potente e tempestivo segnale - sia per l'Iraq che per gli Stati arabi del Golfo - dell'interessamento americano per la stabilità della regione."

In quel periodo, l'analisi della situazione finanziaria irachena svolta dagli analisti economici della Exim era peggiore di quando Bohn aveva classificato la possibilità di nuove garanzie come "da zero a non molto".

L'analisi interna diceva: "Pur non essendo disponibili cifre ufficiali sul debito estero dell'Iraq, diverse stime lo collocano, alla fine del 1986, a circa 50 miliardi di dollari".

Il 4 maggio 1987, in un rapporto confidenziale, due anziani economisti della banca mettevano in guardia il consiglio d'amministrazione: "Le nostre proiezioni sulla bilancia dei pagamenti, anche nell'ipotesi più rosea.... indicano che l'Iraq non sarà in grado di far fronte alle scadenze programmate del suo debito per i prossimi cinque anni." I due economisti raccomandavano: "La Exim dovrebbe tenersi alla larga da tutti i programmi concernenti l'Iraq."

Eppure, il 15 maggio 1987, la banca rinnovò le garanzie sui crediti a breve per l'Iraq, con una copertura di 200 milioni di dollari.

In una intervista, Bohn ha affermato di non ricordare i particolari della sua conversazione con Bush, aggiungendo che, in quanto capo della banca, aveva parlato con il vicepresidente diverse volte.

"Posso assicurare con certezza di non essere mai stato costretto a prestare alcunché a chicchessia", ha dichiarato Bohn, attualmente capo del Servizio Investimenti di New York della Moody. "Ne sono mai stato oggetto di pressioni."

Due altri membri del consiglio d'amministrazione, Heldridge e William F. Ryan Jr., hanno affermato di non essere stati al corrente di contatti con il vicepresidente.

"Oh Signore no! Non ho mai ricevuto o sentito parlare di telefonate del genere," ha dichiarato Ryan, vicepresidente del consiglio nel 1987. "Un fatto del genere sarebbe stato straordinario."

Poche giorni dopo la telefonata a Bohn, Bush incontrò Hamdoon.

Negli appunti riservati di preparazione all'incontro del 2 marzo, si suggeriva che Bush dicesse a Hamdoon che l'amministrazione stava lavorando per espandere il commercio e rafforzare le relazioni con l'Iraq. Bush doveva esprimere rincrescimento per i ritardi nella concessione di licenze d'esportazioni e spiegare che sarebbe stato concesso "un occhio di riguardo" alle vendite all'Iraq di alta tecnologia e a casi analoghi.

"Sono lieto che il Commercio abbia recentemente emanato licenze relative ad alcuni articoli destinati all'Iraq da tempo in sospeso," diceva il testo di Bush. "Dovrebbe interpretare questo come un segnale della nostra serietà nell'occuparci della questione."

Un altro documento riservato descriveva le due licenze d'esportazione, che erano state approvate solo come "licenze pendenti da lungo tempo per due progetti scientifici ad alta priorità, compreso uno presso il Centro Spaziale e Astronomico Iracheno." Il documento riportava l'opposizione alle autorizzazioni del Dipartimento della difesa.

Stephen D. Bryen, all'epoca viceassistente segretario alla difesa e oppositore delle esportazioni all'Iraq di beni a doppio impiego, ha affermato di ritenere che una delle licenze si riferiva a sofisticate attrezzature utilizzate per passare le informazioni dei satelliti alle stazioni a terra. Tali attrezzature - potevano essere impiegate per osservazioni meteorologiche, o per osservare i movimenti di truppe e altri tipi di spionaggio aereo.

I documenti del Dipartimento del commercio elencano centinaia di licenze d'esportazione per un valore superiore a 600 milioni di dollari, relative a tecnologie a doppio impiego, approvate per l'Iraq nel periodo compreso tra l'incontro di Bush con Hamdoon e l'invasione del Kuwait. Gran parte di quel materiale finì nel programma di Hussein per lo sviluppo di armi nucleari, chimiche e biologiche.

Alla fine, il flusso di beni ad alta tecnologia verso l'Iraq sollevò obiezioni all'interno del Dipartimento del commercio, ma le proposte di tagli furono respinte dalla presidenza Bush.

Materiale riservato e rapporti interni dimostrano che dopo l'insediamento di Bush alla Casa Bianca, l'amministrazione intensificò la spinta ad ampliare il programma di prestiti Exim per fornire garanzie a medio e lungo termine all'Iraq nonostante il conflitto Iran-Iraq fosse terminato nel 1988 e numerosi indizi indicassero che il riarmo di Hussein stava aumentando.

Scettica circa le possibilità e le intenzioni irachene di estinguere il debito estero, la banca voleva attenersi ai meno rischiosi crediti a breve termine. L'analisi della banca dell'aprile 1989 affermava che l'Iraq rimaneva un paese molto rischioso dal punto di vista creditizio.

In una riunione "interagenzie" del 24 aprile 1989, il Dipartimento di Stato contestò questa negativa valutazione, e gli analisti Exim vennero invitati a riscrivere la loro relazione in modo più favorevole all'Iraq. Ma la successiva valutazione si rivelò altrettanto dura.

"I leader iracheni, sull'onda della loro "vittoria" tecnologica sull'Iran, sono convinti che le tecnologie militari avanzate - bombardieri e missili, armi chimiche e batteriologiche, capacità nucleari - costituiscano la chiave della potenza militare," diceva la seconda analisi.

Il 15 giugno 1989, il successore di Bohn alla presidenza della banca, Ryan, andò al Dipartimento di Stato per parlare dei crediti a lungo termine all'Iraq con Robert Kimmit, allora sottosegretario di Stato per gli affari politici e oggi ambasciatore americano in Germania.

Ryan disse che se il Dipartimento di Stato insisteva col voler aiutare l'Iraq con crediti a medio termine, la

Exim li avrebbe "accontentati", secondo quanto risulta da un resoconto riservato del Dipartimento di Stato relativo all'incontro. Altrimenti, disse Ryan, "a nostro parere questo non è il momento adatto."

Ma, avvertì Kimmit, "se la Exim conclude che i rischi economici sono troppi, ci atterremo al giudizio della banca."

Sebbene i documenti indichino che altri funzionari del Dipartimento di Stato continuarono a cercare maggiori garanzie per l'Iraq, Ryan ha dichiarato in una recente intervista che, di fronte alle cupe prospettive di restituzione, si giunse alla decisione di non offrire all'Iraq ulteriore assistenza.

I miliardi in crediti a lungo termine voluti dalle amministrazioni Reagan e Bush non furono accordati. Di conseguenza, quando l'Iraq invase il Kuwait, il 2 agosto del 1990, sospendendo tutti i pagamenti ai creditori americani, la banca si ritrovò con uno scoperto di soli 50 milioni di dollari.

Dopo l'invasione irachena, il Congresso cominciò ad esaminare l'assistenza fornita al regime di Saddam Hussein durante le amministrazioni Reagan e Bush. Nel corso di una audizione dello scorso aprile, la Commissione Banche e Finanza del Congresso sollevò la questione dell'eventuale indebita influenza dell'amministrazione sulla politica della banca nei confronti dell'Iraq.

Nella sua audizione, John Macomber, successore a Ryan alla presidenza Exim alla fine del 1989, negò che l'amministrazione avesse esercitato pressioni.

"Io non sono stato, né so di alcun altro membro..., soggetto a 'pressioni', se così volete chiamarle, per piegare politiche da sempre applicate dalla banca e che, in effetti, sono previste dalla legge," rispose Macomber ad una domanda dell'On. Henry Gonzalez (rappresentante democratico del Texas), presidente della Commissione. "Non vi sono state pressioni di quel tipo."

[Traduzione di Cristina Condemi]

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Terraviva

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Prestiti americani hanno indirettamente finanziato l'esercito iracheno

* Aiuti esteri: Baker ha fatto approvare crediti agricoli che hanno permesso ad Hussein di stornare fondi per l'acquisto di armamenti

di DOUGLAS FRANTZ

e MURRAY WAAS

(Traduzione di Sara Scrinzi)

WASHINGTON - L'ultimo giorno di ottobre del 1989, nove mesi prima che Saddam invadesse il Kuwait, il Segretario di Stato James A. Baker telefonò al Segretario all'Agricoltura Clayton K. Yeutter.

Era sorto un problema. Baker aveva bisogno di parlare con qualcuno che fosse in grado di risolverlo.

Nello stesso mese il Presidente Bush aveva siglato una direttiva segreta per la sicurezza nazionale in cui si imponevano legami più stretti con l'Iraq. L'Amministrazione intendeva, inoltre, concedere al regime di Hussein \$1 miliardo in nuovi aiuti finanziari avvalendosi di un programma di garanzie a lungo termine del Dipartimento dell'Agricoltura. Ma i responsabili del programma nicchiavano: l'Iraq, asserivano, non sarebbe riuscito a restituire il debito. E vi erano sentori di un possibile

scandalo collegato ad irregolarità di vecchi prestiti a Baghdad.

Risulta da documenti riservati ottenuti da The Times che Baker aveva il compito di convincere il Dipartimento dell'Agricoltura. Esponendo a grandi linee il problema, Baker chiese a Yeutter di far cambiare la posizione assunta dal suo Dipartimento e di approvare i prestiti. Evidentemente trovò nel Segretario per l'Agricoltura, attualmente primo consigliere del Presidente per la politica interna, il giusto interlocutore.

"Mi pare che la pensiamo allo stesso modo", rispose Yeutter, come si legge dall'appunto scritto a mano da Baker su un documento della fine di ottobre. "Me ne occuperò personalmente."

I nuovi crediti, concessi in un momento in cui i rapporti dei servizi segreti americani rivelavano che Hussein stava sostenendo ingenti spese per sviluppare armi nucleari, furono utilizzati da un Iraq a corto di crediti per nutrire la sua popolazione, svincolando le riserve liquide per finanziare il massiccio riarmo la cui conseguenza ultima fu la guerra contro gli Stati Uniti. L'Amministrazione Bush, che evidentemente non aveva intravisto le intenzioni del dittatore iracheno, contribuì indirettamente all'acquisto delle armi, che furono infine usate contro le stesse truppe americane e alleate.

E non fecero eccezione i prestiti del Dipartimento dell'Agricoltura, che presero anch'essi una strada sbagliata, come avevano previsto funzionari del Dipartimento ed altri.

Documenti riservati dimostrano che Bush, prima in veste di vice Presidente, poi di Presidente, per quasi dieci anni intervenne in varie occasioni per assicurare a Saddam Hussein speciali forme di assistenza: aiuti finanziari ed accesso ad attrezzature ad alta tecnologia essenziali per il programma iracheno di riarmo nucleare e chimico.

La politica di aiuti ad Hussein venne elaborata dall'Amministrazione Reagan per spalleggiare Saddam nella sua lunga guerra contro l'Iran, rallentando così la diffusione dell'integralismo islamico in Medio Oriente.

Ma tale politica - con i ripetuti interventi personali di Bush - continuò ben oltre la fine della guerra Iran-Iraq, che si concluse l'estate dell'88. E non si limitò a consentire a Hussein di sopravvivere: lo aiutò a costruire la macchina bellica che ben presto divenne una minaccia per i paesi limitrofi e per gli interessi vitali degli Stati Uniti nella ricca regione petrolifera del Golfo Persico.

Si tratta chiaramente di una politica perseguita con cieca ostinazione, anche dopo che i fini originali erano stati superati, da un Presidente ed alti funzionari che sopravvalutavano le proprie capacità di influenzare un capo di stato straniero. Sino alla vigilia dell'invasione

irachena del Kuwait alti funzionari dell'Amministrazione sembravano convinti che i continui aiuti americani avrebbero ricondotto Hussein a più miti consigli.

All'inizio di ottobre del 1989 questa politica ricevette un nuovo potente impulso con la direttiva 26 di Decisione per la Sicurezza Nazionale (NSD 26) top secret che dava disposizione alle agenzie governative di ampliare il ventaglio di legami politici ed economici con l'Iraq. Nelle settimane e mesi seguenti l'Iraq beneficiò di ulteriori aiuti finanziari, nonché del rinnovato accesso alla cosiddetta "tecnologia a doppio uso", attrezzature sofisticate con applicazioni sia civili che militari.

In risposta alle rivelazioni di The Times sul ruolo di Bush nell'approvazione di forme di assistenza all'Iraq un portavoce della Casa Bianca dichiarò che, durante le Amministrazioni Reagan e Bush, "la politica statunitense verso l'Iraq si basava sui nostri interessi nazionali".

"Tutte le azioni intraprese dall'allora vice Presidente erano a sostegno della politica dell'Amministrazione", disse il vice Segretario Stampa Roman Papadiuk. Sottolineò inoltre che la posizione americana nei confronti dell'Iraq "mutò radicalmente dopo l'invasione del Kuwait." E aggiunse: "Ci trovammo in prima linea ad arginare quell'aggressione e a ripristinare la libertà nel Kuwait."

Nel caso delle garanzie creditizie per beni alimentari del Dipartimento dell'Agricoltura, Saddam usò i prodotti sovvenzionati dagli Stati Uniti per soddisfare i bisogni alimentari della popolazione, usando le riserve liquide per comprare armamenti.

L'aiuto americano giunse in un momento critico per Hussein: le banche internazionali, allarmate per il crescente debito iracheno, i tempi di restituzione in rallentamento e la corsa ossessiva al riarmo gli avevano alienato i crediti ovunque.

Al di là della questione della comprensione delle reali intenzioni di Hussein, documenti riservati rivelano che Baker e Yeutter erano stati avvertiti riguardo ad irregolarità nel programma di aiuti del Dipartimento dell'Agricoltura e alla possibilità che funzionari del governo iracheno risultassero coinvolti in un grosso scandalo finanziario collegato al programma.

Dopo l'invasione del Kuwait dell'agosto 1990, l'Iraq interruppe la restituzione dei prestiti garantiti dal programma, lasciando al contribuente americano un conto di \$2 miliardi. E l'anno scorso quattro funzionari iracheni e la principale banca commerciale governativa furono messi sotto accusa ad Atlanta per uno scandalo da \$4 miliardi connesso al programma di aiuti americano.

Istituita per aiutare gli agricoltori statunitensi ad incrementare le esportazioni, la Commodity Credit Corp. del

Dipartimento dell'Agricoltura assicurava la restituzione, garantita dal governo, dei crediti bancari a governi stranieri per l'acquisto di riso, grano ed altri prodotti americani. E' previsto che sia il Dipartimento dell'Agricoltura a decidere delle garanzie al credito sulla base delle necessità del paese beneficiario, il suo potenziale di mercato e la capacità di onorare il debito.

Diversi documenti riservati rivelano, tuttavia, che considerazioni di politica estera ebbero un ruolo determinante nella concessione di crediti all'Iraq - e le prove di irregolarità furono quasi totalmente ignorate. Alla fin fine, negli anni '80, gli aiuti alimentari statunitensi all'Iraq superarono quelli elargiti a qualsiasi altro paese, ad eccezione del Messico.

Il Dipartimento dell'Agricoltura cominciò nel 1983 con \$402 milioni. Da documenti riservati si evince che l'Amministrazione Reagan paventava che Hussein potesse perdere la guerra Iran-Iraq o essere rovesciato a causa delle scarsità alimentari.

Il totale delle garanzie al credito aumentava, regolarmente, ogni anno.

Nell'ottobre 1989, quando Bush firmò la NSD 26 e la sua Amministrazione stava cercando di ottenere dal dipartimento di Yeutter il miliardo di dollari in garanzie al credito - la somma più consistente richiesta in un'unica soluzione per

l'Iraq - solo gli Stati Uniti e la Gran Bretagna gli offrivano ancora credito.

A quel punto, però, alla base delle obiezioni sollevate in seno al Governo americano non stavano più solo le dissestate finanze irachene.

Il 4 agosto 1989 agenti dell'FBI e della Finanza (Customs Service) fecero irruzione nella filiale di Atlanta della Banca Nazionale del Lavoro, la maggiore banca italiana. Scoprirono le prove di prestiti all'Iraq non autorizzati per \$4 miliardi - compresi \$900 milioni garantiti dal programma del Dipartimento dell'Agricoltura.

Documenti riservati riferiscono che varie agenzie avvertirono di gravi irregolarità nell'attuazione del programma: che l'Iraq era impossibilitata e non disposta a restituire il debito, che il Governo iracheno esigeva tangenti da ditte americane, che il denaro delle tangenti veniva usato per acquistare armi e che, probabilmente, funzionari iracheni erano implicati nello scandalo della Banca Nazionale del Lavoro (quattro alti funzionari governativi iracheni e le due banche statali furono successivamente messi sotto accusa).

Durante l'incontro del 12 settembre 1988 di un gruppo di coordinamento interministeriale denominato National Advisory Council il rappresentante del Federal Reserve Robert Emery segnalò che l'Iraq ripagava i creditori solo quando questi aprivano maggiori linee di credito. Chiamava

le continue richieste di prestiti per l'Iraq del Dipartimento dell'Agricoltura un "Ponzi-type ^{Scheme} ~~program~~".

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Un anno dopo funzionari del Dipartimento dell'Agricoltura scrissero in un rapporto confidenziale che funzionari iracheni avevano ammesso di aver chiesto tangenti e che i fondi del Dipartimento dell'Agricoltura erano stati stornati per scopi militari. Il rapporto fu inviato al Dipartimento di Stato, che cercò poi di scoprire se tali operazioni fossero state avallate dal governo iracheno.

Scoppiato il caso BNL, il Dipartimento dell'Agricoltura reagì cercando di portare il miliardo di dollari inizialmente chiesto dall'Amministrazione Bush a 400 milioni. Per alcuni funzionari anche 400 milioni erano troppi. Durante l'incontro del National Advisory Council del 3 ottobre 1989 - risulta agli atti - funzionari del Tesoro e del Federal Reserve votarono per il blocco totale degli aiuti.

Queste due agenzie non l'ebbero vinta e i 400 milioni furono approvati, poichè, a quanto riporta una nota confidenziale del Tesoro, il Dipartimento di Stato fu particolarmente convincente nell'asserire che il programma doveva andare avanti."

Tre giorni dopo il Ministro degli Esteri iracheno Tarek Aziz si incontrò con Baker al Dipartimento di Stato e ~~es~~ ⁺ manifestò la preoccupazione che l'Iraq potesse ricevere meno del miliardo accordato. In un resoconto del Dipartimento di

Stato si legge che Aziz avvertì Baker che le relazioni tra i due paesi si sarebbero "inasprite" senza l'erogazione dell'intero miliardo. Baker promise che se ne sarebbe occupato immediatamente.

Baker era stato personalmente avvertito delle presunte irregolarità del programma in una nota riservata di ottobre che, in particolare, riportava: "Lo scandalo BNL che sta venendo alla luce è direttamente connesso al programma CCC iracheno e non può essere considerato disgiunto da esso. Dei \$4 miliardi in prestiti non autorizzati uno era garantito dalla CCC. Tuttavia al Tesoro e al Fed fu difficile credere che i funzionari della Banca Centrale irachena non fossero al corrente delle tangenti... e di altre palesi irregolarità."

Ma al Segretario di Stato giungevano anche consigli opposti.

Robert Kimmitt, Sottosegretario di Stato agli affari politici, inviò a Baker una nota in cui raccomandava che sostenesse l'intero programma e telefonasse a Yeutter per insistere affinché venisse concesso l'intero miliardo.

Una copia di un documento programmatico riservato dimostra che Baker aveva fatto propria la raccomandazione. Era allegata una traccia con i punti salienti per la conversazione telefonica che avrebbe avuto con Yeutter: Baker avrebbe dovuto descrivere il programma del

Dipartimento dell'Agricoltura come "di importanza capitale per le nostre relazioni bilaterali con l'Iraq" e avrebbe dovuto dire che era a favore della concessione del miliardo di dollari "per motivi di politica estera".

Il documento conteneva una nota di avvertimento per cui Baker avrebbe dovuto assicurare a Yeutter: "Ovviamente non daremo seguito al programma se emergeranno prove consistenti di gravi violazioni della legge americana da parte di alti funzionari iracheni."

Dopo aver parlato con Yeutter Baker fece archiviare una copia del documento, sulla quale aveva annotato quanto Yeutter aveva risposto "Mi pare che la pensiamo allo stesso modo. Me ne occuperò personalmente."

Passati pochi giorni, il Dipartimento dell'Agricoltura aveva già acconsentito a riportare la somma a un miliardo di dollari, ma il Tesoro e il Federal Reserve si rifiutarono di procedere. Due fonti diverse riferiscono che Edward W. Kelley Jr., uno dei governatori del Federal Reserve Board, si oppose più volte all'aumento dei crediti all'Iraq. Kelley non ha voluto rilasciare commenti.

Un documento del Dipartimento di Stato riportava che il Tesoro e il Fed erano allarmati perché l'Iraq non aveva restituito il debito contratto con altri finanziatori stranieri e perché "le voci di scorrettezze irachene nel caso BNL, benché non ancora confermate da prove, potevano causare imbarazzo all'Amministrazione."

Ma il Dipartimento di Stato continuò per la sua strada. Il documento, infatti, rivela che il Sottosegretario Lawrence S. Eagleburger esercitava pressioni sul Tesoro e l'Office of Management and Budget (Ufficio Gestione e Bilancio), che pure era contrario al programma da \$1 miliardo.

Eagleburger chiamò il suo omologo al Tesoro, John Robson, e chiese l'appoggio del Tesoro per il miliardo di dollari, riportando documenti riservati. Robson - cosa inconsueta - chiese a Eagleburger di mettere la richiesta per iscritto. Il giorno stesso Eagleburger inviò a Robson una lettera in cui diceva che il Dipartimento di Stato appoggiava la prosecuzione del programma di crediti del Dipartimento dell'Agricoltura "per motivi di politica estera".

L'8 novembre 1989 il miliardo di dollari per l'Iraq fu approvato dal National Advisory Council. Come concessione agli oppositori si decise che i fondi sarebbero stati erogati in due tranche. La prima metà sarebbe stata messa a disposizione subito, la seconda solo se non fossero sorti problemi a seguito delle indagini sulla Banca Nazionale del Lavoro.

In un documento riservato del 9 novembre Kimmitt, ora ambasciatore in Germania, scrisse esultante a Baker: "La Sua telefonata a Yeutter e i nostri successivi interventi presso

l'OMB e il Tesoro hanno dato i frutti sperati". Kimmitt invitava poi Baker a "comunicare la buona novella ad Aziz".

Due giorni dopo il Dipartimento di Stato inviò un telegramma ad April Glaspie, ambasciatrice americana in Iraq, in cui la si incaricava di riferire ad Aziz un messaggio privato di Baker dicendo che "questa decisione dell'Amministrazione riflette l'importanza che attribuiamo alle nostre relazioni con l'Iraq".

Per l'inizio del 1990 l'Iraq aveva già dato fondo ai primi 500 milioni in crediti e chiedeva la seconda tornata di \$573 milioni. Dalle indagini sulla banca italiana erano già emerse nuove prove di un più profondo coinvolgimento di funzionari iracheni e gli esperti del governo erano più scettici rispetto alla capacità dell'Irak di restituire il crescente debito estero, viste le continue spese militari ed altri problemi.

In maggio il Dipartimento dell'Agricoltura decise di sospendere il programma di garanzie al credito senza erogare la seconda tranche. La decisione non fu resa pubblica, ma alcuni personaggi chiave del Congresso ammisero di essere stati avvertiti.

Il Dipartimento dell'Agricoltura prese la decisione dopo che, per usare le parole di un funzionario attualmente in servizio presso il Dipartimento, "si erano manifestati tutti i più gravi timori [riguardo al programma]: frodi e

gestione scorretta, tangenti, deviazione di fondi per scopi militari".

Ma documenti rivelano che il National Security Council e il Dipartimento di Stato ancora premevano per la seconda metà del miliardo inizialmente concesso.

Il 29 maggio 1990, il NSC tenne un incontro per decidere sul da farsi. Appare da un resoconto riservato che "l'incontro è stato promosso da funzionari del NSC, poiché intendono impedire che il programma di crediti della CCC venga annullato, considerando che ciò acuirebbe le già tese relazioni di politica estera con l'Iraq."

I funzionari del NSC premevano affinché il programma continuasse benché il Dipartimento dell'Agricoltura avesse già emesso un comunicato stampa in cui si rendeva noto che il programma di crediti era stato sospeso a causa di "irregolarità".

Era già il 9 luglio 1990 quando - secondo documenti riservati - April Glaspię, assicurò i funzionari iracheni che l'Amministrazione stava cercando di far erogare la seconda tornata da \$500 milioni.

Il 2 agosto 1990, il giorno in cui i carri e le truppe irachene entrarono nel Kuwait, l'Amministrazione Bush stava ancora discutendo se elargire a Saddam la seconda parte delle garanzie al credito.

Ma la storia non finiva qui:

Nelle settimane successive all'invasione in alcune interpellanze del Congresso si chiesero chiarimenti per capire se, nei mesi precedenti l'invasione, l'Amministrazione Bush avesse mostrato sufficiente determinazione dimostrando ad Hussein che si opponeva con fermezza alla sua condotta bellicosa.

Il 23 settembre 1990 Baker difese l'Amministrazione in televisione, affermando che a Saddam Hussein erano stati ripetutamente inviati segnali di opposizione alle sue minacce.

"Il segnale numero uno fu l'imposizione di controlli sulle esportazioni all'Iraq", disse Baker. "Il segnale numero due fu annullare o sospendere il programma della Commodity Credit Corp."

Altri articoli del Los Angeles Times.

Documento n. 403/bis

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403/his

February 25, 1992, Tuesday, Home Edition

SECTION: Part A; Page 10; Column 4; National Desk

LENGTH: 852 words

HEADLINE: PANEL TO PROBE REPORTS ON AID TO IRAQ;
ARMS BUILDUP; REP. GONZALEZ'S AIDE SAYS THE HEARINGS WILL INCLUDE QUESTIONS
RAISED IN THE TIMES' ARTICLES ABOUT ASSISTANCE IN THE 1980S.

BYLINE: By PAUL HOUSTON, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

The House Banking, Finance and Urban Affairs Committee plans extensive hearings into disclosures that President Bush and other high U.S. officials secretly helped Saddam Hussein build Iraq's war machine almost until the start of the Persian Gulf War.

Los Angeles Times, February 25, 1992

An aide to committee Chairman Henry B. Gonzalez (D-Tex.) said Monday that the hearings will address questions raised in a series of Los Angeles Times articles as well as other issues surrounding "the Iraqi procurement network."

In a House speech, Gonzalez said that he also will ask a congressional agency to investigate whether the Export-Import Bank improperly approved aid for Iraq in 1984 and 1987 after being lobbied by then-Vice President Bush and others.

Gonzalez said that Congress' General Accounting Office will examine "ample evidence" that directors of the bank approved \$684 million in loan guarantees for Iraq, despite repeated warnings that there was no "reasonable assurance of repayment," as required by the agency's charter.

"The policy toward Iraq is by far the most tragic foreign policy episode of the Bush and (Ronald) Reagan administrations," the congressman declared.

Two other Banking Committee members, Reps. Maxine Waters (D-Los Angeles) and Jim Slattery (D-Kan.), sharply criticized the actions of Bush and other officials. Their remarks suggested that Democrats may try to use the disclosures in election campaigns this year if they are assailed for voting against Bush's request to wage war against Iraq.

Los Angeles Times, February 25, 1992

"We now learn that the same President who sent our sons and daughters to fight a war also empowered the monster we were fighting by sending them a billion dollars in foreign aid," Waters said. "American taxpayers subsidized the development of his (Hussein's) ballistic missiles and then had to pay for the war too."

Slattery said that The Times articles outline "a very troubling record of what I'd have to call appeasement" of Hussein.

"Who was really advising this policy of appeasement?" Slattery asked. "Was it the President, the vice president, aides in the White House, or all of the above. . . ? The President and the team around him like to view themselves as experts in foreign policy. These stories raise questions about just how much they did know."

Gonzalez already has conducted three hearings on \$4 billion in unauthorized loans made by the Atlanta branch of Banca Nazionale del Lavoro, an Italian bank that was heavily involved in Export-Import Bank loan guarantees for Iraq. Investigators have determined that funds from the unauthorized loans were used to buy military technology and goods.

Los Angeles Times, February 25, 1992

In his speech, Gonzalez deplored "how the Export-Import Bank was coaxed into granting credit for Iraq, even though the financial experts at the bank repeatedly warned" that Iraq did not seem capable of repayment.

"In fact," the congressman said, "Iraq later defaulted on its Ex-Im bank commitments."

He noted that "it took interventions and constant pressure, often from high-level State Department policy-makers and even (then-Vice President) Bush, to permit Iraq to utilize Ex-Im bank credits."

Gonzalez recounted how Bush, in June, 1984, telephoned the president of the bank shortly before the agency's directors overrode staff objections and approved \$484 million in loan guarantees to help Iraq build an oil pipeline. A confidential State Department memo to Bush suggested that he argue that the credits would play "a crucial role" in U.S. foreign policy in the region.

Eventually, the pipeline project was abandoned by Iraq, so the guarantees were never used.

In February, 1987, Bush again called the head of the bank; another State Department memo suggested that he urge "favorable consideration" to Iraq's

Los Angeles Times, February 25, 1992

request for renewal of \$200 million in short-term credits.

Three months later, against the advice of the Ex-Im staff, the agency's board of directors approved the credit program.

SUBJECT: INVESTIGATIONS; UNITED STATES -- FOREIGN AID -- IRAQ; BUSH, GEORGE; HUSSEIN, SADDAM; LOANS; WEAPONS -- IRAQ; BAKER, JAMES A III; YEUTTER, CLAYTON W; DEPARTMENT OF AGRICULTURE (U.S.); TECHNOLOGY TRANSFER; HOUSE BANKING FINANCE AND URBAN AFFAIRS COMMITTEE (U.S.); UNITED STATES -- FOREIGN POLICY -- IRAQ

LEVEL 1 - 69 OF 83 STORIES

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February 26, 1992, Wednesday, Home Edition

SECTION: Part A; Page 1; Column 3; National Desk

LENGTH: 782 words

HEADLINE: BUSH PROUD OF ROLE IN SECRET IRAQ AID POLICY

BYLINE: By NORMAN KEMPSTER and MURRAY WAAS, SPECIAL TO THE TIMES

DATELINE: WASHINGTON

BODY:

President Bush said Tuesday that he is proud of his role in a secret Ronald Reagan Administration policy that gave financial support to Iraq in an effort to counterbalance Islamic radicals in Iran.

"As you may remember in history, there was a lot of support at the time for Iraq as a balance to a much more aggressive Iran under (Ayatollah Ruhollah)

Los Angeles Times, February 26, 1992

Khomeini," Bush said in response to articles in The Times over the last few days that detailed the policy.

"So that was part of the policy of the Reagan Administration," Bush said aboard Air Force One during a campaign trip to California. "I was very proud to support that."

But Bush did not address revelations that the policy persisted during his own Administration, long after the end of the Iran-Iraq War.

The Times reported Sunday that on Oct. 31, 1989, only nine months before the Iraqi invasion of Kuwait, Bush signed a top-secret national security directive ordering closer ties with Baghdad and opening the way for \$1 billion in loan guarantees to finance the purchase of U.S. agricultural products by Iraq.

Secretary of State James A. Baker III confirmed an account in The Times on Tuesday that he lobbied then-Secretary of Agriculture Clayton K. Yeutter to approve the loan guarantees in October, 1989. He also revealed that he was doing so at Bush's direction.

Documents obtained by the newspaper showed that Baker acted even though officials of the Agriculture Department and three other agencies expressed

Los Angeles Times, February 26, 1992

doubts that the loans could be repaid and despite concern that the Iraqi government had demanded kickbacks from U.S. firms involved in the program.

Baker said Bush wanted to see the loans go through: "I suppose it would not come as a surprise to you that the secretary of state would be supportive of the position reflected by the President in his national security decision directive."

Baker was warned in a classified memo before he pressed Yeutter to approve the loan that it was "hard to believe that Iraqi Central Bank officials and others were not aware of kickbacks . . . and other gross irregularities."

Baker was not asked whether he ever informed the President of such concerns.

Meanwhile, Sen. Patrick J. Leahy (D-Vt.), chairman of the Agriculture Committee and the Appropriations subcommittee on foreign aid, called for the General Accounting Office to investigate the circumstances of the 1987 approval of the \$1-billion loan guarantee.

Leahy complained that Yeutter, in a letter to him dated Feb. 20, 1990, had denied that foreign policy considerations played a role in his department's decision to approve the loan. The lawmaker said he now believes that Yeutter's

Los Angeles Times, February 26, 1992

response was untruthful.

"The story in today's Los Angeles Times indicates to me that the rumors I was hearing were correct, the response given by then-Secretary Yeutter was wrong and that, indeed, he was pressured by you or by the Administration on foreign policy," Leahy told Baker during a hearing of his subcommittee.

"So my question is this: Was Secretary Yeutter correct, was he telling me the truth, when he said to me that foreign policy considerations played no role in the extension of credit guarantees to Iraq?" Leahy said.

"Senator, I don't have any basis to question what Secretary Yeutter wrote to you," Baker replied. "On the other hand, I will not deny that at the time in question . . . there was a national security decision directive calling for us to seek to improve, if possible, the relationship of the United States and Iraq."

Leahy said he was concerned because "we use an awful lot of these commodity credit guarantees and others as a sort of a backdoor way of foreign aid."

"Was the Department of Agriculture being pressured for foreign policy considerations to go forward with (the loan), even though they knew that for

Los Angeles Times, February 26, 1991

credit-worthiness they shouldn't?" Leahy demanded. "The answer from the secretary of agriculture was that they weren't being pressured. It would appear, indeed, they were being pressured."

Yeutter had written to Leahy: "You mentioned that there were 'rumors' that foreign policy pressures have encouraged the department to give Iraq special treatment in this case. To the contrary, the extension of (agricultural loan) quarantees in connection with sales to Iraq have recently been subject to special scrutiny Our current line of (loan) quarantees for Iraq is only half of Iraq's original request and about half the size of such lines of quarantees which have been made available to Iraq for the past two years."

Kempster is a Times staff writer and Waas is a special correspondent. Times staff writer Douglas Jehl contributed to this story from California.

SUBJECT: UNITED STATES -- FOREIGN POLICY -- IRAQ; UNITED STATES -- FOREIGN AID -- IRAQ; BAKER, JAMES A III; YEUTTER, CLAYTON K; BUSH, GEORGE; REAGAN, RONALD; LOANS; DEPARTMENT OF AGRICULTURE (U.S.)

403/bis

February 16, 1992, Wednesday, Home Edition

SECTION: Metro; Part B; Page 6; Column 1; Editorial Writers Desk

LENGTH: 521 words

HEADLINE: THE COST OF GOOD INTENTIONS;
U.S. GAVE GENEROUSLY TO SADDAM, THEN REAPED 'BENEFIT': WAR

BODY:

Throughout most of the 1980s the U.S. government was Iraq's secret and generous patron, providing access to an abundance of aid and indirectly contributing to Saddam Hussein's massive and threatening military buildup. As documents obtained by The Times make clear, George Bush, first as vice president in Ronald Reagan's Administration and later as President, was a major participant in this process.

The national interest rationale underlying these pro-Iraq activities was the perceived need to forestall a victory by Iran in the eight-year-long

Los Angeles Times, February 16, 1992

Persian Gulf war. Many in the Reagan Administration were concerned that if Iran triumphed, it would become the dominant power in the Gulf for decades to come. In such a position it could put great pressures on the oil-producing states of the Arabian Peninsula to do its bidding, even as it moved to expand its anti-Western radical Islamic doctrine throughout the region. This was a proper strategic concern.

In responding to it by tilting toward Iraq with an excess of enthusiasm, however, the Reagan Administration needlessly disregarded future political consequences. Documents obtained by The Times, and described in a three-part series by reporters Douglas Frantz and Murray Waas, indicate that Bush was often the eager point man in overriding certain objections within the Reagan Administration to the policy of all-out support for Iraq.

It seems by no means inconceivable, especially in light of what has since become known of Saddam Hussein's meeting with U.S. Ambassador April Glaspie just a week before his invasion of Kuwait, that the Iraqi dictator may have interpreted these signs of American friendliness as an indication that Washington would do little to actively respond to the aggression he was planning.

Los Angeles Times, February 26, 1992

The helpful hand extended to Iraq has been costly. Despite clear warnings about Iraq's credit-worthiness and evidence of improprieties in Baghdad's handling of commodity credits, the Reagan Administration pushed ahead with loan guarantees for purchases of American farm products. When Iraq halted payments on its commodities debt in August, 1990, U.S. taxpayers were stuck with a \$2-billion bill.

The commodity loans allowed Hussein to use his cash reserves on a huge arms acquisition program, including the pursuit of a nuclear weapons capability. The United States, by giving Iraq access to some dual-use high technology, also unintentionally aided the development of its nuclear and chemical weapons programs.

In the end, of course, this largess did nothing to restrain Hussein's aggressiveness toward his neighbors, or temper his regime's domestic brutalities.

In the aftermath of The Times' series, the House Banking, Finance and Urban Affairs Committee is preparing to hold hearings into U.S. policy toward Iraq in the 1980s. The issue demands a thorough airing. At the same time care must be taken not to compromise the seriousness of this inquiry with a lot of partisan baggage. The chief purpose of the hearings should be to identify where policy

Los Angeles Times, February 26, 1992

mistakes were made, and why. The chief goal should be to prevent them from recurring.

GRAPHIC: Photo, Bush: Dancing with a wolf.

TYPE: Editorial

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LEVEL 1 - 65 OF 83 STORIES

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Los Angeles Times

February 27, 1992, Thursday, Home Edition

SECTION: Metro; Part B; Page 7; Column 1; Op-Ed Desk

LENGTH: 777 words

HEADLINE: COLUMN LEFT:
EVEN BUSH'S 'TRIUMPHS' ARE EMPTY;
RECENT REVELATIONS ABOUT U.S. SUPPORT FOR IRAQ MAKE THE GULF WAR SEEM LIKE A
SALVAGE MISSION.

BYLINE: By WAYNE SANDHOLTZ. Wayne Sandholtz is an assistant professor of
political science at Scripps College in Claremont.

BODY:

Once again, George Bush stands exposed as the emperor with no clothes. A report by The Times on Sunday revealed that up until the eve of Saddam Hussein's invasion of Kuwait, the U.S. government, at White House insistence, was feeding the beast with billions of dollars in financial support and access to

Los Angeles Times, February 27, 1992

militarily useful American technologies. The man whom Bush denounced as a Hitler, it turns out, had been actively promoted as our potential strategic friend for almost 10 years by both the Bush and Reagan administrations. The story revealed once and for all that the cloak of foreign-policy dexterity in which Bush swathed himself is a sham; the illusion he spun to hide his domestic non-policies has vanished.

When his reelection campaign began in earnest, Bush sought to deflect attention from his failures on the home front by recalling the Desert Storm triumphs of a year ago. In the State of the Union Address, Bush outlined a response to the nation's prolonged recession that even loyal Republicans have conceded is incoherent. He tried to transfer the shine of Persian Gulf victory to his Potemkin village of domestic policies by borrowing from his own wartime speeches, declaring that the recession "shall not stand."

Such rhetorical diversions will be impossible from now on. Who can take seriously Bush's invocations of Gulf War glory knowing that he had a hand in creating "the butcher of Baghdad"? As interviews and documents obtained by The Times showed, Bush aggressively continued a Reagan Administration program of encouraging Arab allies to transfer U.S. arms to Iraq, and the Bush White House repeatedly overrode the reservations and objections voiced by other agencies concerning the intentions of Saddam Hussein. Indeed, Bush signed a

secret national security directive in October, 1989, instructing federal departments to promote relations with Iraq. Typical was a \$1-billion agricultural loan guarantee rammed through despite warnings that Baghdad was likely to default and that the food credits were allowing Iraq to spend its scarce hard-currency reserves on weapons. In July, 1990, mere weeks before Iraqi forces entered Kuwait, Ambassador April Glaspie conveyed the message that the Bush Administration was working to send the second installment of the \$1-billion loan guarantee. Earlier that year, the White House turned down proposals from the Commerce Department to restrict Iraqi access to U.S. technologies with military applications.

All of this occurred after Hussein had massacred Kurdish villagers in a chemical weapons attack, after he had boasted that he would "burn half of Israel," and after Iraqi officials had been caught attempting to purchase American-made nuclear weapons triggers. Even in the face of evidence that the government in Baghdad was supporting terrorism, Bush's support for Iraq rolled on. In retrospect, his sudden turnabout looks more like an emergency effort to contain the Frankenstein he helped to create. Even though the effort failed, he now has the audacity to claim it as his greatest foreign-policy triumph.

The revelations should compel a sober assessment of Bush's foreign policies. The autocratic Emir of Kuwait and Saddam Hussein are both back in power. The

Los Angeles Times, February 27, 1991

U.S.-encouraged revolt of the Kurds proved a shameful fiasco. The Kurds are protected from Hussein's wrath only by the continued presence of Western troops. Bush's other "victorious" war was Panama, where more civilians were killed than Noriega soldiers by a ratio of at least 3 to 1. At this point, it demands to be asked what, if anything, the United States gained from the use of force in Panama and Kuwait.

Bush's policies for other parts of the world have been equally unfruitful. His posture toward China seems predicated more on a personal desire to maintain his international network of good ol' boys than on any clearly defined strategic objectives. How else to explain his effort to ensure cordial relations with China in the future by cozying up to repressive plutocrats who will be dead in 10 years? Bush's disastrous trip to Japan revealed an alarming failure to understand the stakes in U.S. relations with Asia's emerging superpower. As for the epochal transformations in Europe and the former Soviet Union, Bush was nothing more than an irrelevant bystander.

When we push aside the flag-waving and self-promotion, it is impossible to identify any solid gains for the United States from George Bush's diplomacy. Even his greatest "triumphs" are, in retrospect, ambiguous if not wholly empty. If foreign policy was to be his strong suit in winning reelection, he is playing an astonishingly weak hand.

LEVEL 1 - 5 OF 10 STORIES

403/bis

Copyright 1992 The Times Mirror Company
Los Angeles Times

March 6, 1992, Friday, Home Edition

SECTION: Part A: Page 1: Column 2: Foreign Desk

LENGTH: 1328 words

HEADLINE: DESPITE BAN, U.S. ARMS ARE SOLD TO PAKISTAN

BYLINE: By MURRAY WAAS and DOUGLAS FRANTZ, SPECIAL TO THE TIMES

DATELINE: WASHINGTON

BODY:

Despite a ban on military sales to Pakistan by the U.S. government, the Bush Administration has quietly permitted the Pakistani armed forces to buy American-made arms from commercial firms for the last year and a half, according to classified documents and Administration officials.

Los Angeles Times, March 6, 1992

Among the military items licensed for sale to Pakistan are spare parts for American-made F-16 fighter planes, which form the nucleus of Islamabad's air force, Administration officials confirmed. The volume of sales could not be determined. But officials said the equipment is intended to help Pakistan maintain its current arsenal.

The Administration permitted the sales despite a 1985 federal law, which says that "no military equipment or technology shall be sold or transferred to Pakistan" unless the President certifies to Congress that "Pakistan does not possess a nuclear explosive device."

The ban is part of an effort by Congress to curb the spread of nuclear weapons and to punish nations that actively support such development programs. Pakistan, which has admitted possessing the capability to build a nuclear bomb, is one of a handful of countries that has refused to sign the international Nuclear Non-Proliferation Treaty.

In Senate testimony in January, CIA Director Robert M. Gates described Pakistan's nuclear weapons program and its arms race with India as serious threats to peace and security in the region. Gates acknowledged that intelligence reports have indicated Pakistan is trying to equip its American-supplied F-16 fighters to deliver nuclear weapons.

Los Angeles Times, March 6, 1992

In October, 1990, the Administration was unable to certify Pakistan's compliance with the law, and the arms ban passed by Congress took effect, freezing \$570 million in U.S. military aid. Although the Administration cut off direct country-to-country arms sales at the time, it decided to allow continued private, commercial arms sales to Pakistan, according to documents and interviews.

The sales illustrate how the Administration has used private-sector transactions, looser regulations governing "dual-use" equipment and other methods to get sensitive technology to nations supposedly on embargo lists. Before the Persian Gulf War fractured U.S.-Iraqi relations, Iraq obtained an assortment of valuable U.S. defense equipment through private transactions and export loopholes.

Key members of Congress said they did not learn of the commercial sales to Pakistan until last month. Some said that they believe the sales violate the law.

The first public acknowledgment of the policy came Feb. 5 when Secretary of State James A. Baker III described it to the Foreign Relations Committee in response to a question from Sen. Larry Pressler (R-S.D.). Pressler sponsored the restrictive amendment in 1985 and said that he had heard rumors of commercial

Los Angeles Times, March 6, 1992

arms sales to Pakistan.

"We have carefully reviewed the amendment, we've reviewed the legislative history and as a legal matter, we do not believe it applies to commercial sales or exports controlled by the Department of Commerce," Baker testified. "And so we look at munitions and spare parts that are necessary to maintain the Pakistani military at current levels on a case-by-case basis. Commercial sales are limited, and in our view none are being approved that would contravene either the letter or spirit of the law."

Taking issue with Baker, Pressler said: "Now the amendment . . . did include the language 'no military equipment or technology shall be sold or transferred to Pakistan. . . . That's fairly hard to argue with.'"

Baker responded that State Department lawyers concluded that the law does not restrict commercial arms sales to Pakistan.

Several members of Congress who were involved in the fight for passage of the Pressler amendment in August, 1985, as well as others who sit on committees that oversee U.S. foreign policy in South Asia, said they believe that the Administration policy may violate the law. They also said that the sales were kept secret from them until recently.

Los Angeles Times, March 6, 1992

Sen. John Glenn (D-Ohio), chairman of the Senate Government Affairs Committee, said in an interview that he considers the Administration's actions to be potential violations. He also said he was unaware that the sales had been allowed since October, 1990, until told of them by a reporter.

"Their efforts to bypass and thwart the law of the land are now very clear," said Glenn. "They knew what the intent of the law was. The legislative history is very clear. And it should be their intent or purpose to abide by what we all knew was the intent of the law. It (the 1985 amendment) was signed by the President into law. And then his Administration took steps to not comply with it."

Peter Galbraith, a senior staff member of the Senate Foreign Relations Committee, said the Administration's policy "is a direct violation of both the spirit and letter of the law. . . .The law is very clear. It prohibits all arms transactions of any type to Pakistan unless the President certifies Pakistan does not possess a nuclear weapon."

An Administration official said the decision to allow commercial military sales to Pakistan was first made Oct. 1, 1990, when the President refused to certify that Pakistan was not trying to develop an atomic weapon. Several members of Congress said that, when Baker revealed the policy last month, they

Los Angeles Times, March 6, 1992

thought it had been implemented only recently and did not suspect that the commercial sales had been permitted for nearly 18 months.

An Administration official said Pakistan is allowed to buy spare parts and other items on a munitions list to maintain its military. A classified document describing the policy sets out similar guidelines. The official, who asked that his name be withheld, said that a ban on all sales would have severely damaged U.S.-Pakistan relations.

Leonard Spector, senior associate of the Carnegie Endowment for International Peace, said that an outright ban would have put severe pressure on the Pakistanis, posing the prospect of their "losing their ability to fly their F-16s from want of spare parts. Clearly the Bush Administration did not see the need to continue that type of pressure."

According to the Administration official, selected members of congressional staffs were told about the private sales on an informal basis, if they inquired. The official declined to name the staffers who were told of the policy, saying he wanted to protect their privacy.

On Feb. 7, two days after Baker's Senate testimony, Pakistani Foreign Secretary Shanryar Khan acknowledged publicly for the first time that his

Los Angeles Times, March 6, 1992

country had the capacity to build an atomic bomb. Khan told a gathering at the United Nations: "There was a capability in 1989 when the present government came to power and that means we could have moved forward in an unwise position. But we didn't. Instead we froze the program."

Despite its ability to do so, Khan asserted that Pakistan would not take the final steps to build or deploy nuclear weapons. He said that the freeze is part of an effort to obtain new American aid and also to lead Congress to do away with the Pressler amendment restrictions.

During the same trip, Khan also stressed that his government would not "reverse" its nuclear capability unless the United States obtains commitments from India to do the same. The two nations have fought three wars since they gained independence in 1947 and occasionally exchange artillery fire.

Although it was widely known for years that Pakistan was engaging in a massive, covert effort to build atomic weapons, the Reagan and Bush administrations were reluctant to take strict measures against Pakistan because of its assistance to U.S. efforts to arm the Afghan rebels, who were fighting Soviet troops in Afghanistan.

Los Angeles Times, March 6, 1992

Justification for the leniency began to dissolve after Soviet troops withdrew from Afghanistan in 1989.

Waas is a special correspondent and Frantz is a Times staff writer.

SUBJECT: UNITED STATES -- ARMS SALES -- PAKISTAN; ARMS CONTROL; UNITED STATES -- LAWS; NUCLEAR WEAPONS -- PAKISTAN; EMBARGOES -- PAKISTAN

403/bis

Copyright 1992 The Times Mirror Company
Los Angeles Times

March 8, 1992, Sunday, Home Edition

SECTION: Part A; Page 1; Column 2; National Desk

LENGTH: 1504 words

HEADLINE: ATTEMPTED COVER-UP OF AID TO IRAQ TO BE PROBED;
CONGRESS: PANELS TO INVESTIGATE ADMINISTRATION'S EFFORTS TO RESTRICT ACCESS TO
DATA ON ASSISTANCE TO HUSSEIN.

BYLINE: By DOUGLAS FRANTZ and MURRAY WAAS, SPECIAL TO THE TIMES; Frantz is
Times staff writer and Waas is a special correspondent.

DATELINE: WASHINGTON

BODY:

When Congress tried to investigate billions of dollars in U.S. aid and
technology sales to Iraq, the Bush Administration sought to restrict access to
key records and minimize information given to committees, according to

Los Angeles Times, March 8, 1992

confidential documents and interviews.

The actions reflected longstanding efforts by the Administration to keep
Congress from learning the extent of U.S. assistance to the regime of Saddam
Hussein in the years and months leading up to Iraq's invasion of Kuwait.

In many cases, classified documents show that President Bush played a
personal role in providing that aid, both as vice president in the Ronald Reagan
Administration and later as President.

Now that details of the assistance have become known, the shape of the
congressional response also is beginning to emerge. Among the inquiries:

* The Senate Agriculture Committee plans to look into whether its members
were misled by Administration officials on the Iraqi aid, according to committee
aides.

* Rep. Henry B. Gonzalez (D-Tex.), chairman of the House Banking Committee,
has asked the General Accounting Office, an investigating arm of Congress, to
investigate whether the Export-Import Bank violated its charter by approving
loan guarantees for Iraq in 1984 and 1987 after intervention by Bush, who was
then vice president.

Los Angeles Times, March 8, 1992

* The House Banking Committee, in hearings set to begin April 3, plans to seek testimony from officials at agencies belonging to the National Advisory Council, the interagency group where loan guarantees for Iraq were debated and approved.

The Times has reported that in October, 1989, nine months before Iraq invaded Kuwait, Bush signed a top-secret directive ordering closer ties with Baghdad and opening the way for \$1 billion in loan guarantees to finance the purchase of U.S. agricultural products by Iraq. Officials in the Agriculture Department and other agencies objected to granting Iraq the loan guarantees but were overruled after Secretary of State James A. Baker III telephoned Clayton K. Yeutter, then secretary of agriculture, and asked for the aid "on foreign policy grounds," according to classified documents.

When questions were raised about these and other matters related to Iraq, however, the Administration took steps to limit the amount of information it provided to Congress.

In one confidential memo, dated April 8, 1991, C. Nicholas Rostow, special assistant to President Bush and legal adviser to the National Security Council wrote that "alternatives to providing documents should be explored."

Los Angeles Times, March 8, 1992

In the memo, Rostow instructed agencies involved in assisting Iraq to offer verbal briefings to members of Congress rather than to hand over documents, and he proposed several justifications for withholding information.

In some cases, members of Congress say they believe the Administration concealed critical information about agricultural loan guarantees and exports of sensitive technology to Iraq.

"The Agriculture Department clearly misled me and my subcommittee," said Rep. Charlie Rose (D-N.C.), chairman of a House Agriculture Committee subcommittee. "Clearly, there was pressure at the highest levels of the Bush Administration to see that Iraq got continuing and large amounts of loan guarantees, although the Administration knew there were abuses and kickbacks."

Rose said his subcommittee plans hearings to question Administration officials about behind-the-scenes efforts by the White House and the State Department to retain Agriculture Department loan guarantees. The guarantees were made over objections from other federal agencies and amid evidence of abuse by Iraq.

The Senate Agriculture Committee will open its own investigation into whether its members were not given the full story by the Administration.

Los Angeles Times, March 8, 1992

"I am very concerned that in an effort to cover up its secret dealings to aid Saddam Hussein, the Administration refused to tell the American people the truth," said Senate Agriculture Committee Chairman Patrick J. Leahy (D-Vt.). "At a time when Saddam Hussein was expanding his military operations, the Administration ignored its own experts and used taxpayer money to secretly help Iraq."

Leahy said late last month he may have been misled when Yeutter assured him in a February, 1990, letter that there had been no foreign policy considerations in a controversial \$1-billion aid package for Iraq in late 1989.

"The answer from the secretary of agriculture was that they weren't being pressured," Leahy said. "It would appear, indeed, they were being pressured."

Leahy has asked the GAO to assist in his committee's inquiry. Sources close to the committee said that it has not been decided whether to seek testimony from Yeutter, now President Bush's chief domestic policy adviser.

Gonzalez, the House Banking Committee chairman, also indicated last week that he plans to look into any foreign policy pressures involved in Agriculture's loan-guarantee program, known as the Commodity Credit Corp.

Los Angeles Times, March 8, 1992

"Because the CCC lacked tough standards for granting credits, the Administration found it easy to use the CCC program for Iraq as a foreign policy tool at the expense of the U.S. taxpayer," Gonzalez said.

At numerous points, Administration officials testified before Congress and provided documents claiming that the CCC program was not influenced by foreign policy.

For instance, in his 1990 letter to Leahy, Yeutter wrote: "You mentioned that there were rumors that foreign policy pressures have encouraged the department to give Iraq special treatment in this case. To the contrary, the extension of guarantees in connection with sales to Iraq have recently been subject to special scrutiny."

On June 15, 1990, Assistant Secretary of State John Kelly testified before the Senate Foreign Relations Committee in opposition to a bill to impose sanctions on Iraq in response to its poison gas bombardments of Iraqi Kurds and Hussein's threat to burn half of Israel.

"Regarding our agricultural programs, U.S. policy in both this Administration and in the previous one has been not to single out farm exports as a tool of foreign policy," said Kelly, who has since left the State Department.

Los Angeles Times, March 8, 1992

Some congressional investigators said they believe there was a deliberate effort to mislead Congress about the extent and nature of U.S. aid to Iraq.

The Justice Department has confirmed that it is conducting a preliminary inquiry into alterations that were made to a list of export licenses granted to Iraq.

A congressional staff probe and an internal investigation by the Department of Commerce discovered that military designations on some of the technology had been removed from the list provided to Rep. Doug Barnard Jr. (D-Ga.), chairman of the Government Operations Committee subcommittee, which was conducting the inquiry.

"I believe that it is a crime to knowingly supply false information to Congress," Barnard wrote to the Justice Department in requesting the investigation.

Rostow, the NSC legal adviser, and Stephen Rademaker, another NSC official, supervised the compilation and transmittal of the list to Barnard's subcommittee, according to two Administration officials familiar with the preparation of the material.

Los Angeles Times, March 8, 1992

The preliminary Justice Department probe has found no evidence to indicate that the two officials were aware of the alterations, said the sources.

Rostow and Rademaker referred calls to the White House. An official there said the two NSC officials were not aware of any alterations to the list. The official said the two NSC officials "barely remembered the list because it was so mundane."

Confidential documents obtained by The Times show that Rostow supervised preparation of the responses to Gonzalez's committee and Rose's subcommittee. The documents show that he presided over interagency meetings on crafting responses on April 8, 9 and 13, 1991. C. Boyden Gray, the President's legal counsel, participated in at least two of the meetings, according to the documents.

After the April 8 session, Rostow sent officials a memo outlining how to respond to the congressional requests and specifying that the NSC would supervise the process.

"Department general counsels should review and inventory all requests to determine which, if any, raise issues of executive privilege," wrote Rostow, adding several grounds on which requests could be refused or restricted, such

Los Angeles Times, March 8, 1992

as national security and foreign relations.

"Alternatives to providing documents should be explored (e.g. briefings)," he wrote.

An April 17, 1991, memo to the secretary of agriculture from the department's general counsel recounted a meeting on April 15. It said Rostow was to be in charge of the decision-making on which documents would be provided to congressional investigators.

"It was also noted that the objective is to cooperate with Congress while also ensuring that appropriate protections are accorded to deliberative materials," said the memo by Alan Charles Raul, general counsel at the Agriculture Department.

SUBJECT: BUSH, GEORGE; UNITED STATES -- FOREIGN AID -- IRAQ; UNITED STATES -- FOREIGN POLICY; TECHNOLOGY TRANSFER; CONGRESS (U.S.); INVESTIGATIONS; MISINFORMATION; CONSPIRACY; NATIONAL SECURITY COUNCIL; DEPARTMENT OF AGRICULTURE (U.S.)

403-bis

LEVEL 1 - 2 OF 10 STORIES

Copyright 1992 The Times Mirror Company
Los Angeles Times

March 10, 1992, Tuesday, Home Edition

SECTION: Part A; Page 1; Column 2; National Desk

LENGTH: 742 words

HEADLINE: U.S. GAVE DATA TO IRAQ 3 MONTHS BEFORE INVASION;
PERSIAN GULF: DOCUMENTS SHOW INTELLIGENCE SHARING WITH BAGHDAD LASTED LONGER
THAN PREVIOUSLY INDICATED.

BYLINE: By MURRAY WAAS and DOUGLAS FRANTZ, SPECIAL TO THE TIMES: Waas is a
special correspondent and Frantz is a Times staff writer.

DATELINE: WASHINGTON

BODY:

The Bush Administration shared intelligence information with the regime of
Saddam Hussein until at least May, 1990, three months before Iraq's invasion
of Kuwait, according to formerly classified documents.

Los Angeles Times, March 10, 1992

The intelligence cooperation continued far longer than previously indicated
and occurred during a time when Hussein was taking an increasingly belligerent
posture in the Persian Gulf region.

The Bush Administration justified continuing to provide Iraq with
information on Iranian military activities and other intelligence data as a
means of retaining access to elements of the government in Baghdad, according to
the documents.

Last fall, a Senate Intelligence Committee report indicated that the panel
believed the intelligence sharing ended in 1988 with a cease-fire in the
Iran-Iraq war. The committee had received a number of secret briefings by
Administration officials on policy toward Iraq.

A committee spokesman declined to comment on the apparent discrepancy Monday,
saying only: "We are looking at all the facts."

Iraq began to receive intelligence on Iranian troop movements and other
critical issues during the Ronald Reagan Administration as part of the "tilt"
toward Iraq during the eight-year war.

Los Angeles Times, March 10, 1992

Some intelligence experts have speculated that the information later helped Iraq learn how to shelter its weapons from U.S. surveillance during Operation Desert Storm, since the Iraqis knew the types of intelligence available to U.S. agencies.

While the committee report indicated that the panel believed the cooperation had ended with the Iran-Iraq war, the previously classified State Department document dated May 16, 1990, says that the sharing only slowed down after the August, 1988, cease-fire.

That report, addressed to White House National Security Adviser Brent Scowcroft, was prepared to present various options on Iraqi policy for consideration at a May 24, 1990, meeting of the White House National Security Council's deputies committee. It set out reasons for continuing the cooperation and for stopping it.

"Intelligence exchanges have waned since the Gulf War cease-fire," said the report. "PRU: They still provide Iraq with limited information on Iranian military activity that would be missed. CON: Ending this contact would close off our very limited access to this important segment of the Iraqi establishment."

Los Angeles Times, March 10, 1992

The State Department paper indicated that officials at the high-level interagency meeting were going to consider whether to continue the intelligence sharing. The chairman of the deputies committee was Robert M. Gates, now CIA director, who then was President Bush's deputy national security adviser.

Mark Mansfield, a spokesman at the CIA, declined to comment on the documents. "We don't comment on the nature and extent of intelligence arrangements with any countries," he said.

Attempts to obtain comment from the White House were unsuccessful.

The State Department paper and related documents from the NSC were made public Monday by Rep. Henry B. Gonzalez (D-Tex.), chairman of the House Banking, Finance and Urban Affairs Committee, during a statement on the floor of the House.

The committee is one of a number of congressional committees examining the covert policies by the Reagan and Bush administrations to assist Hussein from the early 1980s until almost the eve of his invasion of Kuwait on Aug. 2, 1990. The committees also are examining whether the Administration provided accurate information to Congress on the Iraqi assistance.

Los Angeles Times, March 10, 1992

"The revelation that intelligence sharing with Iraq continued well into 1990 . . . raises new questions about the Administration's reporting to the Senate and House Intelligence committees," said Gonzalez. "Based on the fact that the Senate committee report on the Gates nomination contains a misleading date for the end of the intelligence-sharing arrangement, I wonder if they were properly informed."

In 1984, President Reagan signed a National Security Decision Directive authorizing the CIA to share limited intelligence with Iraq, according to the report issued last fall by the Senate Intelligence Committee. Two congressional sources said the committee was told that the first intelligence was shared with Baghdad in December, 1984.

However, the New York Times reported in January that the Reagan Administration had actually begun providing intelligence to Iraq in the spring of 1982. The account quoted a former CIA official as identifying Gates as the CIA officer in charge of preparing the intelligence information for Iraq.

During his confirmation hearings last fall, Gates testified that intelligence data was passed to Baghdad to prevent Iraq from losing the war with Iran. Gates said that the intelligence sharing was carried out "to enhance their (Iraq's) ability to pursue the war."

Los Angeles Times, March 10, 1992

At his hearings, Gates did not discuss a date when the cooperation ended. But during the hearings, the Senate Intelligence Committee released the report on Iraqi intelligence sharing, which indicated that it had ended in 1988. "Intelligence sharing continued on a sporadic basis until 1988 when the war between Iraq and Iran ended," said the report.

During confirmation hearings for Gates, Sen. Bill Bradley (D-N.J.) raised questions about whether the cooperation with Iraq amounted to a "covert action" that the President was required by law to report to Congress.

A 1975 law prohibits the use of CIA funds for covert activities "unless and until the President finds that each operation . . . is important to the national security of the U.S. and reports in a timely fashion" to the House and Senate Intelligence committees.

SUBJECT: UNITED STATES -- FOREIGN RELATIONS -- IRAQ; INTELLIGENCE SERVICES;
BUSH, GEORGE; GATES, ROBERT M

403/his

LEVEL 1 - 1 OF 10 STORIES

Copyright 1992 The Times Mirror Company
Los Angeles Times

March 11, 1992, Wednesday, Home Edition

SECTION: Metro; Part B; Page 6; Column 1; Editorial Writers Desk

LENGTH: 453 words

HEADLINE: TALE OF TWO COZY RELATIONSHIPS:
IRAQ AND PAKISTAN: WHY ALL THE U.S. HELP?

BODY:

Did America's sharing of its Persian Gulf intelligence with Iraq -- mere weeks before it invaded Kuwait -- help Saddam Hussein know where to hide his forces from the U.N. coalition that eventually would oust him from that tiny kingdom?

That is one more uncomfortable question for Congress to add to the list as it prepares to decipher the curious signals Washington was sending Baghdad before it invaded in August, 1990.

Los Angeles Times, March 11, 1992

The Iraq episode is one of two that Congress should use as case studies of how government makes policy mistakes. The other, involving Pakistan, is still going on, according to recent Times reports by Douglas Frantz and Murray Waas, who also detailed the dealings with Iraq.

Congress should find out why the Administration has ignored a 1985 policy against shipping arms to Pakistan. Congress imposed the ban to help pressure Pakistan to give up its efforts to build nuclear weapons.

The new question on Iraq arose as the House Banking, Finance and Urban Affairs Committee prepared for hearings after the recent Times articles on relations between Hussein and the Reagan and Bush administrations in the 1980s and early 1990s. Frantz and Waas reported that time and again George Bush -- first as Reagan's point man, then as President -- brushed aside objections that relations with Baghdad were getting too cozy.

Some Administration advisers thought the relations went beyond what was necessary simply to give Hussein a leg up in his war with Iran, where anti-Western Muslims were a threat to disrupt oil supplies. But intelligence-sharing when Hussein was already talking tough about settling his grievances with Kuwait might have led him to think Washington would let him get away with aggression.

Los Angeles Times, March 11, 1992

The executive branch did not stop sharing intelligence with Baghdad in 1988, as Congress was led to believe. A State Department memorandum says it continued until at least May of 1990, not long before Iraq invaded Kuwait.

Even though Iraq's war with Iran ended in 1988, the memorandum said. Iraq still found American intelligence helpful in monitoring Iran. Sharing the information also kept open American channels to important Iraqis.

But a case can be made that this policy, added to generous U.S. commodity loans that allowed Hussein to use his cash for arms instead of food, and for purchases of American technology, helped encourage his aggression.

The Administration justified the Pakistan shipments by saying the weapons came from commercial companies, not the Pentagon. But there was nothing capricious about the concerns of a formal policy of trying to prevent the spread of nuclear weapons. That makes it all the more important to learn why those concerns were ignored.

GRAPHIC: Photo, A U.S. beneficiary.

TYPE: Editorial

Dichiarazioni sulla politica americana verso l'Iraq, rilasciate dal Presidente Bush a bordo dell'aereo presidenziale, il 25 febbraio 1992.

Documento n. 405

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From: Press Office
Da: Dott. Luca Giansanti Ufficio Stampa

Le invio l'estratto sul caso Iraq della trascrizione del
"domanda e risposta" col Presidente Bush che ha avuto luogo
ieri 25 febbraio, a bordo dell'aereo presidenziale.

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BUSH-02/25/92
CALIFORNIA
.STX

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PRESIDENT BUSH: Only regret for the hardship that it causes families. But just keep plugging away to try to get this economy moving and stimulated. That's what's needed. So I'll keep challenging the Congress to do just that.

Q How about on Iraq, your help to Iraq? What was behind that to help them get loans -- (inaudible)?

PRESIDENT BUSH: Well, I think -- I don't -- I haven't read all the charges about Iraq. But, as you may remember in history, there was a lot of support at a time for Iraq as a balance to a much more aggressive Iran under Khomeini. So that was part of the policy of the Reagan administration, and I was very proud to support it.

Q If Congress were to pass the loan guarantees without the settlements freeze, would you veto any such legislation?

PRESIDENT BUSH: That's too hypothetical. We've spelled out our policy and there it is. And it's the proper policy. We haven't changed. That's been the policy of the US government for a long, long time.

Q Is it politically risky for you to now take this position?

PRESIDENT BUSH: It might be, but I don't -- I'm not going to shift the foreign policy of this country because of political expediency. I can't do that and have any credibility worldwide. And we have credibility worldwide, otherwise we wouldn't have been able to facilitate the peace talks in the first place. So we will -- you know, we just have certain policy positions and they're sound.

Q Are you expecting to be making a lot more trips to California? How are you going to try and turn around your situation there?

PRESIDENT BUSH: Just go about our game plan, which is to take our message out there.

.ETX

CONTINUED ON PAGE 2-1

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BUSH-02/25/92
CALIFORNIA
.STX

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PRESIDENTE BUSH: Mi spiace solo per le difficoltà che crea alle famiglie. Ma bisogna continuare a lavorare perché quest'economia vada avanti e venga stimolata. Ecco quello di cui c'è bisogno. Quindi continuerò a sfidare il Congresso a far proprio questo.

D.: E cosa dice dell'Iraq? Del Suo aiuto all'Iraq? Cosa stava dietro agli aiuti che gli venivano concessi per avere crediti... (parole indistinte)?

PRESIDENTE BUSH: Be', io credo... Non saprei... Non ho letto tutte le accuse riguardo all'Iraq. Ma - certo ricorderete la storia - c'è stato un momento in cui si appoggiava pienamente l'Iraq in quanto contrappeso ad un Iran molto più aggressivo guidato da Khomeini. Faceva quindi parte della politica dell'Amministrazione Reagan, che ero molto orgoglioso di sostenere.

D.: Se il Congresso approvasse le garanzie di credito senza congelamento degli insediamenti, porrebbe il veto a tale provvedimento?

PRESIDENTE BUSH: Non è nient'altro che un'ipotesi. Abbiamo elaborato la nostra politica e la manteniamo. Ed è la giusta politica. Non abbiamo cambiato. E' la politica del governo americano da molto, molto tempo.

D.: E' per Lei rischioso, dal punto di vista politico, assumere ora questa posizione?

PRESIDENTE BUSH: Potrebbe esserlo, ma non... non cambierò certo la politica estera di questo paese per motivi di opportunità politica. Non lo potrei fare senza perdere credibilità a livello mondiale. E noi godiamo di credibilità a livello mondiale, altrimenti non avremmo potuto favorire, in primo luogo, i colloqui di pace. Quindi... be', abbiamo alcune posizioni ben definite che sono assolutamente salde.

D.: Pensa di recarsi ancora spesso in California? Cercherà di cambiare la situazione a Suo favore in quello stato?

PRESIDENTE BUSH: Mi limiterò a seguire il nostro piano, che è di far arrivare il nostro messaggio anche lì.

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Nota trasmessa il 27 febbraio 1992 dal dott. Formosa sul
finanziamento della BNL per la vendita di navi italiane all'Iraq.
Documento n. 406

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PRO MEMORIA

Fornitura (FINCANTIERI, OTO MELARA e altre imprese minori) di n.11 navi militari al Ministero della Difesa dell'Iraq

I) Contratto commerciale di fornitura n.5/1980, del 28/12/1980, fra "OTO MELARA" e Ministero della Difesa (M.O.D.) dell'Iraq.

II)(Contro)garanzie rilasciate alla "Rafidain Bank" (la quale ha emesso le corrispondenti garanzie a favore del Committente M.O.D.) da un "Pool" di n. 9 banche (co-capifila: B.N.L. e Istituto S. Paolo di Torino) e precisamente: B.N.L. - Istituto S. Paolo di Torino - Banca Commerciale Italiana - Banco di Roma - Credito Italiano - Banco di S. Spirito - Banco di Sicilia - Banco di Napoli - Banca Nazionale dell'Agricoltura (il tutto secondo le percentuali indicate nell'allegato).

Le n. 17 (contro)garanzie sono così costituite: n. 7 "Down Payment Guarantee", n. 1 "Interim Payment", n. 1 "Price Revision", n.7 "Performance Bond", n. 1 "Warranty", per totali US \$ 374.750.160,47 (impegno dell'intero "Pool"), di cui 93.687.536,02 è la quota di BNL.

III) Tutte le n. 17 (contro)garanzie sono state escusse dalla "Rafidain Bank" con la formula "Prorogate o pagate" ("Extend or Pay"). Dopo l'entrata in vigore del blocco attinente alle operazioni con l'Iraq (D.L. 6/8/1990, n.220, convertito nella L. 5/10/1990, n.278) nessuna garanzia è stata prorogata e, ovviamente, nessun pagamento

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è avvenuto.

Presso il Tribunale di Genova sono pendenti sia la causa di merito che il procedimento ex art. 700 c.p.c., promossi da "Fincantieri SpA" e "Oto Melara S.p.A.", tendenti alla risoluzione dei contratti commerciali ed alla declaratoria di caducazione delle relative (contro) garanzie rilasciate dalle banche italiane.

Allegato

Prospetto delle Banche componenti il "Pool" per la OTO MELARA, (contro)garanzie bancarie rilasciate e relativi importi.

①

OTO MELARA SPA "POOL IRAQ"

BNL CO-CAPOFILA CON IST.BANCARIO S.PAULO DI TORINO - LA SPEZIA

BNL	25%	S.SPIRITO	7,5%
S.PAULO	25%	B.NAPOLI	5%
COMIT	10%	B.SICILIA	5%
CREDIT	10%	NAZ.AGR.	2,5%
B.ROMA	10%		

FORNITURA DI MUNIZIONAMENTO E RELATIVO SUPPORTO LOGISTICO AL MINISTRY OF DEFENCE REPUBLIC OF IRAQ - BAGHDAD
CONTRATTO A&S NAVY 5/1980 = PREZZO BASE US\$ 576.499.657.= OLTRE REVISIONE
PREZZI DI US\$ 218.608.670.= (7 LOTTI)

POSIZIONE ATTUALE GARANZIE RILASCIATE TRAMITE RAFIDAIN BANK BAGHDAD

(*) N.7 PERFORMANCE BOND	\$ 57.179.096,72	ns.quota	\$ 14.294.773,72
(*) N.7 DOWN	\$ 110.555.098,60	" "	\$ 27.638.771,60
PRICE REVISION	\$ 92.058.738,85	" "	\$ 23.014.684,50
INTERIM PAYMENT	\$ 114.953.710,50	" "	\$ 28.738.427,50
WARRANTY	\$ 3.515,70	" "	\$ 878,70
	<u>\$ 374.750.160,47</u>	" "	<u>\$ 93.687.536,02</u>

Impegni assistiti da fidejussione della Finanziaria E.Breda dd.2/4/81

" " " Polizza SACE (non rinnovata a seguito blocco)

Fidejussioni con scad. 31/12/90 (non prorogate anche se richiestoci dall'Iraq a seguito del noto blocco)

Commissioni percepite a favore del pool con addebito OTO sino al 30/6/91 (Siamo in attesa ricevere parere dei partecipanti al pool per addebito di ulteriore periodo, come indicato dalla D.C. Uff.Legale con loro del 28/8/91)

(*) DOWN PAYMENT GUARANTEE

N. 3157/L	\$ 12.359.731,14
N. 3158/M	19.605.077,36
N. 3159/N	10.373.172,17
N. 3160/A	1.518.161,37
N. 3161/B	1.600.460,30
N. 3162/C	10.197.600,93
N. 3163/D	1.524.893,45

\$ 57.179.096,72

(*) PERFORMANCE BOND

N. 3164/E	\$ 23.825.472
N. 3165/F	37.906.183,20
N. 3166/G	20.128.324
N. 3167/H	2.935.347
N. 3168/J	3.094.471
N. 3169/K	19.716.939
N. 3170/L	2.948.362,40

\$ 110.555.098,60

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Comunicazione, in data 2 marzo 1992, del Procuratore della
repubblica di Roma, dott. Giudiceandrea.
Documento n. 408

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N. 100/89 Prot.GAB.

Roma, 2 marzo 1992

Rifer. a nota del 12.2.92 prot. 414 - 92

OGGETTO: Procedimento penale avente ad oggetto gli illeciti finanziamenti erogati dalla Filiale BNL di Atlanta a Banche ed Enti governativi dell'Iraq.-

On.le Senatore GIANUARIO CARTA
Presidente Commissione Parlamentare
di inchiesta sul caso della Filiale
BNL di Atlanta.

R O M A

In riferimento alla nota sopraindicata ed alla intercorsa corrispondenza -avente ad oggetto gli illeciti finanziamenti erogati dalla Filiale BNL di Atlanta a Banche ed Enti governativi dell'Iraq - comunico che questo ufficio, a seguito della scadenza del termine massimo per le indagini preliminari previsto dall'art. 258 Disp. Att. Cod. Proc. Pen., ha provveduto a richiedere al signor Giudice per le Indagini Preliminari in sede il rinvio a giudizio dell'ex-direttore della suddetta Filiale e di altri funzionari all'epoca ivi in servizio, perchè tutti rispondano in concorso fra loro dei seguenti reati:

- A) artt. 110,48,112 n. 1, 81 Cod.Pen. e 2621 Cod. Civile;
- B) artt. 110,112 n.1, 48, 81 Cod. Pen. e 4 L. n.114 del 17.4.86.

Relativamente, poi, alle ipotizzabili corresponsabilità nella vicenda di funzionari in servizio presso gli Uffici Centrali della BNL o comunque di altre persone operanti sul territorio nazionale, questo ufficio ha ritenuto di dover contestualmente richiedere l'archiviazione degli atti, tenuto conto che i vari elementi di sospetto emersi in proposito nel corso delle indagini preliminari non consentono allo stato ,in

mancanza dei necessari elementi probatori di riscontro e di raccordo, il fondato promovimento dell'azione penale nei confronti di persone diverse da quelle per cui si è chiesto il rinvio a giudizio.

Con espressa riserva, peraltro, di eventualmente richiedere in futuro la riapertura delle indagini, ai sensi dell'art. 414 Cod. Proc. Pen., ove emergano nuove esigenze di ulteriori investigazioni.



PROCURATORE DELLA REPUBBLICA

Ugo GIUDICEANDREA -

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TRIBUNALE PENALE DI ROMA
SEZIONE DEI GIUDICI PER LE INDAGINI PRELIMINARI

N.16324/90 R.G. Notizia Reato

N. 38262/90 R.G. GIP

Roma, li 02.03.1992

Ufficio del Giudice

Risposta a nota del N. Allegati N.

OGGETTO: Richiesta informazioni caso B.N.L. Atlanta.

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vs. Post: 461-92

On. Gianuario Carta
 Presidente Commissione
 Parlamentare d'Inchiesta
 sul caso della filiale di
 Atlanta della B.N.L. e
 sue connessioni.

In riferimento alla nota prot. n.414/92 del 12/02/92, pari oggetto, informo la S.V. che il Procuratore della Repubblica di Roma con atto 28/01/92, depositato presso la Cancelleria di questa Sezione il 27/02/92, ha richiesto il rinvio a giudizio di: Drogoul Christopher Peter, Von Wedel Paul Robert, Therese Barden, Amedeo De Carolis, Thomas Fiebelkorn, Brenda Forrest, Mela Maggi, Leigh New e Robert Post in ordine ai reati p. e p. A) dagli artt. 110,48,112 n.1,81 C.P. e 2621 Cod. Civ. e B) dagli artt. 110,112 n.1,48,81 C.P. e 4 L.n.114 del 14/04/86 e contestualmente l'archiviazione del procedimento nei confronti di: Pedde Giacomo, Nesi Nerio, Costantini Lucio, D'Addosio Umberto, Sartori Graziano e Messere Louis.

Il procedimento è stato assegnato al G.I.P. dr. Vittorio De Cesare.

Distinti saluti.

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IL PRESIDENTE AGGIUNTO
 Sezione G.I.P.

Dr. Renato Squillante

R. Squillante

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Discorso del Presidente Gonzalez nell'aula della Camera dei
rappresentanti del 3 marzo 1992 su "la CCC e di pagamenti in
sospeso alla BNL".

Documento n. 409/2

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DICHIARAZIONE IN AULA DI HENRY B. GONZALEZ, PRESIDENTE DELLA
COMMISSIONE BANCHE, FINANZE E AREE URBANE DELLA CAMERA DEI
RAPPRESENTANTI

3 marzo 1992

Il CCC ed i pagamenti in sospeso alla BNL

Signor Presidente,

ieri ho parlato del programma di incentivazione delle esportazioni del CCC (Commodity Credit Corporation) per l'Iraq illustrando in che modo il governo di Bush ha usato il programma dell'Ente per i crediti commerciali come strumento della sua politica estera. Ho dimostrato inoltre come lo scandalo BNL ha inciso sul programma CCC e sulla politica americana verso l'Iraq. Infine ho chiarito il ruolo che sia il Segretario di Stato Baker sia il suo vice Eagleburger hanno svolto negli sforzi intesi a convincere il National Advisory Council (NAC) ad approvare, nel novembre del 1989, un programma CCC per un miliardo di dollari in favore dell'Iraq. Mi sono riferito anche al fatto che precedentemente all'approvazione del credito da parte del NAC, e cioè nell'ottobre del 1989, Baker si era incontrato con l'ambasciatore iracheno Tariq Aziz per un confronto sull'affare BNL e sul programma CCC.

Oggi desidero riferirmi ad alcuni fatti avvenuti immediatamente dopo la decisione del NAC che era stata presa il 6 novembre del 1989 e intendo affrontare la questione dei pagamenti sospesi del CCC nei confronti della BNL per un valore di 350 milioni di dollari.

I retroscena.

Come ho già avuto modo di esporre ieri, nel novembre del 1989 in seguito ad una notevole pressione esercitata dal Dipartimento di Stato il NAC decise di approvare un

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programma CCC in favore dell'Iraq per un importo di 1 miliardo di dollari. Si decise in quella sede di offrire il finanziamento agli iracheni in due rate di 500 milioni ciascuna. Alla fine di gennaio 1990 gli iracheni avevano già utilizzato 400 milioni. Pertanto, visto che la prima rata era quasi esaurita, essi premevano perché venisse liberata la seconda rata. Le pressioni da parte irachena si fecero insistenti: alti funzionari iracheni si recarono più volte nell'ambasciata americana a Bagdad e vennero persino negli Stati Uniti per incontrarsi con esponenti influenti del governo.

Allo stesso tempo forte pressioni provenivano anche dal settore agricolo americano: dato che per l'agricoltura erano in gioco vendite per un valore effettivo di 500 milioni di dollari, i rappresentanti degli agricoltori bombardavano le autorità governative con richieste perché venisse liquidata la seconda rata prevista nel quadro del programma del CCC. Alcuni documenti acquisiti dalla nostra Commissione dimostrano che gli iracheni nel Dipartimento di Stato potevano contare su alleati molto potenti.

Tra la fine del 1989 e l'inizio del 1990 si fecero più forti i segnali di instabilità provenienti dall'Iraq di Saddam Hussein. Oltre alle diverse lamentele espresse da Saddam emergeva anche il suo timore che che Israele, gli Stati Uniti ed alcuni paesi arabi confinanti con l'Iraq si fossero coalizzati per portare il paese al crollo finanziario.

La maggior parte delle grandi nazioni industrializzate aveva sospeso i programmi di credito in favore dell'Iraq e a ciò si aggiungeva che l'Arabia Saudita ed il Kuwait, fino ad allora i più importanti benefattori dell'Iraq, iniziavano a schiacciare il paese economicamente.

La situazione finanziaria dell'Iraq era deteriorata al punto tale che il paese cominciava a registrare ritardi nel rispetto degli impegni presi nel quadro del programma CCC. Inoltre alla fine del 1989 l'Iraq venne sospeso

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dall'Eximbank per essere temporaneamente venuto a meno ai propri obblighi nei confronti di tale banca. L'Iraq, del resto, era moroso nei confronti di molti altre nazioni creditrici.

L'Iraq era sull'orlo della bancarotta e la seconda rata di 500 milioni poteva offrire ossigeno ad un paese assillato da creditori furiosi. Quando nel corso del 1990 si è assistito ad un deterioramento dei rapporti tra Stati Uniti ed Iraq la casa Bianca ed il Dipartimento di Stato insistettero ancora di più sul programma del CCC per l'Iraq.

Nel corso del 1990 era possibile constatare chiaramente che il Dipartimento di Stato e la Casa Bianca accelerarono le operazioni per assistere Saddam Hussein. Ritornerò su questo punto successivamente. Ora passerei invece ad esaminare la questione dei 350 milioni di crediti CCC il cui pagamento a favore della BNL è ancora in sospeso, allo scopo di decidere se sarà veramente il contribuente a dover pagare il conto.

Pagamenti CCC alla BNL ancora in sospeso.

La BNL era il più importante tra gli enti partecipanti al programma creditizio della Commodity Credit Corporation per l'Iraq. Complessivamente il CCC aveva emesso garanzie per oltre 800 milioni di dollari in crediti non autorizzati a favore dell'Iraq. Quando l'Iraq dopo aver invaso il Kuwait nell'agosto del 1990 risultò inadempiente rispetto agli obblighi assunti nei confronti del CCC, la BNL aveva ancora la disponibilità di 350 milioni di dollari in prestiti non rimborsati garantiti dal CCC. Recentemente l'istituto di credito ha presentato ricorso al CCC per ottenere il rimborso dei prestiti.

Nel febbraio del 1991 il Dipartimento della Giustizia, attraverso la Procura del distretto settentrionale dello Stato della Georgia ha messo in stato d'accusa per reati penali dieci persone, tra cui due ex funzionari ed un

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impiegato della filiale di Atlanta della BNL. Questi ex funzionari ed impiegati in un atto di accusa di complessivamente 347 capi di imputazione sono stati accusati di associazione per delinquere nonché di frode a mezzo posta e frode a mezzo telegrafo. Questi ultimi capi d'accusa si riferiscono direttamente ai crediti pendenti presso il Dipartimento dell'Agricoltura per il programma CCC.

In un comunicato stampa del Dipartimento della Giustizia rilasciato il giorno stesso in cui è stato presentato l'atto di accusa il procuratore generale Dick Thornburgh ha dichiarato che il provvedimento porta alla luce "una truffa internazionale ad opera di colletti bianchi che avrà gravi ripercussioni su scala mondiale". Egli ha aggiunto: "Le autorità statunitensi sono state tratte in inganno da un progetto sistematico di falsificazioni, omissioni e dichiarazioni non veritiere."

Secondo quanto è stato rivelato le transazioni irregolari venivano registrate in una serie di "libri grigi" (grey books) - non figurando quindi nella contabilità ufficiale della banca - attraverso l'uso di appositi computer, word processor e dischetti. Perché nessuno potesse metterci mano, il materiale veniva tenuto al di fuori dell'edificio della banca come "archivio mobile" in cartoni, nei bagagliai di autovetture ed in case private.

Finora nessuna accusa formale è stata presentata direttamente a carico della BNL stessa. Fino ad oggi la Commissione ha incontrato nel governo ostruzionismi e atteggiamenti reticenti quando si trattava di individuare se la BNL come istituto nel suo insieme fosse coinvolto in questa truffa eclatante. Il Senato italiano in una sua relazione recente ha denunciato che il Dipartimento della Giustizia statunitense avrebbe negato ai suoi investigatori l'accesso a documenti importanti ed ha sottolineato allo stesso tempo che veniva dato poco peso all'ipotesi della possibile colpevolezza dei funzionari al vertice

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dell'amministrazione della BNL nonché degli enti regolatori americani.

Almeno due membri della Commissione BNL del Senato italiano hanno espresso seri dubbi sulla teoria che i funzionari ed altri importanti esponenti della BNL di Roma non sarebbero coinvolti nell'affare e sarebbero stati all'oscuro di quanto stava accadendo nella filiale di Atlanta. Il presidente della commissione italiana ha affermato che il personale della sede centrale di Roma della BNL era al corrente di quanto stava succedendo ad Atlanta: "La filiale non avrebbe potuto registrare un'esposizione di una tale entità senza che terzi ne fossero a conoscenza. Sicuramente New York sapeva, e lo stesso si può dire per Roma."

Un altro esponente della commissione ha espresso il suo convincimento che si è trattato di una collusione ad alto livello: "Tutte le operazioni descritte come clandestine erano trasparenti per i corrispondenti della BNL. I finanziamenti per le (cosiddette) attività non autorizzate passavano essenzialmente attraverso tre o quattro case di brokeraggio con sede a Londra. Le commissioni addebitabili alla filiale di Atlanta erano tali [...illeggibile...] da poter essere individuate a qualsiasi controllo. Inoltre molte operazioni effettuate dalla filiale di Atlanta interessavano anche altre filiali della BNL in tutto il mondo."

Trovo assurda l'idea che nessun funzionario della sede centrale della BNL a Roma avesse un'idea di cosa stesse accadendo nella filiale di Atlanta, in particolare alla luce del fatto che sia la sede di Roma sia una decina di filiali della BNL sparse in tutto il mondo intrattenevano regolarmente rapporti d'affari con l'Iraq proprio attraverso l'agenzia di Atlanta. Inoltre la sede di Roma a partire dalla fine del 1986 era al centro di una accesa polemica su un contratto stipulato con Bagdad per un valore di 2

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miliardi e 600 milioni di dollari che aveva come oggetto forniture di armamenti navali.

Esiste anche una notizia apparsa sulla stampa secondo la quale un dipendente della BNL, che nel periodo in questione occupava un posto chiave nel settore operazioni dell'agenzia di Atlanta, avrebbe affermato inequivocabilmente che "non esiste dubbio alcuno sul fatto che il quartier generale della BNL a Roma era a conoscenza dell'affare con l'Iraq. Roma aveva persino i propri rappresentanti nel nostro ufficio (di Atlanta)."

Vorrei far notare che prima che gli agenti dell'FBI e del servizio doganale facessero irruzione negli uffici della BNL ad Atlanta si era provveduto ad informare la direzione della BNL a Roma. Per quale motivo? Non era invece importante impedire che qualcuno avesse il tempo di distruggere i documenti attestanti l'esistenza di un legame diretto tra la sede centrale della BNL a Roma e le attività della filiale di Atlanta? Il governo Bush stava forse in qualche modo giustificando questo atto per "motivi legati alla politica estera degli Stati Uniti"? La nostra politica estera è veramente tale da conferire a poche persone che nel governo occupano posizioni di rilievo la capacità illimitata ed incontestata di eludere altre leggi e regolamenti americani concepiti per tutelare gli interessi degli Stati Uniti all'interno ed all'estero?

La nostra commissione ha acquisito documenti dai quali emerge che il presidente della BNL Cantoni si è rivolto in diverse occasioni all'ambasciatore degli Stati Uniti in Italia con la richiesta di indurre gli inquirenti americani ad "andarci piano" nell'inchiesta sulla BNL. A ciò si aggiunge il contenuto di un telegramma pervenuto al Dipartimento di Stato il 26 ottobre 1989 che riportava l'oggetto di un incontro che Cantoni ed un altro alto dirigente della BNL avrebbero avuto con l'ambasciatore degli Stati Uniti in Italia. Ne do lettura:

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"Il presidente ed il direttore generale della BNL in occasione di un incontro con l'ambasciatore hanno espresso la loro preoccupazione in merito agli sviluppi dell'affare BNL-Atlanta. Essi hanno proposto che la questione venga portata su un livello politico ed hanno indicato la loro disponibilità a cooperare pienamente con le autorità statunitensi facendo capire molto chiaramente che essi intendono in qualche modo circoscrivere i danni."

Alle luce di queste ed altre preoccupazioni io ho presentato al Ministro dell'Agricoltura, Edward Madigan, la richiesta di fornire alla Commissione banche della Camera i dati aggiornati relativi al pagamento di tutti i crediti che sono stati concessi alla BNL nel quadro del programma CCC. Inoltre in data 31 gennaio 1992 ho scritto al Dipartimento dell'Agricoltura richiedendo tutti i documenti che si riferiscono alla copertura dei crediti richiesti dalla BNL nonché alla posizione che il Dipartimento assume rispetto al pagamento di questi crediti.

Mi permetto di contestare ad alcuni alti funzionari del governo Bush il diritto di ignorare nell'interesse del raggiungimento di "obiettivi di politica estera" i controlli sui programmi creditizi governativi nell'ambito del CCC e dell'Eximbank. Anche se il Dipartimento dell'Agricoltura sia tenuto per legge a concedere garanzie sulla base dei bisogni del settore agricolo del paese beneficiario nonché del suo potenziale di mercato, la terza condizione, una condizione che conta per questa Commissione ed per il contribuente americano, cioè "la probabilità che i prestiti concessi saranno ripagati", non è stata rispettata nonostante le numerose voci che confermavano che l'Iraq era un paese ad alto rischio.

Il contribuente americano deve essere tutelato. I contribuenti americani hanno già dovuto pagare un conto di 1,1 miliardi di dollari in crediti non restituiti perché

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l'Iraq non ha rispettato i suoi obblighi nei confronti del programma CCC. Ci sono ancora circa 500 milioni di dollari di crediti non rimborsati, compresi 350 milioni non ripagati dalla BNL. Io non credo che si debba tacere sul pagamento di questi crediti che non sarebbero mai stati concessi se non si fosse trattato di un atto di abuso del programma del Dipartimento dell'Agricoltura.

La direzione della BNL era a conoscenza dei prestiti che la BNL-Atlanta aveva concesso all'Iraq e se così non era essa avrebbe comunque dovuto essere al corrente dell'affare. La Commissione è in possesso delle prove che dimostrano chiaramente che la truffa della BNL fu possibile perché le autorità statunitensi di controllo bancario stavano dormendo. Inoltre il governo era a conoscenza in tutto e per tutto della funzione svolta dalla BNL in questa faccenda di corruzione e flagrante abuso del programma CCC per l'Iraq. Nel loro insieme questi elementi bastano per giustificare la revoca del pagamento dei crediti richiesto dalla BNL ed io spero che non ci sarà alcun pagamento fino al momento in cui sarà fatto luce completamente su questo triste e spiacevole episodio.

Risposta negativa del Dipartimento della giustizia USA alla richiesta di rogatoria (in due testi, pervenuti rispettivamente il 7 ed il 26 marzo 1992).

Documento n. 411

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A MEZZO MOTOCICLISTA

Roma, - 7 MAR. 1992

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MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali
delle Grazie e del Casellario
Ufficio II
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SENATO DELLA REPUBBLICA
COMMISSIONE PARLAMENTARE DI
INCHIESTA SUL CASO B.N.L.-ATLANTA

Telefono : 06 - 6861282/6864814
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Telefax : 06 - 6869317

(c. a. Pres. Sen. Avv. Gianuario CARTA)

R O M A

Rif. n. RA/2761/91/DM.
(da citare nella corrispondenza)

DM

Oggetto : Commissione rogatoria internazionale formulata il 30/10/91 nell'inchiesta sul caso B.N.L. filiale di Atlanta e sue connessioni.

Nel fare seguito al telefax pari numero ed oggetto del 25 novembre 1991, trasmetto l'unita copia della nota 11 febbraio 1992 del Dipartimento della Giustizia statunitense relativo alla rogatoria in oggetto, unitamente alla sua traduzione in lingua italiana, curata da questo Ministero. L'occasione mi é gradita per rinnovare i sensi della più alta stima e considerazione.

IL DIRETTORE GENERALE

(G. Falcone)

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DIPARTIMENTO DELLA GIUSTIZIA DEGLI STATI UNITI

Washington, 11 Febbraio 1992

ESPRESSO FEDERALE

Egr. dr. Raffaele PALMIERI

Direttore Uff. II A.P.

Ministero di Grazia e Giustizia

ROMA

OGGETTO: Richiesta di assistenza giudiziaria in materia penale formulata dalla Commissione Parlamentare di Inchiesta sul caso della Filiale di Atlanta della BNL e sue connessioni.

Questo Dipartimento della Giustizia restituisce la richiesta che il Suo Ufficio ha formulato a norma del Trattato per conto della Commissione Parlamentare. Come Lei sa, é sempre stato escluso che si possa fare ricorso al Trattato di Mutua Assistenza in vigore fra i nostri due Paesi per conto di organi legislativi, né da parte nostra verrà accordata assistenza ad uso di tali organi. *che* il Trattato non possa essere applicato in caso di indagini

condotte da organi legislativi - indipendentemente dalla legittimità e dall'importanza delle indagini stesse - risulta assai chiaro dal testo stesso del Trattato. Il paragrafo 1 dell'art. 1 definisce l'assistenza come "assistenza per le istruttorie e procedimenti penali", mentre il paragrafo 4 dello stesso articolo sottolinea che "il presente Trattato disciplina esclusivamente l'assistenza reciproca in materia penale fra le Autorità delle parti contraenti".

Inoltre, il memorandum di intesa relativo all'art. 1, sottoscritto il 9.11.1982, riconosce che mentre possono esservi autorità, diverse dall'autorità giudiziaria, alle quali competono indagini e procedimenti penali (come avviene, per esempio, negli Stati Uniti nel caso di Pubblici Ministeri che appartengono all'esecutivo, piuttosto che al potere giudiziario) il Trattato si riferisce solo alla "Autorità *che* istituzionalmente *ha*, in base alle Leggi del proprio Stato, il potere di iniziare e condurre procedimenti volti alla punizione di illeciti penali".

In tale modo, poiché la richiesta da parte della Commissione ~~P~~arlamentare non é (né, a nostro giudizio, potrebbe essere) volta ad ottenere assistenza per fini di indagini o procedimenti penali ovvero per conto di una Autorità che abbia il potere, in base alla legge italiana

"di iniziare e condurre procedimenti volti alla punizione di illeciti penali", la richiesta stessa non soddisfa i requisiti posti dal Trattato.

Inoltre, gli Stati Uniti sono ben consapevoli del fatto che sono in corso in Italia indagini penali riguardanti la questione BNL, allo scopo di perseguire illeciti penali. La Commissione parlamentare, però, non sta conducendo l'indagine penale; questa, invece, viene condotta dalla Procura presso il Tribunale di Roma, che di fatto ha già presentato domanda di assistenza a norma del Trattato.

Anche se il Dipartimento della Giustizia non ha l'obbligo, a norma del Trattato, di prestare assistenza alla commissione parlamentare, suoi rappresentanti si sono incontrati con il Consigliere speciale della Commissione, prof. Enrico Zanelli, in numerose occasioni nel corso dell'anno passato, e fra l'altro in occasione di una riunione tenuta nel mese di ottobre, alla quale hanno partecipato il Deputy Assistant Attorney General Paul Maloney, il Prof. Zanelli e diversi senatori appartenenti alla Commissione Parlamentare.

Tutti i membri del Dipartimento hanno continuamente espresso alla Commissione la loro volontà di assisterla nel suo lavoro in tutti i modi possibili, senza interferire

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con il procedimento penale attualmente pendente in Atlanta. Invero, nello scorso anno il prof. Zanelli si é avvalso della continua assistenza del Pubblico Ministero di Atlanta, facendo regolarmente richiesta di notizie in merito a documenti ed operazioni. In tutte le occasioni il Pubblico Ministero ha fornito al Prof. Zanelli ogni informazione richiesta.

Il Dipartimento della Giustizia mantiene sempre il proprio vivo desiderio di assistere la Commissione parlamentare su base informale ~~che~~ nella misura più ampia possibile consentita dalle nostre leggi, tenuto debito conto dei procedimenti presso di noi pendenti. Se Lei vorrà parlare in merito a quanto sopra con me o con il rappresentante del Dipartimento della Giustizia in Roma, Mary Ellen Warlow, La prego di farmelo sapere.

Distinti ossequi.

Drew C. Arena

Direttore Ufficio Affari

Internazionali

Divisione Criminale

per conoscenza:

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Mary Ellen Warlow

Senior Counsel for International Law Enforcement

Ambasciata degli Stati Uniti

Via Veneto, 119/A

00187 - ROMA - ITALIA

P.T.K.

- 2 MAR 1992

MINISTERO DI GIUSTIZIA E PUNIZIONE
Direzione Generale Penale
Il Traduttore Ufficiale
(Renzo Arzeni)



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DCA:RCO:LJB:DAV:ljb
182-3191

Washington, D.C. 20530

FEB 11 1992

BY FEDERAL EXPRESS

Egregio Dott. Raffaele Palmieri
Direttore, Ufficio II A.P.
Ministero di Grazia e Giustizia
Via Arenula 70
00186 Roma
Italia

18 FEB. 1992	MINISTERO GRAZIA E GIUSTIZIA DIR. GEN. AFFARI PENALI UFF. II
	002677
PRONT. IN ARRIVO	

Dear Dott. Palmieri:

Re: Richiesta di assistenza giudiziaria in materia penale
formulata dalla Commissione Parlamentare di Inchiesta sul
caso della Filiale di Atlanta della BNL e sue connessioni

The Department of Justice is returning the treaty request your office made on behalf of a parliamentary commission. As you know, the Mutual Legal Assistance Treaty in force between our two countries was never intended to be used on behalf of, and we will not grant assistance under the treaty for use by, legislative bodies. That the treaty does not apply to investigations conducted by legislative bodies -- irrespective of the legitimacy and importance of such legislative investigations -- is made quite clear by the language of the treaty itself. Article 1, paragraph 1, of the treaty describes the assistance thereunder as being "assistance in criminal investigations and proceedings" ("assistenza per le istruttorie e procedimenti penali"), and paragraph 4 of that article emphasizes that the treaty is "intended solely for mutual assistance in criminal matters between the authorities of the Contracting Parties." ("Il presente trattato disciplina esclusivamente l'assistenza reciproca in materia penale fra le autorità delle Parti contraenti.")

Moreover, the Memorandum of Understanding regarding Article 1, which was executed on November 9, 1982, further recognizes that while there may be authorities other than courts which have responsibility for criminal investigations and prosecutions (as, for example, is the case in the United States with prosecutors who are members of the executive rather than judicial branch of government), the treaty applies only to an "authority which institutionally has, under the laws of its State, power to initiate or proceed in prosecutions for punishment of criminal offenses."

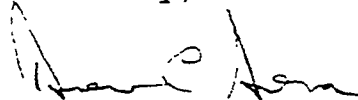
Handwritten initials and date: 18 FEB 1992

Thus, since the request from the parliamentary commission does not (nor do we believe it could) purport to seek assistance for the purpose of a criminal investigation or proceeding or to seek assistance on behalf of an authority which has the power, under the laws of Italy, "to initiate or proceed in prosecutions for punishment of criminal offenses," the request does not conform to the requirements of the treaty. Furthermore, the United States is well aware that there is indeed a criminal investigation concerning the BNL matter being conducted in Italy for the purposes of initiating or proceeding in the prosecution of criminal offenses. However, the parliamentary commission is not conducting this criminal investigation; instead, it is being conducted by the office of the prosecutor for the Tribunal of Rome, which has in fact already requested assistance under the treaty.

Although the Department of Justice has no obligation under the treaty to render assistance to the parliamentary commission, members of the Department have met with the special counsel for the commission, Professor Enrico Zanelli, on a number of occasions over the last year, including a meeting in October attended by Deputy Assistant Attorney General Paul Maloney, Professor Zanelli, and several senators who are members of the parliamentary commission. All members of the Department have continuously expressed to the commission their willingness to assist the commission's work in whatever way they can without jeopardizing the criminal case that is currently pending in Atlanta. Indeed, over the last year, Prof. Zanelli has availed himself of the continued assistance of the Atlanta prosecutor, regularly asking her for information concerning documents and transactions. On every occasion, the prosecutor has provided Prof. Zanelli with the information that he sought.

The Department of Justice remains very eager to assist the parliamentary commission on an informal basis to the extent possible under our laws, with due regard for our pending prosecution. If you should like to speak about this matter with me or with the representative of the Department of Justice in Rome, Ms. Mary Ellen Warlow, please do not hesitate to call.

Sincerely,



Drew C. Arena
Director
Office of International Affairs
Criminal Division

cc: Mary Ellen Warlow, Esquire
Senior Counsel for International Law Enforcement
U.S. Embassy
Via Veneto 119/A
00187 Rome
Italy



A MEZZO MOTOCICLISTA

Pr. 155.462/92

Roma, 26 MAR. 1992

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MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale degli Affari Penali
delle Grazie e del Casellario
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SENATO DELLA REPUBBLICA
COMMISSIONE PARLAMENTARE
DI INCHIESTA SUL CASO B.N.L.
- ATLANTA

R O M A

Rif. n. RA/2761/91/DM *278*
(da citare nella corrispondenza)

(c.a. Pres. Sen. Avv. Gianuario
CARTA)

OGGETTO: Commissione rogatoria internazionale formulata il 30.10.1991 nell'inchiesta sul caso B.N.L. filiale di Atlanta e sue connessioni.

Nel fare seguito alla nota del 7.3.1992, si trasmette l'unita missiva 4 Marzo 1992 del Dipartimento della Giustizia statunitense che sostituisce la precedente dell'11 Febbraio u.s.

Le stesse Autorità americane hanno precisato che, a causa di un errore materiale, tale ultima lettera é stata firmata e spedita a questo Ministero sebbene non costituisse la versione finale della lettera stessa e, pertanto, quantunque le differenze tra i due testi non siano grandi, invitano le Autorità italiane a non tener conto della missiva dell'11 Febbraio.

Si rinnovano i sensi della più alta stima e considerazione.

IL DIRETTORE GENERALE

(G. Falcone)

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DCA:RCO:LJB:DAV:ljb
182-3191

Washington, D.C. 20530

MAR 4 1992

BY FEDERAL EXPRESS

Egregio Dott. Raffaele Palmieri
Direttore, Ufficio II A.P.
Ministero di Grazia e Giustizia
Via Arenula 70
00186 Roma
Italia

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caso della Filiale di Atlanta della BNL e sue connessioni

The Department of Justice is returning the treaty request your office made on behalf of a parliamentary commission. As you know, the Mutual Legal Assistance Treaty in force between our two countries was never intended to be used on behalf of, and we will not grant assistance under the treaty for use by, legislative bodies. That the treaty does not apply to investigations conducted by legislative bodies -- irrespective of the legitimacy and importance of such legislative investigations -- is made quite clear by the language of the treaty itself. Article 1, paragraph 1, of the treaty describes the assistance thereunder as being "assistance in criminal investigations and proceedings" ("assistenza per le istruttorie e procedimenti penali"), and paragraph 4 of that article emphasizes that the treaty is "intended solely for mutual assistance in criminal matters between the authorities of the Contracting Parties." ("Il presente trattato disciplina esclusivamente l'assistenza reciproca in materia penale fra le autorità delle Parti contraenti.")

Moreover, the Memorandum of Understanding regarding Article 1, which was executed on November 9, 1982, further recognizes that while there may be authorities other than courts which have responsibility for criminal investigations and prosecutions (as, for example, is the case in the United States with prosecutors who are members of the executive rather than judicial branch of government), the treaty applies only to an "authority which institutionally has, under the laws of its State, power to initiate or proceed in prosecutions for punishment of criminal offenses."

MAR. 1992

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Thus, since the request from the parliamentary commission does not purport to seek assistance for the purpose of a criminal investigation or proceeding or to seek assistance on behalf of an authority which has the power, under the laws of Italy, "to initiate or proceed in prosecutions for punishment of criminal offenses," the request does not conform to the requirements of the treaty. Furthermore, the United States is well aware that there is indeed a criminal investigation concerning the BNL matter being conducted in Italy for the purposes of initiating or proceeding in the prosecution of criminal offenses. However, the parliamentary commission is not conducting this criminal investigation; instead, it is being conducted by the office of the prosecutor for the Tribunal of Rome, which has in fact already requested assistance under the treaty.

Although the Department of Justice has no obligation under the treaty to render assistance to the parliamentary commission, members of the Department have met with the special counsel for the commission, Professor Enrico Zanelli, on a number of occasions over the last year, including a meeting in October attended by Deputy Assistant Attorney General Paul Maloney, Professor Zanelli, and several senators who are members of the parliamentary commission. All members of the Department have continuously expressed to the commission their willingness to assist the commission's work in whatever way they can without jeopardizing the criminal case that is currently pending in Atlanta. Indeed, over the last year, Prof. Zanelli has regularly asked the prosecutor in Atlanta for assistance regarding documents and transactions that have been examined in the course of the Atlanta investigation. On every occasion, the prosecutor attempted to provide Prof. Zanelli with the requested information within the constraints of our laws, such as the law that imposes secrecy upon information gathered by a grand jury.

The Department of Justice remains very eager to assist the parliamentary commission on an informal basis to the extent possible under our laws, with due regard for our pending prosecution. If you should like to speak about this matter with me or with the representative of the Department of Justice in Rome, Ms. Mary Ellen Warlow, please do not hesitate to call.

Sincerely,



Drew C. Arena
Director
Office of International Affairs
Criminal Division

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cc: Mary Ellen Warlow, Esquire
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Washington, D.C. 20520-6417

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DIPARTIMENTO DELLA GIUSTIZIA DEGLI STATI UNITI

Washington, 4.3.1982

ESPRESSO FEDERALE

Egr. Dr. Raffaele Palmieri
Direttore Uff. II A.P.
Ministero di Grazia e Giustizia
Via Arenula 70
00186 Roma
Roma - Italia -

OGGETTO: Richiesta di assistenza giudiziaria in materia penale formulata dalla Commissione Parlamentare di Inchiesta sul caso delle Filiali di Atlanta della BNL e sue connessioni.

Questo Dipartimento della Giustizia neppure la richiesta che il Suo Ufficio ha formulato a norma del Trattato per conto della Commissione Parlamentare. Come Lei sa, è sempre stato concluso che si possa fare ricorso al Trattato di Mutual Assistance in vigore fra i nostri due Paesi per conto di organi legislativi, né da parte nostra verrà accordata assistenza ad uso di tali organi. Che il Trattato non possa essere applicato in caso di indagini condotte da organi legislativi indipendentemente dalla legittimità e dall'importanza delle indagini stesse - risulta assai chiaro dal testo stesso del Trattato. Il

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paragrafo 1 dell'art.1 definisce l'assistenza come "assistenza per le istruttorie procedimenti penali", mentre il paragrafo 4 dello stesso articolo sottolinea che "il presente Trattato disciplina esclusivamente l'assistenza reciproca in materia penale delle parti contraenti".

Inoltre, il memorandum di intesa relativo all'art.1, sottoscritto il 21.11.1982, riconosce che "mentre possono esservi autorità diverse dall'autorità giudiziaria, alle quali competono indagini e procedimenti penali (come avviene, per esempio, negli Stati Uniti nel caso dei pubblici Ministeri che appartengono all'esecutivo, piuttosto che al potere giudiziario), il Trattato si riferisce solo alla "autorità" che istituzionalmente ha, in base alle leggi del proprio Stato, il potere di iniziare o condurre procedimenti volti alla punizione di illeciti penali".

In tal modo, poichè la richiesta da parte della Commissione Parlamentare non è volta ad ottenere assistenza per fini di indagini o procedimenti penali ovvero per conto di una Autorità che abbia il potere, in base alla legge italiana, di iniziare e condurre procedimenti volti alle

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punizione di illeciti penali", la richiesta stessa non soddisfa i requisiti posti dal Trattato.

Inoltre, gli Stati Uniti sono ben consapevoli del fatto che sono in corso in Italia indagini penali riguardanti la questione ELL, allo scopo di perseguire illeciti penali. La Commissione parlamentare, però, non sta conducendo l'indagine penale; questa, invece, viene condotta dalla Procura presso il Tribunale di Roma, che di fatto ha già presentato domanda di assistenza a norma del Trattato.

Anche se il Dipartimento della Giustizia non ha l'obbligo, a norma del Trattato, di prestare assistenza alla Commissione parlamentare, suoi rappresentanti si sono incontrati con il Consigliere speciale della Commissione, Prof. Enrico Zanelli, in numerose occasioni nel corso dell'anno passato, e fra l'altro in occasione di una riunione tenuta nel mese di ottobre, alla quale hanno partecipato il Deputy Assistant Attorney General Paul Maloney, il Prof. Zanelli e diversi senatori appartenenti alla Commissione Parlamentare.

Tutti i membri del Dipartimento hanno continuamente espresso alla Commissione la loro

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volontà di assisterla nel suo lavoro in tutti i modi possibili, senza interferire con il procedimento penale attualmente pendente in Atlanta. Invero, nello scorso anno il Prof. Zanelli ha fatto regolarmente richiesta di assistenza al Pubblico Ministero di Atlanta in merito a documenti ed operazioni che sono stati esaminati durante le indagini di Atlanta. In tutte le occasioni il Pubblico Ministero ha cercato di fornire al Prof. Zanelli ogni informazione richiesta, con le limitazioni imposte dalle nostre leggi come quella che pone il segreto sulle notizie acquisite da un "Grand Jury".

Il Dipartimento della Giustizia mantiene sempre il proprio vivo desiderio di assistere la Commissione parlamentare su base informale, nella misura più ampia possibile consentita dalle nostre leggi, tenuto debito conto dei procedimenti presso di noi pendenti. Se lei vorrà parlare in merito a quanto sopra con me o con il rappresentante del Dipartimento di Giustizia in Roma, Mary Ellen Warlow, La prego di chiamarmi.

Distinti ossequi.

Drew C. Arena
Direttore Ufficio Internazionali
Divisione criminale

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P.T.C. - Roma, 21.3.92
IL TRADUTTORE-INTERPRETE
(Andre) *[Signature]*

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Resoconti della Commissione Gonzalez.

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BANCA NAZIONALE DEL LAVORO AFFAIR AND
REGULATION AND SUPERVISION OF U.S.
BRANCHES AND AGENCIES OF FOREIGN BANKS

413/a

HEARING

BEFORE THE

COMMITTEE ON BANKING, FINANCE AND
URBAN AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

OCTOBER 16, 1990

Printed for the use of the Committee on Banking, Finance and Urban Affairs

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**BANCA NAZIONALE DEL LAVORO AFFAIR AND
REGULATION AND SUPERVISION OF U.S.
BRANCHES AND AGENCIES OF FOREIGN
BANKS**

Tuesday, October 16, 1990

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to call, at 9:30 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Annunzio, Hubbard, Oakar, Barnard, Schumer, Kennedy, Weiss, Wylie, and Leach.

The CHAIRMAN. The committee will please come to order.

This morning is part of a week that is quite hectic. And the House is going to be like it was late last night, in session, and we probably will be getting roll call votes.

The Banking Committee is meeting today to hear testimony regarding the BNL scandal involving the Atlanta branch or agency of the Banca Nazionale del Lavoro BNL.

This is a sensational case now in the light of events of recent date, in which former employees of the branch, through the BNL, approved approximately close to \$3 billion in what turned out to be secret and unauthorized loans or letters of credit to Iraq.

Only \$67 million of this amount was reported to the State and Federal bank regulators. BNL-Atlanta also failed to report \$1.8 billion in monies borrowed in the world money markets to support the concealed loans. Press reports and the Italian government have linked BNL financing to companies that sold armaments to Iraq over the past several years.

At this time, this committee has no proof of that assertion, and we are not necessarily weighing our hearings in that direction because our prime legislative purpose, and the only and single reason for the hearings and this committee's concern and exertion of its regulatory, that is oversight responsibilities, is a question of legislation with respect to the obviously inadequate regulatory system in our country.

But at a minimum, the secret loans mentioned above increased Iraq's credit capacity and permitted Iraq to spend their scant hard currency on some of the very weapons that are now armed. And

(1)

God only knows, and we pray not, but it's beyond our power to decide.

I want to say this, that as an individual from the very beginning in August, I was very critical of the President's decision. It wasn't easy for me because I happen to have a personal liking and high respect for the President.

But I was very concerned, I am, and I appealed to the House leadership to get together with the Senate leadership and call the Congress back into session to exert its congressional and constitutional responsibilities.

My contention is that the President is and has continued to act extra unconstitutionally, and certainly in violation of the very statutes that the Congress has passed as early as 1974. Nevertheless, that is my personal stand. As it turned out, it's been a pretty lonely one.

I believe that now the die is cast, and, of course, in retrospect, it gives this tinge of sensationalism and drama to what at that time was more or less a policy or a cursory banking activity.

The BNL affair is also a case study in regulatory failure, and this is what we are concerned about. The State and Federal regulatory agencies not only failed to adequately supervise BNL, but they still insist they are blameless for not discovering this massive fraud.

The BNL affair raises several larger concerns. For most is the adequacy of the regulatory and supervisory capacity of the U.S. branches and agencies of foreign banks. Entities like BNL command over \$575 billion in assets in the United States right now and over \$7.5 billion of their liabilities are guaranteed by the FDIC.

Now, any American who learns this first who is not aware is shocked and why not, just like in the case of the other events that sorrowfully and sadly and to the detriment of the national interests we have been witnessing here in the last few years.

With this potential, there is nobody in this country, regulator, congressman, or executive branch official that can tell you that at this very moment similar activities are not happening right now because with this vast amount in this realm of ours, the United States, unregulated, unsupervised, and unaccounted to all intents and purposes, unlike any other country, most countries have screening agencies and boards and bureaus. We don't.

The regulatory scheme governing branches and agencies of foreign banks is spelled out in the International Banking Act of 1978. Let me say to my colleagues here that that Act resulted from the 1975 hearings that I was able to generate enough support to get the then chairman of the subcommittee to come to my home town of San Antonio and conduct over a 2-day period and gave rise then to the absence of legislation involving the cross border transactions and the resulting indictment of not only banking individuals but other Federals.

And so the 1978 Act 3 years later actually was fragmentary and actually targeting, you could almost say, the intraborder flow here in this forum.

Now, nationally there are a lot of gaps. The Banking Committee is quite concerned that the present sharing arrangement between

the State and Federal bank regulatory agencies is inadequate to ensure these entities are properly supervised. This is certainly the case in the BNL affair. It's apparent that a thorough review of the International Banking Act is in order.

The BNL affair also raises the issue of whether or not we should allow U.S. based financial institutions to have the potentiality to be used as a conduit of foreign policy. It's time the committee delved into the intentions of foreign banks, especially those owned by foreign governments and the role they play in our economy.

We should ask ourselves, even if it did not happen in the case of BNL, should we permit this arrangement to carry out the type of policies through our banking system, especially if it's against at any subsequent time, or concurrent time, against our own policy?

Should we permit a foreign bank or banks that are underwritten by foreign taxpayers to compete head on with our privately owned banks?

These are questions that are now agitating the minds of enough of our congressmen, on and off of this committee. One must wonder if it's fair for a foreign-government-owned bank to take business and jobs away from our privately owned domestic banks. Maybe it's time we establish a national screening board to monitor more closely foreign bank presence in the United States.

Such a foreign screening board could review applications for foreign bank entry into the United States as well as monitor these banks to ensure they are not engaging in foreign policy activities.

There are several primary reasons that the BNL affair occurred. First, BNL was obviously a pitifully managed organization. An internal 75 page audit of BNL Atlanta that was conducted 1 year before the scandal became public, paints a clear picture of an organization out of control.

This internal audit stated, and I quote, "Based on the audit findings, the Atlanta agency's operations accounting and internal controls were found to be in need of improvement in most areas," end of quote.

The internal audit report goes on to say, and I quote again, "The accounting data preparation and its flow and input into existing systems does not comply with existing BNL practices and procedures and as such is deficient of sound practices and controls," end of quote.

So that in the end result, it was not only the bank in it's affairs, but the Italian national interests and the government that were affected, and obviously adversely.

What is most distressing about the audit finding is that BNL concealed these findings from the State and Federal bank regulators. Upon examining BNL, the State of Georgia asked for a copy of the internal control report. BNL Atlanta management falsely told the Georgia examiners that the report was still in progress and was unavailable.

The State of Georgia examiners never followed up to get a copy of this report until after the raid on BNL. They also did not do their own comprehensive examination of BNL. The State of Georgia gave BNL a clean examination report.

The Federal Reserve Board which has prime responsibility to ensure the State exams are adequate, did nothing to ensure Geor-

gia did a good job. The Fed only spent a few hours on the BNL audit. Ironically, not long after the BNL exam, the manager of the Atlanta branch signed a \$1.155 billion unauthorized loan agreement with Iraq.

Apparently, the BNL people were convinced the examiners would not catch them and that the management of BNL would not detect nor stop them.

This hearing is also being held to acquaint Members with a loophole in the criminal code that today permits employees of non-insured branches and agencies of foreign banks to escape Federal prosecution for bank theft, fraud, embezzlement, misapplication of funds and bribery. The Federal Reserve has asked us to close this loophole, and it's imperative Members understand the reason for this legislative request.

[The prepared statement of Mr. Gonzalez can be found in the appendix.]

With that, we recognize Mr. Wylie.

Mr. WYLIE. Thank you very much, Mr. Chairman.

This is our second hearing on the activities of the Atlanta branch of Banca Nazionale del Lavoro. The staff briefing last week gave us a good overview of unreported lines of credit that were initiated by BNL's Atlanta branch. The giving of unauthorized credit in excess of \$2.8 billion to Iraq raises several important questions.

To what extent did management in New York and Rome know of and approve the Atlanta office's actions? To what extent was the Italian government aware of the bank's involvement with Iraq? And, how should the government regulate and supervise foreign-owned banks that operate in the United States?

You have alluded to that, and I think we might need some assistance in knowing how to go about, perhaps, passing legislation to regulate foreign-owned bank activities here.

I am pleased that we have the State and Federal regulators associated with this case appearing before us today. We will also hear from a representative of BNL. Mr. Chairman, I commend you for holding the hearing and look forward to their testimony.

Thank you very much.

The CHAIRMAN. Thank you once again, Mr. Wylie.

Mr. Annunzio, who happens to be the ranking Member on the majority side of this committee, and also the chairman of the pertinent Subcommittee on Financial Institutions and Supervision, has been active, and in pending legislation we believe we have a pretty good grasp of activities such as this.

However, at this time, it's a pleasure to recognize Mr. Annunzio. Mr. ANNUNZIO. Thank you, Mr. Chairman.

I want to congratulate you for calling this hearing on the Banca Nazionale del Lavoro, and it's questionable lending practices.

With the International Banking Act of 1978, the United States legislated a policy of national treaty. Foreign banks were essentially allowed to do what United States banks can do. Now a foreign bank has seriously abused this privilege.

A small Atlanta agency of one of the largest banks in the world issued some \$2.9 billion in unauthorized secret loans to, of all countries, Iraq.

I am outraged over this foreign bank's abuse of privilege and the lack of oversight by the regulators. More importantly, the loans and letters of credits were issued to Iraq, a country that is alleged to have used the money to build a weapons plant, to buy western technology. These weapons could be used against our troops in the Persian Gulf.

There are four issues that must be resolved. First, did that agency defy its parental banking office in New York and Rome and lend billions of dollars without their knowledge? If so, did the parent know and overlook the illegal transactions?

Second, where were the regulators during all of this? How could an agency with only a handful of employees hide almost \$3 billion in loans from examiners of the Comptroller of the Currency, the Federal Reserve, and the State of Georgia? The regulators apparently had no idea that BNL was breaking the law.

Third, how did the United States Government come to guarantee the loans and letters of credit to Iraq through the Commodities Credit Corporation? The U.S. Government cannot be expected to finance weapons shipments to a country with which we might go to war any day.

And fourth, BNL is largely owned by the Italian government. This raises issues of competitiveness and accountability. Can U.S. privately-owned banks compete against foreign government-owned banks, even though some of the bank employees have been fired and are the subject of a grand jury inquiry in the United States? There is an issue of Italian government accountability. Although the Italian Parliament has had hearings on this case and the investigation is expected to continue in Italy, the United States must continue its own investigation.

This case is not just a matter of some lost dollars. For our servicemen and women, it is a matter of life and death. We must get to the bottom of this.

Once again, I congratulate you, Mr. Chairman, for starting the process with these hearings.

The CHAIRMAN. Thank you, Chairman Annunzio.

Mr. Hubbard.

Mr. HUBBARD. Thank you, Mr. Chairman, just a brief statement. First, to congratulate you upon having this hearing regarding this bank and its questionable lending practices, and also to welcome our witnesses, this panel and the other panels to follow.

That is brief enough. Thank you.

The CHAIRMAN. Thank you.

Mr. Barnard. No statement.

Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman, and I too want to thank you for having this hearing. As you know, I have been interested in this issue, particularly as it concerns our farm export programs, for quite a long time.

Since 1983 when Iraq began participating in the Commodity Credit Corporation's export guarantee program, the U.S. Government has guaranteed almost \$5 billion of loans to Iraq, ostensibly for the purpose of the export of agricultural commodities to Iraq.

From where we stand today, a nation with over 200,000 of its soldiers standing toe to toe with the bloodthirsty Iraqi war machine,

and with thousands of its citizens held hostage by a ruthless dictator, these 8 years of U.S. largess are shocking, almost incomprehensible.

In effect, we have doled out billions of dollars of free money which enabled Saddam Hussein to build the powerful nation that confronts us today. And all of this could have been accomplished much more easily. The U.S. Government should simply have asked Saddam Hussein what weapons he wanted, ordered them from a manufacturer, paid the bill and shipped them, postage paid to Iraq. If the United States is going to act stupidly, they at least ought to do it simply.

Now that we are at war with Iraq, the U.S. taxpayer will probably be stuck with an over \$2 billion tab for defaulted loan guarantees we so eagerly extended to Iraq. We should have known better.

Yet through the shortsighted conspiracy of agricultural and foreign policy interests, every year from 1983 on, Iraq was allowed to dig deeper and deeper into the pockets of U.S. taxpayers to the point that for this year Iraq was authorized to see \$1 billion in export guarantees, more than one-fifth the total guarantees under this program. They were encouraged, Iraq was, by the Department of Agriculture and the State Department to take more and more and more under these programs.

They were encouraged despite the fact that their crazed leader was supporting terrorism throughout the world, despite the fact that he butchered and gassed thousands of his own people and despite the fact that his human rights record was abysmal.

The Lavoro scandal which we are examining today was just a result of this poorly managed and ill-conceived credit export guarantee program. With the assistance of the GAO I have been for several years closely examining these programs in general, and the Lavoro case in particular with an eye towards reform.

Just last August I asked the GAO to review overall U.S. agricultural assistance to Iraq in the last 10 years, and the role played by government agencies in fostering and encouraging U.S. agricultural assistance to Iraq. The GAO is digging deeply and hopes to complete this review in 2 to 3 weeks. The results promise to be very revealing.

In June 1988 at my request the GAO completed a review of management and operation of the export guarantee programs, and I will just ask in the record that those findings be placed in the record, because they show, GAO told them what to do and they just didn't do it. They didn't care about foreign policy; they didn't care about U.S. interests; all they wanted to do was sell commodities to whoever would buy them, and it didn't even matter if they be paid back or not.

In January of this year I asked GAO to review the last case to assess U.S. exposure and what role the FASs mismanagement played in the scandal, and that review is currently pending.

Mr. Chairman, I want to thank the GAO for its work. The steps have been taken thanks to that work by the FAS to improve programs in their programs and management. This year's farm bill added some necessary statutory reforms which should fix some of the problems. In general, however, I believe that the export credit programs have been a raw deal for the U.S. taxpayer. With the

committee's help, I hope to continue to keep a very close eye on them.

I thank the Chairman.

The CHAIRMAN. Our witnesses today are Mr. Stephen R. Steinbrink, the Deputy Comptroller for Multi-National Banking, Office of the Comptroller of the Currency; Mr. Paul Fritts, Director of Bank Supervision, Federal Deposit Insurance Corporation; Mr. James Gilleran, Superintendent of Banking, California State Bank Department, representing the Conference of State Bank Supervisors.

Gentlemen, thank you very much for your patience, and—well, let's see. Well, I am going by what you all gave me.

Panel one, with respect to U.S. policy towards Iraq and the BNL connection, is Mr. Marshall Wiley, President of the U.S.-Iraq Business Forum; Mr. F. Paul Dickerson, General Sales Manager and Assistant Administrator for Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture; Mr. Robert Charamella, Vice President, Insurance Division, U.S. Export-Import Bank; and Mr. Allan I. Mendelowitz, an old friend of ours, Director, International Trade, Energy and Finance Issues, National Security and International Affairs Division of the U.S. General Accounting Office, or GAO.

Gentlemen, I want to thank you and ask if any one of you has any time problems, either airlines to catch or appointments to keep?

If not, is there any objection we recognize you in the order that we introduced you?

Then we will begin with Mr. Wiley.

STATEMENT OF MARSHALL WILEY, PRESIDENT, U.S.-IRAQ BUSINESS FORUM

Mr. Wiley. Thank you, Mr. Chairman.

The United States-Iraq Business Forum is a trade association of United States companies who had a common interest in doing business with Iraq. It is a tax exempt non-profit corporation organized under Section 501(c)(6) of the Internal Revenue Code. In July, 1990, it had a membership of 75 companies, including a number of America's largest corporations. The board of directors included representatives from Mobil, Amoco, Westinghouse, General Motors, Caterpillar, and City Bank of Texas.

The Forum is supported solely by dues from its member companies. It has received no money from the Iraqi government, Iraqi companies, or Iraqi individuals.

The Forum was founded in 1985 for the purpose of promoting United States exports to Iraq. It organized a trade mission to Iraq, hosted receptions for visiting Iraqi officials to which representatives of member companies were invited, assisted member companies in obtaining visas and making the proper business contacts in Iraq, and conducted seminars on doing business in Iraq.

It published a quarterly bulletin and other information on Iraq for distribution to member companies. Membership dues were \$5000 per year for the larger companies and \$2500 per year for the

smaller ones. A list of member companies as of July 1990 is available.

The Forum suspended all activities related to the promotion of trade with Iraq on August 2, 1990. I would add that in addition now the Forum has suspended all activities period, and has gone into a state of total inactivity.

United States-Iraqi commerce has increased steadily since the restoration of diplomatic relations between the United States and Iraq in 1984. The principal constraint on exports to Iraq has been the cash flow squeeze suffered by Iraq as a result of the 8-year war with Iran.

In 1988, the Iraqis estimated that they could clear up the debt created by the war in 5 to 7 years and could then return to their previous practice of paying cash for all imports. In the meantime they asked for 2 years credit terms on most of their imports. Private bank credit for Iraq became increasingly difficult to find and exports to Iraq were, for practical purposes, limited to transactions eligible for government export credit guarantees or to the relatively few high priority items for which the Iraqis were willing to pay cash.

In the longer run Iraq appeared to be an excellent future market for the United States. The regime had ambitious plans for economic development and had a high regard for United States technology and capital goods. They have the natural resources required for balanced development of industry and agriculture. They also have the second largest reserves of crude oil in the Middle East, which could provide the capital needed to finance their development plans.

In 1989, approximately two-thirds of U.S. exports to Iraq were agricultural commodities. The other one-third included a variety of consumer goods and capital goods such as pharmaceutical products, construction materials, automotive spare parts, and water pipe. The agricultural commodities were financed by the credit guarantee programs of the Commodity Credit Corporation of the Department of Agriculture.

In addition, the Export/Import Bank's Foreign Credit Insurance Association (FCIA) provided a \$200 million line of short term credit insurance for exports to Iraq. The FCIA credit insurance was limited to credits of 1 year or less. In a relatively few cases, exporting companies accepted delayed payment terms of 1 or 2 years on their own account.

There were also a few transactions financed by European banks without credit guarantees but at extremely high rates of interest. Very few U.S. banks were willing to confirm Iraq's letters of credit or extend credit to Iraq without credit guarantees. Some high priority items were purchased by Iraq for cash.

The business and financial community viewed Iraq as a potentially important trading partner for the United States. Iraq's banking system and its payments record were considered excellent prior to the Iraq-Iran war. After the war began in 1980, Iraq first drew down its substantial reserves but by 1982 payment problems began to develop. These were exacerbated in 1985 when the price of crude oil declined sharply.

tees but it is still possible that a resolution of the Gulf crisis will lead to negotiations and a mutually satisfactory settlement of these claims.

However the current crisis is resolved, Iraq will emerge as an important economic factor in the Middle East. It has the land, the water, the resources and the infrastructure required for rapid development and has the oil reserves needed to pay the bills. The population is relatively well educated and Iraqis have a high regard for American technology and management.

In brief, there is a natural "fit" between the U.S. and Iraqi economies that would permit a mutually beneficial commercial relationship between our two countries when and if we decide that such a relationship should be resumed.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Wiley can be found in the appendix.]

The CHAIRMAN. Thank you for your statement, which we received. I will also ask that the membership list that you provided with your statement be provided in the record at this point.

[The information referred to can be found in the appendix.]
The CHAIRMAN. Mr. Dickerson.

STATEMENT OF F. PAUL DICKERSON, GENERAL SALES MANAGER AND ASSISTANT ADMINISTRATOR FOR EXPORT CREDITS, FOREIGN AGRICULTURAL SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Dickerson. Mr. Chairman and members of the committee, I would like to thank the committee for inviting me to appear today and present the views of the U.S. Department of Agriculture and the Commodity Credit Corporation regarding the concerns that have surfaced in the last year as a result of the investigation of the Atlanta agency of Banca Nazionale del Lavoro.

I know that the committee has already been briefed by its staff regarding the issues and allegations surrounding the Atlanta investigation of BNL, and I will not go into great detail about those matters.

The basic facts, as we now understand them, are these: At some point in the mid-1980's, the management of BNL Atlanta entered into an agreement to loan a large amount of money—rumored to be in excess of \$2.1 billion—to the government of Iraq and its instrumentalities. We are told that BNL's central management in Rome insists that it had no knowledge that the Atlanta branch had committed to make these loans to Iraq, and that the amount pledged was far in excess of the lending limits established for the Atlanta branch.

According to BNL, the loans were concealed from both the bank's regional management in New York and its central management in Rome, and that the loan arrangement with Iraq represented "rogue" activity by the Atlanta branch personnel. This allegedly unauthorized loan activity was purportedly conducted on a secret set of accounts—or "greybook"—and the loans were financed through an intricate scheme of borrowing in the interbank money markets.

At this time Iraq negotiated a series of bilateral debt rescheduling agreements with individual countries, but refused to engage in a multi-lateral rescheduling exercise, apparently in the belief that Iraq had more leverage in bilateral negotiations. The international banking community, however, viewed Iraq's behavior as discrimination between creditors, and private bank credit for Iraq became increasingly difficult to find.

Iraq's leadership, on their side, believed that the Western world was not sufficiently appreciative of Iraq's costly efforts in checking Iranian aggression of Iraq's costly efforts in checking Iranian aggression into the oil rich area to the west of the Gulf. They believed that they would be able to obtain government guaranteed credits which, when combined with their substantial oil export earnings, would give them enough foreign exchange to work their way out of their cash flow squeeze without multi-lateral rescheduling.

The Iraqis have never released official figures on their debt, but it has been estimated at approximately \$80 billion, of which approximately \$35 billion is in the form of "hard" debt to trading partners in Europe, Asia, and the United States which will need to be repaid. The balance is "soft" debt to the oil exporting Arab states pursuant to loans which most analysts believe were understood by all parties as "de facto" grants which will never be paid.

In 1990, Iraq's cash flow situation worsened as oil prices dropped and western governments became increasingly reluctant to provide credit guarantees for loans to Iraq. The Iraq leadership apparently began to believe that Kuwait was conspiring with the United States and other Western governments to damage the Iraqi economy. They could not understand why a rich country like Kuwait would exceed its OPEC quota and drive down the price of oil unless it had a hostile intent towards Iraq.

The U.S. decision to suspend the issuance of CCC credit guarantees for Iraq in January, 1990, probably added to their suspicions of a hostile conspiracy. These suspicions were probably a factor in their final decision to invade Kuwait.

The Iraq government prohibited foreign investment in Iraq except by nationals of other Arab countries. During the past 2 or 3 years, Iraqi government officials have indicated that the law might be waived on a case-by-case basis for joint ventures with American firms. To my knowledge no such joint venture has been formed. Some American companies may still have machinery or equipment in Iraq which was sent there to carry out turnkey or construction projects. There is, however, no significant American equity investment in Iraq.

In my opinion, the U.S. Government's commercial policies toward Iraq prior to the invasion of Kuwait were prudent. We did not give Iraq foreign aid nor did we sell Iraq arms or ammunition throughout their long war with Iran even during periods when it appeared that Iran might win the war. Our Commodity Credit Corporation and Eximbank programs were designed to help American exporters reach an important market—not to help Iraq.

Iraqi assets in the U.S. and most other countries are now frozen and Iraq has, in turn, suspended payments on its foreign debt. The U.S. Government will now need to make good on its credit guaran-

At the time the Atlanta investigation was first brought to CCC's attention in September, 1989, BNL held approximately \$750 million in receivables due in the future from Iraq, representing payment obligations under letters of credit that had been assigned to BNL by U.S. agricultural exporters and for which payment guarantees had been issued by CCC under the GSM programs. Because Iraq continued to pay on those obligations up until August 2 of this year, the outstanding obligations of Iraq held by BNL and guaranteed by CCC have been substantially reduced, and today total approximately \$347 million.

Those letters of credit had been issued by Bank Rafidain, an instrumentality of the government of Iraq. To CCC's knowledge, Iraq had made payments on all of its GSM-102 obligations, including all payments due under letters of credit assigned by exporters to BNL up until the time of the invasion of Kuwait. As of August 1, however, Iraq (and bank Rafidain) have stopped making payments on obligations owed to the United States, and CCC has been notified by a number of banks, including BNL, of Iraqi default on GSM-guaranteed transactions.

So that the committee can appreciate CCC's specific interest in the BNL-Atlanta situation, I would like to describe briefly just how the GSM export credit programs work.

The GSM-102 and GSM-103 programs are export credit guarantee programs operated by the CCC under the general authority of section 5(f) of the Commodity Credit Corporation Charter Act of 1948, by which CCC was directed by Congress to develop programs to "export of cause to be exported, or aid in the development of foreign markets for, agricultural commodities." Congress did not provide specific guidance regarding the means for carrying out this mandate, leaving the formulation and operation of specific programs to the judgment and discretion of CCC.

The GSM programs evolved in the 1970's from the need to find export markets for the increasing levels of U.S. farm production. The concept was to develop programs which would permit U.S. agriculture to develop, and establish itself in, new markets. USDA saw the potential for additional sales in a number of countries in which significant additional demand would exist if credit were available. These were countries that, due to financial constraints, could not purchase additional amounts in the customary cash markets, but were interested in and able to purchase on credit.

In the 1970's, CCC assisted U.S. exports through the operation of direct credit and blended credit programs. In the early 1980's, CCC devised two programs—GSM-102 and GSM-103—utilizing credit guarantees, thereby permitting CCC to continue to assist U.S. export sales without providing direct credit. Essentially, the CCC guarantee operates to attract credit from the private sector to finance sales of U.S. agricultural commodities, rather than having the government provide credit directly.

The principal and most significant difference between the GSM-102 and GSM-103 programs is the length of credit terms. Under GSM-102, CCC guarantees repayment for credit sales of 3 years or less; under GSM-103, CCC's guarantees cover credit sales of more than 3 but less than 10 years, with 7 years being the typical repay-

ment period. Regulations for the operation of the programs were promulgated and codified at 7 CFR Part 1493.

As part of the Food Security Act of 1985, Congress established benchmark levels at which it expected CCC to operate these programs. In the case of GSM-102, Congress has mandated that CCC make available "no less than \$5 billion" annually in short-term credit guarantees; in the case of GSM-103 intermediate export credit guarantees, Congress established a ceiling level which, for the most recent fiscal year, was \$1 billion.

The programs operate as follows: CCC has identified a number of countries which are appropriate participants in the GSM programs. Essentially, GSM participant countries are those which have potential for additional food purchases, but could not make those additional purchases in the cash markets—examples are Mexico, Algeria, Morocco, and so forth. The determination of participant countries involves an evaluation of long-term food needs, interest in the program, market development opportunity for U.S. commodities, and ability to repay any credit extended.

Because GSM sales must be made pursuant to a foreign bank letter of credit—an issue I will discuss later—CCC also qualifies specific banks in the participating foreign country which are eligible to receive deferred payment letters of credit in conjunction with GSM-guarantee sales.

Prior to the beginning of each fiscal year, USDA, through its commodity divisions and the attache service of the Foreign Agricultural Service, through discussions with foreign countries interested in the programs and with input from the U.S. export industry, identifies the most favorable opportunities for credit sales under the programs. FAS then allocates the amounts of credit guarantees among potential participating countries, establishing specific country "lines" by commodity. These proposals are presented to an interagency group—the National Advisory Council on International Fiscal and Monetary Policy (NAC)—for its advice.

Once country lines have been established, they are announced to the trade. An exporter who makes a credit sale to a GSM participating country on appropriate terms can apply, in accordance with the terms of the program regulations, for a CCC payment guarantee. If there is sufficient credit guarantee available for the commodity and country identified in the sale, CCC will issue a provisional export credit guarantee to the exporter. The guarantee becomes effective at the time the commodities are exported from the United States.

Under the program regulations, sales must be made subject to repayment on deferred terms under a letter of credit issued by an approved foreign bank. The CCC guarantee is a promise to the exporter that CCC will pay the exporter, or its assignee, for the sale in the event that the approved foreign bank should default on its payment obligation under the letter of credit.

It is important for the committee to understand that this is the only risk assumed by CCC under the GSM program—the risk of nonpayment by an approved foreign bank issuing an international letter of credit.

Once the exporter receives the GSM guarantee and has exported the commodity in accordance with the terms of its letter of credit

obligations, it is free to "assign" its rights to proceeds under the letter of credit (and its rights to receive payment under CCC's guarantee in case of default) to a U.S. financial institution.

The CHAIRMAN. Mr. Dickerson, will you please yield to me at this point?

We have notice of a recorded vote, and we are going to allow the Members time to go and record their vote and come back immediately. So we will recess for about 10 minutes or so.

[Vote recess.]

The CHAIRMAN. The committee will come to order.

Mr. Dickerson, we apologize for the delay, but we do have these things happening, as I said at the outset.

Mr. Dickerson. Thank you, Mr. Chairman. If I may continue.

Put more simply, this "assignment" of rights means that the U.S. exporter is able to receive immediate payment for its sale from a U.S. bank and "cash out" of the transaction. Most banks that take such assignments then book these transactions as "loans" made to the foreign bank that is obligated to make deferred payments under the letter of credit. The risk of repayment is passed to the U.S. bank which effectively undertakes to finance the credit sale.

This is, of course, the entire purpose of the program. U.S. exporters are ordinarily not in (and do not want to be in) the business of financing credit sales; the purpose of the GSM programs, as I mentioned earlier, is to attract marketplace financing.

The committee should also note that CCC does not issue credit guarantees to U.S. banks. Guarantees are issued to the agricultural exporters, who subsequently negotiate the guarantees to financial institutions interested in having these types of "loans" in their portfolios. As a result, CCC has no programmatic relationship with banks located in the United States under the GSM-102 and GSM-103 programs, nor any regulatory oversight.

More importantly, CCC assumes no risk whatsoever with respect to the U.S.-based financial institutions that take assignments of GSM guarantees. Whether the guarantee is held by the exporter or by its assignee, CCC's risk remains identical—it is the risk of non-payment by the foreign bank issuing the letter of credit. Accordingly, the only requirement imposed with respect to assignment is that the assignee be a financial institution located in the United States.

Iraq began purchasing U.S. commodities under the GSM program in 1983 when the United States and Iraq were working to re-establish diplomatic relations that had been severed for almost 17 years. Iraq was, at that time, engaged in the middle of its 8-year war with Iran and was looking for a means of obtaining food and feedstuffs on credit. At the same time, the United States was experiencing a surplus of many commodities, and it was determined that Iraq's long-term food needs presented significant market development potential for a number of U.S. commodities.

In 1983, Iraq purchased \$364 million of U.S. agricultural commodities under the GSM-102 program. The program grew in most years during the 1980's, with peak allocations during fiscal year 1988 and fiscal year 1989 of slightly more than \$1 billion annually.

A summary of the export values guaranteed during the period is set forth in Attachment A.

As part of the process of establishing country allocations, representatives of USDA ordinarily held consultations with representatives of Iraq each year in the late summer or early autumn to determine Iraq's specific interests in GSM purchasing. These consultations were held either in Baghdad or Washington.

Because Iraq is a centrally planned economy, all of its GSM purchasing was conducted through various government ministries. The Iraqi delegations to these consultations were ordinarily led by officials of the Iraqi Ministry of Trade, and included representatives from the various purchasing ministries. The U.S. delegation consisted of representatives of CCC's Office of the General Sales Manager and of FAS officials in charge of program operations. Often-times, U.S. officials also met with representatives of the involved Iraqi financial institutions—the Central Bank of Iraq and Bank Rafidain.

From the time the program for Iraq was initiated in 1983 until the invasion of Kuwait, Iraq purchased approximately \$5 billion in U.S. agricultural commodities under the GSM programs. CCC records indicate that it did not receive any claims or incur any losses with respect to guarantees issued in conjunction with sales to Iraq. Based on the value of guarantees issued over that time period which have lapsed without the filing of any claims, CCC estimates that Iraq paid approximately \$3 billion in principal amounts due plus interest.

On a few occasions, CCC did receive notice of late payment from assignee banks; however, on each of those occasions, it was determined that the late payment had occurred because of difficulties in the international funds transfer process, and within a very short time, payment was received and Iraq was determined to be current on its GSM-guaranteed obligations. I would note that CCC received no claims on guarantees issued in conjunction with Iraqi sales even after the BNL investigation began in Atlanta up until August 1 of this year.

This situation has now changed drastically. As of August 1, Iraq stopped payment on all of its foreign debts. Unpaid Iraqi obligations for which CCC has issued guarantees under the GSM-102 or GSM-103 programs total approximately \$2 billion. This represents approximately \$1.6 billion in principal obligations, and the remainder in guaranteed interest.

The majority of these obligations result from sales made under the GSM-102 program, and those obligations will come due over the next 3 years. A smaller percentage—less than \$200 million—represents repayments on sales made under the GSM-103 program which will come due over the next 5 years.

The receivables for those obligations, and the rights to proceeds under GSM guarantees, are currently held by eleven different U.S.-based banks, some of which are U.S. banks and some of which are U.S.-based branches or agencies of foreign banks, including BNL. CCC is authorized to accept and pay on valid claims, and is currently in the process of evaluating all claims on a case-by-case basis.

According to CCC records, BNL currently holds receivables for which CCC guarantees have been issued of approximately \$347 million. In addition to the GSM-guaranteed financing it provided in conjunction with sales to Iraq, BNL has also financed GSM-guaranteed sales to seven other countries, totaling approximately \$242 million.

After the U.S. Attorney in Atlanta began its investigation of BNL last year, CCC took several actions.

First, it was determined that only \$500 million of credit guarantees should be allocated to Iraq, which represented about one-half of the level requested by Iraq and about one-half of the level allocated in each of the prior fiscal years.

Second, CCC initiated an administrative review of the program with Iraq to determine, based on the information available to CCC, whether there might have been any program abuses associated with the transactions for which BNL had accepted assignment of proceeds.

When the Atlanta investigation began, very little was known about what might have transpired at BNL. In general, it appeared that the investigation involved primarily issues of bank fraud and evasion of bank regulatory requirements. There was no information available for CCC to determine whether BNL had been involved in any irregularities with respect to any CCC-guaranteed transactions.

For that reason, CCC initiated its own administrative review of the GSM program with Iraq. That process involved review of BNL's GSM records, certain exporter records, historical commodity prices and CCC records. In addition, I headed a team which traveled to Baghdad in April to review Iraqi records and to meet with Iraqi officials within the Ministry of Trade. The report of that administrative review was released publicly in May, 1990, and a copy has been provided to your staff.

In addition, an executive summary of the findings and conclusions of that review are provided with this statement as Attachment B.

As you will note from that summary, one area of concern was the issue of so-called "after sales service." In CCC's administrative review, it was learned that Iraq had a fairly regular practice of requesting that U.S. exporters operating under the GSM program provide rebates or discounts, often in the cases of additional goods such as truck tires or equipment.

It appears that, in some cases, exporters failed to reduce the "port value" reported to CCC at the time guarantees were obtained by the value of these additional goods, which failure would represent a program violation on the part of the exporter. At the conclusion of its review, CCC turned over the information it had developed to USDA's Office of the Inspector General, asking that it conduct a thorough investigation of all sales to Iraq to ascertain the extent of this practice.

The OIG is completing its study and we expect a final report soon. CCC will take appropriate administrative or civil action in the event that the OIG report discloses wrongful violation of program requirements.

In conclusion, I would not the following points for the committee:

First, in the absence of a settlement to the current crisis in the Mideast, CCC expects that Iraq will continue to default on its obligations to U.S. banks for which repayment has been guaranteed by CCC under the GSM-102 program. Potential exposure to CCC as a result of those guarantees is approximately \$2 billion. CCC exposure is a result of nonpayment of obligations by Bank Rafidain under letters of credit issued by that bank.

Second, CCC is continuing to monitor the investigation of BNL in Atlanta to learn whether any program violations uncovered in that investigation will require appropriate administrative or civil action. However, because CCC does not assume any risk with respect to U.S. banks, CCC's potential exposure relates to nonpayment of obligations by Iraq and is unaffected by the circumstances that are under investigation at BNL Atlanta.

I would like to thank the committee for this opportunity to appear before it, and would be happy to respond to any questions. [The prepared statement of Mr. Dickerson can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Dickerson.

The Chair will say that we have about eight witnesses after this, and we are very grateful for those of you that gave us your prepared text. But the Chair would implore that if it is at all possible, to be succinct and abbreviate the testimony as much as possible, it will allow us to proceed expeditiously and not keep the other witnesses too late.

Mr. Charamella, the entire statement that you have given us will be made a part of the record, so that you may proceed by summarizing, whichever way you see fit. But I would implore you to be as succinct as possible.

STATEMENT OF ROBERT L. CHARAMELLA, VICE PRESIDENT,
INSURANCE DIVISION, U.S. EXPORT-IMPORT BANK

Mr. CHARAMELLA. Thank you, Mr. Chairman. I will summarize our statement.

I welcome the opportunity to be here today to discuss Banca Nazionale del Lavoro, and Iraqi participation in the Export-Import Bank programs. We at the Bank have carefully reviewed how both parties used our programs, and I am pleased to share our findings with the committee.

The Bank is, of course, no longer open in Iraq. U.S. exports were banned to Iraq pursuant to Executive Orders dated August 2, 1990, and August 9. Eximbank's board of directors formally withdrew coverage on August 9, 1990.

From July, 1987, to August 2, 1990, Eximbank was open in Iraq for short-term insurance cover only (up to 360 days), up to a relatively modest aggregate principal exposure limit of \$200 million. We were "off cover" for the preceding 16 months due to payment delinquencies which were paid in full prior to our re-opening that July.

In 1987, we opened cautiously in Iraq only for short-term insurance despite tremendous pressure from the American business community as well as competition from foreign Export Credit Agencies who were open for short, medium and long-term cover in

[The prepared statement of Mr. Charamella can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Charamella. We deeply appreciate the dispatch with which you summarized.

Mr. Mendelowitz, again, we want to thank you for being with us; you have been helpful to this committee before and we are deeply grateful.

STATEMENT OF ALLAN I. MENDELOWITZ, DIRECTOR, INTERNATIONAL TRADE, ENERGY AND FINANCE ISSUES, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. MENDELOWITZ. Thank you, Mr. Chairman. I too will be happy to read a shortened statement and supply my full statement for the record.

The CHAIRMAN. Thank you.

Mr. MENDELOWITZ. We are pleased to be here today to discuss the management and operations of the Department of Agriculture's Commodity Credit Corporation's Export Credit Guarantee Program and Intermediate Export Credit Guarantee Program, referred to as the GSM-102 and 103 programs respectively. The programs are managed and operated by the Foreign Agricultural Service. In addition to our views on management of the program, you asked that we specifically address Iraq's participation and some issues involved.

In the past few years, we have conducted several reviews of these programs in response to requests from the Senate and House Agriculture Committees and the House Budget Committee's Task Force on Urgent Fiscal Issues. In general we have found that FAS needs to improve its management controls over the programs to better ensure the programs' integrity and to avoid excessive financial risk to the U.S. Government.

Action has been taken on some of our recommendations. For example, CCC has improved its accounting for outstanding loan guarantees, enhanced some internal controls over the programs, and is in the process of recognizing estimated losses in its 1989 financial statements.

However, we believe that further improvements are still needed in tightening internal controls, specifically those related to financial institutions' participation in the programs, and in defining an agricultural commodity eligible for export under the programs.

The success of the GSM-102/103 programs depends greatly on the active participation of financial institutions. These institutions disburse the approximately \$4 billion in GSM loans each year, providing direct credit to the foreign buyers.

Despite the important role played by the institutions, CCC has only two regulations covering their GSM-related activities. The first is that participating institutions must be located in the United States. The second prohibits a participating U.S. financial institution from being affiliated with the overseas bank issuing the letter of credit, which the foreign buyer uses to pay for the commodities exported under the GSM programs.

Iraq. Since 1987, the government of Iraq has continually requested that we expand our cover to medium-term and long-term transactions; however, we declined. We never allowed our Iraqi exposure to get out of hand due to the low exposure limit set by the Eximbank board of directors.

Eximbank's willingness to continue its short-term cover in Iraq was based on Iraq's willingness and ability to service its existing debt to the U.S. Government and Eximbank/FCIA in a satisfactory manner.

The current Eximbank exposure in Iraq is \$73.5 million, of which \$55 million is for amounts outstanding and \$18.5 million represents potential exposure.

The potential exposure of \$18.5 million relates to shipments which did not take place before August 2. Since U.S. exports to Iraq were banned as a result of the Executive Order dated August 2, no further shipments are expected to take place—thus, related Iraqi letters of credit are not expected to be negotiated. Consequently \$18.5 million of exposure will be taken off our books.

With regard to claims which Eximbank has paid because of Iraq's failure to pay, we have paid only one small claim of \$53,000. This was in July and resulted from the nonpayment of some post maturity interest which was disputed by the Iraqi opening bank. Prior to August 2, we were negotiating with the Iraqi bank and were confident that it would be resolved in a satisfactory manner.

It does appear very likely that we will have to pay claims in the near future for the \$55 million of actual exposure which I mentioned. How will these claims be treated? These claims will constitute a purchase of assets, which we hope to work out with the Iraqis at some future date.

Mr. Chairman, you asked that I explain BNL participation in Export-Import Bank programs—and, I will do that now. We offer Eximbank programs to financial institutions which are determined to be creditworthy as required by the Export-Import Bank Act of 1945.

After review of BNL's financial standing and operations abroad and in the United States, Eximbank programs were made available to the BNL offices in Rome, New York and Atlanta.

The BNL-Rome office acted as guarantor for two medium term transactions in the mid-1970's in the aggregate of approximately \$4 million which was disbursed and repaid in a satisfactory manner.

The U.S. branches of BNL have not used the Eximbank medium-term and long-term programs.

BNL-New York has used the Eximbank Working Capital Guarantee Program for 10 transactions. The aggregate value of these transactions is \$5.7 million, and experience has been satisfactory.

BNL-Atlanta received a Bank Letter of Credit policy which was used to insure Iraqi letters of credit, in the manner I described previously. This policy expired on December 31, 1989. BNL was the insured for 51 transactions which aggregated \$47 million—\$43.8 million has been repaid satisfactorily. There is currently \$3.2 million outstanding to BNL which is included in the \$55 million of actual exposure to Iraq and will likely result in a claim.

Those are the results of our review. I would be happy to answer any questions the committee may have.

Although the second regulation prohibits participation in transactions by affiliated banks, it does not fully protect U.S. interests from other less-than-arm's-length relationships. CCC has guaranteed the financing of exports to foreign governments who were also owners of the U.S. institutions lending the money and receiving the GSM guarantees.

During a recent review, we found three U.S.-based financial institutions that were either directly owned by or otherwise affiliated with government-owned banks in GSM customer countries.

In fact, two of these three financial institutions held guaranteed debt on which their foreign government owners defaulted. One institution is owned by a consortium of several banks and 43.7 percent of its equity is owned by a defaulting government's central and nationalized banks. The other institution is also owned by a foreign consortium and has financed about \$688 million in GSM transactions to one of its owner countries which owns 14 percent of the institution's equity. These loans represent about 62 percent of the institution's total GSM portfolio.

Iraq's participation in the GSM-102/103 programs began in 1983, just before we re-established official diplomatic relations with that country. Iraq was initially allocated \$230 million in loan guarantees under the GSM-102 program to purchase feedgrains, rice, and wheat. The Iraqis were depleting their foreign exchange reserves due to their war with Iran and they desperately needed credit.

In 1984 Iraq's allocation was almost tripled, to about \$680 million. Iraq began importing protein concentrates, tobacco, vegetable seeds, and other commodities in addition to the feedgrains, rice, and wheat. By 1988 Iraq's GSM-102/103 allocations totaled about \$1.1 billion and were used to purchase some 30 different commodities. This level of GSM-102/103 allocations continued in 1989 and the Iraqis sought the same levels in 1990.

However, when the unauthorized loans involving Iraq came to light in the Banca Nazionale del Lavoro case, the Agriculture Department decided to scale back the 1990 program for Iraq to \$500 million, with the possibility of another \$500 million allocation pending results of Justice's investigation of the bank.

Problems identified in the GSM programs for Iraq so far include the following:

Iraq has suspended payment on its approximately \$2 billion in outstanding GSM guaranteed loans, exposing CCC to a substantial loss.

One bank, the BNL, has a high concentration of loans to Iraq, a significant amount of which are guaranteed under the GSM programs. However, most of the GSM guaranteed loans were not authorized by higher level bank officials. Only \$130 million was authorized by the higher bank officials at the time the BNL scandal broke. About half of those outstanding guaranteed loans were repaid by Iraq prior to Iraq's cessation of debt service in the beginning of August with the onset of the current Gulf crisis.

Foreign origin agricultural commodities have been exported to Iraq under the GSM programs. Such exports are contrary to program regulations which state that the guarantors are to be provided for U.S. agricultural commodities. Eight tobacco exporting companies have pleaded guilty to filing false statements with USDA or

customs in connection with sales of tobacco to Iraq or Egypt under the programs and have been fined a total of \$300,000. The companies were also directed to pay restitution costs to CCC of up to \$1.1 million should CCC incur losses related to those shipments.

Money obtained under Iraqi participation in the GSM programs has been used for purposes other than those permitted, including after-sales services that are unrelated to agricultural exports.

Our work in this area is continuing at the request of Chairman Charlie Rose of the Subcommittee on Tobacco and Peanuts, House Committee on Agriculture and Congressman Charles Schumer. Investigations by the Department of Justice and U.S. Customs Service on these issues are also continuing.

Mr. Chairman and members of the committee, this concludes my statement. I will be happy to answer any questions you may have.

[The prepared statement of Mr. Mendelowitz can be found in the appendix.]

The CHAIRMAN. Thank you very much. We will have questions. I will advise my colleagues that we will stick vigorously to the 5-minute rule, beginning with me and proceed.

Mr. Dickerson, in your statement on page 12 you say that, "As you will not from that summary, one area of concern was the issue of so-called 'after sales service.' In CCC's administrative review, it was learned that Iraq had a fairly regular practice of requesting that U.S. exporters operating under the GSM program provide rebates on discounts, often in the cases of additional goods such as truck tires or equipment. It appears that, in some cases, exporters failed to reduce the port value reported to CCC at the time guaranties were obtained by the value of these additional goods, which failure would represent a program violation on the part of the exporter. At the conclusion of its review, CCC turned over the information it had developed to USDA's Office of the Inspector General, asking that it conduct a thorough investigation of all sales to Iraq to ascertain the extent of this practice. The OIG is completing its study and we expect a final report soon. CCC will take appropriate administrative or civil action in the event that the OIG report disclosed wrongful violation of program requirements."

Rebates or discounts, often in the case of additional goods such as truck tires and equipment, isn't that the same thing as a kickback?

Mr. Dickerson. I suppose you can use any term you would like to use but the program disallows the inclusion of any kind of rebates or the distribution of any material or goods if there is not an allowance or discount from the port value which we guaranteed.

It is originally common practice in this country as well as in others where there are rebates. We use rebates in this country for new cars. In theory at least that rebate should not be guaranteed as part of the underlying guarantee provided by CCC if the exporter does not reduce the port value in cash or goods, he is in violation of our program.

The CHAIRMAN. Well, through the years and particularly after the advent of the GAITT and everything else, we used to have reports from private businessmen doing business even in this new world, in Central and Latin America, that they could not compete

with other foreign salesmen because they always managed to provide a little stipend on the side.

However, the abuse of that—and it was common practice, I had personal friends who were employed by some of the companies doing transnational business here. Pretty soon the Congress had hearings. I forget what committee it was, and we passed the Foreign Corrupt Practices Act.

It was a tradition that if you got to the proper official first and take care of him you got the business. Now what is to prevent such goings on here? If you had not noticed that Iraq was practicing this custom of asking for these extra goodies, which ever way you want to look at it. Common parlance is what we call kick backs. What assurance do we have it doesn't go beyond that? We don't know. I think the fact that even now we are waiting for the inspector general's report indicates that all up and down this whole business was just fraught with questionable practices and all with the best of intentions, that is to foster and stimulate trade and redress the imbalance of trade as they have said all along.

But it seems to me that in this case here, coupled with the fact that the tenuous relationship with another American agency, the Export-Import Bank, which leads to a question here that relates both to you and to Mr. Charamella, and that is that between February of 1986 and 1987, the Export-Import Bank suspended Iraq from proceeding because of delinquencies.

During that same period the USDA approved over \$500 million for Iraq even though Iraq was refusing to pay back the Eximbank. Did the USDA know Iraq was in arrears at that time? How could USDA justify guarantees for Iraq when they were refusing to pay? Wasn't this policy every discussed in the National Advisory Council? Could you comment on that?

Mr. DICKERSON. I personally have no knowledge of that relationship with the Export-Import Bank.

The CHAIRMAN. My time has expired.

Mr. Wylie.

Mr. WYLIE. Mr. Mendelowitz, Mr. Schumer said earlier in his opening statement that he made a request from GAO for an investigation of the CCC some time ago. How long ago was that investigation requested?

Mr. MENDELOWITZ. The request from Congressman Schumer.

Mr. WYLIE. Yes.

Mr. MENDELOWITZ. The request regarding BNL came in last January. The request regarding CCC came in this past summer.

Mr. WYLIE. Did you recommend in your report that we stop trading with Iraq?

Mr. MENDELOWITZ. We did not deal with that issue in the course of our work. The issue of whether we should or should not be trading with Iraq I believe is appropriately a policy issue that falls within the purview and prerogatives of the President and Congress.

Mr. WYLIE. Was there any evidence of kick backs by Exim or CCC or U.S. exporters which came up in the course of your report?

Mr. MENDELOWITZ. The irregularities with respect to the GSM-102 and 103 program have been surfacing in the course of our work since 1987.

For example, we have been warning about the lack of internal controls. The hard evidence on the extent of the after sales services, of if you choose, kick backs, is included in a report that the Department of Agriculture conducted last spring which was generated by the BNL scandal.

Mr. WYLIE. Do you want to respond to that, Mr. Dickerson?

Mr. DICKERSON. The best response I can give you is my participation in the last 14 months I have been with FAS. There has been an effort on the part of the agency to strengthen this program from all aspects. Over the last 12 months we have taken a number of measures which we feel will improve the entire administration of this program including instituting a price review policy, putting exporters on regular notice of the necessity of maintaining proper documentation. We have warned exporters on several occasions about the practice of after sales services being in violation of CCC regulation, a number of different things we have attempted to do to expedite the efficient management and administration of this program and letting the public at large know that on a public announcement basis.

Mr. MENDELOWITZ. Mr. Wylie, I would like to associate myself with those comments by Mr. Dickerson. The reaction in 1987 and 1988 was that there were no problems with the administration of the program. The Administrator of FAS denied there were any problems or there was any validity to the criticisms. Over the past year and a half with the new administration there has been more openness and receptivity to recognizing the problems we have raised.

Mr. WYLIE. What is the extent of the United States' liability through the CCC and Export-Import Bank for loans to Iraq, Mr. Mendelowitz.

Mr. MENDELOWITZ. Eximbank?

Mr. WYLIE. And also CCC.

Mr. MENDELOWITZ. I don't have first-hand information on Eximbank. My understanding with respect to Iraq is that the GSM program has a contingent liability of approximately \$2 billion.

In other words there is \$2 billion worth of export credit guarantees outstanding. Iraq has ceased servicing that debt so claims will be filed.

Mr. WYLIE. So the U.S. has a potential liability of \$2 billion, approximately?

Mr. CHARAMELLA. Our total exposure from Iraq is \$55 million.

Mr. WYLIE. Why the difference in opinion as to what the United States exposure is?

Mr. MENDELOWITZ. No, there are two different programs. It would be additive. Our total exposure to Iraq would be the outstanding amounts of the export credit programs for agricultural commodities plus the outstanding amounts under the Eximbank's program for manufactured products. The Eximbank amount is \$55 million so you just add the \$55 million to the agricultural export credit amounts.

Mr. WYLIE. What is the extent of our Kuwaiti exposure?

Mr. MENDELOWITZ. I don't believe we have any GSM-102 or 103 exposure to Kuwait.

toward any country is market driven along with an appropriate measure of risk.

When you refer any program like this to an interagency process, you are going to have consideration by other agencies of government who have input in the ultimate results of that program. But basically, it is market driven as related to risk by the Department of Agriculture.

Mr. BARNARD. You don't generally meet with the Department of State and they advise you you ought to be more liberal with one country than others?

Mr. DICKERSON. We do not. When this comes to the interagency process which reviews each of these allocations there is discussion on the part of every agency and it is considered but it is market driven as related to risk, not foreign policy directed.

Mr. BARNARD. Do I see a contradiction here, Mr. Mendelowitz?

Mr. MENDELOWITZ. There appears to be a conflict.

Mr. BARNARD. Not conflict, contradiction.

Mr. MENDELOWITZ. A number of years back, around 1984, we spent a good deal of time looking into the issue of Iraq—

Mr. BARNARD. Let me ask this question, one of the impetus in us getting into this hearing was the assertions that the invasion of Kuwait was partially financed by the BNL branch in Atlanta as a result of CCC credit.

Can you follow that down to any determination?

Mr. MENDELOWITZ. I don't think you can make that tie. I think you can say this. Capital is fungible. Iraq, because of the costs of prosecuting the war with Iran was short of capital. To the extent that we made credit available through the GSM 102 and 103 programs, that would not have been available without our loan guarantees, we increased the amount of available capital Iraq had.

To the extent our export programs permitted them to buy agricultural exports with credit in the United States, it freed up other capital that they had for prosecuting the war with Iran and purchasing necessary war material.

I think the argument that can logically be made and sustained certainly is that because capital is fungible, it is an inescapable conclusion that the fact that we provided capital to Iraq through this program did enable them to prosecute the war and feed their people in a way they could not have done without these loans.

Mr. BARNARD. Other than it being a possibility, do you have any direct evidence that that was done?

Mr. MENDELOWITZ. In terms of the money directly going for this purpose, we don't have any evidence on that. We have not seen it.

Mr. BARNARD. My time has expired, Mr. Chairman.

The CHAIRMAN. The gentleman is touching on a pretty important aspect here. I ask unanimous consent that we allow him have a minute so that I can conclude a point here.

Iraq insisted on bilateral deals. That was in violation of the United States policy in accordance with the Paris Club arrangement. So there had to be a foreign policy determination question.

Now, awhile ago, Mr. Dickerson, you expressed ignorance of the fact that the Export-Import Bank in 1987 and 1986 had not even been paid by Iraq. I think it is obvious here that Mr. Barnard's question is readily concluded to be answered definitely that there

Mr. WYLIE. Should U.S. banks guarantee exposure to foreign owned banks?

Mr. MENDELOWITZ. The issue of participation is something we are starting to examine now in response to the requests that we look at that aspect of the programs.

The issue of whether we should be extending guarantees to foreign owned banks is fairly complex. Without bank participation in the program you would not have a program. A very large share of the participating banks turn out to be foreign owned banks.

Mr. WYLIE. My time has expired. I will adhere to the rule.

The CHAIRMAN. Mr. Barnard.

Mr. BARNARD. Thank you, Mr. Chairman.

Mr. Mendelowitz, what do you see in this transaction that you could say was systemic of the entire CCC operation? Is this an unusual transaction with Iraq or is it in your feeling, it is an operation that has problems in its entire operation?

Mr. MENDELOWITZ. Well, I think that the answer to your question is probably yes with respect to both parts of it, without appearing contradictory. The program is at its heart a program to promote the export of U.S. agricultural products and it has been very helpful in that regard. The issue, though, is that the program is not exclusively a program for exporting agricultural commodities.

The program also has foreign policy objectives. The reason why we began I believe back in 1983 extending loan guarantees for agricultural exports to Iraq had as much to do with promoting exports of agricultural commodities as it did with serving foreign policy objectives.

Mr. BARNARD. Why did you say that it is not exclusive with agricultural products? What is the loophole there that permits the other products?

Mr. MENDELOWITZ. It is not that other products are permitted but that there is a foreign policy element in the consideration of the program. For example, my understanding of what happened in the early 1980's was that at some point after the onset of the Iraq-Iran War the U.S. Government decided to tilt toward Iraq and we wanted to give substantive meaning to that tilt toward Iraq. When we looked at what the U.S. Government could do for Iraq we found there was not very much we could do because Iraq was on the list of countries that supported terrorism.

The only things we could do was to provide the export credit guarantees under the GSM-102 and 103 programs.

Mr. BARNARD. Have you verified that that was actually a policy of State on down to the CCC or was that just a coincidence?

Mr. MENDELOWITZ. There are two aspects. CCC does not make decisions in isolation by itself. All program initiatives are presented to an interagency committee, the NAC, in which State, Commerce, Agriculture, Treasury, and so forth, consider it. It comes within the interagency process in which the full range of concerns and interests are considered.

Mr. BARNARD. Mr. Dickerson, do you concur in what Mr. Mendelowitz was saying here?

Mr. DICKERSON. Not entirely. It is USDA program. The determination of whether or not a particular commodity should be directed

was more than just a purely agricultural policy decision involved and the United States actually contradicted its own policy as a result of the Paris Club agreement in allowing bilateral arrangements with Iraq, which Iraq insisted on.

Iraq did not want to work within a whole international arrangement. So I wanted to make that point.

Mr. LEACH.

At the risk of some exaggeration, perhaps a lot of it, I would like to summarize the testimony the committee has heard. It appears that a country that should have been red-lined was provided greenbacks to buy foreign goods. That only applies to some of these circumstances. It is a very serious circumstance. It underscores what appears to be programmatic oversight problems as well as banking oversight problems.

My first question relates to something the gentleman from Georgia raised. In agriculture there are agricultural commodities. There are also agricultural chemicals that sometimes get sold between countries. Is there any evidence of any nature that this bank lender provided resources to buy chemicals that might have been used for nonagricultural purposes, Mr. Wiley?

Mr. WILEY. No.

Mr. CHARAMELLA. Mr. Leach, of the total amount of support we granted in Iraq, \$267 million, \$7.5 million related to agricultural chemicals. Some of those were supported by BNL in Atlanta, the herbicides, pesticides, Dursban and Lursban, which by our analysis suggested these were commonplace pesticides and herbicides that could be purchased off the shelf in any hardware store throughout the world.

We were satisfied that the chemicals, if you will, that we were supporting were not to be used for military purposes.

Mr. LEACH. Mr. Mendelowitz, do you have the same experience? Mr. MENDELOWITZ. There is an investigation that is ongoing. I think that generally speaking, the position of the investigators is that this information should not be discussed to the extent it might adversely affect the ability to prosecute.

Mr. LEACH. You leave a rather wide open question at the end which raises a matter of concern. There were internal security problems as well as external war problems in the country during this time period. The human rights implications of the internal security problems are rather great.

There are only two other questions which I think are important at this time. One relates to a program in which one bank played a very concentrated role. Second, that program was disproportionately concentrated within one single country. That implies a problem for the agricultural department and their regulations as well as for banking regulators.

Mr. Dickerson, were there ever any discussions between the banking department and banking regulators on potential problems in this area?

Mr. DICKERSON. No. Let me point out, if I may, that BNL was not the only participant relative to Iraq and a number of other countries as well.

As I pointed out, the current potential liability on the part of CCC is roughly \$2 billion. BNL has a portion of that. There were a

number of other banks. BNL participated in taking letters of credit for banks in other countries, primarily North Africa. Their involvement was not disproportionately related to the amount of CCC is potentially now liable for.

Mr. MENDELOWITZ. Mr. Mendelowitz, you use a very careful phrase in your statement when you talk about "only a fraction of these loans were authorized by higher level authorities in the bank." Authorization and knowledge are two different kinds of circumstances. Do you think higher level authorities had knowledge of these loans and they just didn't authorize them?

Mr. MENDELOWITZ. I could not say at this point. The work is ongoing and I don't know.

Mr. LEACH. Is there any knowledge that the bank has violated any United States laws?

Mr. MENDELOWITZ. There is, as I said, an investigation being undertaken by a number of entities and it is ongoing.

Mr. LEACH. What are the remedies? There can be civil penalties but can there be banking regulatory restraints on the operation of the bank?

Mr. MENDELOWITZ. Yes. I don't really have it at my fingertips, the full range of possible disciplinary action. I believe that a later panel has representatives of the bank regulatory agencies and I think they will be better equipped to answer that than I am.

The CHAIRMAN. The Chair would say the next member to be recognized is Mr. Kennedy, however, Ms. Oakar has a time problem and she asks unanimous consent to be recognized first?

Mr. KENNEDY. Certainly.

Ms. OAKAR. Thank you, Mr. Chairman.

Mr. Chairman, let me ask about the Export-Import Bank. I am a big fan of the bank. Frankly, I don't think we should have the ceilings on it that we do. You mentioned that with respect to chemical exporting, that it was done under the auspices of these guaranties, but that you did not see that they could be used in chemical warfare.

Why would Iraq want these chemicals? They have varieties of chemical plants there. I don't know the difference in terms of chemicals used for warfare and some of the stronger pesticides. Is there a big difference?

Mr. CHARAMELLA. I am not an expert in this field, Representative Oakar. What I can suggest to you is that the products, the pesticides we supported, Lursban and Dursban, as we understand it, were used principally for termite eradication in the country.

We have input from our team of engineers at the Export-Import Bank that it would not only be very inefficient to break these chemicals down to a base compound, which would eventually be used in some other methodology, but it is also very costly.

The products were off-the-shelf items.

Ms. OAKAR. You checked that out?

Mr. CHARAMELLA. Yes. We checked out every transaction we supported in Iraq.

Ms. OAKAR. Is it against the law for the Export-Import Bank to finance defense articles?

Mr. CHARAMELLA. Yes, in "less developed countries".

Ms. OAKAR. Could you explain the process used by the Eximbank to insure that defense articles are not sold using Eximbank financing?

Mr. CHARAMELLA. Yes.

We have a system in the bank, when products are questionable in nature as to their application, we first check to ascertain whether those products require export licensing procedure through the Munitions Control Department of the Department of State.

When that is satisfied, we are then satisfied that the products we are financing will not be used in a military nature.

We also check the buyers, the purchasers of those products and try to ascertain through the U.S. embassies the specific use for those products and whether they have a military application.

So we have a number of things we do to prevent supporting the sale of military products.

Ms. OAKAR. There is a company in Solon, OH, not in my district, but nearby, where the Federal Government, our Government, closed it down because they suspected this particular company, Matrix Churchill, a subsidiary of a British-located company, was exporting weapons-making machinery to Iraq.

Was any Eximbank loan guarantee given to this company? Were they given assistance?

Mr. CHARAMELLA. Not to my knowledge.

Ms. OAKAR. Mr. Dickerson.

Mr. DICKERSON. Not to my knowledge.

Ms. OAKAR. GAO's study is very, very critical, Mr. Dickerson, of your operation, and it makes some recommendations.

Have you read the recommendations?

Mr. DICKERSON. Yes, I have.

Ms. OAKAR. What do you think of them? Do you think you might implement some of those recommendations?

Mr. DICKERSON. I think some of them are appropriate, Ms. Oakar.

As I mentioned earlier this morning, we have attempted to make changes that are appropriate in our program.

We have been doing so for the last year or year and a half.

Ms. OAKAR. Give me a specific change.

Mr. DICKERSON. For example, we implemented the process last November or last December which involves a price review of sales which are made under the GSM program to ascertain whether the sales prices received by the exporters are not in excess or in deviation with normal market prices one would construe for a particular commodity.

We have continued to remind exporters who are involved in these programs that they have a number of obligations in a regulatory way to the CCC such as maintaining documents and that upon call that we may access their records pertaining to CCC sales as well as all other commercial sales pertaining to any impropriety in the program.

There are a number of things which I just in part at least believe to be good suggestions and things that—any program can be improved.

I think we have made every effort over the last year to do just that.

The CHAIRMAN. The time of the gentlelady has expired. Mr. Kennedy.

Mr. KENNEDY. Thank you, Mr. Chairman.

Mr. Charamella, I wonder if you could explain why did the Eximbank Board of Directors permit Iraq to use its programs after it was shown that Iraq had used poison gas on its own people.

I wonder about the advisory council, which consists of State, CIA, and other Departments.

Do they question whether these departments should be involved with countries that are in violation of the human rights policy?

Mr. CHARAMELLA. On the loan side, most transactions are processed through the National Advisory Council.

We do look to the human rights input from the State Department on those transactions.

With respect to the transactions in Iraq, we developed a very cautious attitude in the market.

Mr. KENNEDY. A caution attitude in the market?

Mr. CHARAMELLA. A caution attitude by establishing a \$200 million ceiling of exposure in the market for the short-term products primarily.

These were short-term insurance policies as opposed to loans. Never at any time did we provide loan assistance to the market. We were merely providing a back-stop insurance to U.S. financial institutions that were supporting sales in the market.

Mr. KENNEDY. Were the amounts reduced after the chemical weapons were used by Iraq on its own people?

You say there is some sort of review process. I think everybody's common knowledge was that Iraq was poisoning its own people and all sorts of human rights violations were taking place.

Obviously it was a pretty flimsy review process in place, wouldn't you agree?

Mr. CHARAMELLA. I think the review process focused on the economic aspects.

Mr. KENNEDY. You mentioned there were 100 elements.

Mr. CHARAMELLA. For loans, correct.

Mr. KENNEDY. On the guarantees, there is no review process for small transactions or amounts of this size, there is no review process.

Mr. KENNEDY. A couple hundred million dollars is a small transaction?

Mr. CHARAMELLA. There was a couple hundred million dollar facility, but that supported many different types of transactions.

Mr. KENNEDY. Two hundred million dollars is going essentially to one country. That is not a small amount of money.

Mr. CHARAMELLA. That is correct.

Mr. KENNEDY. I would think that the National Advisory Council ought to expand its purview into the guarantee portion of this at a bear minimum.

I noticed in your answer to Ms. Oakar's question that you indicated that you were not aware of this specific corporation, I can't recall the company she mentioned with regard to military sales.

Now I want Mr. Dickerson to answer this as well: Is there any knowledge or suspicion you have that the Eximbank was involved

in any way with military sales or equipment or guarantees of any kind?

Mr. CHARAMELLA. Absolutely not.

Mr. KENNEDY. Mr. Dickerson.

Mr. DICKERSON. The company was Churchill Matrix and no Exim guarantees have been issued to them.

No, I have knowledge about these guarantees covering anything but agricultural commodities.

Mr. KENNEDY. Including CCC?

Mr. DICKERSON. That is correct.

Mr. KENNEDY. Have you looked into that? Have you tried to find out what was going on?

Mr. CHARAMELLA. We have looked into it. We had a clearance procedure in place for every transaction in Iraq that identified the product and how it would be used in that country.

Mr. DICKERSON. When this transaction takes place, the bill of lading is cut and the exporter must provide documents which require proof that the agricultural commodities are part of the manifest.

Mr. KENNEDY. Mr. Dickerson, you said in your testimony that at one point, BNL held approximately \$760 million in receivables from Iraq, in which payment was guaranteed by CCC.

The Federal Reserve, BNL had a limit of only \$100 million. Thus, the approximately \$650 million of BNL's loans to Iraq were potentially unauthorized.

Given the fact that \$347 million that is owned to BNL is probably resulting from unauthorized loans, can the USDA avoid those loans being repaid to BNL?

Mr. DICKERSON. The guarantee is to the exporter. I have no knowledge of any way we would be able to walk away from that obligation.

Mr. KENNEDY. Had the exporter already been paid or not?

Mr. DICKERSON. Yes.

The guarantee is issued to the exporter and the exporter assigned it to the bank.

I don't see any interlock between the fact that they are over the limits self-imposed with our obligation to pay them the guarantee.

Mr. KENNEDY. May I have 20 more seconds?

The CHAIRMAN. No objection.

Mr. KENNEDY. If we have 200,000 troops on the border, it seems we are going to be tucking it to the Iraqis.

I don't see why we should not feel very comfortable in doing just that at the moment.

Is it to preserve your worldwide contacts? I don't know why we don't slam the door shut on them.

Our President is talking about going to war with these people and we are going to be guaranteeing money to them.

This is craziness, wouldn't you say?

Mr. DICKERSON. My response is that our legal obligations are assigned guarantees to exporters who have assigned them to U.S. financial institutions.

Your question is, should we walk away from these obligations to U.S. financial obligations.

Mr. KENNEDY. The loans are another question.

The CHAIRMAN. Mr. Kennedy, the guarantees are to the BNL. I think we need to understand that in all these arrangements, you have syndication with the loans so God only knows.

Mr. SCHUMER.

Mr. SCHUMER. Thank you, Mr. Chairman.

Mr. WILEY, I was interested in your statement. It seemed like a policy for Iraq.

What do you think of Saddam Hussein?

The CHAIRMAN. Mr. Schumer, I don't know.

Mr. SCHUMER. Well, Mr. Chairman, I was surprised.

The CHAIRMAN. It is extraneous to this.

Mr. SCHUMER. I thought the whole statement was extraneous, too.

The CHAIRMAN. You can ask him about that.

If you feel his statement was contentiously sympathetic to Iraq, stick to that, but I think to ask him what he thinks of an individual, I think everybody has expressed themselves about that.

Mr. SCHUMER. Well, they are not here, Mr. Chairman.

When I read the statement, I was wondering if the same view was shared by the Iraq Business Council who seems to, at least in this statement, feel that it wanted to explain to us how Iraq felt and why they have to do the things they do.

You say no weapons were sold. There were three members of your group, Lockheed, Bell Helicopter, and General Motors. They never sold weapons.

Mr. WILEY. They never sold weapons. There were some dual-use items that were properly licensed after investigation.

Mr. DICKERSON. The investigation that took place at the time convinced the authorities and the Government that they were not for military purposes.

Mr. SCHUMER. The furnaces included?

My colleague from Georgia wanted me to ask about that. I will yield to him.

Mr. BARNARD. There was an authorization for furnaces to be shipped from a New Jersey company to Iraq.

Only at the last minute, I think, were they canceled. It determined that those furnaces could be used to make nuclear power.

Mr. WILEY. And the shipments were canceled, as I understand it.

Mr. BARNARD. Only at the last minute, no.

Mr. WILEY. They did not clear the process so they were not shipped.

Mr. SCHUMER. Mr. Dickerson, what concerns did your Department have about Iraq's record of terrorism, human rights violations particularly after Iraq used chemical weapons on the Kurds. Did that change your policy in any way?

Mr. DICKERSON. The administration of the program, as far as Iraq is concerned, with my limited history of 14 or 15 months, did not include any consideration of human rights.

It was a market-driven, agricultural-related program without reference to the other issues.

Mr. SCHUMER. So it would not have matters they gassed ten times as many people, you would have kept pushing exports.

Mr. DICKERSON. I didn't say that.

I said my responsibility and those of my colleagues in the program are concerned about the agricultural aspects of it and the risk analysis.

The things you describe would be in the purview of those who come to the NAC and of the White House.

Mr. SCHUMER. If no one from the White House or State Department came to you and said, "Stop pushing these sales," you could continue to push them?

Mr. DICKERSON. The program is not designed that way and it would not have happened.

Mr. SCHUMER. GAO state repeatedly people in the Agriculture Department as well as the State Department not only approved these sales, but went out and tried to actively recruit foreign governments and others to buy them; correct?

Mr. DICKERSON. It is my understanding that prior to coming to FAS that Congress and the United States considered sanctions against Iraq a number of years ago and decided not to go ahead and implement those sanctions.

Mr. SCHUMER. It should be asked of Congress. I had an amendment 2 months before Saddam Hussein invaded Kuwait to cut off these sales and it lost in Congress, too.

I am asking your view, what your agency did. You would continue to actively solicit sales under this program?

Mr. DICKERSON. No, I would not recommend that.

Mr. SCHUMER. Let me make it clear. Regardless of the human rights and other kinds of activities, unless the State Department or the White House put a red light on it, that is my question?

Mr. DICKERSON. That is correct.

Mr. SCHUMER. Thank you.

GAO, let me ask you: FAS believes it should be their role to monitor financial institutions. They don't believe it should be.

Let me rephrase that. FAS does not believe it should be their role to monitor or oversee financial institutions in the Export Credit program. They say the primary regulators have this function.

Do you agree?

Mr. MENDELOWITZ. Do I agree that that is their position, Mr. Schumer?

Mr. SCHUMER. No, do you agree that is what the law calls for and that that is what the law ought to call for?

Mr. MENDELOWITZ. The FAS position with respect to GSM-102 and 103 is that normal commercial disciplines assure that the program will operate efficiently. We do not necessarily believe that is the case.

In our investigation we came up with less than arm's length relationships between banks in this country receiving the guarantees and the countries whose commodity purchases were guaranteed by GSM-102 and 103.

An internal control improvement we recommended that has not been implemented is that FAS on a random check basis ascertain that the commodities that are supposed to be shipped under the program are in fact shipped and arrive at the intended destination.

Currently, as long as the paper trail appears in order and nobody files a claim for reimbursement, there is no way FAS would look

into a shipment. That is one of the internal control weaknesses in the program. What can happen as the program is currently constituted, we could give a loan guarantee to Iraq, or we could have before the invasion of Kuwait, a commodity could be exported and diverted on the high seas to another country.

Iraq could use the money for whatever they choose and so long as they continued to service the guaranteed loans, nobody would be the wiser.

Mr. SCHUMER. Your work in this area has been superb and ground breaking, FAS has implemented some of your recommendations and they have been slow to implement others. Have you asked them why they have not implemented all of them given the sorry record that they have and are their answers very satisfying to you?

Mr. MENDELOWITZ. As I said earlier, we really perceive a substantial change in the attitude of FAS over the past year. When we first pointed out the program problems to FAS management in 1987 and 1988, the Administrator totally rejected the criticisms we were making. As the problems became more publicly visible, FAS backed off of their rejection. Then with the new administration and new leadership coming into FAS, they have been I think much more receptive to the management and internal control recommendations we have been making.

One of the reasons they gave us for not implementing some of our recommendations is that they report that they don't have the staff to actually go out and inspect at the ports and do the things that we are recommending. Certainly, there is some legitimacy to that position and maybe an appropriate response would be to see that they receive the necessary allocation of resources so that they can more fully manage these programs and institute what we think would be a full and complete set of internal controls.

Mr. SCHUMER. One final question, Mr. Chairman, to Mr. Dickerson. In retrospect on either a financial basis or whatever, moral or ethical basis, do you think that FAS went overboard in sales to Iraq?

Mr. DICKERSON. I think it is easy at this point to say it was a mistake to have these credits for Iraq because we are facing a \$2 billion liability. That goes without saying. Up until the invasion of Kuwait, Iraq was servicing debt on a regular basis, they were one of the best performers in our portfolio.

So at this point in time we have to say it was a mistake.

The CHAIRMAN. The time has expired.

Mr. SCHUMER. I ask unanimous consent for 30 seconds to finish that.

The CHAIRMAN. Hearing no objection, it is so ordered.

Mr. SCHUMER. How about on an ethical basis, should FAS sell to anyone who will have a good prepayment record no matter what is going on in their country? What is your personal view?

Mr. DICKERSON. My personal view is that this is for the interagency council to decide. FAS develops these programs and takes them to the NAC with our recommendations. I might respond to the foreign policy aspects.

The interagency process does not see this is protection programs until Agriculture brings them to their attention. Yes, I have my

own personal individual moral concerns about Iraq and other destinations but I see USDA role as developing these programs and bringing them to the interagency process for consideration.

The CHAIRMAN. At this point every member of the committee will have the right and prerogative to submit questions in writing to the witnesses.

We thank you very much for your cooperation and the time you have given us. I will have questions I will submit in writing to you. Well, we have to cut off somewhere. We have a rule that Members coming in 2 hours after the beginning of the hearings will not question. So every Member will have the right to submit question in writing.

Thank you, very much, gentlemen.

Mr. H. Terry Smith, Senior Vice-President, Supervision and Regulation, Federal Reserve Bank of Atlanta. Mr. John B. Kline, CFE, Deputy Commissioner for Supervision, State of Georgia, Department of Banking and Finance. Mr. Pietro Lombardi, Regional Manager, U.S. Operations, BNL, New York, New York. Mr. William Taylor, Staff Director, Division of Banking Supervision and Regulation, Federal Reserve Board of Governors.

Thank you, gentlemen. We thank you for your written statements. Those will be in the record exactly as you presented them to us with any other documents that you have attached. Because of the lateness of the hour the Chair will suggest that if it is possible to summarize and be succinct we would appreciate it.

If there is no problem with some of the witnesses who might have time constraints, we will recognize you in the order that we have introduced you. And we will recognize Mr. Smith.

STATEMENT OF H. TERRY SMITH, SENIOR VICE-PRESIDENT, SUPERVISION AND REGULATION, FEDERAL RESERVE BANK OF ATLANTA

Mr. Smith. Thank you, Mr. Chairman. I will summarize my statement. Mr. Chairman and members of the Banking Committee, I appreciate the opportunity to appear today and discuss the events of the Federal Reserve Bank in Atlanta.

First, I will briefly describe the Federal Reserve's role in supervision of foreign banks in the United States and, with that background, describe the supervision of BNL-Atlanta. Second, I will discuss how we learned of irregularities at BNL-Atlanta and discuss the results of our examination of that office shortly thereafter. Third, I will discuss what has transpired since the examination.

The passage of the International Banking Act of 1978 established a framework for Federal supervision and regulation of foreign banking organizations operating in the United States. The Act left primary examination authority with the licensing entities, the States and the Office of the Comptroller of the Currency, but it gave oversight responsibility to the Federal Reserve System. This responsibility included residual examination authority, but the Act specified that the examination efforts of the primary regulator were to be relied upon whenever possible.

Within this framework, the Federal Reserve Bank of Atlanta has discharged its responsibilities by assuring that each agency re-

ceives timely examinations from its licensing authority. Our program for international supervision has been increased as the financial health of our constituency has changed. Thus, in 1988, we began an enhanced examination program and focused our resources on Florida agencies of relatively weaker parent banks.

In the State of Georgia, our participation in examinations has been limited to a review of reports submitted to the Federal Reserve, a check of compliance with Federal banking laws and, on occasion, assisting State examiners in reviewing outstanding loans. Since the irregularities were discovered at BNL-Atlanta, and as resources have become available, our program in Georgia has been expanded to an informal alternate year examination schedule, in which the Atlanta Reserve Bank and the State of Georgia divide the examinations of agencies during a calendar year.

BNL-Atlanta opened for business as an agency on May 19, 1982. The office had been examined annually since 1983 by the State of Georgia, with limited assistance by the Federal Reserve Bank of Atlanta as I just described.

The Atlanta Reserve Bank became aware of the possibility of concealed transactions at BNL-Atlanta on July 28, 1989, when contacted by the U.S. Attorney's office in Atlanta. We immediately informed officials of the Board of Governors in Washington and officials at the Federal Reserve Bank of New York. Coordination began immediately within the Federal Reserve System to determine the proper course of action.

One week after becoming aware of possible irregularities at BNL-Atlanta, on August 4, 1989, a coordinated surprise examination of all BNL offices in the United States commenced. This effort involved the Federal Reserve Board and examiners from the Reserve Banks in Atlanta, Chicago, New York, and San Francisco, who examined BNL offices in Atlanta and Miami, Chicago, New York and Los Angeles. Also on that date senior officials of the Board of Governors and the New York Reserve Bank met with BNL management in Rome to inform them of the problems in the Atlanta agency. The Bank of Italy was alerted also.

Our examination confirmed the existence of concealed transactions at BNL-Atlanta. BNL-Atlanta had failed to report \$1 billion in outstanding loans to the Central Bank of Iraq, \$800 million in outstanding loans to Rafidain Bank of Iraq, \$1.2 billion in commitments to lend to the Central Bank of Iraq and \$1.8 billion in liabilities borrowed to fund the concealed lending.

Since the commencement of our surprise examination, much has occurred to correct the problems of the agency. A new management team was in place on the day following the start of our examination. A number of BNL Atlanta officers and employees were dismissed. BNL-Atlanta's money market operation was closed, and its letter of credit operation was placed under the close, on-site scrutiny of officials from BNL-Rome and BNL-New York who came to Atlanta.

The books of the Atlanta agency have to a large extent been reconstructed, and the office has received a qualified opinion on its financial statements from outside accountants.

Southeast, and that is why we have foreign agencies operating within the United States and specifically in the State of Georgia. We examine our international bank agencies annually, as we examine all of our banks and bank holding companies in Georgia. The fundamental cause in our opinion of the events that are being discussed today was a breakdown in the basic ingredient of any security system, which is dual control.

There was significant collusion and a highly sophisticated scheme that was carried out to conceal illegal activities which were successful, to a point.

This is frequently true when perpetrators have the ability to direct their full attention to the concealment and auditors have a limited amount of time and resources to devote towards detection of these types of problems.

Pursuit of audit exceptions and the unwieldy size and complexity of the scheme are thought to be the reasons why this matter finally surfaced. The network of internal control, internal audit, external audit and regulatory overview ultimately caused the irregularities to be revealed, despite extraordinary efforts to conceal them.

The question has been raised that the regulatory structure governing U.S. branches and agencies is inadequate. The State of Georgia rejects the premise that the BNL Atlanta case was the result of any regulatory breakdown. The regulatory structure was never designed to be a front line for fraud detection.

We had in place a network that was activated as soon as we became aware of the activities, and we coordinated with the Federal Reserve and through the Federal system to make appropriate members of the other regulatory agencies aware of the activities.

Certain cross jurisdictional problems did occur during the investigation. It could be addressed using the experiences gained from this process. However, it's not our belief that legislative action is necessary to accomplish this.

Mr. Chairman, there are several other points that I would like to make that have come up. Number one is that the bank regulatory agencies don't have responsibility or authority to monitor United States foreign policy. Our responsibility is to monitor the safety and soundness of the financial institutions.

In response to the charge that there was no follow up on the BNL audit exceptions, we require an internal audit as well as an external CPA audit. We had an external CPA audit by a Big Eight accounting firm done as of December 31, 1988.

That audit report, certified audit report was received in March of 1989 prior to the State Banking Department sending out its examination report. And that external audit report gave them a clean bill of health.

We relied on the external CPA audit report. The country of Iraq was not on a prohibited country list. It—Iraq—was not on a list of countries that a bank cannot do business with; not any list that we had knowledge of at that time.

A lot of the discussions that have taken place today are dealing with events that took place since August of this year, whereas these events took place in 1988 and 1989. A charge has also been made that we never received a copy of the internal audit of BNL.

The Atlanta Reserve Bank continues to extend considerable resources to act as technical advisors to the various U.S. agencies interested in BNL-Atlanta.

In summary, Mr. Chairman, after we were informed by the U.S. Attorney of possible irregularities at BNL Atlanta, the Federal Reserve moved quickly to identify and contain the problem. Only 1 week after disclosure of the irregularities, simultaneous surprise examinations were commenced at each office of BNL in the United States, coordinated among the four Reserve Banks and the Board of Governors.

Senior officials from the Federal Reserve Bank of New York and the Board of Governors were in Rome to personally inform BNL and the Bank of Italy. The problem was contained and new management installed. Since the events of August 4, 1989, support has been extended to various agencies of the United States to provide technical assistance for their investigations.

I am very pleased to appear today and to provide this information. That concludes my remarks, Mr. Chairman. I will be happy to answer questions.

[The prepared statement of Mr. Smith can be found in the appendix.]

The CHAIRMAN. Thank you very much, Mr. Smith.
Mr. Kline.

STATEMENT OF JOHN B. KLING, DEPUTY COMMISSIONER FOR SUPERVISION, DEPARTMENT OF BANKING AND FINANCE

Mr. KLING. Thank you, Mr. Chairman.

I have submitted written comments, and I will just summarize those for you, plus some additional points that have come up since this process began.

It's a pleasure to be here before you, Mr. Chairman, and distinguished Members of the committee; and I hope we can provide the assistance that you need in carrying out your responsibilities.

As has been mentioned earlier, this matter has been widely reported but is under active investigation by the United States Attorney's Office. And we have been advised to avoid specific discussion of activities due to the Grand Jury process.

Also, there may be certain criminal liabilities under Georgia laws which would come into play as well.

Throughout this process, as Mr. Smith indicated, we have cooperated with the other regulatory agencies in the examination process that was conducted when these transactions became involved and also with the investigating agencies to the extent that we have been allowed to participate.

In our written comments, we do explain that the license of BNL Atlanta agency is licensed by the State of Georgia, the Department of Banking. It's an annual license that can be asked to be renewed every year, and that is the tool, if you will, that is available throughout this process, the possibility of revoking that license. That is the repercussions that could take place when the investigations are completely finished.

The purpose of the foreign agency as it was enacted in Georgia law was to bring capital and investment to Georgia and to the

As you know, these transactions are still being investigated by the Departments of Justice and Agriculture and several regulatory agencies both State and Federal. In addition, a Federal Grand Jury was convened in Georgia in August, 1989 to investigate this matter.

The Justice Department has notified BNL that it is not a target of that investigation. BNL has been actively cooperating with all of these investigations. Moreover, BNL has filed a civil lawsuit in Federal district court in Georgia against two former officers of the Atlanta agency in connection with these transactions (Banca Nazionale del Lavoro v. Christopher Drogoul and Paul Von Wedel).

Due to the criminal investigations, however, all discovery in that lawsuit has been stayed by the Federal court. BNL does not want to make any statement or take any action which would prejudice these legal proceedings or impair the prospects of having the responsible persons brought to justice.

By way of background, BNL is the largest commercial bank in Italy in terms of deposits. As of December 31, 1989, the Italian Ministry of the Treasury and other entities controlled by the Italian government owned approximately 96 percent of BNL's shares. BNL operates in the United States through its offices in New York, Chicago, Los Angeles, Miami, and Atlanta.

Turning to the questions you have raised, I know that your staff in a public hearing has summarized the general scheme that was used by former employees of the Atlanta agency to victimize the bank. In addition, of course, the complaint filed by BNL in connection with the lawsuit in Federal court referred to above has been submitted to the committee's staff, and I ask that it be included as part of my testimony.

The CHAIRMAN. Without objection, so ordered.

[The information referred to can be found in the appendix.]

Mr. LOMBARDI. On August 4, 1989, BNL representatives in Rome and New York were informed by various agencies of the U.S. Government that BNL's Atlanta agency had provided various types of unauthorized financing—unauthorized by BNL, but not in contravention of U.S. law or policy—to Iraqi Government entities.

This news stunned BNL, because of the amounts involved and the uncertainty of the consequences. In order to have successfully hidden these transactions from BNL and the regulators, several persons in the Atlanta agency must have been involved. In order to discover the true size and nature of these transactions, a comprehensive attempt to reconstruct them was undertaken by BNL.

In general, these unauthorized transactions—unauthorized by BNL, but not illegal or in any way inconsistent with the policy of the United States—consisted principally of, one, extending credit facilities to certain Iraq government entities and other private entities in Iraq, and two, participating in the Agriculture Department's Commodity Credit Corporation (CCC) programs with respect to Iraq and other countries in excess of levels approved by BNL.

Insofar as Point One is concerned, neither the U.S. Government or the U.S. banking system has lost or will lose any money as a result of these transactions. Moreover, no American has lost or will lose any money as a result of these transactions.

Neither BNL's Atlanta agency or any other U.S. office of BNL is insured by the U.S. Government. Accordingly, the Federal Deposit

And let me assure you that we did receive a copy of that internal audit, and we are aware of what was revealed in that audit.

We did not receive it prior to the completion of our examination in February of 1989, however. But we do have a copy of that and are aware of that. We also had a copy of that external audit, as I referred to.

In summary, I want to make these points. The agency did not accept Federally insured deposits; no depositors of the United States lost any money. No creditors of BNL, to our knowledge at this point in time, lost any money. These are our supervisory responsibilities, to look after the depositors and creditors of the institutions.

The parent bank—

The CHAIRMAN. Let's stop right there, Mr. Kline. The very nature of this agency is it doesn't accept deposits like an ordinary bank, so that is self-evident. I mean, you are not going to—

Mr. KLINE. So, they do take certain types of deposits. We don't take insured deposits, but our responsibility is to look after any depositor, whether it be an insured depositor, whether a Federal insurance, or a liability held.

And that is what the statutes in Georgia law state that our responsibility is. And neither of those entities have lost any money. The parent bank has not been rendered insolvent as a result of this, and that is the other aspect that we are to look at.

The apparent criminal violations that came to our knowledge were reported to the appropriate judicial authorities, and that was the other aspect that the State Banking Department had responsibility to do, to report apparent criminal violations.

Mr. Chairman, I think that you will find—

The CHAIRMAN. Yes.

Mr. BARNARD. Do you intend to let us vote?

The CHAIRMAN. Yes, sir.

We will stand in recess for about 10 minutes.

[Recess]

The CHAIRMAN. The committee will come to order.

Our next witness, Mr. Lombardi.

STATEMENT OF PIETRO LOMBARDI, EXECUTIVE VICE PRESIDENT AND REGIONAL MANAGER FOR NORTH AMERICA, BANCA NAZIONALE DEL LAVORO (BNL)

Mr. LOMBARDI. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Pietro Lombardi, and I am an Executive Vice President and Regional Manager for North America of Banca Nazionale del Lavoro, BNL. At your request, I am here to respond to the questions raised in the chairman's letter to me dated September 25, 1990.

At the outset, I should note that I was transferred from the Rome headquarters to the regional headquarters of BNL in New York shortly before the so-called "Atlanta affair" was uncovered in August 1989 and that my personal knowledge of this matter is largely based on what I have been told since that time by others who are involved in investigating the affair, not by those who were directly involved in what happened.

Insurance Corporation will not incur any liability for any of these transactions.

Liabilities in connection with these transactions have been assumed by BNL in Rome. Although at this time BNL is at risk, the extent of the loss is still unclear.

The basic point to be made is that BNL was the victim of the actions of the former officers and employees in Atlanta. We believe that these individuals acted on their own to make these unauthorized transactions and then engaged in clandestine efforts to deceive BNL and others about their existence.

As a result, BNL's reputation has suffered, and it is at risk on the money owed to it by Iraq. Thus, although these credits were made through the Atlanta agency without BNL's approval, they are now considered to be loans extended by BNL in Rome for which BNL is obligated.

I would now like to turn to Point Two, that is the CCC loans. Insofar as the CCC loans are concerned, although these loans exceeded internal limits sanctioned by BNL, they were not illegal or contrary to U.S. law or policy towards Iraq in effect at the time.

In particular, the Atlanta agency's participation in the CCC programs was in accordance with CCC rules and regulations with respect to all of the countries involved, including Iraq. In fact, the U.S. Government authorized these programs for the benefit of American farmers and exporters of agricultural commodities and intended that financial institutions would participate in them.

In this regard, I would also like to note that several other financial institutions in the United States participated in the CCC programs for Iraq. The record shows, for example, that major American banks participated in these programs. Further, for the current \$2 billion of authorized CCC guarantees involving Iraq, BNL holds only \$382 million (less than 20 percent of the total).

Thus, although the Atlanta agency exceeded internal limits for participating in the CCC programs, its participation was legal and entirely consistent with the policy of the CCC which prevailed at the time. BNL's participation did not increase or affect the amount of approved CCC exposure. In fact, the CCC programs for Iraq continued after August, 1989 through the participation of other banks to regular and customary annual examinations by the Federal Reserve Bank of Atlanta and the Georgia Department of Banking and Finance. The external auditors, Peat Marwick, also conducted annual audits and examinations.

The BNL system of internal controls in effect prior to August, 1989 only detected operational problems and did not anticipate the extraordinary circumstances and activities that occurred in the Atlanta agency.

In spite of internal and external controls, however, the responsible individuals in the Atlanta agency were able to avoid detection. This, of course, is regrettable. No one regrets this more than BNL because it is the victim of the deception and will lose money from it.

BNL has since implemented a wide variety of actions to protect against a recurrence of such misconduct. While we are continuing to work with the bank regulators on this subject, the new con-

trols and procedures include a more rigorous audit program, concentrating funding and foreign exchange operations in the New York branch, which is now the BNL treasury center for the United States; instituting stricter credit limits; requiring all BNL offices to use the same computer system in order to permit constant regional management supervision; and rotating experienced BNL employees through each BNL office.

We believe, Mr. President, that these new controls will effectively guard against such misconduct in the future.

In this regard, I should also note that since BNL was made aware of this matter, it has devoted significant resources and personnel to the matter. Also, BNL has cooperated fully with all of the U.S. and Italian investigations, and it continues to do so.

In response to one of your questions, Mr. Chairman, BNL has not been asked by the Federal Reserve or any other bank regulatory agency to sign a supervisory agreement in this regard.

In Italy, the Atlanta affair has been the subject of a number of investigations. The Bank of Italy, which monitors BNL's activities, has examined this affair. I also understand that an Italian Magistrate in Rome is conducting an investigation regarding possible criminal proceedings. In addition, the Italian Senate has appointed a commission of inquiry to investigate the matter.

Since BNL is owned by the Italian government, this matter and its economic consequences, as you can appreciate, continue to be of significant concern to the Italian government. Italy and BNL are, of course, abiding by the economic sanctions imposed against Iraq.

Regarding the question in the chairman's letter addressed to me about whether the regulatory structure governing the activities of foreign banks in the United States was responsible for this affair, let me say that we believe that the Atlanta affair was due primarily to the collective efforts of a group of former employees who circumvented existing internal controls and procedures which in retrospect were inadequate to deal with the unique circumstances that existed in this case.

After all the facts are fully developed by the investigations underway, a more complete picture on questions of responsibility will emerge.

Let me conclude by saying that neither the American Government or any individual American has lost or will lose any money as a result of what happened at the Atlanta agency of BNL. BNL is the victim of what happened at its Atlanta agency. So, Mr. Chairman, as the victim of this whole affair, we support the work of this committee, and we will continue to cooperate fully with the American authorities.

Thank you for your consideration.

[The prepared statement of Mr. Lombardi can be found in the appendix.]

The CHAIRMAN. Thank you, Mr. Lombardi.
Mr. Taylor.

STATEMENT OF WILLIAM TAYLOR, STAFF DIRECTOR, DIVISION OF BANKING SUPERVISION AND REGULATION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. TAYLOR. Thank you, Mr. Chairman.

Per your request, I will abbreviate my abbreviated comments.

Mr. Smith, from the Federal Reserve Bank of Atlanta, I think, corresponded my first two points very well, that being the structure of relation and supervision of foreign branches and agencies in the United States, and the manner in which we at the Federal Reserve carry out our responsibilities under that structure.

What I would like to focus on are the final two points of my remarks which is basically how the authority was used in the case of Banca Nazionale del Lavoro, and what changes in supervisory methods and authorities are indicated as a result of the BNL case.

Our authority and responsibilities were exercised in the BNL case prior to the discovery of the fraud in Atlanta by actually conducting joint examinations or independent exams in States such as California and Florida and by accepting the State exams in such places as New York and by assigning an examiner to the Georgia State examination for the purpose of checking the agency's conformance with certain Federal laws.

Subsequent to the discovery of the fraud, we used our authority to do the following. One, we immediately began the simultaneous examination of the other offices of the bank to see if the fraud had spread further. We determined it had not.

We immediately contacted the Italian authorities to see that BNL was prepared and capable of meeting its liabilities in an orderly manner.

In addition, we sought immediate corrective action by BNL of the situation in Atlanta. I must say that our colleagues at the Bank of Italy responded immediately and effectively and that no depositor has lost money, no Federal Reserve borrowing were required.

BNL acted, I think, quite promptly by replacing the management and instituting controls that would hopefully prevent this type of thing from happening in the future. And finally, a comprehensive review by Italian authorities and ourselves in the State of Georgia have been initiated and continue.

As to the nature of the fraud itself, we continue to be concerned as this type of activity, the keeping of a double book, is very difficult to detect, especially the involvement of some people in the Atlanta operation.

Finally, and very importantly, we provided and continue to provide assistance and substantial resources to the U.S. Attorney in Atlanta as she seeks to assure that the perpetrators of this fraud are prosecuted.

Finally, what changes in authorities and practices might be considered? Although we feel we have enough authority under present law, we do think that the criminal provisions relating to banks such as bank fraud should be extended to cover State licensed uninsured agencies of foreign banks. At present, it's our opinion that they do not.

We have supplied legislation and hope the Congress will consider its enactment. As to the change in supervisory procedures, I would offer the following: Although it's our view that this type of fraud on the part of a large number of individuals is difficult to detect and that measures to guard against such fraud in the future cannot be made foolproof, we are deeply concerned that every effort be made at the Federal and State level to improve the capacity to uncover fraud of this nature.

In this regard, the Federal Reserve has recently and will continue to allocate more resources to on-site examinations of branches and agencies. We might also, Mr. Chairman, give reconsideration to our original proposal to the Congress in 1974, that proposal being that any foreign bank seeking or maintaining a State licensed branch or agency shall be required to make that branch or agency a State member bank and subject to the direct supervision of the Federal Reserve.

In closing, Mr. Chairman, I would like to add that the question, if we didn't catch this, we want to know why not. If the State didn't catch it, we want to know why not. If the outside auditor didn't catch it, we want to know why not? If BNL didn't catch it, I think they want to know why not, and I think it's very important that we focus our efforts on this point forward on enhancing the capability of all parties involved to detect this type of fraud and abuse.

We have had it happen before back in the 1950's and the 1960's. We have had various occasions where people basically just kept a double book. Procedures have been put in place that have discouraged it, and I think we can hold the hope that we can do the same.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Taylor can be found in the appendix.]

The CHAIRMAN. Thank you.

We have another recorded vote.

What is this? I don't know why we would. We should be able to have a period of time that would allow us to complete the hearings.

But we will go to the House floor and record a vote and recess for about 10 minutes.

[Recess]

The CHAIRMAN. The committee will come to order, please.

Thank you again, gentlemen.

I wanted to thank you, Mr. Taylor. You have been very responsive. You have even gone to our field hearings in Texas and other places, so we are very grateful to you.

In your statement, Mr. Smith, on page 9, you say computer records of the Iraqi transactions were maintained on a separate system from BNL Atlanta's authorized operations. Hard copy records of concealed transactions were maintained in boxes and moved back and forth from employees' homes and cars to the office as needed. Employees would remove all boxes and computer records from the office before audits and examinations.

The majority of the work on the transactions, particularly funding operations, was conducted from employees' homes. These transactions were not included in reports filed with the Federal Reserve.

Now, couldn't this be going on in any of the other 531 or so institutions? What is to prevent it, as far as I see it?

Mr. SMITH. Mr. Chairman, I surely hope it's not occurring in any of the 500—
The CHAIRMAN. Yes, but that is what worries me. We have to go on more than hope.

We are talking about hardheaded financial transactions that have everything to do with the safety and soundness of our banking system, notwithstanding some of this wishful thinking that as long as the State citizens are not involved in risk, the facts, I think, ultimately will show that that is kind of risky.

We have more than that kind of a selfish and parochial responsibility. We have a national responsibility of awesome proportions. For instance, the State official here, Mr. Kline, talked about external audits. Well, my gosh, we have just gone through the terrible ordeal of the S&L debacle, and we know what external audits have meant. They have meant little or nothing.

On the other hand, we see here, and there is no evidence presented to the contrary, that the regulatory system is still a hodgepodge shot through and ripe with crevices and drop holes that this kind of practice cannot be guaranteed is not going on now among any of the other 531 or some similar institutions or identical institutions.

This is where I come from. This is the whole basis of what we are concerned about. I know that since this occurrence, particularly in the State of Georgia, for instance, the Federal Reserve Board has changed its examination schedule of agencies so that it now alternates examinations every other year with the State of Georgia instead of allowing the State of Georgia to do the entire examination as was the arrangement prior to the BNL affair.

So obviously, and somewhat belatedly, Federal Reserve has done that. But this is only because this case has become a sort of a news focus and dramatic scandalous example. I don't think that we can wait.

And the whole idea of these hearings is that we cannot avoid any longer, Mr. Taylor referred to past occurrences in the 1960's and 1970's. We are very mindful of that. And as a Member of this committee, all these near 30 years that I have been in the Congress, I agonized through that period, more than at any time in my whole career of the Congress.

Because we have the handwriting on the wall very clear. It was agonizing for me to see that the committee and the Congress generally wasn't really exerting its oversight responsibilities. We had the clear case of Continental Illinois. That, and what are we facing today to compound this matter? We are facing an entire crisis in our financial system, clear across the broad spectrum of our financial institutions, not just savings and loans.

It's been very distressing. We saw the clear signals. We saw the clear signs, and we saw the regulatory dysfunctions. We saw where a bank that just a year or two before was rated as the number one bank in the United States, maybe even in the world, suddenly was floundering, and the laws, the basic laws, the no more than 10 percent to one lender was violated flagrantly by the Continental Illi-

nois without apparently its chief officials being aware of that, nor the regulators.

We had the Pen Square corellary to the Continental. We saw where shockingly a shopping mall bank like Pen Square in Oklahoma could come in and exceed that limit willy-nilly, of regulatory authority, and itself create a chain reaction that led to the downfall of more than just a few institutions.

So at this point, we are trying to be as much preventive. It will be too late for us to have postmortems like this.

I said so when we had a belated hearing on the Pen Square. I said these are postmortem hearings. We are not going to do anything about the truths we have learned. And that is that the regulators, for whatever reason, and it can be justified, it can be justified like the gentleman in the previous panel from the Commodity Corporation said well, you know, we have our laws. We are faithful to them, and we are faithful to the Department of Agriculture.

In other words, that is a principle. We are carrying out orders. We cannot be responsible for an overall sense of accountability. So I would say that at this point, unless there is some rebuttal, we have no assurances that similar practices can be happening now even as we are gathered here today.

Mr. SMITH. May I comment?

The CHAIRMAN. Yes.

I welcome your comment.

Mr. SMITH. We recognize that there were potentialities in 1988. We selected, because of our constituency, the foreign agencies in the State of Florida because they were basically from Latin America which countries were experiencing financial difficulties.

We started a program at that time. We have extended or program to Georgia. So we are being proactive. We are taking steps. We are trying to learn from this situation.

The CHAIRMAN. Thank you very much.

Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, I accept your remarks, and I would offer that the road to a solution really lies in more intensive and more frequent examinations whereby the level of management audit and audit of procedures and practices is augmented by finding out if it is there and if it is any good.

In other words, a direct verification and stipulation, if necessary, of spec audit procedures that are to be carried out so as to assure that is what is shown on the books is what is on the books, and hopefully an analysis of accounts carefully would lead one to have the capacity to understand if there were off-book transactions.

I think there have been corrections put in place by the Banca Nazionale del Lavoro, in the sense of making sure that the dual control features are reactivated, making sure that there is an auditor on site in Atlanta who does not respond and owe his life line to the management of that agency, and I think more intensive and ongoing supervision by Rome will also help.

Having said all that, it is, again, a very difficult practice, and these kind of procedures help, but there is no assurance that a double-book operation will be caught each and every time.

The CHAIRMAN. Thank you very much.
Mr. Wylie.

Mr. WYLIE. Thank you very much, Mr. Chairman. Mr. Lombardi, on your statement in the concluding paragraph you repeated something that you had said a little earlier: "Let me conclude by saying that neither the American Government or any individual American has lost or will lose any money as a result of what happened at BNL."

It is my understanding that the CCC will eventually have to pay BNL \$347 million in loans; is that correct or not?

Mr. LOMBARDI. At this point, allow me to go back to what I mentioned in my statement.

The fact is that the liability of a CCC was not affected by BNL and what happened in BNL, because CCC provided for guarantees which were then assigned to some banks, but the guarantees issued to the exporter, the banks join in the picture later on. So it happened that when we performed this, we were in the same position as any other institution enjoying these kind of transactions, and as a matter of fact, what happened in Atlanta didn't increase the real CCC liabilities.

Mr. WYLIE. Well, are you telling me that BNL is going to absorb these losses and will not utilize the loan guarantees of the _____

Mr. LOMBARDI. No. I am sorry. I am just saying that BNL joined in this program, which was fully authorized by the CCCF and Congress. Nothing that BNL did increased CCC's exposure under its program. In fact, one thing I think is important to stress is that those operations where legal according to the policy of the U.S., so we just joined these programs, as any other financial institution did.

But BNL in this case has not affected the CCC liabilities.

Mr. WYLIE. I am not sure I have understood the answer just yet. It would be fascinating if no individual American lost or will lose any money as a result of what happened in Atlanta. I like the sound of that, and I hope that proves to be the case.

Mr. Smith, BNL is the largest agency, bank agency, in Georgia, and in the Fifth District, which incorporates Florida. BNL is larger than most of the district's six agencies.

Was any special regulatory supervision provided for them?

Mr. SMITH. Not before August 4, 1989, Mr. Wylie, no.

Mr. WYLIE. Since?

Mr. SMITH. Since August 4, 1989, a lot of special attention has been provided.

Mr. WYLIE. In your opinion, could these unauthorized loans to Iraq have occurred without the knowledge of at least or tacit approval of bank's management in New York and Rome?

Mr. SMITH. Mr. Wylie, everybody that I have discussed this with has asked me that question, and to date we have no firm evidence of any conclusion by the New York office or the office in Rome, the head office in Rome.

Mr. WYLIE. Mr. Kline, when did you first become aware of the problems, and what steps did you take to try to avoid or prevent them?

Mr. KLINE. Mr. Wylie, we became aware of the problems in late July 1989 when we were contacted by the United States Attorney requesting some guidance as to how to proceed with the knowledge they had received about these alleged irregularities.

Subsequent to that, we were involved in the process with the Federal Reserve Bank in Atlanta that Mr. Smith had described, as were other State banking departments in the United States that had BNL offices.

Mr. WYLIE. What is the arrangement? I heard a little earlier that BNL takes deposits, but they are not insured.

Mr. KLINE. Yes, sir. Let me clarify that.

What I said was that BNL had deposits on its balance sheet. These are called credit balances or cash collateral deposits, and they represent deposits that came about as a result of a loan transaction. They don't accept commercial deposits or consumer deposits or anything like that, but the technical terminology for that, the accounting terminology is, it is called a deposit, but they—Georgia law only allows deposits that are incident to a credit transaction, and so that is the type of deposits they had, or essentially their own money that was held in reserve against loans or credits that had been extended.

Mr. WYLIE. OK. Thank you.

My time has expired.

The CHAIRMAN. Mr. Barnard.

Mr. BARNARD. Mr. Kline, I would like to know how many banks have failed in Georgia in the last 5 years?

Mr. KLINE. Zero.

Mr. BARNARD. How many have failed in Georgia in the last 8 years?

Mr. KLINE. Zero.

Mr. BARNARD. When was the last bank that failed in Georgia? Mr. KLINE. The last bank that failed in Georgia was in March 1981, almost 10 years ago.

Mr. BARNARD. Mr. Chairman, I would solicit your attention to that particular testimony. As he just said, there has not been a bank failure in Georgia since 1981.

Mr. Smith, when was the last bank failure—how many banks have failed in the Sixth Federal Reserve District in the last year?

The CHAIRMAN. Will the gentleman yield?

Mr. BARNARD. Yes, sir.

The CHAIRMAN. We have the Commissioner of banking in New York and he said the same thing for New York, because they have a 7 percent capital requirement, hard core capital.

Mr. BARNARD. I think that is good. But the point I am making is that the scenario that has been painted here just a minute ago does not necessarily paint the picture I think that you are depicting. I mean, as a State like Georgia that has not had a bank failure since 1981, let me pursue my question.

Mr. Smith, when is the last bank failure you had in the Sixth Federal Reserve District?

Mr. SMITH. We had a bank in Florida that failed about 60 days ago.

Mr. BARNARD. How many banks have failed in the last 10 years? Mr. SMITH. I don't have those numbers with me, but they have been a number.

Mr. BARNARD. Could it have been hundreds?

Mr. SMITH. I think it was about 16 in 1989, 16 in our district, yes.

Mr. BARNARD. Mr. Taylor, let's talk about State member banks that are members of the Federal Reserve Bank. What is the record of failures there?

Mr. TAYLOR. Mr. Chairman, I think to frame the answer correctly, one has to do it in proportion to the number of banks supervised. The Federal Reserve supervises approximately 1050 banks.

Mr. BARNARD. That is State member banks?

Mr. TAYLOR. Yes.

Mr. BARNARD. Which you have a responsibility to go in and examine?

Mr. TAYLOR. Yes, sir.

Mr. BARNARD. Is that just yourself or with States?

Mr. TAYLOR. We like to think we do all of our State member banks in cooperation and coordination with the States.

Mr. BARNARD. That is a simultaneous examination?

Mr. TAYLOR. Yes, it is either simultaneous or it is alternate, or there is some participation by one in the other's exam, so that we have a full exchange of information.

But the total assets of State member banks, total approximately \$540 billion, or thereabouts, 1050, about \$550 billion in assets, so that means we have approximately 8 percent of the total banks in the county by number, and there is approximately \$3 billion—\$3.6 trillion in total assets.

So we have a fairly small portion that would be somewhere around, I think, 16 or 17 percent of the assets.

Mr. BARNARD. How many banks have failed?

Mr. TAYLOR. It depends what period you pick, but last year there were, I think, 14 banks—or 10 banks have failed so far this year. Fourteen banks failed last year.

If you take the total failure rate, and I am very suspicious and not—I don't say these statistics—they can change at any point. But we have 8 percent of the banks and we have about 7 percent of the failures in number. We have about 16 percent of the banks in dollar of assets, and about 1 percent of the failure in assets.

Mr. BARNARD. One percent have failed?

Mr. TAYLOR. No, no. One percent of the—in other words, proportionally, compared to the assets we supervise, which are about 17 percent of the system, we have 1 percent— Fed. I still don't know quite where you are coming from.

Mr. TAYLOR. I think what I am saying is that the record at least to date, whether it is 1 year or 5 years or 10 years or 20 years, is that the Federal Reserve has about the same proportion of failures as the other agencies by number and much less by dollar amount, dramatically less by dollar amount.

Mr. BARNARD. OK.

Going back to your statement in answer to Mr. Gonzalez, here was a situation, how could this situation have been determined by, number one, bank examination; number two, by independent audit, both of which evidently failed, and third, by internal audit? How could this situation have been determined before it did?

Mr. TAYLOR. Well, this is all after the fact, so it is much easier. Quite frankly, as I testified, it is very difficult to determine an off-book operation. Looking back at it, and without criticisms whatsoever,

ever, the point is that there was not audit separation at the Atlanta agency, and had there been a requirement by either the internal auditor or the external auditor of the Bank of Italy or ourselves or the State, requiring that there be an auditor on site that reported to headquarters the potential—

Mr. BARNARD. You are talking about an auditor hired by BNL?

Mr. TAYLOR. Yes.

Mr. BARNARD. What was the function of the independent auditor if he wasn't to do that?

Mr. TAYLOR. And, second, the independent auditor could have indicated that that should have been the case, that there should be a direct reporting of the finances of that agency to Rome, without having that individual responsible—

Mr. BARNARD. Do you think that that would have interrupted this operation?

Mr. TAYLOR. I think it would have helped the possibility of discovering it.

Mr. BARNARD. But wasn't it actually discovered, though, because of the fact is that there were some people involved, the internal audit was so aggressive that they got frightened, and there was somebody then spilled the beans? Wasn't that the scenario of how it happened?

Mr. TAYLOR. I have to be a bit cautious here, given there is a criminal investigation underway.

Mr. BARNARD. OK. I expect that.

Mr. TAYLOR. I wouldn't—I guess I would not speculate on that statement.

Mr. BARNARD. Mr. Chairman, I would just like to make one little editorial comment, that you are absolutely correct, Congress certainly did not take the sufficient cognizance of what was going on back from 1983 to 1988 or 1989 as far as ongoing hearings that were being conducted by committees of Congress.

And both you and Mr. Wylie, as well have joined me in legislation that was finally adopted into law, in Title IX of FIRREA, which finally gave the regulators enough really enforcement powers to do something about inside abuse authority.

And I think that Mr. Taylor, who has been around a long time, will indicate that until we put some of those enforcement powers in the FIRREA bill, that the regulators sometimes—I mean in that period of time, had their hands tied as far as prosecuting, discovering inside abusive fraud.

Am I wrong there?

Mr. TAYLOR. There are many portions of FIRREA that are a great help to us in doing our job. There is just no question of it.

Mr. BARNARD. And you didn't have them before FIRREA?

Mr. TAYLOR. And, again, I reiterate, I request that this question of making sure that the fraud part of the United States banking law, of United States law applies to uninsured branches, I think, is another tool that will help us.

Mr. BARNARD. Mr. Chairman, would you have me unanimous consent, one additional 30 seconds?

The CHAIRMAN. No objection.

Mr. BARNARD. All right.

Mr. LOMBARDI. I am not aware of it. The matter is under investigation so I am not in a position not to answer because there is an investigation going on.

Ms. OAKAR. Well, the Italian treasury secretary apparently said they did before your Italian parliament. It is a matter of record, is it not?

Mr. LOMBARDI. I have no knowledge of it. The only thing I can say is that the matter is under investigation by the U.S. Department of Justice.

Ms. OAKAR. Yes, but there are areas of public information that, it seems to me, because you do have privileges in this country, we are not offended by having your institution in this country whatsoever. But there are some areas where public information related to your bank's activities is accessible.

So I think I could find that out. But you don't know?

Mr. LOMBARDI. I repeat, personally, I am not aware of it. I am not avoiding your answer. The only thing I am aware of is that there is an investigation ongoing dealing with all these matters.

Ms. OAKAR. But you don't know whether your institution made the loans that made it possible for the Export/Import Bank loans?

Mr. LOMBARDI. I don't think so.

Ms. OAKAR. You don't think so. Then all the articles written about your institution being the lending institution are inaccurate? Would you say that is inaccurate? This is a chance to clear it up for your own institution's good name. But you don't think then that there were loans to this company?

Mr. LOMBARDI. I have no evidence and I have no direct knowledge of it.

Ms. OAKAR. What was the relationship between Mr. Pedde, the former President of BNL, and Mr. Drogoul, the former Manager of BNL in Atlanta?

Mr. LOMBARDI. This is another question I cannot answer because I am not aware of the personal relationship between the two gentlemen.

Ms. OAKAR. What is the chain of command when there is a large loan that is to be given by your institution?

Mr. LOMBARDI. In principle, we have some authority limits which go increasingly from a single branch to the regional management and then to our head office.

Ms. OAKAR. Did this loan of \$2.1 billion exceed the authority limits?

Mr. LOMBARDI. Yes, the current limits of the branches is \$500,000. \$2.5 million is for regional management. Everything that exceeds these limits has to be sent to Rome for authorization.

Ms. OAKAR. Mr. Chairman, my time has expired, but I ask unanimous consent for 1 more minute, if possible.

The CHAIRMAN. There being no objection, go ahead.

Ms. OAKAR. So you have limits. Is it a fact that this particular loan exceeded the limits and no one knew? How is that possible that Rome did not know that the limits were exceeded?

Mr. LOMBARDI. Actually, I cannot say anything. I think the investigation under way will explain the reasons why. But as far as I am personally concerned, I cannot answer this question.

I want to reiterate, what were the losses to depositors in this transaction?

Mr. KLINE. Zero.

Mr. BARNARD. What were the losses to any bank, except BNL?

Mr. KLINE. Zero.

Mr. BARNARD. Was there any undue enrichment on the part of the officers who victimized the banks; what was their reward? I mean, how did they—what did they—how did they use this to enrich themselves?

Mr. TAYLOR. Again, Mr. Barnard, you know, there is a criminal investigation, and I apologize, but I think it would be—

Mr. BARNARD. In other words, they were not just doing this for fun?

The CHAIRMAN. Well, if the gentleman will yield, nobody was doing this for fun. I mean, they are into making money; they are not—nobody is doing this for fun. But the gentleman is treading on ground now that is beyond the scope of this hearing.

Mr. BARNARD. Well, nowhere in any of the publicity that I have seen, any addressing of the defalcation and how it has affected those who have been accused, and, of course, I realize that that is—and I expect that. I expect that sincerely, and I will now close my inquiry.

The CHAIRMAN. Ms. Oakar.

Ms. OAKAR. Mr. Chairman, it seems that what we have are two issues. One is the issue that my friend from Georgia was raising relating to whether or not this cost the taxpayer money, and abiding by the law relative to the loans. The other issue, though, is the question of national security. That is where I would like to focus for a second.

Mr. Lombardi, is your institution predominately government owned?

Mr. LOMBARDI. Yes.

Ms. OAKAR. Is it owned by the government of Italy?

Mr. LOMBARDI. Yes.

Ms. OAKAR. You have a unique situation that is different from our country where most institutions are private.

In the testimony given by Mr. Dickerson, do you agree with his statement that at some point in the mid 1980s the management of BNL Atlanta entered into an agreement to loan a large amount of money, rumored to be \$2.1 billion to the government of Iraq. Then we are told that he says that BNL's capital management in Rome insists that it had no knowledge of the branch's activities. Do you agree with that statement?

Mr. LOMBARDI. Yes.

Ms. OAKAR. I want to submit for the record about four articles that appeared in my local newspapers, Mr. Chairman, related to a firm called Matrix-Churchill. They just closed down a couple of weeks ago.

It is under investigation of being a front for funneling weapon-making machinery to Iraq, which would not be in the spirit of some of the credit areas that we have been discussing earlier.

Did you institution provide some of the financing for Matrix-Churchill in Solon, OH?

What was beyond the authorization limits was the right of the Atlanta-BNL official to take in such a credit.

Mr. LOMBARDI. If I may point out, and I thank you for this question because it allows me to come back and refer to the CCC matter Mr. Wylie touched on before, one thing we take into account is that this transaction is not recognized but is just the BNL authority making this. Today the are fully legal and fully according to the American policy.

In fact those transactions have been supported by all the needed documents. At one point I would like to repeat what I just mentioned on page 4 of my statement where I say that BNL's participation did not increase or affect the amount of approved CCC exposure because the CCC exposures guaranteed that it is issued in order to—

Mr. WEISS. I understand that.

Mr. WYLIE. If the gentleman from New York would yield, I think you are making a good point. This follows up on a point I was making earlier. Even if Rome or New York were unaware that these loans were not authorized, would they not have to have knowledge of these loans when they were funded?

Mr. LOMBARDI. No, actually. The bank had no knowledge of this transaction.

Mr. WEISS. How many people worked at the Atlanta agency?

Mr. LOMBARDI. Presently?

Mr. WEISS. No, at that time.

Mr. LOMBARDI. At that time, there were 18 people.

Mr. WEISS. Were all 18 of those people involved in this deception?

Mr. LOMBARDI. This is a matter of investigation, once again. The Department of Justice is investigating all the matters.

Mr. WEISS. Were there people outside of the Atlanta agency involved at the bank who were involved in this deception?

Mr. LOMBARDI. Actually, once again, all the matters are under investigation. Personally, I cannot answer.

Mr. WEISS. Could the deception have been completed without people from outside the Atlanta agency being involved with it?

Mr. LOMBARDI. Yes, this could have happened.

Mr. WEISS. But it would require a total almost universal—except for perhaps the people who were not involved in banking work at that agency, involvement in this deceptive activity; is that right?

Mr. LOMBARDI. Yes, but I cannot speculate on the subject. I repeat this investigation will make clear what happened, we hope. But at the moment I am not in a position to expand on the subject.

Mr. WEISS. Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman has expired.

I think this is a very critical point here. I think we ought to emphasize, we are not talking about the same thing when we use the same words, Mr. Barnard particularly, I want you to pay attention.

It is a fact, Mr. Lombardi, that last January, January 1990, the Iraqi government—you see unlike our system when it came time to negotiate the Iraqi government went to Rome and it met in January with the Italian government representatives.

Ms. OAKAR. Are there any other firms in this country to which your bank has supplied funds that have exported to Iraq, from this country? Is that a big part of your market in terms of financing?

Mr. LOMBARDI. I am now in charge of the operation of the bank. About the facts which pertain before the fraud was discovered, really I have no knowledge and there is an investigation underway.

So, personally, I hope as everyone hopes that once this investigation is over, we will have a clear picture of what happened in detail. But at this moment, really, I cannot speculate on the subject.

The CHAIRMAN. The time of the gentlelady has expired. The gentlelady sought unanimous consent to include in the record some newspaper articles.

Ms. OAKAR. Four articles.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to can be found in the appendix.]

The CHAIRMAN. Mr. Weiss, do you seek recognition?

Mr. WEISS. I was going to ask the witness to pull the microphone closer because I have difficulty hearing him.

With your permission, I have a couple of questions.

The CHAIRMAN. Mr. Weiss.

Mr. WEISS. Apparently, there seems to be agreement that there has been no cost to the American taxpayer or any of the funds that are involved in providing insurance. Is there any open-ended exposure still, Mr. Taylor?

Mr. TAYLOR. Not that I am aware of. We should differentiate as it relates to the obligations of the bank, BNL, and exposure created as a result of what the bank owes.

We feel the bank has stated, and stated here again, that it is good for all its liabilities when they are on book or off book. So it is prepared to pay to every one who is a creditor of BNL, no matter whether they were recorded or not recorded on the books in Atlanta.

As it relates to the CCC loans, as I understand the program, it is a government program that basically gives to our exporter a guarantee as it relates to the payment by the receiving party on the shipment of grain. That exporter takes that guarantee and he funds the shipment of the grain by getting a bank to lend them the money against that guarantee of the U.S. Government through CCC. That is the part that is subject to question.

Mr. WEISS. That is my question.

Mr. TAYLOR. If Banco Lavoro had not made that CCC loan most likely it would have been taken up by another bank and things would have been very much the same.

Mr. WEISS. Are you saying that as regards to CCC guarantee that in fact there is potential exposure?

Mr. TAYLOR. Yes. That potential exposure comes from the issuance of the guarantee by the CCC. That is the action that causes the exposure.

Mr. WEISS. Even though the amount that has been guaranteed is beyond the level which was supposed to be authorized?

Mr. TAYLOR. No. The amount that was guaranteed, as I understand it, was not beyond the amount that was authorized by CCC.

Mr. LOMBARDI. Actually, they meet with some presidents of our bank.

The CHAIRMAN. Well, they met with agents of the government of Italy. At that point in January of this year, the Italian government sanctioned extension of credit to Iraq.

Mr. LOMBARDI. Actually, no, Mr. Chairman. This is wrong because there was no additional money granted. The agreement was just to make the bank recover.

The CHAIRMAN. In other words, you are not aware of the record—\$2.1 billion loan the Iraqi government negotiated in January in Rome.

Mr. LOMBARDI. I know about this agreement but one thing I know about is that there was no additional money granted and no official Italian government officer who took part.

The CHAIRMAN. In other words, it was bank officials only?

Mr. LOMBARDI. Yes.

The CHAIRMAN. But there was extension of credit, whether it was additional credit or not.

Mr. LOMBARDI. Just a way to make a more secured understanding.

Ms. OAKAR. Mr. Chairman, would you yield?

The CHAIRMAN. Yes, I will be glad to.

Ms. OAKAR. The point is this was a government bank so the government is really in the meeting, right?

The CHAIRMAN. Well, we have a different tradition. This is the reason, Mr. Barnard, when you talk about extending powers to our bankers and changing the regulatory system where these powers would be extended so that they can compete with whom, Europe? In Europe you have a few select banks, you have a highly centralized system. You have most government owned, whether it is France, you have government owned banks, whether it is West Germany, whether it is Italy or any others.

The bankers, the private bankers or the banking officials have a tradition in Europe of public service. We don't have that with our private bankers in the United States, Mr. Barnard. We don't have that tradition.

So we are not talking about any kind of similarity or confluence in our systems.

Mr. BARNARD. Mr. Chairman, since my name was mentioned, would you yield?

The CHAIRMAN. Of course. You mentioned mine and I will mention yours.

Mr. BARNARD. I hope next year at least if not sooner, that we will be in a full fledged discussion of this subject in the Banking Committee.

I want the record to show that I am not advocating expanded powers. Nothing that I have said in the last 2 years has indicated that I am for expanded powers in banks. There is a big difference between expanded powers and restructuring. I am endeavoring and hoping that we will see the need in order to help the banking industry, help the economy, to make our whole financial system whether it be securities, real estate, insurance or so forth, more competitive in the global marketplace.

I think the answer is restructuring. At no time did I say we are looking for expanded powers.

I would also say I think we also should have a hearing as to what kind of public service banks provide in their community. They provide a lot of public services. It is not as much as some would like so, therefore, we have the CRA, the Community Reinvestment Act. I think it is substantial. I think that banks do provide a very substantial public service.

The CHAIRMAN. Yes, I appreciate the clarification on the part of my colleague. The gentleman knows, God willing and us returning, that is what we intend to do in the 102nd Congress.

Before we leave off here, I think it is important that we clarify the record.

Mr. Lombardi, in your testimony you revealed that BNL is a victim of rogue employees. You state that news of the unauthorized loans stunned BNL. But there is evidence to indicate that BNL employees in Rome as well as BNL in New York were aware of the Atlanta agency's activities.

In testimony before the Italian Parliament, the Italian Minister of Treasury Carli states he knew the finance section of BNL, knew of the Atlanta loans and were using such loans to finance Italian exports to Iraq.

He also made clear that as far back as December 19, 1988, the New York office of BNL knew of the Atlanta agency's supposed unauthorized dealings with Iraq because his investigation uncovered a telex received by New York indicating a \$26.4 million loan from Atlanta for Centrifugal Casting Machine Company, Incorporated that was done on the order of the Iraq Central Bank.

Do you say that neither the New York office or for that matter as stated by this minister, Rome, knew something about the Atlanta agency's unauthorized loan to Iraq as far as back as December 19, 1988?

Mr. LOMBARDI. Mr. Chairman I am aware of the reports to the Italian Parliament but as of this date I have no news. There is no evidence which leads me to any conclusion.

As you may appreciate, all these subjects to under investigation just to clarify if there was anything. But, once again, everything is under investigation. This is the reason why we hope once this investigation is over we will have a very clear picture of what happened.

The CHAIRMAN. Thank you very much.

Are there further questions?

Mr. WYLIE. I have no further questions.

Ms. OAKAR. Mr. Chairman, I don't think I am jeopardizing the case if I put in the record what is already public information in Italy which everyone has access to.

There was a Senate special committee Tuesday, May 19, 1990, under the Chairmanship of Chairman Carli, the Minister of the Treasury. He took the floor. In reference to the question I asked you, it indicates the parties voted to cancel two letters of credit, General Motors for \$114 million and a letter of credit to Matrix Churchill for \$70 million. So, in fact, there was a loan. There certainly were perhaps this and other transactions related to that company that is close to the district I represent.

I would like to ask unanimous consent, Mr. Chairman, that I be allowed to put this committee hearing in Italy in the record.

The CHAIRMAN. I am sure the gentlemanly means the translation. Ms. OAKAR. The translation, thank you, Mr. Chairman.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to can be found in the appendix.]

The CHAIRMAN. Mr. Weiss.

Mr. WEISS. Mr. Chairman, maybe I missed this. I have just one or two questions.

I understand between 1988 and 1989 almost \$3 billion worth of these loans went to Iraq. Did your agency in Atlanta have an unlimited amount of monies available for loans or did they have to get approval from someone to make these loans?

Mr. LOMBARDI. About this subject, I have covered that in my statement.

Mr. WEISS. Give me an answer to my question. Was there a pot of money Atlanta could loan at their whim or would they have to check with Rome and say we have a request for an amount of loans and grant it?

How did the system work?

Mr. LOMBARDI. How it worked is another thing which is under investigation.

Mr. WEISS. You can't answer that question as to whether, in fact, Atlanta had an unlimited pool of money or whether they had to get approval from loan?

Mr. BARNARD. Would the gentleman yield?

Mr. WEISS. I will be pleased to yield.

Mr. BARNARD. I think what Mr. Lombardi has said was that there were some policies that the local management could not make more than a \$500,000 loan so, therefore, they had some limitations as to what they could do.

The whole problem, of course, is that there were two sets of books and they exceeded that \$500,000 without authority, as I understand it.

Mr. WEISS. I understand that, Mr. Barnard. But it just boggles my mind to think that you could have loans to this extent, \$3 billion, and it could go on on the basis of double-bookkeeping. It doesn't make sense. It seems that somebody along the line, somebody would say how much do you still have available for loans and check to see what is outstanding.

The responses don't make any sense.

Mr. TAYLOR. One of the problems with the ways the double-book operating was that to fund these loans, had they gone to Rome or New York they would have been above the authorized limit. So they would borrow in the Euro market funds as BNL Atlanta, BNL New York and Rome not having knowledge, as we are told, of these borrowings. They would then borrow as Banca Lavoro and lend as Banca Lavoro and there was no record other than in Atlanta in the grey book.

Mr. WEISS. There was no record in the Euro market records?

Mr. TAYLOR. There was a record in the institution that lent the money.

Mr. WEISS. And that was not reflected any place else?

Mr. TAYLOR. At Lavoro, no. It would be reflected on the lenders' books.

The CHAIRMAN. If you would yield to me here.

Didn't the Morgan Bank get involved in \$1 billion of this transaction? I am sure the Morgan Bank is a domestically-regulated bank. They just got new powers from the Fed.

Mr. TAYLOR. Morgan did not lend any money.

The CHAIRMAN. No, but they are a clearing bank. Don't they keep records?

Mr. TAYLOR. They keep records of what comes in and what goes out.

The CHAIRMAN. That was Mr. Weiss' question.

Mr. TAYLOR. That is correct. What I am saying is that the Banca Lavoro in Atlanta borrowed the money and they were not authorized by Rome to borrow it.

Mr. WEISS. The Euro people took it on the word of the bank in Atlanta that they had the right to borrow almost \$3 billion?

Mr. TAYLOR. I understand the confirmations sent to Atlanta saying do you owe us this money and the people in Atlanta said, yes, we owed it.

Mr. WEISS. And those people never checked with Rome to see if Rome knew they owed the money.

Mr. TAYLOR. These are procedures that need to be reviewed; you should always verify liabilities with the head office.

The CHAIRMAN. Not only Rome, but New York uses Morgan as its clearing agent. Why wouldn't they have some knowledge. I think that was the pertinent essence of Mr. Weiss' question. Somewhere you had to have somebody reporting something.

Well, in order to proceed, I do have one question I think we ought to bring out now while we have the witnesses here. Again, Mr. Lombardi, the auditing department of BNL, led by Mr. Mezeri, did an internal audit of BNL Atlanta on September 2, 1988. This audit reported in a 75-page scathing report which stated: "Based on the audit findings the Atlanta agency's operation of accounting and internal controls were found to be in need of improvement."

The internal audit report says: "The Italian data preparation and its flow and input into existing systems does not comply with existing BNL practices and procedures and as such is deficient of sound practices and control."

Now, was this report forwarded to BNL in Rome?

Mr. LOMBARDI. Yes, it was.

The CHAIRMAN. Do you recall the date that was forwarded to Rome?

Mr. LOMBARDI. I can find out and be precise on the subject, Mr. Chairman.

The CHAIRMAN. Who was the BNL person in Rome in charge of the United States operations and would it be possible to report on whether he received a copy of this internal report?

Mr. LOMBARDI. BNL office of inspector's office was the office in charge of receiving this document.

The CHAIRMAN. Was this Mr. Desario?

Mr. LOMBARDI. No, he was deputy general manager while the inspector's office was in another office.

The CHAIRMAN. One more question and we can leave that open for the record in case you are not aware.

Do you know what was done with the internal audit report in Rome once it was received?

Mr. LOMBARDI. Actually, I don't know. I was not in New York at that time.

The CHAIRMAN. I think for the sake of time and I know that you have been here sitting all morning long, I think we will submit them in writing. You will get a copy of the proceedings of this morning's hearing and whatever member has by way of questions in writing, including myself, will be submitted to you in ample time for you to examine the transcript.

We are very grateful to each and every one of you for your cooperation with the committee.

Thank you very much.

Mr. LOMBARDI. Thank you, Mr. Chairman.

The CHAIRMAN. Our next panel, Mr. Stephen R. Steinbrink, Deputy Comptroller for Multi-National Banking, Office of the Comptroller of the Currency (OCC); Mr. Paul Fritts, Director, Division of Bank Supervision, Federal Deposit Insurance Corporation (FDIC); Mr. James Gilleran, Superintendent of Banking, California State Banking Department, representing the Conference of State Bank Supervisors (CSBS).

Gentlemen, if anyone of you has a time problem, maybe an airplane to catch, let us know and we will recognize you first. If not, why don't we recognize you in the order that we introduced you. That would start with Mr. Steinbrink.

STATEMENT OF STEPHEN R. STEINBRINK, DEPUTY COMPTROLLER FOR MULTINATIONAL BANKING, OFFICE OF THE COMPTROLLER OF THE CURRENCY

Mr. STEINBRINK. Mr. Chairman and members of the committee, thank you for the invitation to testify today about the Office of the Comptroller of the Currency's regulation and supervision of U.S. branches and agencies of foreign banks and, in particular, the OCC's Federal Branch Program.

We welcome the committee's interest in this area of bank supervision and appreciate the opportunity to share with you our efforts to assure the safety and soundness of the national banking system through the regulation and supervision of Federal branches and agencies.

OCC involvement in the regulation and supervision of branches and agencies of foreign banks began with passage of the International Banking Act (IBA) of 1978. The IBA affords foreign banks the opportunity to apply for a Federal branch or agency license in those States where the bank is not operating a State branch pursuant to State law and the establishment of a branch or agency is not prohibited by State law.

The IBA identified the OCC as the U.S. bank regulatory agency charged with primary responsibility for supervising Federal branches and agencies. The OCC is responsible for acting on applications to license Federal branches, performing examinations, and providing an overall system of supervision.

At present there are 80 Federal licenses in operation, most of which are located in New York City although 13 licenses operate on the West Coast. A single Federal agency operates in Miami, Florida. As of June 30, 1990, the 80 Federal licenses had approximately \$38.3 billion in total assets, \$13.1 billion in total loans and \$14.9 billion in total deposits. Total liabilities to nonrelated third parties amounted to \$29.3 billion. Seven Federal branches are retail operations insured by the FDIC.

Our approach to the supervision of Federal branches mirrors that utilized for national banks and is consistent with the national treatment of these banking entities provided by the IBA. The same cadre of national bank examiners that examine national banks perform annual examinations of Federal branches and agencies.

Our program of supervision begins with the licensing decision. Much like a national bank charter, the decision to grant or deny a license to operate is fundamental to proper supervision. The OCC, in acting on Federal branch applications, considers the financial and managerial ability of the applicant foreign bank and the proposed Federal branch, competition, the convenience and needs of the community to be served, economic conditions and the system of supervision in the home country, and international banking expertise.

If, after considering these factors, the OCC is not convinced the applicant foreign bank has a reasonable likelihood of success, a Federal branch license will be denied. Foreign banks currently holding a State branch or agency license desiring to convert to a Federal branch must have a record of sound operation as a State licensee in order to qualify for a Federal license. For Federal branch applications, this office contacts the home country supervisor as to the financial ability and record of performance of the parent bank.

The IBA requires the OCC to perform an examination of each Federal branch at least once each calendar year. The regularity of examinations assures compliance with the requirements of national banking law.

Generally Federal branches and agencies are exposed to the same risks, are subject to the same laws, rulings and regulations, and are examined in much the same way as a national bank. However, because they are not separate legal entities and are only extensions of the parent, their operations may differ in some areas.

For example, because Federal branches and agencies are an extension of the parent bank, they do not have a separate capital structure. Therefore, they are required to maintain a pledge of assets known as a capital equivalency deposit, more commonly known as a CED account.

The OCC has developed specific examination procedures and a series of Federal branch banking circulars to address supervisory, policy and operational issues which are of particular importance to these banking entities. The circulars provide guidance in areas such as allowance for loan and lease losses, capital equivalency deposit accounts, and funds due from home and related offices.

Finally, our examination of Federal branches and agencies is always tempered with common sense recognizing that these entities are U.S. branch offices of foreign banking companies which are

Despite the agreement in principle reached by the committee, the OCC continues to perform examinations of Federal branches including asset quality reviews, assessments of the allowance for loan loss of both a general and specific nature, as well as other solvency issues consistent with our responsibilities under the IBA. Our compliance efforts include a review for compliance with applicable banking law including the Bank Secrecy Act.

Finally, you asked the comptroller if we had "any recommendations for improving the regulation and examination of these entities." In performing examinations of branches owned by the same parent, our examiners share information about the branches, and supervisory efforts are coordinated so that all U.S. operations of the bank are reviewed at the same time.

Supervision as if there is one operation allows for consistency and efficiency in carrying out our supervisory responsibility. Our posture with regard to the other Federal bank regulatory agencies and the State banking departments remains one of communication and cooperation.

We share information with the Federal Reserve Board and the FDIC regarding such things as requirements of the Bank Holding Company Act, bank reserves, and insurance of deposits. As the primary supervisor of Federal branches and agencies, we have always tried to prevent duplication of effort by sharing information with other regulatory agencies and assisting them in the fulfillment of their responsibilities.

There also is a common interest in approaching the supervision of foreign banks on a basis consistent with the domestic counterparts. There should be equality of supervision and regulation as well as equality of competition.

Finally, we believe that banking regulators around the world must develop better systems of communication and cooperation. As global banking companies expand, mechanisms for sharing supervisory information between home and host country regulators must be developed in order to assure proper supervision of worldwide banking companies.

Thank you for the opportunity to share with you information about our efforts to provide proper supervision and regulation of Federal branches and agencies. I would be happy to respond to any questions.

The CHAIRMAN. Thank you very much, sir.

Mr. Fritts.

STATEMENT OF PAUL FRITTS, DIRECTOR, DIVISION OF BANK SUPERVISION, FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

Mr. Fritts. Thank you, Mr. Chairman, and members of the committee.

I ask that our full statement be made a part of the record.

The CHAIRMAN. Certainly. Without objection, it is so ordered.

I will say the same for each of the witnesses. Your complete statements will be made a part of the record.

Mr. Fritts. In deference to time considerations and because our prepared statement is duplicative of the testimony the committee

supported by the financial and managerial abilities of those companies.

The program of Federal branch regulation and supervision is administered by the Multinational Banking Department located in Washington, DC. The Multinational Banking Department reviews each Federal branch report of examination to ensure consistency of supervision across the country and a system of regulation which is consistent with the mandates of the IBA.

With regard to enforcement powers, the IBA empowered the OCC to issue such rules, regulations, and orders as deemed necessary by the OCC to carry out the provisions of the IBA. The same enforcement tools available to the OCC for national banks exist for Federal branches. Civil money penalties, cease and desist orders and other enforcement measures are available and have been used as enforcement and compliance tools.

During the last year we have issued seven enforcement actions. In addition, the IBA granted the OCC the authority to terminate the license of any Federal branch for noncompliance with any rule, order or regulation of this office. The OCC has not revoked a license, but our ability to recall or retrieve a Federal branch license remains the ultimate sanction.

In summary, the overall approach to the supervision of Federal branches and agencies integrates the program of Federal branch supervision and regulation with the system for supervision of national banks. We believe this approach provides for consistency and fairness and allows for the best possible employment of OCC resources.

The letter of invitation asked whether the regulatory structure governing U.S. branches and agencies of foreign banks is adequate or whether the fragmented structure that now exists (that is, the regulation and examination of these entities is divided among the OCC, the FDIC, the Federal Reserve as well as the 50 States) is prone to breakdowns such as the one that occurred in the BNL-Atlanta case.

Banca Nazionale Del Lavoro's Atlanta branch is not a Federal branch and is not subject to OCC supervision or regulation, and consequently, I cannot comment on that specific case. We do believe, however, that cooperation, communication, and sharing of information with other domestic regulators such as the Federal Reserve and FDIC and the home country regulator of the parent bank are essential to ongoing supervision.

Your letter also asked us to explain the OCC's role in regulating the U.S. branches and agencies of foreign banks and the type of examination the OCC conducts. The OCC conducts full-scope examinations of Federal branches and agencies including reviews of asset quality and other solvency-related issues.

As you may know, the Basle Committee on Banking Regulations and Supervisory Practices has agreed upon certain principles for the regulation and supervision of international banks. The committee has agreed that while there is a general responsibility on the host authority to monitor the financial soundness of branches of foreign banks, supervision of the foreign bank itself for safety and soundness is primarily a matter for the parent authority.

has already heard today, I will not waste your time by repeating that statement, thus my remarks will be quite brief.

FDIC assumes supervisory authority for State chartered insured United States branches of foreign banks.

With respect to the frequencies of such examinations, FDIC uses the same standards that are applicable to domestic FDIC supervised institutions.

For branches that receive a composite one or two rating, the maximum period between examines is 24 months. For those receiving a three, four or five, the maximum interval between examinations is 12 months.

With but few exceptions, our examination program is current, relating to those timetables for foreign branch offices. However, we at FDIC are currently, again, reviewing our examination program cycles with a view toward possible shortening of those cycles, probably to require at least some physical FDIC examination presence in all State nonmember banks of size each year regardless of their rating.

We believe at FDIC that the regulatory structure that exists for supervision of foreign bank branches and agencies is as adequate as it is for the banking system as a whole.

In the case of BNL in Atlanta, the case was one of massive fraud and it is very, very difficult for an examiner to detect shortages or fraud brought on by a duplicative set of books.

We have no specific recommendations relative to additional supervisory efforts for supervising branches. However, we will say this as we said some years ago in testifying about the International Banking Act, we want to point out the continued awkwardness of a system that insures only a part of an institution, that is a branch of a bank but not the entire institution.

As you know, BNL Atlanta, was not insured and thus the FDIC had no direct involvement. I would be pleased to address any questions that the committee members may have.

Thank you.

[The prepared statement of Mr. Fritts can be found in the appendix.]

The CHAIRMAN. Mr. Gilleran.

STATEMENT OF JAMES GILLERAN, CONFERENCE OF STATE BANK SUPERVISORS

Mr. GILLERAN. Again, Mr. Chairman, I have cut my even brief remarks even shorter.

I am the Superintendent of the Banks for the State of California and today I represent the Conference of State Bank Supervisors.

The State banking departments are the primary supervisors of State licensed foreign bank branches and agencies.

State banking departments perform the same functions with these entities as with domestic State-chartered commercial banks.

If a branch becomes financially troubled or commits a serious violation of law, the State supervisor has the full range of enforcement tools at his or her disposal, including closing the foreign bank branch or agency.

The vast majority of State-licensed foreign bank branches or agencies are examined annually. California alternates yearly examinations with the Federal Reserve.

In California, a foreign bank branch or agency is examined every year by one of the two regulators. New York performs examinations on either a 12- or 24-month cycle, depending on the entity's rating the strength of the parent, and the assessment of the country risk.

Any entity not on the 12 month, full-scope examination cycle is subject to special visitations. A few States require examinations every 18 months.

All examination reports are provided to the appropriate Federal regulator, the parent bank and its primary regulator.

Given the role of the Federal Reserve and the relatively few FDIC-insured foreign bank branches and agencies, the vast majority of cooperation takes place between the State regulators and the Federal Reserve and among the States themselves.

Our working relationship with the Federal Reserve is good. While the relationship varies from State to State, all report a close working relationship. We have excellent working relations with the FDIC.

A number of States recently signed an information-sharing agreement on the supervision of foreign banks. The signatories to this agreement are California, New York, Illinois, Florida, Georgia, Michigan, and Washington.

This agreement provides for the confidential exchange of information between the States about foreign banks operating within their borders.

We anticipate that other States will sign this agreement. The agreements aim is to further strengthen State supervision of the entities and to provide a means for monitoring foreign bank entry and activities in other States.

Mr. Chairman, I have a copy of this agreement and would ask that it be included in the record at the appropriate place.

The CHAIRMAN. Without objection it will be included.

[The information referred to can be found in the appendix.]

Mr. GILLERAN. You asked for our recommendations on improving the regulation and examinations of these entities.

First is in the area of cooperation. The IBA requires consultation with the States by the Federal Reserve on a number of matters. The consultation on policy issues should be more regular, and formalized consultation should be taken place when major issues are on the table. Regular meetings should be scheduled between the Federal Reserve and all State regulators who have responsibilities over foreign bank branches and agencies.

The States should be represented by one of our own in the international meetings that impact on the foreign bank branches or agencies we regulate, as well as the domestic State banking system. The Basle Committee is the primary vehicle for the international coordination of bank supervision. The committee is made up of two representatives from 10 of the 12 industrialized countries, generally referred to as the G-12 nations.

Luxembourg has only one representative and the United States has at least four. None of these four United States representatives

Mr. TAYLOR. I have already done so.
The CHAIRMAN. I have a few questions for the record and maybe a couple now.

Mr. Taylor, New York conducts its own examinations, Texas conducts joint and California alternates with the Federal Reserve on a yearly basis. Most States have the principal responsibility for examining State branch licenses and, wouldn't it be better for all to have the same arrangement for the State-licensed entities? We can get the answer in writing.

[The information referred to can be found in the appendix.]
The CHAIRMAN. The testimony just presented by Mr. Gilleran, it was suggested that the conference of State banking supervisors have representatives in the consultation and policy issues regarding foreign banking supervision with all States, in other words, represented on the Basle Committee deliberations.

Again, we would like to know your reactions.
I will have about four additional questions in writing I will submit.

Mr. Wylie.

Mr. WYLIÉ. Mr. Chairman, I ask unanimous consent to submit some questions in writing.

The CHAIRMAN. Without objection, it is so ordered.

Mr. WYLIÉ. Mr. Gilleran, the scandal at BNL, as well as the activities of State-chartered thrifts has caused great exposure to the insurance fund and has led some of us to question the dual banking system in the present form.

What can you tell us on behalf of the State banking regulators as to why we should continue the dual banking system?

Mr. GILLERAN. What a wonderful question. Thanks for asking. I think it is extremely important that a dual banking system be continued.

First of all, it has been the place in banking systems where most of the creativity has come in the past where new ideas have been tried out on the State level and adopted eventually nationwide.

So that as a crucible for change it has provided some wonderful ideas that have been later adopted nationwide.

Mr. WYLIÉ. And some not so wonderful like junk bonds and other investments.

Mr. GILLERAN. There have been others developed by the States, NOW accounts and other types of financing transactions. In addition the State system has been primarily made up of the small community banks around the United States.

These community banks have been providers of credit to small and medium-sized businesses since the start of the system and the small and medium-sized business is where most of the creative ideas come from in the United States.

Before we tamper with the dual banking system, we should very well consider how businesses are formed in this country, how they are financed and how they are developed.

So that system is a very important one for the whole United States economically.

Mr. WYLIÉ. I thank that chairman.

He and I both want to go vote.

represents the States directly in their role with foreign bank branches or domestic State banks.

States charter and regulate over 40 percent of the domestic bank assets and over 80 percent of the foreign bank assets. Given these facts and the scope of the impact of the Basle Committee's deliberation and decisions on State-regulated institutions, the lack of direct State participation is unjustifiable and deserves this committee's attention.

Our third and final recommendation at this time is the expansion of the Federal criminal code to include crimes by employees of foreign bank branches or agencies.

We supported your efforts, Mr. Chairman, to address this issue in the crime bill, and were disappointed to see that the provisions were not offered. By subjecting these individuals to criminal sanctions under Title 18, you will bring the substantial resources and expertise to the U.S. Attorney's offices and the Justice Department to bear on these cases.

These penalties would be in addition to current State criminal sanctions, and provide increased deterrence to individuals considering criminal acts.

This is not to say that the individuals under investigation in the BNL incident will not be subject to criminal prosecution under current law. The State criminal system provides timely and substantial justice to those accused of fraud. We have recently seen this in action in the Keating case.

As you have pointed out, Mr. Chairman, this case appears to have involved massive fraud.

This type of fraud is difficult or impossible to detect, and this criminal activity may be successful for a short period of time. However, the combination of internal controls and audits, external audits, and on-site regulatory examinations will ultimately bring this activity to light or drive one of the conspirators to come forward.

During the on-site examinations, examiners will often receive tips from bank employees and others regarding fraudulent activities.

It is fraud, not a breakdown in the regulatory system of foreign bank branches and agencies, that is present in this case. From the information available to us, it appears that the regulatory system worked.

However, Mr. Chairman, this fraud must be examined by regulators to see if any new examination technologies should be considered.

Foreign bank branches or agencies have adequately regulated, supervised, and examined under the current regulatory scheme.

They receive timely on-site monitoring activities. They receive the same regulatory review as domestic State-chartered banks.

We see no need at this time to change the structure of the supervisory system for foreign bank branches and agencies.

Thank you, Mr. Chairman. I will be glad to take your questions.
[The prepared statement of Mr. Gilleran can be found in the appendix.]

The CHAIRMAN. Mr. Taylor, were you going to present a statement?

I don't believe he wants to have you wait. I have a couple of follow-up questions and a couple for Mr. Taylor and Mr. Steinbrink which I will include in the record.

The CHAIRMAN. Thank you gentlemen very much.

We apologize for keeping you so long.

If any of you have a closing statement you wish to make, we have 1 or 2 minutes.

We have about 3 minutes left to vote.

Thank you very much for appearing here today.

The committee will be adjourned.

[Whereupon, at 2:20 p.m., the hearing adjourned.]

Opening Statement of Henry B. Gonzalez, Chairman
Committee on Banking, Finance and Urban Affairs

Full Committee Hearing on the
Banca Nazionale del Lavoro (BNL) Affair

October 16, 1990

The Banking Committee is meeting today to hear testimony regarding the scandal involving the Atlanta branch of Banca Nazionale del Lavoro. This is a sensational case in which former employees of the Atlanta Branch of BNL approved approximately \$3.065 billion in secret and unauthorized loans to Iraq. Only \$67 million of this amount was reported to state and federal bank regulators. BNL-Atlanta also failed to report \$1.8 billion in monies borrowed in the world money markets to support its concealed loans.

Press reports and the Italian government have linked BNL financing to companies that sold armaments to Iraq over the past several years. At this time the Committee has no proof of that assertion, but at a minimum, the secret loans mentioned above increased Iraq's credit capacity and permitted Iraq to spend their scant hard currency on some of the very weapons that are now aimed at our children.

The BNL affair is also a case study in regulatory failure. The state and federal regulatory agencies not only failed to adequately supervise BNL, but they still insist they are blameless for not discovering this massive fraud.

The BNL affair raises several larger concerns. Foremost is the adequacy of the regulation and supervision of U.S. branches and agencies of foreign banks. Entities like BNL command over \$575 billion in assets in the U.S. and over \$7.5 billion of their liabilities are guaranteed by the FDIC.

The regulatory scheme governing branches and agencies of foreign banks is spelled out in the International Banking Act of 1978. The Banking Committee is quite concerned that the present sharing arrangement between the state and federal bank regulatory agencies is inadequate to ensure these entities are properly supervised. This was certainly the case in the BNL affair. It is apparent that a thorough review of the International Banking Act is in order.

The BNL affair also raises the issue of whether or not we should allow U.S.-based financial institutions to be used as a conduit of foreign policy. It is time the Committee delved into the intentions of foreign banks, especially those owned by foreign governments, and the role they play in our economy. We should ask ourselves: Even if it did not happen in the case of BNL, should we permit foreign governments to carry out their foreign policy through our banking system, especially if it goes against our own foreign policy? Should we permit foreign banks that are underwritten by foreign compete head on with our privately owned banks?

One must wonder if it is fair for a foreign government-owned bank to take business and jobs away from our privately owned domestic banks.

Maybe it is time we established a national screening board to monitor more closely foreign bank presence in the U.S. Such a screening board could review applications for foreign bank entry into the U.S. as well as monitor these banks to ensure they are not engaged in foreign policy activities.

There are several primary reasons that the BNL affair occurred. First, BNL was a pitifully managed organization. An internal 75-page audit of BNL-Atlanta that was conducted one year before the scandal became public, paints a clear picture of an organization out of control. This internal audit stated, and I quote, "Based on the audit findings, the Atlanta agency's operations, accounting and internal controls were found to be in need of improvement in most areas." The internal audit report goes on to say, "the accounting data preparation and its flow and input into existing systems does not comply with existing BNL practices and procedures and as such is deficient of sound practices and controls."

What is most distressing about the audit findings is that BNL concealed them from state and federal bank regulators. Upon examining BNL, the State of Georgia asked for a copy of the internal control report. BNL-Atlanta management falsely told the

Georgia examiners that the report was still in progress and was unavailable.

The State of Georgia examiners never followed up to get a copy of that report. They also did not do their own comprehensive examination of BNL. The State of Georgia gave BNL a clean examination report. The Federal Reserve, which has prime responsibility to ensure the state exams are adequate, did nothing to ensure Georgia did a good job. The Fed only spent a few hours on the BNL audit.

Ironically, not long after the BNL exam, the manager of the Atlanta branch signed a \$1.1 billion unauthorized loan agreement with Iraq. Apparently the BNL people were convinced the examiners would not catch them and that the management of BNL would not detect nor stop them.

This hearing is also being held to acquaint Members with a loophole in the criminal code that today permits employees of branches and agencies of foreign bank to escape federal prosecution for bank theft, fraud, embezzlement, misapplication of funds and bribery. The Federal Reserve has asked us to close this loophole, and it is imperative Members fully understand the reasons for this legislative request.

Today's witnesses are:

TESTIMONY OF F. PAUL DICKERSON
ASSOCIATE ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE &
GENERAL SALES MANAGER, COMMODITY CREDIT CORPORATION

BEFORE THE COMMITTEE ON BANKING AND FINANCE
UNITED STATES HOUSE OF REPRESENTATIVES
OCTOBER 16, 1990

Mr. Chairman and Members of the Committee: I would first like to thank the Committee for inviting me to appear today and present the views of the U.S. Department of Agriculture ("USDA") and the Commodity Credit Corporation ("CCC") regarding the concerns that have surfaced in the last year as a result of the investigation of the Atlanta agency of Banca Nazionale del Lavoro (BNL).

I know that the Committee has already been briefed by its staff regarding the issues and allegations surrounding the Atlanta investigation of BNL, and I will not go into great detail about those matters.

The basic facts, as we now understand them, are these: At some point in the mid-1980's, the management of BNL Atlanta entered into an agreement to loan a large amount of money -- rumored to be in excess of \$2.1 billion -- to the Government of Iraq and its instrumentalities. We are told that BNL's central management in Rome insists that it had no knowledge that the Atlanta branch had committed to make these loans to Iraq, and that the amount pledged was far in excess of the lending limits established for the Atlanta branch. According to BNL, the loans

were concealed from both the bank's regional management in New York and its central management in Rome, and that the loan arrangement with Iraq represented "rogue" activity by the Atlanta branch personnel. This allegedly unauthorized loan activity was purportedly conducted on a secret set of accounts -- or "greybook" -- and the loans were financed through an intricate scheme of borrowing in the interbank money markets.

At the time the Atlanta investigation was first brought to CCC's attention in September, 1989, BNL held approximately \$750 million in receivables due in the future from Iraq, representing payment obligations under letters of credit that had been assigned to BNL by U.S. agricultural exporters and for which payment guarantees had been issued by CCC under the GSM programs. Because Iraq continued to pay on those obligations up until August 2 of this year, the outstanding obligations of Iraq held by BNL and guaranteed by CCC have been substantially reduced, and today total approximately \$347 million.

Those letters of credit had been issued by Bank Rafidain, an instrumentality of the Government of Iraq. To CCC's knowledge, Iraq had made payments on all of its GSM-102 obligations, including all payments due under letters of credit assigned by exporters to BNL up until the time of the invasion of Kuwait. As of August 1, however, Iraq (and Bank Rafidain) have stopped making payments on obligations owed to the United States, and CCC

has been notified by a number of banks, including BNL, of Iraqi default on GSM-guarantee transactions.

So that the Committee can appreciate CCC's specific interest in the BNL-Atlanta situation, I would like to describe briefly just how the GSM export credit programs work.

The Operation of the GSM Programs

The GSM-102 and GSM-103 programs are export credit guarantee programs operated by the CCC under the general authority of section 5(f) of the Commodity Credit Corporation Charter Act of 1948, by which CCC was directed by Congress to develop programs to "export or cause to be exported, or aid in the development of foreign markets for, agricultural commodities..." 7 U.S.C. 714c(f). Congress did not provide specific guidance regarding the means for carrying out this mandate, leaving the formulation and operation of specific programs to the judgment and discretion of CCC.

The GSM programs evolved in the 1970's from the need to find export markets for the increasing levels of U.S. farm production. The concept was to develop programs which would permit U.S. agriculture to develop, and establish itself in, new markets. USDA saw the potential for additional sales in a number of countries in which significant additional demand would exist if

credit were available. These were countries that, due to financial constraints, could not purchase additional amounts in the customary cash markets, but were interested in and able to purchase on credit.

In the 1970's, CCC assisted U S exports through the operation of direct credit and blended credit programs. In the early 1980's, CCC devised two programs -- GSM-102 and GSM-103 -- utilizing credit guarantees, thereby permitting CCC to continue to assist U S export sales without providing direct credit. Essentially, the CCC guarantees operates to attract credit from the private sector to finance sales of U S agricultural commodities, rather than having the government provide credit directly.

The principal and most significant difference between the GSM-102 and GSM-103 programs is the length of credit terms. Under GSM-102, CCC guarantees repayment for credit sales of three years or less, under GSM-103, CCC's guarantees cover credit sales of more than three but less than ten years, with seven years being the typical repayment period. Regulations for the operation of the programs were promulgated and codified at 7 CFR Part 1493.

As part of the Food Security Act of 1985, Congress established benchmark levels at which it expected CCC to operate

these programs. In the case of GSM-102, Congress has mandated that CCC make available "no less than \$5 billion" annually in short term credit guarantees, in the case of GSM-103 intermediate export credit guarantees, Congress established a ceiling level which, for the most recent fiscal year, was \$1 billion.

The programs operate as follows. CCC has identified a number of countries which are appropriate participants in the GSM programs. Essentially, GSM participant countries are those which have potential for additional food purchases, but could not make those additional purchases in the cash markets -- e.g., Mexico, Algeria, Morocco, etc. The determination of participant countries involves an evaluation of long term food needs, interest in the program, market development opportunity for U S commodities, and ability to repay any credit extended.

Because GSM sales must be made pursuant to a foreign bank letter of credit -- an issue I will discuss later -- CCC also qualifies specific banks in the participating foreign country which are eligible to issue deferred payment letters of credit in conjunction with GSM-guarantee sales.

Prior to the beginning of each fiscal year, USDA, through its commodity divisions and the attache service of the Foreign Agricultural Service (FAS), through discussions with foreign countries interested in the programs and with input from the U S

export industry, identifies the most favorable opportunities for credit sales under the programs. FAS then allocates the amounts of credit guarantees among potential participating countries, establishing specific country "lines" by commodity. These proposals are presented to an interagency group -- the National Advisory Council on International Fiscal and Monetary Policy (NAC) -- for its advice.

Once country lines have been established, they are announced to the trade. An exporter who makes a credit sale to a GSM participating country on appropriate terms can apply, in accordance with the terms of the program regulations, for a CCC payment guarantee. If there is sufficient credit guarantee availability for the commodity and country identified in the sale, CCC will issue a provisional export credit guarantee to the exporter. The guarantee becomes effective at the time the commodities are exported from the United States.

Under the program regulations, sales must be made subject to repayment on deferred terms under a letter of credit issued by an approved foreign bank. The CCC guarantee is a promise to the exporter that CCC will pay the exporter, or its assignee, for the sale in the event that the approved foreign bank should default on its payment obligation under the letter of credit. It is important for the Committee to understand that this is the only risk assumed by CCC under the GSM program -- the risk of non-

payment by an approved foreign bank issuing an international letter of credit.

Once the exporter receives the GSM guarantee and has exported the commodity in accordance with the terms of its letter of credit obligations, it is free to "assign" its rights to proceeds under the letter of credit (and its rights to receive payment under CCC's guarantee in case of default) to a U.S. financial institution. Put more simply, this "assignment" of rights means that the U.S. exporter is able to receive immediate payment for its sale from a U.S. bank and "cash out" of the transaction. Most banks that take such assignments then book these transactions as "loans" made to the foreign bank that is obligated to make deferred payments under the letter of credit. The risk of repayment is passed to the U.S. bank which effectively undertakes to finance the credit sale. This is, of course, the entire purpose of the program. U.S. exporters are ordinarily not in (and do not want to be in) the business of financing credit sales; the purpose of the GSM programs, as I mentioned earlier, is to attract marketplace financing.

The Committee should also note that CCC does not issue credit guarantees to U.S. banks. Guarantees are issued to the agricultural exporters, who subsequently negotiate the guarantees to financial institutions interested in having these types of "loans" in their portfolios. As a result, CCC has no

Programmatic relationship with banks located in the United States under the GSM-102 and GSM-103 programs, nor any regulatory oversight. More importantly, CCC assumes no risk whatsoever with respect to the U.S.-based financial institutions that take assignments of GSM guarantees. Whether the guarantee is held by the exporter or by its assignee, CCC's risk remains identical -- it is the risk of non-payment by the foreign bank issuing the letter of credit. Accordingly, the only requirement imposed with respect to assignment is that the assignee be a financial institution located in the United States.

Sales to Iraq under the GSM programs

Iraq began purchasing U.S. commodities under the GSM program in 1983 when the United States and Iraq were working to reestablish diplomatic relations that had been severed for almost seventeen years. Iraq was, at that time, engaged in the middle of its eight year war with Iran and was looking for a means of obtaining food and feedstuffs on credit. At the same time, the United States was experiencing a surplus of many commodities, and it was determined that Iraq's long-term food needs presented significant market development potential for a number of U.S. commodities.

In 1983, Iraq purchased \$364 million of U.S. agricultural commodities under the GSM-102 program. The program grew in most years during the 1980's, with peak allocations during FY'88 and FY'89 of slightly more than \$1 billion annually. A summary of the export values guaranteed during the period is set forth in Attachment A.

As part of the process of establishing country allocations, representatives of USDA ordinarily held consultations with representatives of Iraq each year in the late summer or early autumn to determine Iraq's specific interests in GSM purchases. These consultations were held either in Baghdad or Washington. Because Iraq is a centrally planned economy, all of its GSM purchasing was conducted through various government ministries. The Iraqi delegations to these consultations were ordinarily led by officials of the Iraqi Ministry of Trade, and included representatives from the various purchasing ministries. The U.S. delegation consisted of representatives of CCC's Office of the General Sales Manager and of FAS officials in charge of program operations. Oftentimes, U.S. officials also met with representatives of the involved Iraqi financial institutions -- the Central Bank of Iraq and Bank Rafidain.

From the time the program for Iraq was initiated in 1983 until the invasion of Kuwait, Iraq purchased approximately \$5 billion in U.S. agricultural commodities under the GSM programs.

CCC records indicate that it did not receive any claims or incur any losses with respect to guarantees issued in conjunction with sales to Iraq. Based on the value of guarantees issued over that time period which have lapsed without the filing of any claims, CCC estimates that Iraq paid approximately \$3 billion in principal amounts due plus interest. On a few occasions, CCC did receive notice of late payment from assignee banks; however, on each of those occasions, it was determined that the late payment had occurred because of difficulties in the international funds transfer process, and within a very short time, payment was received and Iraq was determined to be current on its GSM-guaranteed obligations. I would note that CCC received no claims on guarantees issued in conjunction with Iraqi sales even after the BNL investigation began in Atlanta up until August 1 of this year.

This situation has now changed drastically. As of August 1, Iraq stopped payment on all of its foreign debts. Unpaid Iraqi obligations for which CCC has issued guarantees under the GSM-102 or GSM-103 programs total approximately \$2 billion. This represents approximately \$1.6 billion in principal obligations, and the remainder in guaranteed interest. The majority of these obligations result from sales made under the GSM-102 program, and those obligations will come due over the next three years. A smaller percentage -- less than \$200 million -- represents

repayments on sales made under the GSM-103 program which will come due over the next five years.

The receivables for those obligations, and the rights to proceeds under GSM guarantees, are currently held by eleven different U.S. based-banks, some of which are U.S. banks and some of which are U.S.-based branches or agencies of foreign banks, including BNL. CCC is authorized to accept and pay on valid claims, and is currently in the process of evaluating all claims on a case-by-case basis. According to CCC records, BNL currently holds receivables, for which CCC guarantees have been issued, of approximately \$347 million. In addition to the GSM-guaranteed financing it provided in conjunction with sales to Iraq, BNL has also financed GSM-guaranteed sales to seven other countries, totaling approximately \$242 million.

After the U.S. Attorney in Atlanta began its investigation of BNL last year, CCC took several actions. First, it was determined that only \$500 million of credit guarantees should be allocated to Iraq, which represented about one-half of the level requested by Iraq and about one-half of the level allocated in each of the prior fiscal years. Second, CCC initiated an administrative review of the program with Iraq to determine, based on the information available to CCC, whether there might have been any program abuses associated with the transactions for which BNL had accepted assignment of proceeds.

value" reported to CCC at the time guarantees were obtained by the value of these additional goods, which failure would represent a program violation on the part of the exporter. At the conclusion of its review, CCC turned over the information it had developed to USDA's Office of the Inspector General, asking that it conduct a thorough investigation of all sales to Iraq to ascertain the extent of this practice. The OIG is completing its study and we expect a final report soon. CCC will take appropriate administrative or civil action in the event that the OIG report discloses wrongful violation of program requirements.

In conclusion, I would note the following points for the Committee:

First, in the absence of a settlement to the current crisis in the Mideast, CCC expects that Iraq will continue in default on its obligations to U.S. banks for which repayment has been guaranteed by CCC under the GSM-102 program. Potential exposure for CCC as a result of those guarantees is approximately \$1.9 billion. CCC exposure is a result of non-payment of obligations by Bank Rafidain under letters of credit issued by that bank.

Second, CCC is continuing to monitor the investigation of ENL in Atlanta to learn whether any program violations uncovered in that investigation will require appropriate

When the Atlanta investigation began, very little was known about what might have transpired at BNL. In general, it appeared that the investigation involved primarily issues of bank fraud and evasion of bank regulatory requirements. There was no information available for CCC to determine whether BNL had been involved in any irregularities with respect to any CCC-guaranteed transactions.

For that reason, CCC initiated its own administrative review of the GSM program with Iraq. That process involved review of BNL's GSM records, certain exporter records, historical commodity prices and CCC records. In addition, I headed a team which travelled to Baghdad in April to review Iraqi records and to meet with Iraqi officials within the Ministry of Trade. The report of that administrative review was released publicly in May, 1990, and a copy has been provided to your staff. In addition, an executive summary of the findings and conclusions of that review are provided with this statement as Attachment B.

As you will note from that summary, one area of concern was the issue of so-called "after sales service." In CCC's administrative review, it was learned that Iraq had a fairly regular practice of requesting that U.S. exporters operating under the GSM program provide rebates or discounts, often in the cases of additional goods such as truck tires or equipment. It appears that, in some cases, exporters failed to reduce the "port

administrative or civil action. However, because CCC does not assume any risk with respect to U.S. banks, CCC's potential exposure relates to non-payment of obligations by Iraq and is unaffected by the circumstances that are under investigation at BNL Atlanta.

I would like to thank the Committee for this opportunity to appear before it, and would be happy to respond to any questions.

SUMMARY OF SALES APPROVED UNDER CCC CREDIT GUARANTEE PROGRAMS FOR IRAQ
(MILLIONS)

FISCAL YEAR	GSH-102	GSH-103	TOTAL
1983	\$ 364.5	\$-0-	\$ 364.5
1984	646.1	-0-	646.1
1985	340.1	-0-	340.1
1986	392.9	9.7	392.9
1987	652.5	85.1	652.5
1988	1,112.1	83.3	1,113.1
1989	1,088.8	38.4	1,088.8
1990 (1)	495.4	-0-	481.2
Total	4,862.7	216.5	\$5,079.2

(1) Includes approximately \$100 million of GSH-102 sales to Iraq that had been approved but not exported as of August 2, 1990. Since exports were suspended effective August 2, 1990 to Iraq, CCC will not be exposed to these transactions.

EXECUTIVE SUMMARY

REPORT: USDA ADMINISTRATIVE REVIEW OF IRAQ GSM-102 PROGRAM

In October, 1989, the U.S. Department of Agriculture and the Commodity Credit Corporation (hereinafter "USDA") initiated an administrative review of certain aspects of the Export Credit Guarantee (GSM-102) program for Iraq. This administrative review was undertaken in response to allegations that surfaced as a result of the investigations of the Atlanta, Georgia agency of Banca Nazionale del Lavoro (BNL), about possible irregularities in the GSM-102 program for Iraq. This review focused on certain transactions and issues that were identified as a result of the investigation in Atlanta.

Iraq began participating in the GSM-102 program in 1983 during which approximately \$14.7 million in sales of agricultural commodities were guaranteed by CCC. Program levels increased each year thereafter, reaching a high of \$1.051 billion in FY 1989. For FY 1990, program levels were set at \$500 million, and to date, nearly all of that line has been registered for guarantees with CCC.

Review of the Iraq GSM-102 program began last fall after USDA learned of allegations that approximately \$720 million of CCC-guaranteed loans were part of a loan portfolio being investigated by the Office of the United States Attorney for the Northern District of Georgia. Allegedly, the CCC-guaranteed loans were part of a clandestine loan operation in which officials of the Atlanta branch of Banca Nazionale del Lavoro (BNL) had booked more than \$2 billion in unauthorized and unreported loans to Iraq.

As a result of its initial inquiries into these loans, USDA initiated an administrative review focusing on the following issues:

- o unusually high FOB prices obtained by exporters in connection with GSM-guaranteed sales to Iraq financed through BNL;
- o the arrival in Iraq of agricultural commodities shipped under the GSM program.
- o provision of additional goods or monetary rebates, as so-called "after sales service", in connection with GSM-guaranteed export sales to Iraq.
- o payment of certain Iraqi domestic taxes in conjunction with GSM-guaranteed sales.

The USDA administrative review has involved review of BNL records of GSM-102 transactions; review of CCC records; review of a certain exporter records; telephone interviews with several companies involved in the agricultural export trade; and discussion with officials of the Government of Iraq and its various state purchasing enterprises, and review of Iraqi records, during a visit to Baghdad on April 18-22, 1990.

As a result of its administrative review, and its analysis of bank, exporter and Iraqi records, USDA has reached some initial conclusions about past conduct of the Iraq GSM-102 program. They are as follows:

(1) USDA analysis indicates that during the period 1985-1987, sale prices to Iraq for corn, rice and sugar under the GSM-102 program were much higher than price levels in other markets. Price levels paid by Iraq appear to be at least \$10/MT higher than benchmark world prices for rice and corn, and \$15-40/MT higher for sugar. It appears that these price levels may have resulted in part from supplier perceptions that Iraq was a very high risk market due to wartime conditions, because of the limited number of U.S. suppliers who were willing to participate in this high risk market; and, Iraq's policy of seeking freight financing which only a limited number of suppliers able or willing to provide.

(2) In some of the higher priced transactions reviewed, it appeared that a portion of the high FOB prices reported to CCC -- approximately \$6-10/MT -- represented an allocation by the exporter of what should have been considered either freight costs or freight financing charges. It appears, therefore, that some of this "allocation" technique may have been used to shift some of the freight financing of a CIF sale to the loan guaranteed by CCC during a time period in which CCC did not permit financing of freight under its guarantees, and that Iraq agreed to these allocations. This practice may have constituted violations by certain exporters of program regulations. While these allocations did not result in any losses to CCC or the U.S. Government, they did result in a diminution of guarantee amounts available under the program.

(3) The USDA administrative review uncovered no evidence to suggest that there has been diversion of commodities sold to Iraq. The lack of "proof of arrival" in either bank or exporter records appears to be linked to the complexity of overland shipment system that Iraq had to develop after its Basra port was closed during the height of the Iran-Iraq war. It appears, based on a review of sample records, that Iraq maintains records to establish proof of arrival for its GSM purchases.

(4) On several occasions during the period 1987-1989, state enterprises of the Government of Iraq appear to have requested "after sales services" from U.S. exporters, either in the form of requests for additional agricultural products, for non-agricultural products (e.g., truck parts or tires), for cash rebates or discounts, or for use of designated Iraqi shipping companies. Iraq has identified several exporters who apparently provided after sales service in response. That information has been turned over to USDA's Office of Inspector General for further investigation. Iraq's Deputy Minister of Trade has provided CCC with a letter confirming that the Government of Iraq has instructed all of its state enterprises not to request or accept after sales services in connection with any future GSM contracts.

(5) Iraq has also requested some exporters to assume responsibility for paying a domestic Iraqi "stamp tax" in connection with GSM transactions. Iraq's Deputy Minister of Trade has confirmed in a letter to CCC that Iraq has changed its policy and will, in the future, specifically exempt GSM transactions from application of this tax.

STATEMENT OF

ROBERT L. CHARAMELLA

VICE PRESIDENT

EXPORT-IMPORT BANK OF THE UNITED STATES

BEFORE THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

OCTOBER 16, 1990

Mr. Chairman, Members of the Committee:

I welcome the opportunity to be here today to discuss Banca Nazionale del Lavoro (BNL) and Iraqi participation in Export-Import Bank programs. We at the Bank have carefully reviewed how both parties used Eximbank programs and I am pleased to share our findings with the Committee.

The Bank is, of course, no longer open in Iraq. U.S. exports were banned to Iraq pursuant to Executive Orders dated August 2, 1990 and August 9, 1990 issued by the President. Eximbank's Board of Directors formally withdrew coverage on August 9, 1990.

From July, 1987 to August 2, 1990, Eximbank was open in Iraq for short-term insurance cover only, (up to 360 days) up to a relatively modest aggregate principal exposure limit of \$200 million. We were "off cover" in Iraq for the preceding sixteen months due to payment delinquencies which were paid in full prior to our re-opening that July.

In 1987, we opened cautiously in Iraq only for short term insurance despite tremendous pressure from the American business community as well as competition from foreign Export Credit Agencies who were open for short, medium and long term cover in Iraq. Since 1987, the Government of Iraq has continually requested that we expand our cover to medium term and long term transactions; however, we declined. We never allowed our Iraqi exposure to get out of hand due to the low ceiling set by the Eximbank Board of Directors.

Eximbank's willingness to continue its short term cover in Iraq was based on Iraq's willingness and ability to service its existing debt to the U.S. Government and Eximbank/FCIA in a satisfactory manner.

A clearance mechanism was set up with the Government of Iraq whereby only those transactions cleared by the Iraqi Government by telex notification to Eximbank were eligible for coverage. Payment had to be in the form of an irrevocable letter of credit opened or

guaranteed by the Central Bank of Iraq. Where the Central Bank was the guarantor, either Rafidain Bank or Al-Rasheed Bank could be the opening bank of the letter of credit. Deferred payment terms were permissible up to a maximum of 360 days.

* * *

Now I will provide the Committee with an overview of the Eximbank programs used by Iraq. The programs utilized by Iraq were the Short-term Single Buyer and the Bank Letter of Credit insurance policies.

In general, both insurance policies indemnify the insured party -- the U.S. exporter or U.S. financial institution -- against the risk of non-payment on the part of the Iraqi opening bank of a letter of credit issued in payment for Iraq's purchase of eligible U.S. goods.

The Short-Term Single Buyer Policy was utilized by U.S. exporters (non-financial institutions) and the Bank Letter of Credit insurance policy was utilized by U.S. banks.

If the exporter were the insured, in most cases, they would assign their insurance policy proceeds to the U.S. bank as collateral so as to obtain funding after shipment of the goods and negotiation of the letter of credit. The U.S. bank would then

collect the funds from the Iraqi opening bank at maturity.

If the U.S. bank were the insured, they would issue the beneficiary an irrevocable commitment to pay under the Iraqi letter of credit (silent confirmation) upon presentation of documents as stipulated in the letter of credit. After the credit was negotiated, the U.S. bank would also in this case collect the payment from the Iraqi opening bank at maturity.

In either case, if the Iraqi opening bank did not pay, the insured party could file a claim.

* * *

The current Eximbank exposure in Iraq is \$73.5 million, of which \$55 million is for amounts outstanding and \$18.5 million represents potential exposure.

The potential exposure of \$18.5 million relate to shipments which did not take place before August 2. Since U.S. exports to Iraq were banned as a result of the Executive Order dated August 2, no further shipments are expected to take place -- thus, related Iraqi letters of credit are not expected to be negotiated. Consequently this exposure will be taken off our books.

With regard to claims which Eximbank has paid because of Iraq's failure to pay, we have paid only one small claim of

\$53,300. This was on July 20, 1990 and resulted from the non-payment of some post maturity interest which was disputed by the Iraqi opening bank. Prior to August 2, we were negotiating with the Iraqi bank and were confident that it would be resolved in a satisfactory manner.

It does appear very likely that we will have to pay claims in the near future for the \$55 million of actual exposure which I mentioned previously. How will these claims be treated? These claims will constitute a purchase of assets, which we hope to work out with the Iraqis at some future date.

Mr. Chairman, you asked that I explain BNL participation in Export Import Bank programs -- and, I will do that now. We offer Eximbank programs to financial institutions which are determined to be creditworthy as required by the Export-Import Bank Act of 1945, as amended.

After review of BNL's financial standing and operations abroad and in the U.S., Eximbank programs were made available to the BNL offices in Rome, New York and Atlanta.

The BNL-Rome office acted as guarantor for two medium term transactions in the mid-1970s for an aggregate of approximately \$4 million which was disbursed and repaid in a satisfactory manner.

The U.S. branches of BNL have not used the Eximbank medium term and long term programs.

BNL-New York has used the Eximbank Working Capital Guarantee Program for ten transactions. The latest transaction was approved within the last few days. None of export shipments resulting from a working capital guarantee went to Iraq. The aggregate value of these transactions is \$5.7 million.

BNL-Atlanta received a Bank Letter of Credit policy which was used to insure Iraqi letters of credit, in the manner I described previously. This policy expired on December 31, 1989. BNL was the insured for 51 transactions which aggregated \$47 million - \$43.8 million has been repaid satisfactorily. There is currently \$3.2 million outstanding to BNL which is included in the \$55 million of actual exposure to Iraq and will likely result in a claim.

Those are the results of our review. I would be happy to answer any questions the Committee may have.

GAO
United States General Accounting Office
Testimony

For Release
on Delivery
Expected at
9:30 a.m. EDT
Tuesday
October 16, 1990

Report on the Commodity Credit Corporation's
GSN-102/103 Export Credit Guarantee Programs
and Iraq's Participation in the Programs

Statement of
Allan I. Mendelowitz, Director
Trade, Energy, and Finance Issues
National Security and International Affairs
Division

Before the Committee on Banking, Finance and
Urban Affairs
United States House of Representatives



Mr. Chairman and Members of the Committee:

We are pleased to be here today to discuss the management and operations of the U.S. Department of Agriculture's Commodity Credit Corporation's (CCC) Export Credit Guarantee Program and Intermediate Export Credit Guarantee Program, referred to as the GSM-102 and GSM-103 programs, respectively. The GSM-102/103 programs are managed and operated by the Foreign Agricultural Service (FAS). Besides our overall views on management of the programs, you asked that we specifically address Iraq's participation and some of the issues involved.

In the past few years, we have conducted several reviews of these programs in response to requests from the Senate and House agriculture committees and the House Budget Committee's Task Force on Urgent Fiscal Issues. In general we have found that FAS needs to improve its management controls over the programs to better ensure the programs' integrity and to avoid excessive financial risk to the U.S. government. Regarding Iraq, a number of issues have arisen over its participation--most importantly perhaps, Iraq has stopped repayment on approximately \$2 billion in guaranteed loans. Many of those loans are from one bank, the Atlanta branch of the Banca Nazionale del Lavoro, which has been under investigation for several irregularities.

HOW THE PROGRAMS WORK

The GSM-102/103 programs are U.S. government loan guarantee programs designed to increase exports of U.S. agricultural commodities. The GSM-102 Program has been in effect since 1981 and the GSM-103 program has been in effect since 1986. Almost \$33 billion in loan guarantees have been approved to finance U.S. agricultural exports under these programs.

Each year, FAS announces the availability of loan guarantees for credit sales of specified commodities made to buyers in specified countries. Loan guarantees announced for Mexico, Korea, and Iraq are among the highest under the programs. In return for payment of a relatively small guarantee fee, a U.S. exporter obtains a CCC guarantee that he or she will be repaid for a credit sale made to a buyer in an eligible foreign country. If the buyer fails to repay, then the exporter can file a claim with CCC for the loss. After paying the claim, CCC attempts to obtain reimbursement from the foreign buyer or the foreign buyer's government.

Exporters are generally not able to, or interested in, personally financing a sale. Therefore, the programs are designed to allow the exporter to obtain immediate payment on the credit sale by assigning the account receivable and the repayment guarantee to any financial institution in the United States desiring to participate in these programs. When this assignment is made, the financial

institution pays the exporter for the value of the sale and begins collecting the periodic payments from the foreign buyer. If the foreign buyer defaults on a payment, then the financial institution can look to CCC for recovery. CCC must approve the exporter's assignment of guarantees to financial institutions.

CCC generally tries to share some of the financial risk with the exporter, or the exporter's assignee, by not providing 100-percent coverage for a loan's principal and interest. CCC guarantees 98 percent of the value of the sale plus a significant portion of the interest payable. The exporter or the exporter's assignee is at risk for 2 percent of the principal and a portion of the interest payable. However, CCC has flexibility to adjust the amount of guarantee coverage it provides. For example, in the past, CCC has guaranteed 100 percent of the value of commodity sales to Mexico.

There are no operational differences between the GSK-102 program and GSK-103 program; however, each program covers different repayment periods and has different funding authorization levels. Under the GSK-102 program, guarantees are provided for sales having credit terms of 36 months or less. Under the GSK-103 program, guarantees are provided for sales having credit terms of 3 to 10 years. In the 1985 farm bill, Congress directed CCC to make available not less than \$5 billion annually in guarantees under the GSK-102 program and not more than \$1 billion annually under the GSK-103 program.

CCC's contingent liabilities under the programs total about \$8.9 billion as of September 30, 1990. CCC has paid out about \$3 billion in claims since the programs' inception and is at risk for the approximately \$2 billion not being serviced by Iraq.

RESULTS FROM PRIOR GAO REVIEWS

Over the past few years we have reported¹ that the GSK-102/103 programs were not being adequately managed. Specifically, we reported that CCC had not adequately (1) accounted for outstanding guarantees, (2) ensured that guarantees were being used only for U.S. agricultural commodities, (3) provided guidance to GSK-102/103 program users, and (4) reflected estimated program losses in its financial statements. We recommended that the Secretary of Agriculture direct the General Sales Manager, FAS, to do the following:

¹ Status Report on GAO's Reviews of the Targeted Export Assistance Program, the Export Enhancement Program, and the GSK-102/103 Export Credit Guarantee Programs (GAO/T-NSIAD-90-53, June 28, 1990); GAO/T-NSIAD-90-02, Feb. 21, 1990; and GAO/T-NSIAD-90-12, Nov. 16, 1989); Financial Audit: Commodity Credit Corporation's Financial Statements for 1988 and 1987 (GAO/AFMD-89-83, Aug. 1988); Commodity Credit Corporation's Export Credit Guarantee Programs (GAO/T-NSIAD-89-41, June 14, 1989); GAO/T-NSIAD-89-9, Mar. 1, 1989; and GAO/T-NSIAD-89-2, Oct. 6, 1988); International Trade: Commodity Credit Corporation's Export Credit Guarantee Programs (GAO/NSIAD-88-194, June 1988) and International Trade: Commodity Credit Corporation's Refunds of Export Guarantee Fees (GAO/NSIAD-87-185, Aug. 1987).

- Enforce compliance with the requirement that exporters submit complete reports of exports to ensure accurate accounting of outstanding guarantees.
 - Design, develop, test, and implement internal controls, including random on-site verifications, to ensure that loan guarantees are only used to obtain U.S. agricultural commodities.
 - Clarify program regulations by providing specific definitions of what constitutes a U.S. agricultural commodity and a firm sale and demand acknowledgement of these requirements on guarantee applications.
 - Provide timely and accurate decisions on document revisions requested by exporters or their assignees.
 - Initiate suspension or debarment actions against program participants found to have violated program regulations.
 - Act to prevent less-than-arms-length transactions between participating financial institutions in the United States and in the importing countries.
- We also recommended that CCC include an allowance for estimated losses in its financial statements.

Action has been taken on some of our recommendations. For example, CCC has improved its accounting for outstanding loan guarantees, enhanced some internal controls over the programs, and is in the process of recognizing estimated losses in its 1989 financial statements.

However, we believe that further improvements are still needed in tightening internal controls, specifically those related to financial institutions' participation in the programs, and in defining an agricultural commodity eligible for export under the programs.

PARTICIPATION OF FINANCIAL INSTITUTIONS IN THE GSM PROGRAMS

The success of the GSM-102/103 programs depends greatly on the active participation of financial institutions. These institutions disburse the approximately \$4 billion in GSM loans each year, providing direct credit to the foreign buyers. About 100 financial institutions have participated in the programs since their inception. They make money on this low-risk business by charging fees for advising on letters of credit and by collecting the interest on the credit sales. However, of the 100 or so participating financial institutions, only a few have been major participants and have dominated the lending activity under the programs. Representatives of the banking industry claim that while

the GSM-102/103 loans are very low in risk, they are also very low in profits. We found that the few financial institutions heavily involved in the programs specialize in government loan programs and use their specialization to minimize costs and maximize profits.

Despite the important role played by the institutions, CCC has only two regulations covering their GSM-related activities. The first is that participating institutions must be located in the United States. The second prohibits a participating U.S. financial institution from being affiliated with the overseas bank issuing the letter of credit, which the foreign buyer uses to pay for the commodities exported under the GSM programs.

Although the second regulation prohibits participation in transactions by affiliated banks, it does not fully protect U.S. interests from other less-than-arm's-length relationships. CCC has guaranteed the financing of exports to foreign governments who were also owners of the U.S. institutions lending the money and receiving the GSM guarantees.

During a recent review, we found three U.S.-based financial institutions that were either directly owned by or otherwise affiliated with government-owned banks in GSM customer countries. The three financial institutions had foreign customer ownership ranging from 14 percent to 100 percent of the institution's equity. Since inception of the GSM programs, CCC has guaranteed about \$1.3

billion in these related-party transactions. Although these financial institutions are complying with current regulations, should a default occur, any guarantee payment made by CCC to these U.S.-based institutions would financially benefit the foreign government that is in default. These apparent less-than-arm's-length transactions increase the risk of losses to the U.S. government.

In fact, two of these three financial institutions held guaranteed debt on which their foreign government owners defaulted. One institution is owned by a consortium of several banks and 43.7 percent of its equity is owned by a defaulting government's central and nationalized banks. The other institution is also owned by a foreign consortium and has financed about \$588 million in GSM transactions to one of its owner countries which owns 14 percent of the institution's equity. These loans represent about 62 percent of the institution's total GSM portfolio.

In one of the three cases in which there appear to be less-than-arm's-length relationships, there have been no defaults. This U.S.-based financial institution is a branch of the foreign country's national bank and has financed over \$474 million in commodity exports to its own country under this guaranteed loan protection from the United States.

IRAQ'S PARTICIPATION IN THE GSM-102/103 PROGRAMS

Iraq's participation in the GSM-102/103 programs began in 1983, just before we re-established official diplomatic relations with that country. Iraq was initially allocated \$230 million in loan guarantees under the GSM-102 program to purchase feedgrains, rice, and wheat. The Iraqis were depleting their foreign exchange reserves due to their war with Iran and they desperately needed credit. In 1984 Iraq's allocation was almost tripled, to about \$680 million. Iraq began importing protein concentrates, tobacco, vegetable seeds, and other commodities in addition to the feedgrains, rice, and wheat. By 1988 Iraq's GSM-102/103 allocations totaled about \$1.1 billion and were used to purchase some 30 different commodities. This level of GSM-102/103 allocations continued in 1989 and the Iraqis sought the same levels in 1990. However, when the unauthorized loans involving Iraq came to light in the Banca Nazionale del Lavoro case, the Agricoltura Department decided to scale back the 1990 program for Iraq to \$500 million, with the possibility of another \$500 million allocation pending results of Justice's investigation of the bank.

In the meantime, the Agriculture Department began conducting its own review of Iraq's participation in the GSM-102 program. In May 1990, the Department concluded that certain exporters to Iraq had been charging high prices and providing Iraq "after-sales services" which, in the Department's view, may have violated program

- regulations. The Department plans further inquiry into these potential violations at the conclusion of the Banca Nazionale del Lavoro investigation, when more information becomes available.
- Problems identified in the GSM programs for Iraq so far include the following:
- Iraq has suspended payment on its approximately \$2 billion in outstanding GSM guaranteed loans, exposing CCC to a substantial loss.
 - One bank, the Banca Nazionale del Lavoro, has a high concentration of loans to Iraq, a significant amount of which are guaranteed under the GSM programs. However, most of the GSM guaranteed loans were not authorized by higher level bank officials. I'll discuss this in more detail later in this statement.
 - Foreign origin agricultural commodities have been exported to Iraq under the GSM programs. Such exports are contrary to program regulations which state that the guarantees are to be provided for U.S. agricultural commodities. Eight tobacco exporting companies have pleaded guilty to shipping foreign tobacco to Iraq or Egypt under the programs and have been fined a total of \$300,000. The companies were also directed to pay

restitution costs to CCC of up to \$1.1 million should CCC incur losses related to those shipments.

-- Money obtained under Iraqi participation in the GSM programs has been used for purposes other than those permitted, including after-sales services that are unrelated to agricultural exports.

BANCA NAZIONALE DEL LAVORO
INVESTIGATION CONTINUES

In previous testimony, we reported that the Department of Justice was investigating allegations that Banca Nazionale del Lavoro's Atlanta, Georgia, branch made more than \$2 billion in loans to Iraq, of which only a fraction had been authorized by higher-level bank officials. Some of these loans, amounting to approximately \$750 million, were guaranteed under the GSM programs and, of that amount, only about \$100 million had been authorized. The investigation is still ongoing, and none of the related information has been made available.

Banca Nazionale del Lavoro is Italy's largest state-owned bank. Headquartered in Rome, it has several branches operating in the United States. The New York City branch is responsible for North American operations, and its Atlanta, Georgia, branch has provided the GSM loans.

There may be lessons to be learned from the Banca Nazionale del Lavoro investigation. Once it is complete, we plan to evaluate the extent to which individual financial institutions participate in GSM programs. We will also assess the potential impact that such participation may have on CCC's guarantee liability. In particular, we will review the bank's involvement with Iraq and determine the appropriateness of allowing one bank to participate to such a large extent in the GSM programs, especially if that bank's loan exposure is concentrated in a single country.

Our work in this area is continuing at the request of Chairman Charlie Rose of the Subcommittee on Tobacco and Peanuts, House Committee on Agriculture and Congressman Charles Schumer. Investigations by the Department of Justice and U.S. Customs Service on these issues are also continuing.

Mr. Chairman and members of the Committee, this concludes my statement. I will be happy to answer any questions you may have.

APPENDIX I

APPENDIX I

TOTAL GSM-102 PROGRAM GUARANTEES
MADE AVAILABLE AND APPROVED
(Dollars in Millions)

<u>Fiscal Year</u>	<u>Guarantees made available</u>	<u>Guarantees approved</u>
1981	\$2,189.1	\$2,082.1
1982	3,224.6	1,543.3
1983	4,079.9	3,709.3
1984	4,135.6	3,431.2
1985	4,485.2	2,512.8
1986	4,175.3	2,522.4
1987	3,821.4	2,622.5
1988	4,792.0	4,141.4
1989	4,965.2	4,769.8
1990	4,610.7 ^a	3,357.4
Total	\$40,469.0	\$31,292.2

^a Tentative figures as of October 11, 1990.

Source: GSM-102 Commitment Reports prepared by the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service, CCC Operations Division.

APPENDIX II

APPENDIX II

TOTAL GUARANTEES MADE AVAILABLE AND
APPROVED FOR THE GSM-103 PROGRAM
(Dollars in Millions)

<u>Fiscal Year</u>	<u>Guarantees made available</u>	<u>Guarantees approved</u>
1986	\$377.0	12.7
1987	410.9	250.4
1988	504.4	362.9
1989	485.3	425.5
1990	468.2 ^a	332.1 ^a
Total	\$2,245.9	\$1,383.6

^a Tentative figures as of October 11, 1990.

Source: GSM-103 Commitment Reports prepared by USDA's Foreign Agricultural Service, CCC Operations Division.

TESTIMONY OF
PIETRO LOMBARDI
EXECUTIVE VICE PRESIDENT AND
REGIONAL MANAGER FOR NORTH AMERICA

OF
BANCA NAZIONALE DEL LAVORO ("BNL")

ON
ACTIVITIES OF THE ATLANTA AGENCY OF BNL

BEFORE THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

9:30 A.M.

OCTOBER 16, 1990

ROOM 2128, RAYBURN HOUSE OFFICE BUILDING

APPENDIX III

CCC'S CONTINGENT LIABILITY
UNDER THE GSM-102/103 PROGRAMS FOR IRAQ
(By Fiscal Year)

Fiscal Year	Contingent Liability
1990	\$154,336,744
1991	930,144,855
1992	622,021,012
1993	287,593,955
1994	6,971,205
1995	3,817,090
1996	3,593,898
1997	121,227
Total	<u>\$2,008,599,986</u>

Source: USDA's Foreign Agricultural Service, Financial Management Division.

Good morning, Mr. Chairman and members of the Committee. My name is Pietro Lombardi and I am the Executive Vice President and Regional Manager for North America of Banca Nazionale del Lavoro ("BNL"). At your request, I am here to respond to the questions raised in the Chairman's letter to me dated September 25, 1990.

At the outset, I should note that I was transferred from the Rome headquarters to the regional headquarters of BNL in New York shortly before the so-called "Atlanta affair" was uncovered in August 1989 and that my personal knowledge of this matter is largely based on what I have been told since that time by others who are involved in investigating the affair, not by those who were directly involved in what happened.

As you know, these transactions are still being investigated by the Departments of Justice and Agriculture and several regulatory agencies both state and federal. In addition, a federal grand jury was convened in Georgia in August 1989 to investigate this matter. The Justice Department has notified BNL that it is not a target of that investigation. BNL has been actively cooperating with all of these investigations. Moreover, BNL has filed a civil lawsuit in federal district court in Georgia against two former officers of the Atlanta agency in connection with these

transactions (Banca Nazionale del Lavoro v. Christopher Drogoul and Paul Von Wedel). Due to the criminal investigations, however, all discovery in that lawsuit has been stayed by the federal court. BNL does not want to make any statement or take any action which would prejudice these legal proceedings or impair the prospects of having the responsible persons brought to justice.

By way of background, BNL is the largest commercial bank in Italy in terms of deposits. As of December 31, 1989, the Italian Ministry of the Treasury and other entities controlled by the Italian Government owned approximately 96% of BNL's shares. BNL operates in the United States through its offices in New York, Chicago, Los Angeles, Miami, and Atlanta.

Turning to the questions you have raised, I know that your staff in a public hearing has summarized the general scheme that was used by former employees of the Atlanta agency to victimize the bank. In addition, of course, the complaint filed by BNL in connection with the lawsuit in federal court referred to above has been submitted to the Committee's staff, and I ask that it be included as part of my testimony.

On August 4, 1989, BNL representatives in Rome and New York were informed by various agencies of the U.S. Government that BNL's Atlanta agency had provided various types of

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 unauthorized financing -- unauthorized by BNL but not in contravention of U.S. law or policy -- to Iraqi Government entities. This news stunned BNL, because of the amounts involved and the uncertainty of the consequences. In order to have successfully hidden these transactions from BNL and the regulators, several persons in the Atlanta agency must have been involved. In order to discover the true size and nature of these transactions, a comprehensive attempt to reconstruct them was undertaken by BNL.

In general, these unauthorized transactions -- unauthorized by BNL but not illegal or in any way inconsistent with the policy of the United States -- consisted principally of:

One -- extending credit facilities to certain Iraqi Government entities and other private entities in Iraq, and

Two -- participating in the Agriculture Department's Commodity Credit Corporation ("CCC") programs with respect to Iraq and other countries in excess of levels approved by BNL.

Insofar as Point One is concerned, neither the U.S. Government or the U.S. banking system has lost or will lose any money as a result of these transactions. Moreover, no American has lost or will lose any money as a result of these

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 transactions. Neither BNL's Atlanta agency or any other U.S. office of BNL is insured by the U.S. Government. Accordingly, the Federal Deposit Insurance Corporation will not incur any liability for any of these transactions. Liabilities in connection with these transactions have been assumed by BNL in Rome. Although at this time BNL is at risk, the extent of the loss is still unclear.

The basic point to be made is that BNL was the victim of the actions of the former officers and employees in Atlanta. We believe that these individuals acted on their own to make these unauthorized transactions and then engaged in clandestine efforts to deceive BNL and others about their existence. As a result, BNL's reputation has suffered and it is at risk on the money owed to it by Iraq. Thus, although these credits were made through the Atlanta agency without BNL's approval, they are now considered to be loans extended by BNL in Rome for which BNL is obligated.

I would now like to turn to Point Two, that is the CCC loans. Insofar as the CCC loans are concerned, although these loans exceeded internal limits sanctioned by BNL, they were not illegal or contrary to U.S. law or policy towards Iraq in effect at the time. In particular, the Atlanta agency's participation in the CCC programs was in accordance with CCC rules and regulations with respect to all of the countries

involved, including Iraq. In fact, the U.S. Government authorized these programs for the benefit of American farmers and exporters of agricultural commodities and intended that financial institutions would participate in them.

In this regard, I would also like to note that several other financial institutions in the United States participated in the CCC programs for Iraq. The record shows, for example, that major American banks participated in these programs. Further, of the current \$2 billion of authorized CCC guarantees involving Iraq, BNL holds only \$382 million (less than 20% of the total).

Thus, although the Atlanta agency exceeded internal limits for participating in the CCC programs, its participation was legal and entirely consistent with the policy of the CCC which prevailed at the time. BNL's participation did not increase or affect the amount of approved CCC exposure. In fact, the CCC programs for Iraq continued after August 1989 through the participation of other banks.

During the period in question, BNL's Atlanta agency was subject to regular and customary annual examinations by the Federal Reserve Bank of Atlanta and the Georgia Department of Banking and Finance. The external auditors, Peat Marwick, also conducted annual audits and examinations.

The BNL system of internal controls in effect prior to August 1989 only detected operational problems and did not anticipate the extraordinary circumstances and activities that occurred in the Atlanta agency. In spite of internal and external controls, however, the responsible individuals in the Atlanta agency were able to avoid detection. This, of course, is regrettable. No one regrets this more than BNL because it is the victim of the deception and will lose money from it.

BNL has since implemented a wide variety of actions to protect against a reoccurrence of such misconduct. While we are continuing to work with the bank regulators on this subject, the new controls and procedures include a more rigorous audit program; concentrating funding and foreign exchange operations in the New York branch, which is now the BNL treasury center for the United States; instituting stricter credit limits; requiring all BNL offices to use the same computer system in order to permit constant regional management supervision; and rotating experienced BNL employees through each BNL office. We believe that these new controls will effectively guard against such misconduct in the future.

In this regard, I should also note that since BNL was made aware of this matter, it has devoted significant resources and personnel to the matter. Also, BNL has cooperated fully with all of the U.S. and Italian investigations, and it

continues to do so. In response to one of your questions, Mr. Chairman, BNL has not been asked by the Federal Reserve or any other bank regulatory agency to sign a supervisory agreement in this regard.

In Italy, the Atlanta affair has been the subject of a number of investigations. The Bank of Italy, which monitors BNL's activities, has examined this affair. I also understand that an Italian Magistrate in Rome is conducting an investigation regarding possible criminal proceedings. In addition, the Italian Senate has appointed a commission of inquiry to investigate the matter.

Since BNL is owned by the Italian Government, this matter and its economic consequences, as you can appreciate, continue to be of significant concern to the Italian Government. Italy and BNL are, of course, abiding by the economic sanctions imposed against Iraq.

Regarding the question in the Chairman's letter addressed to me about whether the regulatory structure governing the activities of foreign banks in the United States was responsible for this affair, let me say that we believe that the Atlanta affair was due primarily to the collective efforts of a group of former employees who circumvented existing internal controls and procedures which in retrospect were

inadequate to deal with the unique circumstances that existed in this case. After all the facts are fully developed by the investigations underway, a more complete picture on questions of responsibility will emerge.

Let me conclude by saying that neither the American Government or any individual American has lost or will lose any money as a result of what happened at the Atlanta agency of BNL. BNL is the victim of what happened at its Atlanta agency. So, Mr. Chairman, as the victim of this whole affair, we support the work of this Committee, and we will continue to cooperate fully with the American authorities.

Thank you for your consideration.

Testimony by

H. Terry Smith

Senior Vice President, Federal Reserve Bank of Atlanta

before the

Committee on Banking, Finance, and Urban Affairs

U.S. House of Representatives

October 16, 1990

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FEDERAL RESERVE BANK OF ATLANTA TESTIMONY

re:

BANCA NAZIONALE DEL LAVORO

INTRODUCTION

Mr. Chairman and members of the House Banking Committee, I am pleased to appear today to discuss with you the role played by the Federal Reserve Bank of Atlanta in the recent events at the Atlanta agency of Banca Nazionale del Lavoro, otherwise known as BNL Atlanta.

My remarks address three areas. First, I will briefly describe the Federal Reserve's supervisory activities with respect to foreign banks in the United States, and in more detail with regard to BNL Atlanta. Second, I will discuss how the Federal Reserve learned about the concealed transactions at BNL Atlanta and will explain the results of the Federal Reserve's examination of BNL Atlanta. Third, I will discuss what has transpired since the examination.

By way of preface to my discussion, let me state that my remarks are necessarily limited due to the investigation by the United States Attorney's office in Atlanta. The Federal Reserve has provided assistance to the U.S. Attorney since the discovery

of the problems at BNL Atlanta. This assistance has taken the form of assigning an examiner to the U.S. Attorney's office and working with the U.S. Attorney in every way possible. We have been active in deciphering bank documents and in tracking bank and trade transactions. However, I am not personally privy to the evidence that has been developed by the U.S. Attorney's office. The examiner assigned to this effort has devoted a majority of his time since the discovery of the problems at BNL Atlanta to the U.S. Attorney's office. He is subject to the confidentiality requirements of the U.S. Attorney's office and thus has not been able to share with us the results of his work there. Responses to the seven specific questions of the Committee are contained in Appendix A.

I. FEDERAL RESERVE'S ROLE IN THE SUPERVISION OF FOREIGN BANKS

With the passage of the International Banking Act of 1978, Congress established a framework for federal regulation and supervision of foreign banking organizations (FBOs) operating in the United States. Prior to the passage of the Act, there was no federal supervision of agencies and branches of foreign banks active in the U.S. banking market. The Act left primary examination authority with the licensing entities, the states and the Office of the Comptroller of the Currency; however, it gave the Board of Governors oversight responsibility for foreign banks operating in the U.S. This oversight responsibility included

residual examination authority.

The Federal Reserve Board's policy on the supervision of agencies and branches of foreign banks is given in a joint statement adopted by the Federal Financial Institutions Examination Council on July 20, 1979. The policy emphasizes the importance of coordination and cooperation among the regulatory agencies and describes the development of universal examination standards and uniform reporting requirements for foreign banks operating in the U.S.

The Board's supervisory responsibility for foreign banking organizations centers on an analysis of parent organization finances and on the examination reports of U.S. subsidiaries or of branches and agencies of foreign banks. The International Banking Act specifies that the Board is to rely on the reports of the primary regulator whenever possible.

In response to the mandate of the International Banking Act, the Board developed a supervisory program in which each foreign bank operating in the U.S. is assigned to a Reserve Bank ("the responsible Reserve Bank"). This Reserve Bank is responsible for evaluating the consolidated condition of each foreign banking organization assigned to it.

The Federal Reserve Bank of Atlanta is currently responsible for evaluating 14 foreign banking organizations, all of which are

headquartered in Latin America. The Reserve Bank determines the strength of the foreign banking organization by analyzing yearly reports of condition filed with the Board of Governors, and conducting annual visitations with U.S. management, and maintaining periodic contact with senior home country management and bank supervisors. The analysis also includes a review of the condition of U.S. branches, agencies and subsidiaries. This information is gathered through an analysis of the most recent examination reports and discussions with the primary regulator.

Banca Nazionale del Lavoro (BNL) operates several offices in the United States. The Federal Reserve Bank of New York is the responsible Reserve Bank for BNL; that is, it is the Reserve Bank charged with overseeing BNL's U.S. operations. This responsibility, as previously stated, includes an annual review of parent strength and the condition of each U.S. subsidiary, branch, and agency. The Federal Reserve Bank of Atlanta assists the Federal Reserve Bank of New York in fulfilling its supervisory responsibility by ensuring that all offices of BNL in the Sixth Federal Reserve District (the Southeast) are examined on a timely basis, as required by the International Banking Act. Banca Nazionale del Lavoro's Atlanta agency was examined by its primary regulator, the State of Georgia, Department of Banking and Finance, on a regular basis, with occasional assistance from examiners of the Federal Reserve Bank of Atlanta.

Georgia and Florida are the only states in the Sixth Federal

Reserve District with active foreign agencies. There are 66 agencies in the District; 23 in Georgia and 43 in Florida. Agencies in Georgia are all units of prominent European, Japanese and Canadian banks and, under Georgia law, are not permitted to take deposits, except for International Banking Facility (IBF) deposits which are subject to a number of restrictions. Of the 43 agencies in Florida, 16 are of banks from countries experiencing economic and/or political problems which could affect debt service. Florida agencies have broader deposit taking abilities than Georgia agencies. Thus, our enhanced examination program, begun in 1988, focused our resources on Florida agencies of relatively weaker parent banks.

Our enhanced examination program for agencies has expanded each year as we have directed resources to the international area. We now have an informal alternate examination program with the State of Georgia begun partially because of BNL, and are working toward a similar program with the State of Florida. This program allows us to assist the states in fulfilling their examination responsibilities and provides us with direct exposure to the institutions.

Examination History of BNL Atlanta

The BNL agency in Atlanta is licensed by the State of Georgia and opened for business as an agency on May 20, 1982. The agency has been examined annually since 1983 by the State's

Department of Banking and Finance. The Federal Reserve Bank of Atlanta's participation in each examination was generally limited to a review of compliance with various federal laws and regulations. This compliance review encompassed a check of the operations of the agency's International Banking Facility (IBF) and reports filed with the Reserve Bank, including the F.R. 2900 - Report of Transaction Accounts, Other Deposits and Vault Cash, the F.R. 2951 - Report of Certain Eurocurrency Transactions, and the FFIEC 002 - Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks. Examiners occasionally assisted in loan reviews as requested by the State. State examiners were responsible for issuing the Report of Examination, which was then forwarded through the Atlanta Reserve Bank to the Board of Governors and the Federal Reserve Bank of New York, the responsible Reserve Bank.

II. RESERVE BANK'S 1989 EXAMINATION

The Reserve Bank became aware of the possibility of concealed transactions at BNL-Atlanta on July 28, 1989, when contacted by the U.S. Attorney's office in Atlanta. The Board of Governors and the responsible Reserve Bank, the Federal Reserve Bank of New York, were immediately informed of the information we had. Officials of the New York Reserve Bank were dispatched to Atlanta to discuss the matter and to assess the risk. Senior officials of the Board of Governors and the New York Reserve Bank

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flew to Rome to inform officials of BNL and the Bank of Italy of the situation. The timing of the notifications and the Reserve Bank's actions were coordinated with officials of several federal agencies.

On August 4, 1989, the Federal Reserve Bank of Atlanta commenced a surprise examination of BNL Atlanta, accompanied by Federal Bureau of Investigation agents in order to secure files, other documents, and computer disks that might reflect concealed transactions. The Reserve Bank sent in ten examiners and officials.

Simultaneously, a full scope examination was also commenced at each BNL office in the United States. The examinations, which were coordinated through the Federal Reserve Board, were conducted by examiners of the Atlanta, Chicago, New York, and San Francisco Reserve Banks -- at BNL offices in Atlanta and Miami, Chicago, New York and Los Angeles. The examinations focused on determining the extent of concealed transactions at all BNL offices in the United States, the reasons behind any concealed transactions, the possibility of violations of Federal laws and regulations, and the level of BNL's exposure.

Reserve Bank examiners at BNL Atlanta also worked with their counterparts from the State of Georgia. The Bank of Italy, the Italian Central Bank and primary supervisory agency of the parent bank in Rome, also sent a team of inspectors to Atlanta who

conducted an independent review.

No concealed transactions were found at the other BNL offices. Reserve Bank examiners confirmed the existence of concealed transactions at BNL Atlanta. The failure to report these transactions resulted in the material misstatement of BNL Atlanta's periodic reports to the Federal Reserve.

Loans to Iraq

Our examination revealed a total of \$1.865 billion in loans outstanding to Iraq and an additional \$1.2 billion in commitments to lend to the Central Bank of Iraq. Only \$67 million of this amount had been reported to the Federal Reserve. BNL Atlanta had failed to report \$1 billion in outstanding loans to the Central Bank of Iraq, \$800 million in outstanding loans to Rafidain Bank of Iraq, and \$1.2 billion in commitments to lend to the Central Bank of Iraq. BNL Atlanta also failed to report \$1.8 billion in monies borrowed in the world money markets to support its concealed loans.

According to BNL officials, the concealed transactions were made without authorization from BNL headquarters in Rome. These transactions far exceeded BNL Atlanta's lending limit to Iraq, which was \$100 million on a secured or guaranteed basis. Lending to Rafidain Bank, a commercial bank owned by the Iraqi government, dated from late 1986, and consisted largely of

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agricultural loans guaranteed under the U.S. Department of Agriculture's Commodity Credit Corporation program. From mid-1987 until August 1989, outstanding balances on these credits averaged approximately \$800 million. The lending to the Central Bank of Iraq started in February 1988 with an agreement to provide the Central Bank of Iraq with \$200 million in loans with principal due in 1993. Subsequent agreements during 1988 and 1989 raised the total commitments to lend to \$2.2 billion.

The loan commitments to the Central Bank of Iraq were designed ostensibly to provide medium-term financing for Iraq's industrialization program. The loans from BNL Atlanta would finance the purchase of goods including manufactured items and machinery. However, during the August 4 examination, it was discovered that some of the letters of credit did not specify the goods being financed. And, during a brief period in 1989, BNL Atlanta sent the Central Bank of Iraq \$107 million without supporting trade documents.

Computer records of the Iraqi transactions were maintained on a separate system from BNL Atlanta's authorized operations. Hard copy records of concealed transactions were maintained in boxes and moved back and forth from employees' homes and cars to the office as needed. Employees would remove all boxes and computer records from the office before audits and examinations. A majority of work on the transactions, particularly funding operations, was conducted from employees' homes. These

transactions were not included in reports filed with the Federal Reserve.

III. ACTIVITIES SINCE THE EXAMINATION

BNL installed a new management team at the Atlanta office the day after the commencement of the August 4, 1989 examination. The officers of BNL Atlanta who participated in the off-book transactions were suspended and dismissed. BNL Atlanta's money market operation was closed and the letter of credit operation in Atlanta was placed under the close on-site scrutiny of officials from BNL Rome and New York who came to Atlanta. BNL has to a large extent reconstructed the books of the Atlanta office as of December 31, 1989, and has received a qualified opinion on the books of the Atlanta office from its outside accountant. At the end of 1989, BNL made a loan loss provision for its less developed country exposure including Iraqi debt, raising its reserve for the LDC debt including Iraq to about 60 percent.

The Atlanta Reserve Bank continues to extend considerable resources to act as technical advisors to the various U.S. agencies interested in BNL-Atlanta.

Federal Reserve's Supervisory Action

To date, BNL has not been asked to enter into any formal

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supervisory action with the Federal Reserve. The parameters of any supervisory action depend to a significant extent on the involvement of BNL officials regarding the activities of the Atlanta agency, which is a matter related to the criminal investigation. In order to avoid interfering with that process, the Federal Reserve System has deferred a final decision on this matter.

The Federal Reserve has, however, through the supervisory process, ensured that BNL has taken appropriate action to correct the situation at the Atlanta agency. BNL has promptly and voluntarily instituted remedial actions requested by the Federal Reserve, including verifying the off-book transactions, preparing and filing accurate reports, and strengthening internal controls. As indicated, BNL also replaced the management and personnel of the Atlanta agency. We have and will continue to closely monitor the corrective action instituted by BNL.

Federal Reserve's Examination Program

As discussed previously, the Federal Reserve Bank of Atlanta began enhancing its role in agency examinations in mid-1988. Initially, our resources were concentrated on agencies with weaker parent banks. Given the differing composition of agency constituency in Florida and Georgia, the first independent examinations conducted were of Florida agencies. An informal alternate examination program with the State of Georgia was

adopted in 1990 partially because of BNL, and we are working toward a similar program with the State of Florida.

SUMMARY

In summary, Mr. Chairman, after we were informed by the Assistant U. S. Attorney of possible irregularities at BNL-Atlanta, the Federal Reserve moved quickly to identify and contain the problem. Only one week after disclosure of the irregularities, simultaneous surprise examinations were commenced at each office of BNL in the United States, coordinated among four Reserve Banks and the Board of Governors. Senior officials from the Federal Reserve Bank of New York and the Board of Governors were in Rome to personally inform BNL and the Bank of Italy. The problem was contained and new management installed. Since the events of August 4, 1989, support has been extended to various agencies of the United States to provide technical assistance for their investigations.

Responses to the Questions of the House Committee on
Banking, Finance and Urban Affairs

October 16, 1990

1) Explain the Federal Reserve Bank of Atlanta's role in regulating the U S. operations of BNL-Atlanta

The International Banking Act of 1978 developed a framework for federal supervision and regulation of agencies, branches and subsidiaries of foreign banks operating in the U S. Prior to the passage of the Act, there was no federal supervision of branches and agencies of foreign banks operating in the United States. The Act left primary examination responsibility with the chartering/licensing entities, the states or the Office of the Comptroller of the Currency, however, it gave the Board of Governors oversight responsibilities for foreign banks operating in the U S. This oversight responsibility includes residual examination authority.

The Board of Governors, in its role as supervisor for foreign banks operating in the U S, developed a supervisory program in which each foreign banking organization is assigned to a Reserve Bank. This Reserve Bank is responsible for monitoring the condition of U S offices of the foreign banks it is assigned and doing an annual analysis of parent bank condition. The

International Banking Act directed the Board of Governors to use the reports of other regulators whenever possible in determining the condition of U S offices.

The responsible Reserve Bank for BNL is the Federal Reserve Bank of New York. The Federal Reserve Bank of Atlanta assists the Federal Reserve Bank of New York in fulfilling its supervisory responsibilities with regard to BNL by ensuring that all offices of BNL in the Sixth District are examined on a timely basis, as required by the International Banking Act. The State of Georgia has examined BNL-Atlanta regularly since its opening as an agency in 1982. The Federal Reserve Bank of Atlanta occasionally assisted the State in its examinations.

What type of oversight did the Federal Reserve Board conduct of BNL-Atlanta operations over the past five years?

The Federal Reserve Bank of Atlanta's role in overseeing the operations of BNL Atlanta, prior to the discovery of the concealed transactions, was limited to a review of BNL's compliance with federal laws and regulations. This review encompassed a check of the operations of the agency's International Banking Facility and of reports filed with the Reserve Bank, including the FR 2900 Report of Transactions Accounts, Other Deposits and Vault Cash, the FR 2951 Report of Certain Eurocurrency Transactions, and the FFIEC 002-Report of Assets and Liabilities of U S Branches and Agencies. Examiners discussed each report with the appropriate personnel and discussed applicable laws, including the Bank Secrecy

Act, with the manager of the agency. Compliance reviews were generally conducted when the State of Georgia's examination was in process. Examiners occasionally assisted in loan reviews at the State's request. The Federal Reserve Bank of Atlanta was responsible for forwarding the State of Georgia's examination report to the Board of Governors and the Federal Reserve Bank of New York.

2) How often did the Federal Reserve examine BNL-Atlanta operations?

The Federal Reserve Bank of Atlanta conducted its first examination of BNL-Atlanta as of August 4, 1989. Prior to August 4, the Federal Reserve Bank of Atlanta had relied on the examinations of BNL-Atlanta's primary regulator, the State of Georgia, Department of Banking and Finance, as directed by the International Banking Act. The Atlanta Reserve Bank did conduct annual compliance reviews of the agency and occasionally assisted in the State's review of loans.

Did BNL sign a supervisory agreement with the Federal Reserve Bank of Atlanta? Why or why not?

To date, BNL has not been asked to enter into any formal supervisory agreement with the Federal Reserve. The parameters of any supervisory action depend to a significant extent on the involvement of BNL officials regarding the activities of the Atlanta agency, which is a matter related to the criminal

investigation. In order to avoid interfering with that process, the Federal Reserve System has deferred a final decision on this matter.

The Federal Reserve has, however, through the supervisory process, ensured that BNL has taken appropriate action to correct the situation at the Atlanta agency. BNL has promptly and voluntarily instituted remedial actions requested by the Federal Reserve, including verifying the off-book transactions, preparing and filing accurate reports, and strengthening internal controls. As indicated, BNL also replaced the management and personnel of the Atlanta agency. We have and will continue to closely monitor the corrective action instituted by BNL.

Are you confident that BNL has corrected the problems that led to this scandal?

Immediately after the August 4, 1989 examination, BNL moved swiftly to correct and contain the problems at its office in Atlanta. A new management team was installed and the situation stabilized within a week of the start of examination. BNL has continued to cooperate with authorities investigating the concealed transactions and continues to expend considerable time and effort in resolving the situation. BNL has reconstructed its books and has received a qualified opinion from its external auditors. Based on a review of BNL's response to our August 4, 1989 Examination, continued contact with BNL management and discussions with external auditors, it appears that weaknesses have been addressed. We will

be better able to comment on conditions at the agency when we complete our current examination, begun October 9, 1990, according to a schedule set some time ago.

3) In regulating the branches and agencies of foreign banks, please explain the coordination that is supposed to occur between the State of Georgia and the Federal Reserve Bank of Atlanta.

The joint policy statement on the supervision of U.S. branches and agencies of foreign banks, issued July 20, 1979, by the Board of Governors, the FDIC and the OCC, and adopted by the FFIEC, describes the coordination of efforts between the federal supervisory agencies and the states. The agencies are charged with ensuring that each office of a foreign bank is examined regularly. The International Banking Act instructed the Board to use the reports of state regulators whenever possible.

The State of Georgia fulfilled its duty as primary regulator by examining agencies on an annual basis and forwarding its reports to the Federal Reserve Bank of Atlanta. The Federal Reserve Bank of Atlanta forwarded said reports on to the Board and the responsible Reserve Bank for use in fulfilling the Board's oversight responsibilities. Examiners for the State of Georgia notified us in advance of each examination of BNL and we conducted our compliance check during Georgia's examination and provided occasional assistance to the State if requested. We have now arranged an alternate year examination program with the State of Georgia.

4) Please provide data on the number of branches and agencies of foreign banks supervised by the Federal Reserve Bank of Atlanta, including balance sheet and income statement data.

There are 66 agencies of foreign banks operating in the Sixth District. Foreign branches are not allowed under state laws in the District. Appendix B contains a list of each agency and its total assets as of December 31, 1989. Agencies of foreign banks are not required to submit income statement data to the Federal Reserve Board.

5) Does the State of Georgia exercise adequate supervision over the activities of U.S. branches and agencies of foreign banks?

Our experience with the State, which encompasses examinations of state member banks and holding companies, as well as examinations of agencies of foreign banks, has demonstrated that the State is a competent and capable supervisor. It appears that the State complied with the instructions for examinations of foreign bank agencies provided by the FFIEC and conducted a professional examination. The situation at BNL-Atlanta was an aberration and escaped detection despite the application of specified examination procedures because of widespread concealment in which key employees participated.

6) Is the regulatory structure governing the U.S. branches and agencies of foreign banks adequate or is the fragmented structure that now exists (i.e., the regulation and examination of these entities is divided among the OCC, FDIC, and Federal Reserve as well as the 50 States) prone to breakdowns such as the one that occurred in the BNL Atlanta case?

This question will be answered in the Board of Governors' testimony.

7) Do you have any recommendations for improving or streamlining the regulation and examination of these entities? Do you have any suggestions for improving coordination between the state banking agencies and the federal bank regulatory agencies?

This question will be answered in the Board of Governors' testimony.

APPENDIX B
Total Assets
of
Foreign Bank Agencies
In the Sixth District
as of
December 31, 1989

INTERNATIONAL BANK AGENCIES IN THE SIXTH DISTRICT*

<u>Florida Agencies</u>	<u>Total Assets**</u>
Algemene Bank Nederland, N.V.	\$ 303,317
American Express Bank Ltd.	28,249
Atlantic Security Bank	116,633
Banca Nazionale del Lavoro	244,429
Banco Atlantico, S.A.	184,503
Ban-o Bilbao Vizcaya (Miami)	227,197
Banco Central, S.A.	63,803
Banco de la Nacion Argentina	110,681
Banco del Pichincha Internacional	97,081
Banco do Brasil, S.A.	162,372
Banco do Estado de Sao Paulo	239,121
Banco Espanol de Credito, S.A.	75,319
Banco Exterior de Espana	206,243
Banco Canadero, S.A.	157,151
Banco Industrial de Venezuela	48,439
Banco Internacional de Costa Rica	207,217
Banco Mercantil C.A.	373,876
Banco Nacional, S.A.	137,190
Banco Popular de Puerto Rico	47,171
Banco Portugues do Atlantico	165,435
Banco Real, S.A.	4,257
Banco Santander, S.A.	150,673
Bank Hapoalim, B.M.	317,698
Bank Leumi le-Israel, B.M.	368,658
Bank of Credit and Commerce (Miami)	125,165
Banque Nationale de Paris	720,138
Banque Sudameris	943,644
Barclays Bank PLC	72,737
Credit Lyonnais	285,781
Deutsch-Sudamerikanische Bank	1,272,909
Estebandes	99,387
Israel Discount Bank Limited	211,812
Lloyds Bank PLC	404,261
Standard Chartered Bank	77,023
Swiss Bank Corporation	317,688
The Bank of Tokyo, Ltd.	237,968
The Royal Bank of Canada (Miami)	641,243
Verins-und Westbank AG	601,636
Total Florida Assets:	10,108,763

* Information as of 12/31/89 (in Thousands). Income statement data for foreign bank agencies is not collected by the Federal Reserve System.

** Agencies with no assets operate as Representative Offices only.

INTERNATIONAL BANK AGENCIES IN THE SIXTH DISTRICT*
(continued)

<u>Georgia Agencies</u>	<u>Total Assets**</u>
Algemene Bank Nederland, N.V.	148,447
Banca Nazionale Del Lavoro	2,420,919
Barclays Bank PLC	19,279
Bayerische Vereinsbank AG	401,084
Canadian Imperial Bank of Commerce	174,027
Commerzbank Aktiengesellschaft	0
Credit Lyonnais	0
Credit Suisse	6,201
Creditanstalt-Bankverein	0
DC BANK-Deutsche Genossenschaftsbank	0
Kreditbank, N.V.	0
National Bank of Canada	0
National Westminster Bank PLC	121,447
Nederlandsche Middestandsbank NV	167,158
Standard Chartered Bank	1,731,653
Swiss Bank Corporation	258,836
The Bank of Nova Scotia	0
The Dai-ichi Kangyo Bank, Limited	236,089
The Daiwa Bank, Limited	0
The Fuji Bank, Limited	761,570
The Royal Bank of Canada	293,664
The Sanwa Bank, Limited	0
The Sumitomo Bank, Limited	0
The Tokai Bank, Limited	\$6,740,374

Total Georgia Assets:

* Information as of 12/31/89 (in Thousands). Income statement data for foreign bank agencies is not collected by the Federal Reserve System.

** Agencies with no assets operate as Representative Offices only.

TESTIMONY OF

PAUL G. FRITTS
 DIRECTOR
 DIVISION OF SUPERVISION
 FEDERAL DEPOSIT INSURANCE CORPORATION

ON

REGULATION OF U.S. BRANCHES AND AGENCIES
 OF FOREIGN BANKS

COMMITTEE ON BANKING, FINANCE AND
 URBAN AFFAIRS
 U.S. HOUSE OF REPRESENTATIVES

9:30 AM
 October 16, 1990
 Room 2129, Rayburn House Office Building

Good morning, Mr. Chairman and members of the Committee. Thank you for the opportunity to express the views of the Federal Deposit Insurance Corporation on the regulation and supervision of U.S. branches and agencies of foreign banks. The FDIC staff has prepared answers to the questions contained in your letter of invitation, which are included in this statement.

Coordination of supervision of global banking institutions has improved markedly over the past two decades. The Basle Committee on Banking Supervision has been instrumental in fostering improved cooperation among national authorities. In 1975, the Basle Concordat was endorsed by the participating governors at the Bank for International Settlements. The Concordat held that no foreign banking establishment should escape supervision and that the supervision of foreign banking establishments should be the joint responsibility of host and parent authorities.

In 1983, the Committee published a revision to the Concordat which reiterated the objective of the original document -- namely, that no international banking operation should escape effective supervision -- and further addressed ways in which any supervisory gaps could be prevented. The revised Concordat holds that effective supervision of banks' foreign establishments calls for a sharing of responsibilities between host and parent supervisors, with the aim of ensuring that the soundness of individual banking groups operating in more than

one country is effectively and comprehensively monitored. In this spirit, much of the work of the Basic Committee on Banking Supervision has been directed toward promoting cooperation between supervisors and encouraging bilateral and multilateral exchanges of information.

The International Banking Act of 1978 (the Act) gave the three federal bank regulatory agencies expanded supervisory authority and responsibility with respect to the operations of foreign banks' U.S. branches and agencies. The distribution of supervision among the federal and state banking agencies calls for close coordination by the relevant authorities. Under the Act, the FDIC has primary federal examining authority, along with the various state authorities, over state licensed insured branches of foreign banks. State authorities have primary examining authority over state licensed uninsured branches and agencies.

The regulatory agencies' supervisory interests in the operation of U.S. branches and agencies of foreign banks are directed to the safety and soundness of those operations in serving the needs of borrowers and depositors and other creditors in the U.S. For this reason, the regulatory emphasis is on assessing the well-being of the U.S. offices. We are also concerned with adherence to U.S. law and regulation by these offices.

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The Act mandated that the federal regulatory agencies cooperate closely with state banking authorities in examining U.S. offices of foreign banks. As a result of this mandate, uniform approach to examining these offices was developed through the Federal Financial Institutions Examination Council (FFIEC). Our goal is to minimize dual examinations and to facilitate joint federal-state examinations, when desirable.

The federal regulatory agencies, through the FFIEC, in consultation with the relevant state authorities, have developed financial reporting requirements for U.S. offices of foreign banks. In addition, the agencies have developed reporting requirements for the foreign parent institutions which are somewhat similar to those for foreign bank holding companies.

The International Banking Act also provided for FDIC insurance for foreign branches. FDIC's Regulation 346 provides that any domestic branch of a foreign bank has the option of applying for FDIC insurance. Insurance is required, however, for state licensed branches engaged in domestic retail deposit activity and operating in a state which requires banks to have deposit insurance whenever the bank accepts deposits from the general public. The Comptroller of the Currency's regulations establish rules for federal branches. Those deemed by the Comptroller to require insurance must apply to the FDIC for insurance.

In carrying out its supervisory role, the FDIC has promulgated Regulation J46, part of which applies to both federal and state insured branches. Principle elements of the regulation call for a pledge of assets to the FDIC to protect the insurance fund and the maintenance of a capital-like cushion of certain eligible assets over liabilities. Both concepts are further explained in answer to Question 1.

1. What is the FDIC's role regarding the U.S. branches and agencies of foreign banks?

The International Banking Act enabled foreign banks to apply for federal branches and agencies. Prior to the Act, only state branches and agencies existed. All federal branches and agencies are subject to rules and regulations of the Comptroller of the Currency.

Agencies of foreign banks are not eligible for deposit insurance and, therefore, the FDIC does not play a role with respect to them.

However, the FDIC has a role with respect to insured U.S. branches of foreign banks. The International Banking Act provides that U.S. branches of foreign banks may apply for FDIC insurance. The Act, however, requires deposit insurance for

which engage in domestic retail deposit taking;

deposits of less than \$100,000.

The FDIC has authority to issue rules and regulations as deemed necessary and, as insurer, has responsibility for determining the safety and soundness of an insured branch's operation. In order to make this determination, the FDIC periodically conducts examinations of insured branches.

In carrying out its supervisory role, the FDIC has promulgated regulations to which all insured branches of foreign banks are subject. FDIC regulations are designed to promote safety and soundness, as well as to protect the deposit insurance fund. FDIC regulations, for example, require a pledge to the FDIC of assets in the amount of five percent of the branch's average liabilities over a period of two calendar quarters. These pledged assets become the property of the FDIC to the extent necessary to protect the deposit insurance fund should the FDIC be called upon to pay insured deposits of the branch. The FDIC may require additional assets to be pledged if it determines that the foreign bank or branch's condition is such that the assets pledged will not adequately protect the insurance fund. Among the factors to be considered in imposing these requirements are the concentration of risk to any one borrower or group of related borrowers, or the concentration of risk to any one country, including the country in which the foreign bank's head office is located.

In addition, the FDIC requires insured foreign branches to maintain "eligible assets" of at least 106 percent of average liabilities of the branch as a form of capital cushion. Basically, "eligible assets" are assets other than those due from the foreign bank's head office, other branches or affiliates or those subject to classification as "Value Impaired or Loss" at the most recent examination. We also may require a higher ratio of eligible assets if the financial condition of the branch warrants such action, with concentration of credit risk being taken into consideration.

The asset pledge and asset maintenance requirements are necessary to afford some degree of protection to the insurance fund, as the FDIC has supervisory authority over only a portion of a much larger entity. The FDIC does not have the authority to impose higher capital requirements or otherwise regulate operations of the insured branch's parent.

2. Regarding the regulation and examination of these entities, please explain the coordination that occurs between the 50 states, the Comptroller of the Currency (OCC), the Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC).

The FDIC and state bank supervisory authorities have primary supervisory responsibility for state chartered insured branches, and the state bank supervisory authorities have primary

responsibility for state chartered agencies and state chartered uninsured branches. The Office of the Comptroller of the Currency has primary supervisory responsibility in the case of federal branches and agencies. The International Banking Act provides that the Federal Reserve Board may examine any U.S. branches and agencies of foreign banks.

Examination of U.S. branches of foreign banks has been coordinated among the federal bank regulatory agencies and a number of state banking departments, as mandated in the International Banking Act, to ensure that each U.S. office of a foreign bank is examined regularly. Through the FFIEC, the federal banking agencies and various state supervisory authorities have developed a uniform examination approach for U.S. branches and agencies of foreign banking organizations and financial reporting requirements for U.S. offices of foreign banks.

3. Please provide financial information on FDIC-insured U.S. branches and agencies of foreign banks, including the number of such entities, aggregate balance sheet and income statement data, number of branches and agencies, and their total employees.

Of the 363 branches of foreign banks operating in the U.S. as of June 30, 1990, 55 branches of 27 foreign banks were insured. Aggregate total assets for the insured branches were

\$8.9 billion, and aggregate total deposits were \$4.3 billion. U.S. branches and agencies of foreign banks do not report income statement data or data on the number of employees to the federal supervisory agencies. As stated above, agencies of foreign banks are not eligible for insurance.

4. What percentage of the aggregate liabilities of these entities is insured by the FDIC?

An estimated 61 percent of the aggregate deposits of insured U.S. branches of foreign banks is insured and an estimated 29 percent of total liabilities of those insured branches is insured.

5. Please explain the FDIC's role in regulating the U.S. branches and agencies of foreign banks. How often are these entities examined by the FDIC? How many examiners does the FDIC have specifically dedicated to examining these entities? What type of examination does the OCC conduct (i.e. safety and soundness or compliance)? Do you have any recommendations for improving the regulation and examination of these entities?

The FDIC has promulgated rules and regulations (Part 346) pertaining to insured state and federally chartered U.S. branches of foreign banks. The governing regulation implements the insurance provisions of the International Banking Act of

1978 and sets out rules that apply to foreign banks that operate insured state or federal branches. The major provisions of Part 346 are the asset pledge and the asset maintenance requirements, referred to in response to Question 1. With respect to its supervisory role, the FDIC may examine the affairs of any office, agency, branch or affiliate of the foreign bank located in the United States as it deems necessary to determine the relations between the insured branch and such offices, agencies, branches, or affiliates and to assess the financial condition of the bank as it relates to the branch.

The FDIC assumes supervisory authority for state chartered insured U.S. branches of foreign banks. With respect to the frequency of examinations of such branches, the FDIC uses the same standards that are applicable to domestic FDIC supervised institutions. For branches that received a composite 1 or 2 rating at the last examination, the maximum interval between examinations is 24 months. For those branches receiving a composite rating of 3, 4, or 5, the maximum interval between examinations is 12 months.

Intervals for 1 and 2 rated institutions may be extended up to 48 months and intervals for 3 rated institutions may be extended up to 24 months when an interim state examination that meets FDIC needs has been performed. The FDIC does not specifically dedicate examiners to examining these entities, but draws from its general examination force.

Cease and Desist Action (Section 8(c) of the FDI Act). In addition, the FDIC has the power to suspend or remove a branch officer or director or prohibit participation by others in branch affairs when certain criteria can be established (Sections 8(e) and (g) of the FDI Act.) The FDIC has the authority to assess civil money penalties against both branches and individuals for violations of certain statutes. The Comptroller of the Currency has enforcement authority over federal branches and agencies; however the FDIC has the power to terminate insurance for federal insured branches. The FDIC has no authority over agencies.

7. Is the regulatory structure governing the U.S. branches and agencies of foreign banks adequate, or is the fragmented structure that now exists (i.e., the regulation and examination of these entities is divided among the OCC, FDIC, and Federal Reserve as well as the 50 states) prone to breakdown such as the one that occurred in the BNL-Atlanta case?

We believe the regulatory structure that now exists is as adequate as it is for the banking system as a whole. In the case of the BNL-Atlanta agency, the situation was one of massive fraud. Certain Iraqi credits were not booked by the agency or reported in quarterly financial reports. Collusion on the part of the agency's employees to hide the transactions hindered

With respect to the OCC's examinations, the OCC is in a better position to describe its own examination program.

At this time we have no recommendations with respect to the regulation and examination of insured U.S. branches of foreign banks. However, we point out the continued awkwardness of a system which insures only part of an institution (i.e. a branch of a bank), but not the entire institution. As to uninsured branches and agencies, the FDIC is not exposed and thus suggests that the public policy concerns should be addressed by others.

6. Please explain the enforcement authority of the FDIC as it pertains to the U.S. branches and agencies of foreign banks.

The FDIC has the same enforcement authority over insured U.S. branches of foreign banks as it has for state chartered insured domestic banks.

Enforcement authority includes the use of a memorandum of understanding, which is an informal means of documenting agreed upon corrective action with institutions with some supervisory concern, but which have not deteriorated to a point warranting formal administrative action. For more serious situations, formal administrative actions may be taken. These include the power to terminate insurance (Section 8(a) of the FDI Act), the power to issue Cease and Desist Actions (Section 8(b) of the FDI Act) and, if deemed necessary, to immediately invoke a temporary

discovery of the transactions by the examiners. The agency is not insured and the FDIC has no authority over it.

STATEMENT OF STEPHEN R. STEINBRINK
 DEPUTY COMPTROLLER, MULTINATIONAL BANKING
 OFFICE OF THE COMPTROLLER OF THE CURRENCY
 BEFORE THE
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
 UNITED STATES HOUSE OF REPRESENTATIVES
 OCTOBER 16, 1990

Mr. Chairman and members of the Committee:

Thank you for the invitation to testify today about the Office of the Comptroller of the Currency's (OCC) regulation and supervision of U. S. branches and agencies of foreign banks and, in particular, the OCC's Federal Branch Program. We welcome the Committee's interest in this area of bank supervision and appreciate the opportunity to share with you our efforts to assure the safety and soundness of the national banking system through the regulation and supervision of Federal branches and agencies.

OCC involvement in the regulation and supervision of branches and agencies of foreign banks began with passage of the International Banking Act (IBA) of 1978. The IBA affords foreign banks the opportunity to apply for a Federal branch or agency license in those states where the bank is not operating a State branch pursuant to State law and the establishment of a branch or agency is not prohibited by State law. The IBA identified the OCC as the U. S. bank regulatory agency charged with primary responsibility for supervising Federal branches and agencies. The OCC is responsible for acting on applications to license Federal branches, performing examinations, and providing an overall system of supervision.

The letter of invitation asked whether the regulatory structure governing U. S. branches and agencies of foreign banks is adequate or whether the fragmented structure that now exists (i.e., the regulation and examination of these entities is divided among the OCC, the FDIC, and the Federal Reserve as well as the 50 States) is prone to breakdowns such as the one that occurred in the BNL-Atlanta case. Banca Nazionale Del Lavoro's Atlanta branch is not a Federal branch and is not subject to OCC supervision or regulation and consequently, I can not comment on the specific case. We believe that cooperation, communication, and sharing of information with other domestic regulators such as the Federal Reserve and FDIC and the home country regulator of the parent bank, are essential to ongoing supervision.

Your letter also asked us to explain the OCC's role in regulating the U. S. branches and agencies of foreign banks and the type of examination the OCC conducts (i.e. safety and soundness or compliance). The OCC conducts full scope examinations of Federal branches and agencies including reviews of asset quality and other solvency related issues. As you may know, the Basle Committee on Banking Regulations and Supervisory Practices has agreed upon certain principles for the regulation and supervision of international banks. The Committee has agreed that while there is a general responsibility on the host authority to monitor the financial soundness of branches of foreign banks, supervision of solvency is primarily a matter for the parent authority. Despite the agreement in

convert to a Federal branch must have a record of sound operation as a State licensee in order to qualify for a Federal license. For Federal branch applications, this Office contacts the home country supervisor as to the financial ability and record of performance of the parent bank.

The IBA requires the OCC to perform an examination of each Federal branch at least once each calendar year. The regularity of examinations assures compliance with the requirements of national banking law.

Generally Federal branches and agencies are exposed to the same risks, are subject to the same laws, rulings and regulations and are examined in much the same way as a national bank. However, because they are not separate legal entities and are only extensions of the parent, their operations may differ in some areas. For example, because Federal branches and agencies are an extension of the parent bank, they do not have a separate capital structure. Therefore they are required to maintain a pledge of assets known as a capital equivalency deposit, more commonly known as a CED account. The OCC has developed specific examination procedures and a series of Federal branch banking circulars to address supervisory, policy and operational issues which are of particular importance to these banking entities. The circulars provide guidance in areas such as allowance for loan and lease losses, capital equivalency deposit accounts, and funds due from home and related offices. Finally, our examination of Federal branches and agencies is always tempered with common sense recognizing that these entities are U. S. branch offices of foreign banking companies which are supported by the financial and managerial abilities of those companies.

There also is a common interest in the supervision of foreign banks on a basis comparable with their domestic counterparts. There should be equality of treatment and regulation as well as equality of competition.

Finally, we believe that banking regulators around the world must develop better systems of communication and cooperation. As global banking companies expand, mechanisms for sharing supervisory information between home and host country regulators must be developed in order to assure proper supervision of worldwide banking companies.

Thank you for the opportunity to share with you information about our efforts to provide proper supervision and regulation of Federal branches and agencies. I would be happy to respond to any questions.

TESTIMONY OF
JAMES E. GILLERAN
ON BEHALF OF
THE CONFERENCE OF STATE BANK SUPERVISORS
BEFORE THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
OCTOBER 16, 1990

BACKGROUND

Before proceeding to the issues raised in your letter of invitation, some brief background on the presence of foreign banks in the United States may be helpful to the Committee.

The first foreign bank to establish operations in the United States was the Bank of Montreal in 1818. Over three-quarters of the foreign banks present in the United States were formed after 1970. The reason for this growth is the improved communication technology coupled with the globalization of the United States economy.

Foreign banks can enter the United States through four main avenues. The first, and easiest to establish, is a representative office. A representative office cannot make loans or accept deposits. Its main function is to facilitate business contacts in the United States for the parent bank's home country client base operating in the United States. Studies have shown that a majority of foreign banks operating in the United States begin with representative offices, and later expand into a wider range of activities.

The next type of foreign bank entity is the agency. An agency can make commercial or industrial loans, but is generally barred from accepting deposits or making consumer loans. These agencies

do maintain credit balances for their foreign client bases, but most forms of payments cannot be made from these accounts. These agencies are mainly funded by their parent banks or by borrowing on the interbank markets.

The 194 state licensed foreign banks agencies currently operating in the United States hold \$90.2 billion in assets.

The branch is the most important foreign bank entity. Branches operate on the consolidated equity of the parent bank. These branches vary according to their power to accept deposits. In California, for example, we permit three types of foreign branches: wholesale, limited, and retail. Wholesale branches accept only deposits greater than \$100,000, and are not insured by the FDIC. Another non-FDIC insured branch is the limited branch. This entity may only accept non-U.S. customers' deposits or deposits related to international trade arrangements.

Retail branches are FDIC insured and accept deposits from any customer in any denomination. There are five FDIC-insured branches in California that hold \$654 million in assets. For comparison, there are 16 FDIC-insured branches in New York and nine in Illinois. By providing these various types of branch operations, we can provide the vehicle for foreign bank entry appropriate to their business in the United States. FDIC-insured foreign branches pay Bank Insurance Fund premiums based on their deposit base.

There are 279 state licensed foreign branches in the United States, holding \$438 billion in assets.

The final method of foreign bank entry is through a full service bank subsidiary. The subsidiary bank may be either state or federally chartered, and the Federal Reserve Board must approve its acquisition under the Bank Holding Company Act. State law controls foreign bank acquisitions of bank subsidiaries in the same manner the Douglas Amendment to the Bank Holding Company Act controls acquisitions by domestic bank holding companies. These subsidiary banks face the same regulation and restrictions as other domestic U.S. banks.

There are currently 74 foreign-owned state chartered commercial banks, with \$89.2 billion in assets.

Two other forms of foreign bank entities operate in the United States. The first are New York Investment Companies. These are incorporated entities licensed by the state of New York with powers similar to agencies. There are currently 10 of these companies, with \$4.5 billion in assets. The International Bank Act of 1978 (IBA) allowed the Federal Reserve Board to charter Edge Act Corporations for foreign banks. There are 24 foreign Edge Act Corporations, with nearly \$3.0 billion in assets.

In your letter of introduction, you asked specifically for information on branches and agencies. I will restrict the remainder of my comments to these two types of foreign bank entities. It is important to keep in mind, however, that the other foreign bank entities play a significant role in the U.S. banking system, particularly foreign-owned banks. For example, there are 22 state-chartered, foreign-owned banks in California, which hold \$26.4 billion in assets. This represents over 35 percent of the state-chartered bank assets in California.

Foreign banks from more than 60 countries have some form of office in the United States. Not surprisingly, our largest trading partners hold the greatest number of foreign bank assets: Japan, Canada, Italy, West Germany, France and the United Kingdom. Hong Kong, Israel, Switzerland and the Netherlands round out the top ten. Banks from these ten countries hold over 90 percent of the foreign bank assets.

Foreign banks are located in sixteen states. Of these, New York has the largest concentration of activity with almost two-thirds the total assets. California is second, and is particularly attractive to the Pacific Rim countries, including Japan. Illinois, Florida and Georgia have significant concentrations of foreign assets. Given the importance of New York City, Chicago, Los Angeles, San Francisco, and Atlanta as major financial centers for domestic commerce and international trade and Florida's

preeminent role in the ... of Latin America, this ...

Prior to 1970, the ... had little involvement with foreign bank branches and agencies. These entities were exclusively state-licensed and supervised. The International Bank Act of 1978 expanded the federal agencies' role with foreign bank branches and agencies in a number of ways. First, it allowed the Office of the Comptroller of the Currency (OCC) to license foreign bank branches and agencies. Currently, there are 100 federally licensed branches or agencies that hold \$36.5 billion in assets. This is approximately 15 percent of the total institutions, or 5 percent of the assets.

The IBA also instituted the "home state" restriction. This restriction requires foreign bank branches, state or federally licensed, to designate "home state". The branch is treated as a domestic bank for geographic expansion purposes. CSBS strongly objected to the original version of the "home state" restriction, since it would have tended to concentrate all of the foreign bank asset in one or two states, thereby preventing other states from participating in the enhanced trade finance and credit opportunities. The original provisions, however, were narrowed to require only the deposit-taking function to be restricted to one state, and a number of grandfathering provisions were included. This allowed the development of uninsured agencies and branches to

meet the economic demand for these services in other states. The provision instituted "national treatment" for foreign banks by subjecting them to similar geographic restrictions as U.S. banks.

The IBA placed a number of other requirements on foreign bank branches and agencies. It gave the Federal Reserve the authority to impose minimum reserve requirements on state and federal licensed branches and agencies. It required FDIC insurance for all foreign branches and agencies that accepted retail deposits. Foreign banks were subjected to the non-bank activities restrictions contained in the Bank Holding Company Act and anti-tying provisions. The Federal Reserve, as mentioned before, received the authority to charter Edge Act Corporations for foreign banks in the U.S.

Section 7(c)(6) of the IBA authorized the Federal Reserve to examine any foreign bank branch or agency, whether state or federally licensed. The same section encourages the Federal Reserve to use the examination reports of the other federal and state banking agencies when possible. In addition, the IBA directed the Federal Reserve to consult with the states banking authorities before instituting restrictions and regulations on state-licensed foreign bank branches or agencies.

The Federal Reserve has general enforcement authority over state-licensed foreign bank branches or agencies. These powers

include cease-and-desist orders, civil money penalties and other enforcement actions contained in Section 8 of the Federal Deposit Insurance Act. The Federal Reserve uses this authority to enforce the applicable portions of the Federal Reserve Act and the International Banking Act. There appears to be overlapping federal enforcement authority over FDIC-insured foreign bank branches by the FDIC and the Federal Reserve.

SUPERVISION OF STATE-LICENSED FOREIGN BANK BRANCHES AND AGENCIES

As indicated above, the state banking department is the primary supervisor of state-licensed foreign bank branches and agencies. As primary supervisor, state banking departments perform the same functions with these entities as with domestic state-chartered commercial banks. These functions are:

- o licensing the entity to operate in the state;
- o examining the operation of the branch to determine that the branch is operating within the laws and regulations of the state;
- o supervising the activities of the branch through examinations and other financial reports; and
- o regulating the branch's activities.

If a branch becomes financially troubled or commits a serious violation of law, the state supervisor has the full range of enforcement tools at his or her disposal, including closing the foreign bank branch or agency.

The licensing process for a foreign bank branch or agency is similar to the chartering process for domestic state banks. Each application is reviewed to determine the business purpose of the branch and the motive for establishing the branch, the financial condition and earnings history of the parent bank, the home country supervision, the forecast of the expected operations, the proposed branch management, and the public convenience and advantage to be served. California, New York, and several other states require state-licensed foreign bank branches to pledge securities to secure performance of all the branch's financial arrangements in the state. These pledged assets provide a liquidation fund in case of failure.

State banking departments are primarily responsible for examinations of foreign branches or agencies. The IBA gave the Federal Reserve the authority to examine any federal or state branch or agency. However, the IBA clearly states that the licensing agency, either state or federal, is vested with the "primary examining authority" and that the Federal Reserve has "residual" examination authority to "ensure full compliance" with the IBA. Further, the IBA requires the Federal Reserve to make full use of the examination reports produced by the states or the Comptroller in fulfilling its responsibilities.

The vast majority of state-licensed foreign bank branches or

agencies are examined annually. California alternates yearly examinations with the Federal Reserve. In California, a foreign bank branch or agency is examined every year by one of the two regulators. New York performs examinations on either a 12- or a 24-month cycle, depending on the entity's rating, the strength of the parent, and the assessment of the country risk. Any entity not on the 12-month, full-scope examination cycle is subject to special visitations, described below. A few states require examinations every 18 months. All examination reports are provided to the appropriate federal regulator, the parent bank, and its primary regulator.

State foreign bank branches are also subject to periodic visitations by their state regulators. These visits do not entail a full scope examination, but update the overall condition of the branch or agency and target a specific aspect of the entities operations. Nothing precludes a state regulator from scheduling examinations on a more frequent basis if the situation requires.

In addition to examinations and visitations, the foreign bank branches or agencies submit earnings and conditions reports throughout the year. In California, we require quarterly reports of condition and semi-annual reports of earnings. These reports are used to facilitate off-site monitoring of these entities.

Personnel used to examine foreign bank branches and agencies

are generally drawn from the existing examiner pool, which performs examinations on all state chartered entities under the banking department's purview. As you are aware, the debate continues on whether examination personnel should concentrate on a single type of institution, as is the case for the federal regulators and in states such as Florida, or whether examiners should work in all types of financial institutions, as in California and New York. Both approaches have valid arguments in their favor. In both systems, the senior examination personnel in charge of foreign bank branches and agencies have specialized training in the field of foreign bank examination. Similarly, supervisory personnel have specialized training in supervising foreign bank branches and agencies. These supervisory personnel are usually assigned exclusively to the oversight of foreign bank branches or agencies, and have significant expertise in this area.

COOPERATION AMONG REGULATORS

Given the role of the Federal Reserve and the relatively few FDIC-insured foreign bank branches and agencies, the vast majority of cooperation takes place between the state regulators and the Federal Reserve and among the states themselves. Our working relationship with the Federal Reserve is good. While the relationship varies from state to state, all report a close working relationship. We have less experience with the FDIC or the OCC in the area of foreign bank branch or agency regulation. As for domestic banks, we have excellent working relations with the FDIC,

but have not had sufficient contact with the OCC to draw any firm conclusions.

There are a number of initiatives by the states that are improving cooperation between the states and the foreign bank branches and agencies we license.

A number of states recently signed an information-sharing agreement on the supervision of foreign banks. The signatories to this agreement are California, New York, Illinois, Florida, Georgia, Michigan, and Washington. This agreement provides for the confidential exchange of information between the states about foreign banks operating within their borders. Information exchanged includes financial condition, examination ratings, business practices, compliance records, and the banks' record with its home country supervisor and its parent organization. We anticipate that other states will sign this agreement. The agreement's aim is to further strengthen state supervision of the entities and to provide a means for monitoring foreign bank entry and activities in other states.

Another initiative to strengthen the supervision of these entities is an outgrowth of the state experience with multi-state bank holding companies. We find it necessary with these organizations to schedule the examination of the entire holding company, including the holding company itself and all its insured

affiliates, concurrently in order to get an accurate picture of its health. This takes a great deal of flexibility and coordination from all of the regulators involved, both state and federal. While the level of cooperation of our fellow regulators varies, the states remain committed to this initiative and continue to aggressively pursue the coordinated examination of multi-state bank holding companies.

We are now applying the same coordinated examination scheduling to foreign bank branches or agencies. The strong history of cooperation between state regulators and the Federal Reserve experienced in foreign bank branch regulation make us enthusiastic about this program. We will keep this Committee informed of our progress.

RECOMMENDATIONS

You asked for our recommendations on improving the regulation and examinations of these entities. As I discussed earlier, we have taken several initiatives to improve state supervision of these entities. Other changes will help, although several of these do not require federal legislation.

First is in the area of cooperation. The IBA requires consultation with the states by the Federal Reserve on a number of matters. The consultation on policy issues should be more regular, and formalized consultation should take place when major issues are

on the table. Regular meetings should be scheduled between the Federal Reserve and all state regulators who have responsibilities over foreign bank branches and agencies.

The states should be represented by one of our own in the international meetings that impact on the foreign bank branches or agencies we regulate, as well as the domestic state banking system. The Basle Committee is the primary vehicle for international coordination of bank supervision. The committee is made up of two representatives from 10 of the 12 industrialized countries, generally referred to as the G-12 nations. Luxembourg has only one representative and the United States has at least four. None of these four United States representatives represents the states directly in their role with foreign bank branches or domestic state banks. States charter and regulate over 40 percent of the domestic bank assets and over 80 percent of the foreign bank assets. Given these facts and the scope of the impact of the Basle Committee's deliberation and decisions on state regulated institutions, the lack of direct state participation is unjustifiable and deserves this Committee's attention.

Our final recommendation at this time is the expansion of the federal criminal code to include crimes by employees of foreign bank branches or agencies. We supported your efforts, Mr. Chairman, to address this issue in the crime bill, and were disappointed to see that the provisions were not offered. By

subjecting these individuals to criminal sanctions under Title 18, you will bring the substantial resources and expertise of the U.S. Attorney's offices and the Justice Department to bear on these cases. These penalties would be in addition to current state criminal sanctions, and provide increased deterrence to individuals considering criminal acts.

This is not to say that the individuals under investigation in the BNL incident will not be subject to criminal prosecution under current law. The state criminal system provides timely and substantial justice to those accused of fraud. We have recently seen this in action in the Keating case. In addition, those accused of crimes in connection with the BNL-Atlanta incident face jail in the Georgia State Prison System. That prospect alone will give most white-collar criminals reason to pause.

CONCLUSION

I do not have any direct knowledge of activities that took place at BNL-Atlanta, nor do I have any information on the investigations of that situation other than press reports. As you have pointed out, Mr. Chairman, this case appears to have involved massive fraud. This type of fraud is difficult or impossible to detect, and this criminal activity may be successful for a short period of time. However, the combination of internal controls and audits, external audits, and on-site regulatory examinations will ultimately bring this activity to light or drive one of the

conspirators to come forward. During the on-site examinations, examiners will often receive tips from bank employees and others regarding fraudulent activities.

It is fraud, not a breakdown in the regulatory system of foreign bank branches and agencies, that is present in this case. From the information available to us, it appears that the regulatory system worked.

Foreign bank branches or agencies are adequately regulated, supervised, and examined under the current regulatory scheme. As described above, they receive timely on-site examinations and visitations, and are subject to a number of off-site monitoring activities. They receive the same regulatory review as domestic state-chartered banks.

These institutions perform a critical function in our economy. They bring necessary trade finance and expertise to our domestic industries. They also provide substantial capital investment in those companies. Any proposals to change the regulation of foreign bank branches and agencies must carefully consider the potential impact on the economies of the communities the institutions serve. In addition, any change in the regulation of foreign bank branches and agencies will impact on international trade negotiations and this impact must be considered.

Summary of U.S. Offices of Foreign Banks
By Charter Type and Type of Institution
(3/31/90)

	Number of Institutions	Assets (000's)
A) State		
1. Agencies	194	\$ 90,181,020
2. Branches	279	438,188,678
3. Foreign-Owned CB's	74	89,239,291
4. NY Investment Co.'s	10	4,561,597
5. Edge Corporation	-	-
Total	557 (77.8%)	\$622,170,586 (85.6%)
B) Federal		
1. Agencies	29	\$ 2,436,578
2. Branches	81	34,159,534
3. Foreign-Owned CB's	25	64,676,870
4. NY Investment Co.'s	-	-
5. Edge Corporations	24	2,997,278
Total	159 (22.2%)	\$104,270,260 (14.4%)
C) Totals		
	716 (100.0%)	\$726,440,846 (100.0%)

Source: Federal Reserve Board and Conference of State Bank Supervisors.

**CALIFORNIA STATE
BANKING DEPARTMENT**

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**A GUIDE TO
FOREIGN BANKING
IN CALIFORNIA**

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HOW TO DO A BANKING BUSINESS IN CALIFORNIA

There are a number of ways in which a foreign nation bank can establish a banking presence in California as discussed below:

SUBSIDIARY BANKS

Foreign banks can either acquire an existing bank or establish a new subsidiary bank in California. Applicants can seek either a national or state charter for their proposed bank. Presently there are 25 foreign-owned subsidiary banks operating in California of which 22 are state chartered and regulated by the State Banking Department. If the foreign bank will own or control at least 25 percent of the subsidiary California bank, the Federal Reserve Bank must also approve the foreign parent bank as a holding company. A foreign bank seeking to enter the U.S. is subject to the International Bank Act of 1978. One provision of the Act stipulates that a foreign bank must choose one state as its "Home State". There are presently 28 foreign banks which have selected California as their "Home State".

There are no special restrictions imposed on foreign applicants. Foreign applicants go through the same application and licensing procedures as do domestic applicants. Once approved, they are subject to the same reporting and examination requirements as any domestic state chartered bank.

The general standards followed in granting approval of a new bank are found in the California Banking Law and include considerations such as:

1. Establishing the need for the bank.
2. Establishing that the public convenience and advantage will be served by the new bank.
3. Demonstration that there is a reasonable promise of successful operation.
4. Showing that competent management will be employed.

A California banking license has no expiration date. Banks are assessed annually on the basis of their assets as of June 30th, as the means of providing financial support for the Banking Department. Relevant sections of the Financial Code begin at Section 350, and Regulations Section 10.3000.

OFFICES OF FOREIGN BANKS

Foreign banks may also establish an Office in California. These offices include both agencies and branches. They operate as integral parts of the parent institution and operate on the consolidated equity of the parent bank. Offices can be deposit taking or non-depository. There are four kinds of licensed deposit taking offices:

HOW TO DO A BANKING BUSINESS PAGE TWO

1. Wholesale branch - can accept deposits of \$100M and over. These deposits are not insured by the FDIC.
2. Limited Branch - can accept deposits from non U.S. customers and from U.S. customers only if they are related to international trade.
3. Retail branch - can accept local deposits and deposits of any denomination. Deposits under \$100M are insured by the FDIC.
4. Depository agency - can accept deposits from foreign customers only. Deposits are not insured by the FDIC.

Foreign banks may also establish an agency office that does not accept deposits.

All of the above offices generally function to facilitate international trade through the use of letters of credit and acceptances and other loans to finance imports and/or exports. These offices participate in large loan/credit syndications and their operations are generally funded through the limited deposit procedures described above and through funding by the head office and affiliates.

The licensing procedures include an investigation into the bank's motives for establishing the branch, earnings history of the bank, its financial condition, and proposed branch management. Prior to licensing, the applicant must pledge securities with the State Treasurer to secure the faithful performance of all obligations entered into in California. While the Superintendent determines the amount to be pledged, the amounts generally have been in the range of \$500M. The license issued has no expiration date. Agencies are assessed annually based on assets as of June 30th of each year. Relevant statutes are found in Financial Code Sections 1700, et seq. and Regulations Sections 10.14000 et seq.

Agency and branch offices of all types are required to submit quarterly reports of condition and earnings reports twice a year. Agencies and branches are examined by the State Banking Department and the Federal Reserve Board every alternate year so that offices are examined annually by one of the two regulators.

REPRESENTATIVE OFFICES

These offices cannot accept deposits nor make loans. They are usually set up to facilitate contacts/business for their domestic client base. No reporting requirements have been set for these offices and we rarely exercise our privilege of examining these offices. Please see Financial Code Section 1725 et seq. and Regulation Section 10.13100 et seq.

SOME FACTS ABOUT CALIFORNIA

- California's economy is diverse - the sixth largest in the world. California is America's largest consumer market, with one of the world's highest per capita incomes.
- Twenty-four of the world's largest 25 banks are present in California.
- Twenty-nine countries are represented in California through their banking offices.
- California is second in the U.S. both in terms of the number of foreign banking corporation offices and in assets of foreign banks operating here.
- As of June 30, 1990, California's 122 offices of 102 agency and branch offices of foreign banking corporations had total assets of \$84.3 billion, making up nearly 20 percent of the total banking assets in the state.
- June 30, 1990 assets of foreign banking corporations have increased by 126% since June 30, 1982, increasing from \$37.3 billion to \$84.3 billion. State chartered banks' assets grew from \$63.3 billion to \$103.1 billion during that period.
- California has 22 state chartered bank subsidiaries of foreign banks with total assets of \$36.4 billion - representing over 35 percent of total state chartered bank assets.
- California leads the U.S. in the level of foreign investment with over 2,200 foreign-owned firms employing 300,000 Californians.

CALIFORNIA BANKING PROFILE

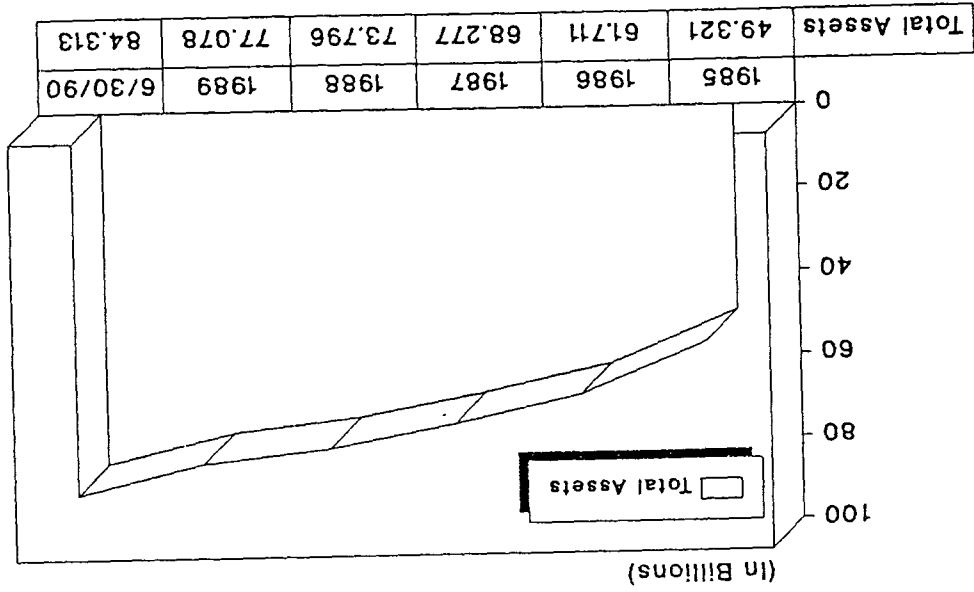
	June 30, 1990		June 30, 1982	
	No.	Assets (Billions)	No.	Assets (Billions)
State Chartered Banks	267	\$103.1	255	\$ 63.3
National Banks	165	235.2	79	204.1
Bank Totals	432	\$338.3	334	\$267.4
Foreign Agencies/Branches	102	84.3	103	37.3
California Total	534	\$422.6	437	\$304.7
Bank Holding Companies				
State	104		61	
National	61		23	

PROFILE OF STATE CHARTERED BANKS - DOLLAR AMOUNTS IN THOUSANDS

	12/31/85	12/31/86	12/31/87	12/31/88	12/31/89	6/30/90
Period Ending						
Number of Banks	285	287	279	270	267	267
Loans & Leases (Net)**	54,351.0	59,553.0	60,738.8	60,696.8	67,586.5	71,191.8
Reserve for loans	872.4	808.7	1,493.1	1,328.9	1,283.1	1,244.2
Total Assets	82,433.0	92,402.2	91,242.6	94,492.5	101,624.1	103,079.6
Total Deposits	69,288.4	78,847.7	77,109.1	78,910.2	84,908.8	84,581.9
Total Equity Capital	5,159.4	5,743.0	5,741.3	6,003.3	6,942.5	7,343.3
Loans >90 Days Delinq.**	1,639.9	1,626.2	1,915.7	1,468.3	1,341.9	1,400.1
Total delinquent Loans	3,132.7	3,060.7	3,568.7	2,807.9	2,746.1	2,750.8
Interest Earned	7,546.5	7,274.9	7,645.7	7,355.1	9,522.4	4,837.1
Interest Expense	4,073.9	3,586.9	3,493.5	3,415.5	4,701.7	2,417.9
Net Interest Income	3,472.6	3,688.0	4,152.2	3,939.6	4,820.7	2,419.2
Loan Loss Provision	517.6	597.2	1,244.5	395.3	506.0	206.5
Total Overhead	2,873.5	2,862.8	3,909.3	2,771.7	3,200.5	1,418.5
Operating Income	599.1	825.2	242.9	1,167.9	1,620.2	999.7
Net Income	428.7	552.2	83.1	800.6	1,029.7	588.1
Return on Assets***	.52	.60	.09	.86	1.01	1.14
Return on Equity***	8.31	9.62	1.45	13.34	14.83	16.02
Net Interest Margin***	4.21	3.99	4.55	4.17	4.74	4.69

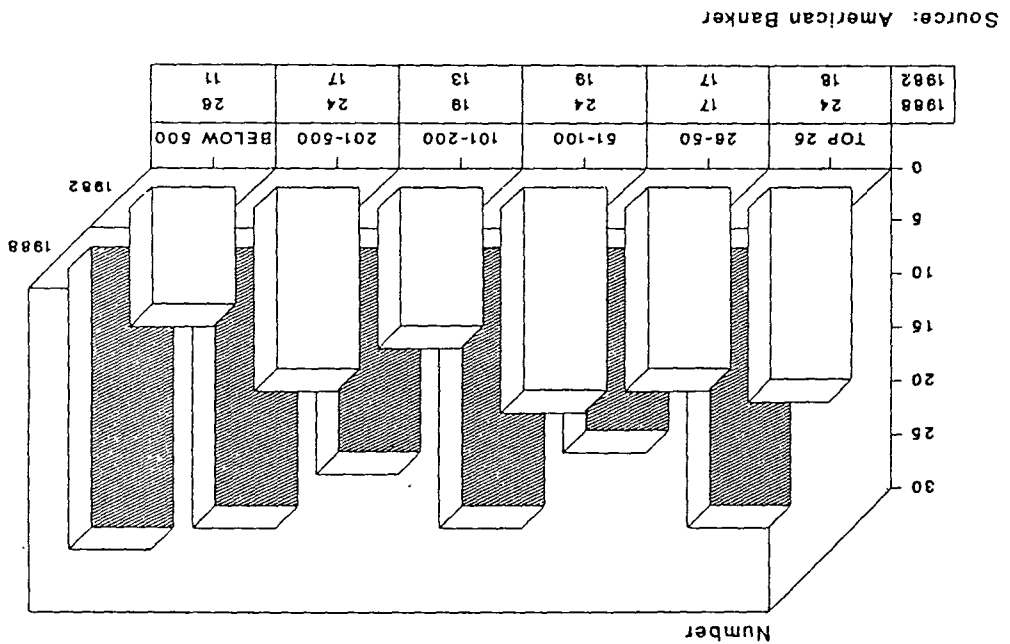
**Net of unearned income.
 ***Includes nonaccrual.
 ***Annualized for 6/30/90.

ASSETS OF BRANCH AND AGENCY OFFICES
OF FOREIGN BANKING CORPORATIONS
(California State Chartered Only)



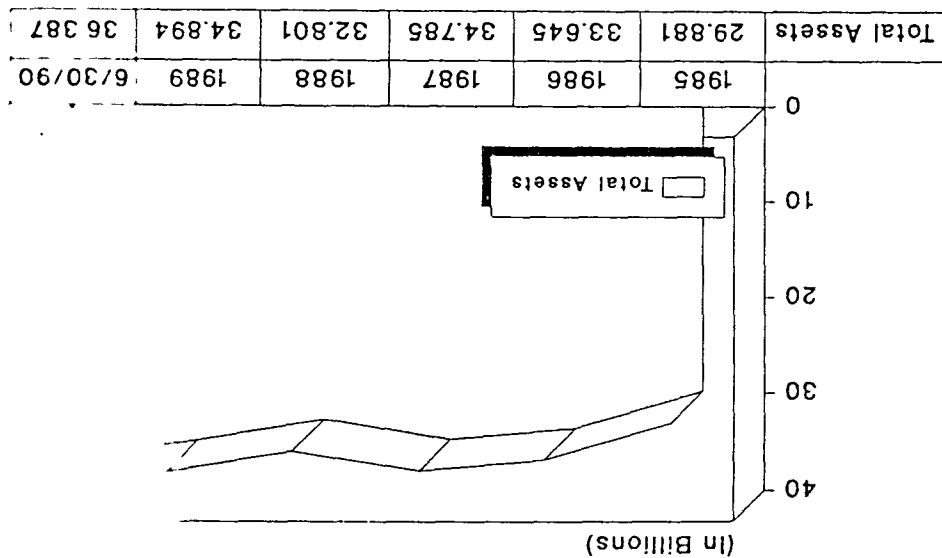
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FOREIGN BANKS WITH REPRESENTATION IN
CALIF. GROUPED BY THEIR WORLD RANKING
(State Chartered Only)



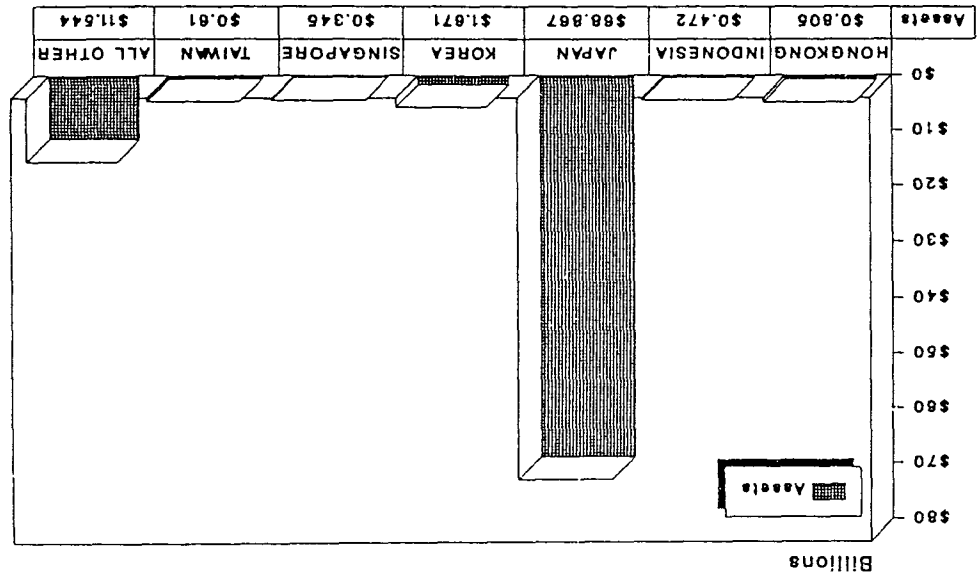
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ASSETS OF CALIFORNIA STATE
 CHARTERED BANKS OPERATED AS
 SUBSIDIARIES OF FOREIGN BANKS



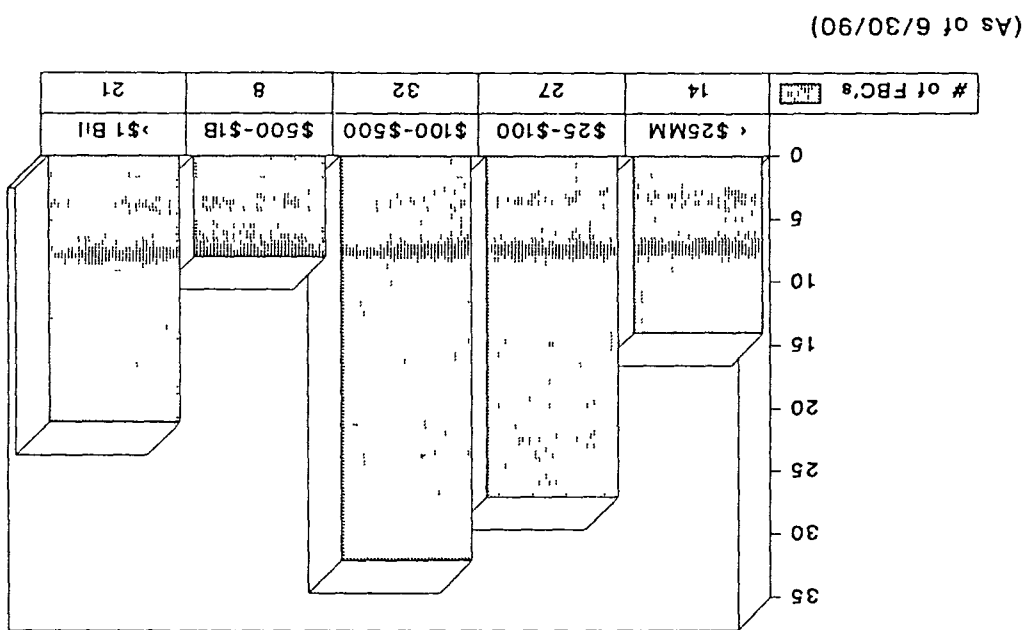
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ASSETS OF BRANCH AND AGENCY OFFICES
 OF FOREIGN BANKING CORPORATIONS
 BY SELECTED COUNTRIES

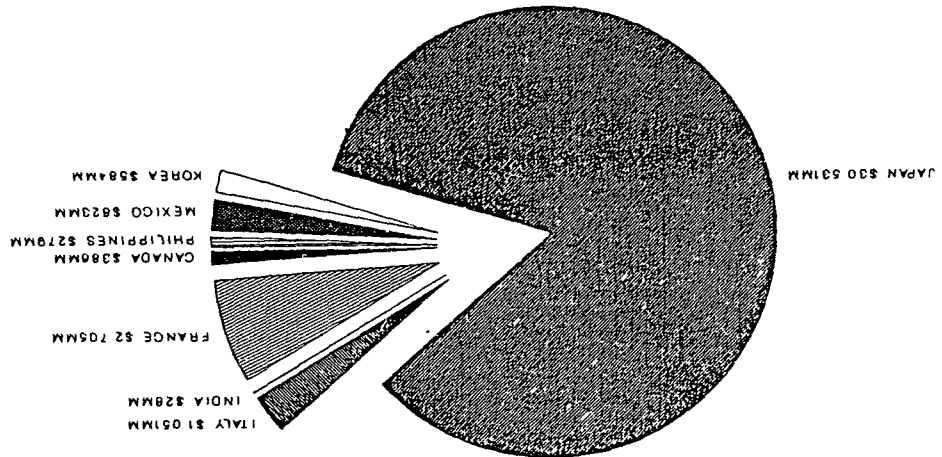


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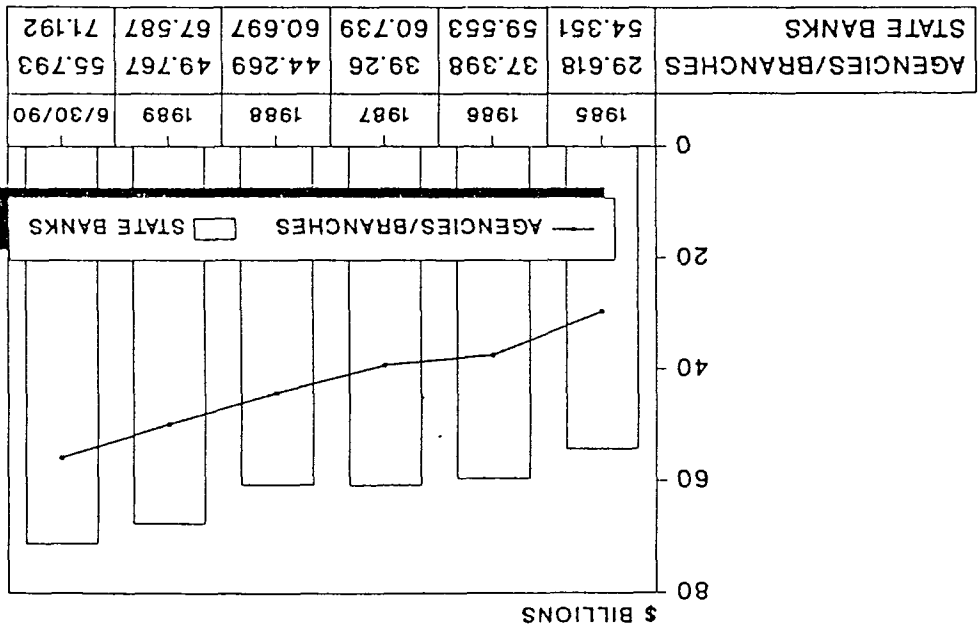
BRANCH AND AGENCY OFFICES
OF FOREIGN BANKING CORPORATIONS
GROUPED BY ASSET SIZE



ASSETS OF SUBSIDIARIES OF FOREIGN BANKS
BY COUNTRY OF ORIGIN



TOTAL LOANS • MADE BY STATE CHARTERED BANKS AND AGENCIES/BRANCHES IN CALIFORNIA - AN OVERVIEW



• Loans & leases (net of unearned inc.)

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION IN CALIFORNIA BY COUNTRY OF ORIGIN
(State Chartered only)
(in thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets	
	Agency/Branch	California Corporate Subsidiary
Australia		
Australia and New Zealand Banking Group, Ltd. b	\$158,399	
Commonwealth Bank of Australia a	28,852	
National Australia Bank, Limited b	165,029	
	<u>\$352,280</u>	
Brazil		
Banco do Brasil, S.A. b	\$605,029	
Banco do Estado de Sao Paulo b	91,695	
Banco Real, S.A. b	86,445	
	<u>\$783,169</u>	
Canada		
Bank of Montreal		\$6,936 Harris Trust Co. of CA
Bank of Nova Scotia (The) b	\$1,309,768	
Canadian Commercial Bank (in Liquidation)		248,002 Commercial Center Bank
Canadian Imperial Bank of Commerce a	0	131,467 Canadian Imperial Bank of Commerce (California)
National Bank of Canada a	1,000	
Royal Bank of Canada (The) b	535	
Toronto-Dominion Bank (The) b	526	
	<u>\$1,311,829</u>	<u>\$386,405</u>
Denmark		
AktivaBanken, A/S b	\$59,311	
Den Danske Bank Aktieselskab c	46,259	
	<u>\$105,570</u>	
El Salvador		
Banco Agrícola Commercial de El Salvador a	\$921	
France		
Banque Indosuez c	\$96,130	
Banque Nationale de Paris b	1,151,009	
Banque Paribas a	444,764	
Caisse Nationale de Credit Agricole c	4,711	
Credit Lyonnais a	62,023	
Societe Generale c	86,118	
	<u>\$1,884,755</u>	<u>\$2,704,721</u>

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION
IN CALIFORNIA BY COUNTRY OF ORIGIN
(State Chartered only)
(In thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets	
	Agency/Branch	California Corporate Subsidiary
Germany		
Bayernische Vereinsbank (Union Bank of Bavaria) b	\$43,611	
Commerzbank Aktiengesellschaft e	434,228	
Deutsche Bank, AG e	19,721	
DO Bank Deutsche Genossenschaftsbank e	513,078	
Dresdener Bank, A. G. b	161,982	
	<u>\$1,172,640</u>	
Hongkong		
Cheong Fook Bank, Limited b	\$254,466	
Hong Kong and Shanghai Banking Corp. (The) c	333,892	
Lee Chong Hong Bank, Ltd. b	35,439	
Shanghai Commercial Bank, Limited b	181,672	
	<u>\$805,469</u>	
India		
Bank of India b	72,358	
State Bank of India b	99,957	\$27,857 State Bank of India (California)
	<u>\$172,315</u>	<u>\$27,857</u>
Indonesia		
Bank Dagang Negara b	\$241,930	
P. T. Bank Negeri b	189,674	
	<u>\$431,604</u>	
Iran		
Bank Mellat Iran b	\$3,269	
Israel		
Bank Hapoalim, B. M. d	\$229,691	
Bank Leumi le-Israel d	249,520	
Israel Discount Bank, Ltd. b	61,484	
United Mizrahi Bank, Ltd. d	105,144	
	<u>\$645,850</u>	

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION
IN CALIFORNIA BY COUNTRY OF ORIGIN
(State Chartered only)
(In thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets	
	Agency/Branch	California Corporate Subsidiary
Italy		
Banca Commerciale Italiana a	\$129,098	
Banca Nazionale del Lavoro b	187,237	
Banco di Roma b	1,537,394	
Banco di Sicilia b	170,378	
Credito Italiano b	111,412	
Istituto Bancario San Paolo di Torino	1,050,640	First Los Angeles Bank
	<u>\$2,135,519</u>	<u>\$1,050,640</u>
Japan		
Bank of Tokyo, Limited (The) a	\$2,924,016	\$15,959,550 Union Bank
Bank of Yokohama, Ltd. (The) b	312,832	
Chiba Bank, Ltd. (The) b	52,736	
Chuo Trust and Banking Company, Ltd. (The) b	738,821	
Daiwa Bank, Ltd. (The) a	1,636,510	
Dai-ichi Kangyo Bank, Ltd. (The) b	5,131,293	\$03,415 Dai-ichi Kangyo Bank of (California)
Fuji Bank, Ltd. (The) a	5,661,802	
Hokkaido Tenboku Bank, Ltd. (The) a	622,194	
Industrial Bank of Japan, Ltd. (The) a	9,091,119	
Kyowa Bank, Ltd. (The) a	1,125,906	102,099 Kyowa Bank of California
Looy-Term Credit Bank of Japan, Ltd. (The) a	3,053,081	
Mitsubishi Bank, Ltd. (The) b	4,104,759	1,277,800 Mitsui-Manufacturers Bank
Mitsubishi Trust and Banking Corp. (The) a	3,467,244	
Mitsui Bussan Kaisha Bank, Ltd. (The) a	3,074,051	
Mitsui Trust and Banking Company, Ltd. (The) a	3,553,018	
Nippon Credit Bank, Ltd. (The) b	2,145,931	
Saitama Bank, Ltd. (The) b	894,725	
Sanwa Bank, Ltd. (The) b	3,402,603	7,082,143 Sanwa Bank of California
Shanooka Bank, Ltd. (The) b	740,329	
Sumitomo Bank, Ltd. (The) b	4,434,113	4,429,585 Sumitomo Bank of California
Sumitomo Trust & Banking Company, Ltd. (The)	2,042,599	
Tokai Bank, Ltd. (The) a	5,055,235	1,196,870 Tokai Bank of California
Toyo Trust and Banking Company, Ltd. (The) a	1,243,691	
Yasuda Trust and Banking Company, Ltd. (The) a	4,294,133	
	<u>\$68,866,761</u>	<u>\$30,531,462</u>
Korea		
Bank of Seoul a	\$187,915	\$47,589 Seoul Bank California
Cho-Hung Bank (The) a	136,462	
Commercial Bank of Korea, Ltd. (The) a	266,514	

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION
IN CALIFORNIA BY COUNTRY OF ORIGIN
(State Chartered only)
(In thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets Agency/Branch	Total Assets California Corporate Subsidiary
Korea - (Continued)		
Hanil Bank, Ltd (Tb) a	302,341	112,542 First State Bank of So. CA
Korea Exchange Bank a	529,434	424,224 California Korea Bank
Korea First Bank a	247,967	
	<u>\$1,670,703</u>	<u>\$584,355</u>
Luxembourg		
Bank of Credit & Commerce Int'l, S A b	\$75,696	
Malaysia		
Bank Bumiputera Malaysia Berhad b	\$37,055	
Mexico		
Banco Serfin, S N C b	\$237,763	\$444,842 California Comerses Bank
Banco Nacional de Mexico b	39,024	338,073 Groatmont Bank
Bancomer, S N C b	921,127	
	<u>\$1,197,914</u>	<u>\$822,915</u>
Netherlands		
Algemeene Bank Nederland, N V b	\$85,394	
Philippines		
Allied Banking Corporation		\$62,907 Oceanic Bank
Manila Banking Corporation	22,979	Manila Bank California
Metropolitan Bank & Trust Company	126,173	International Bank of CA
Philippine Commercial & International Bank b	\$17,032	
Philippine National Bank a	17,085	66,887 Century Bank
	<u>\$34,117</u>	<u>\$778,946</u>
Singapore		
Development Bank of Singapore, Ltd. b	\$26,921	
International Bank of Singapore, Ltd. b	24,613	
Overseas Union Bank, Limited b	64,983	
Oversea-Chinese Banking Corporation b	1,691	
United Overseas Bank, Ltd. b	222,587	
	<u>\$344,795</u>	

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION
IN CALIFORNIA BY COUNTRY OF ORIGIN
(State Chartered only)
(In thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets Agency/Branch	Total Assets California Corporate Subsidiary
Spain		
Banco Bilbao Vizcaya b	\$341,640	
Banco Central, S A b	85,703	
Banco Exterior de Espana b	92,738	
	<u>\$520,081</u>	
Switzerland		
Credit Suisse a	\$217,840	
Swiss Bank Corporation a	392,827	
	<u>\$610,707</u>	
Taiwan		
Bank of Communications Co., Ltd. a	\$135,640	
First Commercial Bank (Inc. in Taiwan, R.O.C.) a	312,067	
Hsin Nian Commercial Bank, Ltd. a	162,487	
	<u>\$610,194</u>	
Thailand		
Bangkok Metropolitan Bank b	\$32,895	
Thai Farmers Bank, Ltd. a	161,412	
	<u>\$194,307</u>	
United Kingdom		
Barclays Bank, plc b	\$599	
National Westminster Bank PLC b	91,544	
Royal Bank of Scotland (Tb) b	19,741	
Standard Chartered Bank plc a	39,059	
	<u>\$150,943</u>	
TOTAL - Foreign Countries	\$44,243,957	\$36,317,301

TOTAL ASSETS OF FOREIGN BANKS WITH REPRESENTATION
IN CALIFORNIA BY COUNTRY OF ORIGIN
(State chartered only)
(In thousands of dollars)

Name of Bank (by Country of Origin)	Total Assets	
	Agency/Branch	California Corporate Subsidiary
U.S. Territories		
Guam		
Bank of Guam d	\$1,072	
Puerto Rico		
Banco Popular de Puerto Rico d	\$61,215	
TOTAL - U.S. Territories	\$69,357	
GRAND TOTAL	\$44,313,314	\$36,387,301

a Nondepository agency
b Depository agency
c Limited branch
d Retail branch
e Wholesale branch

AS OF JUNE 30, 1990

For release on delivery
10:00 A.M. EDT
October 16, 1990

Testimony of
William Taylor

Staff Director, Division of Banking Supervision and Regulation
Board of Governors of the Federal Reserve System
before the

Committee on Banking, Finance and Urban Affairs
United States House of Representatives

October 16, 1990

Mr. Chaitman, I appreciate the opportunity to testify on the role of the Federal Reserve in the supervision of foreign banks operating in the United States. The testimony of the Federal Reserve Bank of Atlanta discusses in some detail the actions taken by the Federal Reserve to deal with the problems at the Atlanta agency of Banca Nazionale del Lavoro (BNL). Therefore, I will focus more generally on the Federal Reserve's role in supervising the U.S. operations of foreign banks, referring to the BNL case to show how this authority was actually used in a particular situation.

The Federal Reserve's authority and responsibility for supervising the U.S. operations of foreign banks are derived primarily from two statutes, the Bank Holding Company Act and the International Banking Act of 1978 (IBA). Any foreign bank that owns a U.S. bank is subject to the Bank Holding Company Act. The IBA for the first time established federal jurisdiction over the U.S. operations of foreign banks that have branches or agencies in the United States, but do not own a U.S. bank, and applied certain provisions of the Bank Holding Company Act to these organizations. Thus, the IBA established an overall framework for regulating the full range of activities of foreign banks in the United States and provided for a federal role in the supervision of branches and agencies of foreign banks. Prior to the passage of the IBA, the operations of U.S. branches and agencies of foreign banks were licensed and supervised solely by state banking authorities.

Since I have been asked to focus on the supervision of branches and agencies, I will discuss principally the Board's

responsibilities under the IBA. However, the two Acts need to be looked at in tandem. For example, in addition to operating branches and agencies in the United States, BNL was a large issuer of commercial paper through a U.S. non-bank subsidiary. In the case of this company, the Federal Reserve's supervisory authority arose from the application by the IBA of part of the Bank Holding Company Act to BNL.

With the enactment of the IBA, Congress established a federal role in the licensing and supervision of branches and agencies of foreign banks that paralleled the federal government's role in the dual banking system. Foreign banks were given the option of establishing a banking office in the United States by obtaining either a federal license from the Office of the Comptroller of the Currency (OCC) or a license from one of the various states. The IBA permits multiple offices to be established using either state or federal licenses or both.

Federally licensed offices are supervised by the OCC and state licensed offices by the states. As is the case with banks, state licensed offices are also subject to some federal supervision, by the Federal Deposit Insurance Corporation (FDIC), if the branches have insured deposits, or the Federal Reserve for uninsured state licensed offices. It should be noted, however, that unlike banks, the vast majority of branches and agencies of foreign banks, including those of BNL, are not insured by the FDIC and do not accept consumer deposits.

Congress recognized at the time of enactment of the IBA, that many foreign banks already operated branches or agencies in a number of states, and that the trend of operating

under a number of different licenses could be expected to continue. Therefore, Congress determined that there should be one agency responsible for overseeing the totality of a foreign bank's operations in the United States. The Federal Reserve was given this umbrella supervisory authority. In order to carry out this responsibility, the Federal Reserve was given residual examination authority over all U.S. branches and agencies and the authority to obtain information from the foreign parent. The Federal Reserve also has the authority to undertake necessary supervisory actions against the foreign banking organization and its various U.S. offices.

Congress, nevertheless, instructed the Board to rely to the maximum extent possible upon the examinations conducted by the appropriate licensing authority and the FDIC. The Federal Reserve has made extensive use of the examination reports of other supervisors, and there is a high degree of cooperation and consultation among the various supervisory agencies at both the state and federal levels.

The Federal Reserve has exercised its authority by establishing a regular reporting system that covers all of the U.S. banking operations of foreign banks, working with the other supervisors to set examination standards, reviewing all examination reports of branches and agencies, obtaining information on the condition of the parent bank, meeting on a regular basis with the foreign banks operating in the United States, and taking enforcement actions where necessary. The Federal Reserve has also worked with the other federal bank regulatory agencies and the various states to establish a common

examination format and with their cooperation has sought to assure that each foreign branch or agency is examined at least once every eighteen months, a schedule that is basically being followed.

The Federal Reserve receives and reviews all examination reports conducted by the other federal and state bank supervisors. It collects and analyzes quarterly reports of condition and reports on foreign credit exposure from all branches and agencies of foreign banks. Through these and other means, the Federal Reserve tracks the condition of all U.S. offices of a foreign bank to assess the foreign bank's performance on a nationwide basis. The Federal Reserve also monitors the actions taken by other supervisors to require foreign banks to correct problems in particular offices, and undertakes enforcement or other corrective actions of its own where appropriate. In some cases, the Federal Reserve conducts examinations itself or participates in examinations conducted by other supervisory agencies. In the case of BNL it had been our practice to assign an examiner to the examinations conducted by the State of Georgia.

The Federal Reserve's direct role in the examination process varies from state to state. Its role depends on such factors as the importance of foreign banks in a particular state, the examination resources of the states, and the experience of the states in this area. For example, in California the Federal Reserve Bank of San Francisco and the state banking authority share the examination work load by each conducting examinations of particular offices in alternate years. In New York, on the

other hand, the examinations are currently conducted almost exclusively by the State of New York. In Texas the Federal Reserve Bank of Dallas conducts joint examinations with the state. Similarly, in other states various arrangements have been made depending on the circumstances. In some states with a very small foreign presence there is currently no direct Federal Reserve participation in the examination process.

The Federal Reserve also directly supervises the U.S. non-bank financial operations of foreign banks. Such activities require Board approval under the Bank Holding Company Act. In acting on such applications the Board reviews the condition of the foreign bank to make certain that it can be a source of strength to its U.S. operations. In addition, the Board reviews all of the existing U.S. operations of the foreign bank in an effort to assure that the overall operations of the foreign bank in the United States are in satisfactory condition.

Federal Reserve staff meets on a regular basis with the management of foreign banks operating in this country to discuss overall operations and to address problem areas. In addition, the Federal Reserve discusses problems with the home country supervisors.

It is important to keep in mind that branches and agencies are not U.S. banks. A branch or agency is an integral part of a foreign bank. The operations of the U.S. branches and agencies directly affect the condition of the whole bank and in turn are affected by developments at the head office and other branches. The Basle Concordat on supervising international banks recognizes this interdependence and emphasizes the responsibility

of the home country authority to supervise the foreign branches and agencies of its banks. The home country regulator is the authority most capable of supervising the overall solvency and activities of the foreign bank.

To summarize, in the BNL Atlanta case, the State of Georgia examined the Atlanta agency of BNL, with participation by the Federal Reserve. The Federal Reserve was further responsible for supervising the overall U.S. activities of BNL; and the Bank of Italy provided BNL with worldwide supervision.

I would now like to discuss how the Federal Reserve used its umbrella oversight authority in resolving the BNL problem in an orderly manner, and how it interacted with other supervisory authorities.¹ Let me say at the outset that once we became aware of the possible size of the illicit operations at BNL Atlanta, we recognized the potential for a significant disruption of banking markets. Therefore, cooperation among the authorities, both here and abroad, was essential in dealing effectively with this case.

As to the origin and growth of the illicit operations in BNL Atlanta, this was a situation that involved massive fraud

¹The Committee has requested information on the examination of U.S. offices of BNL and the Federal Reserve's role in those examinations. Since 1985, there have been 25 examinations of BNL's offices in the United States. Eight of these are Federal Reserve reports (including a joint report with the State of New York) and seventeen are State reports. Prior to the discovery of the recent fraud, the Atlanta office was examined every year by the State of Georgia with limited participation by the Federal Reserve Bank of Atlanta.

in which a large number of employees acted together to conceal the operation and deceive auditors and examiners. Books and records concerning the illicit operations were removed from the office by employees during examinations and audits. Much of the work associated with these transactions was conducted from employees' homes, and, of course, the office did not report the illicit activities on reports filed with the supervisory agencies.

The physical segregation of records, together with the concerted efforts of key employees, make it extremely difficult for examiners to uncover this type of illicit and fraudulent activity. Examiners also rely to a considerable extent on internal and external auditors. In the BNL Atlanta case, neither the internal auditors nor the large U.S. accounting firm conducting the external audit uncovered the large off-book lending and funding operation, although a 1988 audit report by the New York branch of BNL did criticize procedures at the Atlanta office.

Once the Federal Reserve became aware of the problem in BNL Atlanta, it initiated actions to determine the full scope of the problem, to assist federal law enforcement personnel, and to insure that the problem did not disrupt the financial system. After discussions with law enforcement personnel, a decision was made to have the Federal Bureau of Investigation (FBI) seize the records of the Atlanta office late in the day on Friday, August 4, 1989. The FBI agents were accompanied by Federal Reserve examiners who acted as technical advisors to the agents. The Federal Reserve also began an examination of the Atlanta agency

on that date. At approximately the same time, Federal Reserve examiners began examinations of the other U.S. offices of BNL and its commercial paper operation. State regulatory agencies were informed that these examinations had commenced and that there were problems in the Atlanta office of BNL.

Earlier in the week, the Federal Reserve informed the Bank of Italy that there was an urgent matter that the Federal Reserve needed to discuss. Senior Federal Reserve officials were dispatched to Rome to meet with officials of the Bank of Italy. The Bank of Italy was notified that it was likely that the Atlanta office of BNL had a large unreported business and that federal authorities were going to intervene on Friday, August 4. The Federal Reserve also advised the Bank of Italy of its concern that events might affect the dollar liquidity of BNL. The need for secrecy was emphasized so as not to jeopardize the seizure of the records by law enforcement personnel.

The Bank of Italy immediately undertook measures to make certain that the head office of BNL took appropriate actions once the seizure of the records was completed. The BNL official in charge of operations for the whole bank was sent to Atlanta arriving on Sunday, August 6. Other BNL personnel from Italy and New York were also immediately dispatched to Atlanta. BNL began marshalling dollar liquidity and transferring liquid dollar assets to the New York branch to meet any funding contingencies that might arise. The Bank of Italy closely supervised BNL's actions and dispatched its senior examination officers to Atlanta immediately.

the U.S. operations of foreign banks and to respond to potential crises. No further authority seems necessary in this area.

While audit and internal control standards can be improved as the result of lessons learned from the BNL experience, the operation of BNL Atlanta involved massive fraud accompanied by false entries on the agency's books and false reporting to the federal authorities. Good controls can generally defend against this type of fraud by a single individual or a few individuals, but when a number of people within an organization conspire to "cook the books" it becomes much more problematic. More intensive monitoring and audits will help, but it is also important to deter this type of activity by successful prosecution and punishment of those involved.

In this regard it has come to our attention that some of the federal laws related to fraudulent actions in banks of the type involved in this case are not applicable to uninsured state licensed branches and agencies of foreign banks. The Federal Reserve believes that this situation should be corrected and has already furnished your Committee with proposed legislation in this area. I would urge that such legislation be promptly adopted.

This is not to say, however, that examination procedures can remain static. Over the past few years the Federal Reserve has been increasing its role in the supervision of branches and agencies as these entities have become more important factors in the U.S. banking market. The testimony of the Federal Reserve Bank of Atlanta describes how that Reserve bank has increased its examination efforts in Florida and

To summarize, the Federal Reserve was able to use the supervisory authority conferred by the IBA to conduct simultaneous nationwide examinations of BNL's branches and agencies and to inspect its commercial paper subsidiary. These actions were taken on short notice and in a manner consistent with the need to maintain the secrecy necessary for the criminal investigation. The Federal Reserve was able to discuss the specific supervisory problem and its systemic implications with the Bank of Italy in order for Italian officials to make certain that BNL had sufficient dollar liquidity to service all of its dollar liabilities. I might note that no Federal Reserve funds were advanced to BNL. Through the Bank of Italy, the Federal Reserve was able to insure that BNL acted promptly to place new management in the Atlanta office and to contain the problem.

Once initial actions were taken, the Board worked with the Bank of Italy and state examination agencies to document the full scope of the problem and to identify the weaknesses in BNL's internal controls that enabled the illicit operations to develop undetected. In cooperation with the Bank of Italy and state supervisory authorities, corrective actions for BNL's U.S. offices were identified and implemented. The Federal Reserve has also continued to provide assistance to federal law enforcement personnel when requested.

Mr. Chairman, you have asked what additional authority the Federal Reserve might need in this area. As the actions described above illustrate, the IBA and other statutes provide the Federal Reserve with the broad authority needed to supervise

Georgia, two states in which the presence of branches and agencies of foreign banks has grown rapidly. The Federal Reserve Bank of New York is increasing its examination resources to enable it to expand its role as well. In addition, state authorities have taken actions to increase their ability to supervise branches and agencies of foreign banks. A special committee has been established under the auspices of the Conference of State Bank Supervisors to review state policies and to increase cooperation in this area among supervisors. The Federal Reserve has met with members of this committee to discuss examination matters of mutual interest. There are plans next year to have concurrent examinations of all of the U.S. branches and agencies of a select group of large foreign banks to determine if there are significant benefits to be derived from this type of examination format. In the international context, the Basle Committee on Banking Supervision has discussed the BNL case and its implications for the supervision of banks operating internationally.

The Federal Reserve intends to monitor closely the effectiveness of all of these efforts in view of the growing presence of foreign banks in U.S. financial markets. Historically, as you are no doubt aware, the principal focus of U.S. regulators has been on insured U.S. institutions given the presence of the federal safety net and the potential liability represented by the existence of federal deposit insurance. As the role of foreign banks in our markets evolves, however, we need to continually review the adequacy of the resources devoted to supervising these entities. The Federal Reserve will continue

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to work closely with the other federal and state regulators to ensure an adequate supervisory framework for foreign banks in this country. If necessary and appropriate, we will not hesitate to propose and adopt further steps to strengthen federal oversight of the U.S. activities of foreign banks.

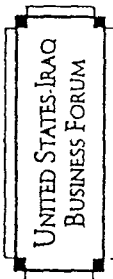
This concludes my testimony. I am prepared to answer questions you might have on the Federal Reserve's supervisory role.

Testimony for the Committee on Banking,
Finance and Urban Affairs of the
U.S. House of Representatives
Oct. 19, 1990 at 9:30 a.m.

The United States Iraq Business Forum is a trade

association of United States companies who had a common interest in doing business with Iraq. It is a tax exempt non-profit corporation organized under Section 501(c)6 of the Internal Revenue Code. In July, 1990, it had a membership of 75 companies, including a number of America's largest corporations. The Board of Directors included representatives from Mobil, Amoco, Westinghouse, General Motors, Caterpillar, and City Bank of Texas. The Forum is supported solely by dues from its member companies. It has received no money from the Iraqi government, Iraqi companies, or Iraqi individuals.

The Forum was founded in 1985 for the purpose of promoting United States exports to Iraq. It organized a trade mission to Iraq, hosted receptions for visiting Iraqi officials to which representatives of member companies were invited, assisted member companies in obtaining visas and making the proper business contacts in Iraq, and conducted seminars on doing business in Iraq. It published a quarterly bulletin and other information on Iraq for distribution to member companies. Membership dues were \$5,000 per year for the larger companies and \$2,500 per year for the smaller ones. A list of member companies as of July 1990 is enclosed.



MEMBERSHIP LIST - JULY, 1990

- | | |
|--------------------------------------|--|
| A. E. INTERNATIONAL, INC. | HUNT OIL COMPANY |
| AMERICAN CAST IRON PIPE CO. | INTERNATIONAL RESOURCES |
| AMERICAN IRON FINANCE & TRADE | IONICS CORPORATION |
| AMERICAN RICE, INC. | J. A. JONES CONSTRUCTION CO. |
| AMOCO CORPORATION | JAS. J. MILLER TOBACCO CO. |
| ANDROYNE, INC. | M. W. KELLOGG COMPANY |
| ARABIAN NATIONAL SHIPPING | LINGOLN-KALITEK JOINT VENTURE |
| CORPORATION | LINDNER & COMPANY |
| ARTHUR ANDERSEN & COMPANY | LOCKHEED CORPORATION |
| BMY | LUXOR CALIFORNIA EXPORTS CORP. |
| BAKER HUGHES PRODUCTION | MATHEY INTERNATIONAL LTD. |
| TOOLS, INC. | MIDGULF INDUSTRIAL CONSULTANTS, INC. |
| THE BANK OF NEW YORK | MOBIL OIL CORPORATION |
| BANKERS TRUST COMPANY | MORRISON KNUDSEN CORPORATION |
| BECHTEL GROUP, INC. | NIEDERMEYER-MARTIN COMPANY |
| BELL HELICOPTER-TEXTRON | NORWICH EATON PHARMACEUTICALS INC. |
| BRITISH GAS, EXPLORATION & | OBELISK CORPORATION |
| PRODUCTION DIVISION | OCCIDENTAL INTERNATIONAL |
| BRITISH PETROLEUM | EXPLORATION & PRODUCTION CO. |
| BROWN & ROOT, INC. | OHRA CORPORATION |
| CALTEX PETROLEUM CORPORATION | PEPSICOLA INTERNATIONAL |
| CATERPILLAR, INC. | CHARLES PERCY & ASSOCIATES |
| CHEVRON CORPORATION | PETROLITE CORPORATION |
| COMET RICE, INC. | PHILIP MORRIS INTERNATIONAL |
| CONOCO, INC. | PICOR MARKETING GROUP, INC. |
| CENTRAL GRAIN COMPANY | REGEL INTERNATIONAL, INC. |
| CRESENT CONSTRUCTION COMPANY | SEVAL |
| CRESCENT INTERNATIONAL PETROLEUM USA | SMITHKLINE-BEECHAM INTERNATIONAL, INC. |
| DAKTLER LUMBER & EXPORT CO., INC. | SMITH METER INC. |
| DEARBORN FINANCIAL INC. | TABATAH INTERESTS, INC. |
| DRESSER PUMP DIVISION | TELETEC CORPORATION |
| DRESSER INDUSTRIES, INC. | TELEWAR INTERNATIONAL, INC. |
| ENTRADE INTERNATIONAL LIMITED | TEXACO, INC. |
| EXXON COMPANY, INTERNATIONAL | UNITED TECHNOLOGIES CORPORATION |
| FAIRBANKS MANAGEMENT CORPORATION | UNOCAL CORPORATION |
| FENTEX INTERNATIONAL CORPORATION | VALMONT INDUSTRIES, INC. |
| FIRST CITY BANK CORPORATION OF | WESTINGHOUSE ELECTRIC CORPORATION |
| TEXAS, INC. | WOODHOUSE, DRAKE & CAREY (TRADING) |
| FISHER SCIENTIFIC | XEROX |
| GENERAL MOTORS CORPORATION | |
| THE GRONEL COMPANY, LTD. | |
| GULF INTERSTATE ENGINEERING CO. | |

The Forum suspended all activities related to the promotion of trade with Iraq on Aug. 2, 1990.

United States Iraqi Commerce has increased steadily since the restoration of diplomatic relations between the United States and Iraq in 1984. The principal constraint on exports to Iraq has been the cash flow squeeze suffered by Iraq as a result of the eight year war with Iran. In 1988, the Iraqis estimated that they could clear up the debt created by the war in five to seven years and could then return to their previous practice of paying cash for all imports. In the meantime they asked for two years credit terms on most of their imports. Private bank credit for Iraq became increasingly difficult to find and exports to Iraq were, for practical purposes, limited to transactions eligible for government export credit guarantees or to the relatively few high priority items for which the Iraqis were willing to pay cash.

In the longer run Iraq appeared to be an excellent future market for the United States. The regime had ambitious plans for economic development and had a high regard for United States technology and capital goods. They have the natural resource required for balanced development of industry and agriculture. They also have the second largest reserves of crude oil in the Middle East which could provide the capital needed to finance their development plans.

In 1989, approximately two-thirds of U.S. exports to Iraq were agricultural commodities. The other one-third included a variety of consumer goods and capital goods such as pharmaceutical products, construction materials, automotive spare parts, and water pipe. The agricultural commodities were financed by the credit guarantee programs of the Commodity Credit Corporation of the Department of Agriculture. In addition, the Export/Import Bank's Foreign Credit Insurance Association (FCIA) provided a \$200 million line of short term credit insurance for exports to Iraq. The FCIA credit insurance was limited to credits of one year or less. In a relatively few cases, exporting companies accepted delayed payment terms of one or two years on their own account. There were also a few transactions financed by European banks without credit guarantees but at extremely high rates of interest. Very few U.S. banks were willing to confirm Iraq's letters of credit or extend credit to Iraq without credit guarantees. Some high priority items were purchased by Iraq for cash.

The business and financial community viewed Iraq as a potentially important trading partner for the United States. Iraq's banking system and its payments record were considered excellent prior to the Iraq-Iran war. After the war began in 1980, Iraq first drew down its substantial reserves but by 1982 payment problems began to develop. These were exacerbated in 1985 when the price of crude oil declined sharply.

At this time Iraq negotiated a series of bilateral debt rescheduling agreements with individual countries, but refused to engage in a multi-lateral rescheduling exercise, apparently in the belief that Iraq had more leverage in bilateral negotiations. The international banking community, however, viewed Iraq's behavior as discrimination between creditors, and private bank credit for Iraq became increasingly difficult to find. Iraq's leadership, on their side, believed that the western world was not sufficiently appreciative of Iraq's costly efforts in checking Iranian aggression into the oil rich areas to the west of the Gulf. They believed that they would be able to obtain government guaranteed credits which, when combined with their substantial oil export earnings, would give them enough foreign exchange to work their way out of their cash flow squeeze without multi-lateral rescheduling.

The Iraqis have never released official figures on their debt, but it has been estimated at approximately \$80 billion dollars of which approximately \$35 billion is in the form of "hard" debt to trading partners in Europe, Asia, and the United States which will need to be repaid. The balance is "soft" debt to the oil exporting Arab states pursuant to loans which most analysts believe were understood by all parties as "de facto" grants which will never be repaid.

In 1990, Iraq's cash flow situation worsened as oil prices dropped and western governments became increasingly

reluctant to provide credit guarantees for loans to Iraq. The Iraq leadership apparently began to believe that Kuwait was conspiring with the United States and other Western governments to damage the Iraqi economy. They could not understand why a rich country like Kuwait would exceed its OPEC quota and drive down the price of oil unless it had a hostile intent towards Iraq.

The U.S. decision to suspend the issuance of CCC credit guarantees for Iraq in January, 1990, probably added to their suspicions of a hostile conspiracy. These suspicion were probably a factor in their final decision to invade Kuwait.

The Iraq government prohibited foreign investment in Iraq except by nationals of other Arab countries. During the past two or three years, Iraqi government officials have indicated that the law might be waived on a case by case basis for joint ventures with American firms. To my knowledge no such joint venture has been formed. Some American companies may still have machinery or equipment in Iraq which was sent there to carry out turn key or construction projects. There is, however, no significant American equity investment in Iraq.

In my opinion, the U.S. government's commercial policies toward Iraq prior to the invasion of Kuwait were prudent. We did not give Iraq foreign aid nor did we sell Iraq arms or ammunition throughout their long war with Iran even

4. Please describe the business and financial community's perception of Iraq? Was Iraq a good credit risk? Did Iraq have access to world capital markets? Did many U.S. firms make investments in Iraq?

5. In your opinion, prior to the Gulf invasion of Kuwait, was Administration trade and investment policy towards Iraq prudent? Please explain.

In addition, please address the activities of BNL.

Committee rules require your testimony be made available to Members twenty-four hours in advance of a hearing. Please deliver 50 copies of your written testimony to Room 2129 Rayburn House Office Building by 9:30 a.m., October 24, 1990. You will be given 10 minutes to summarize your testimony at the beginning of the hearing.

Thank you for your time and consideration of this request. The Committee looks forward to your testimony.

With best wishes.

Sincerely,
Henry B. Gonzalez
Henry B. Gonzalez
Chairman

HBG:dk

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED FIRST CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED FIRST CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515

September 28, 1990

Mr. Christopher Goldthwait
Assistant General Sales Manager
& Assistant Administrator for Export Credits
Foreign Agricultural Service
Room 5071 - South Building
Department of Agriculture
Washington, D.C. 20250

Dear Mr. Goldthwait:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta Branch of Banca Nazionale Del Lavoro (BNL) and the regulation of U.S. branches and agencies of foreign banks on October 9, 1990, at 9:30 a.m. in Room 2129 Rayburn House Office Building. You or your designee are invited to testify at that hearing.

Specifically, the Committee is interested in BNL's use of several commodity export programs of the United States Department of Agriculture (USDA). Please address the following questions in your testimony.

- 1) Please provide the Committee with an overview of the Export Credit Guarantee Program (GSM-102) and the Export Enhancement Program (GSM-103).
- 2) Please provide a history of Iraq's utilization of these programs, including:
 - an overview of the annual credit consultation process as it relates to Iraq;
 - the dollar amount authorized for Iraq under each program since fiscal year 1983;
 - the current dollar amount of Iraqi exposure under these programs;
 - Iraq's payment history.

U.S. HOUSE OF REPRESENTATIVES
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WASHINGTON, DC 20515

3) What is the USDA's exposure to BNL under the GSM-102 and GSM-103 programs? How much of this exposure is related to Iraq? Has BNL filed any notices of nonpayment under these programs? If so, has the USDA made any payments to BNL?

4) Please provide a summary of the USDA's administrative review of the Iraq GSM-102 Program.

In addition, please feel free to provide any additional information relating to BNL-Atlanta's use of USDA commodity export programs.

Committee rules require your testimony be made available to Members twenty-four hours in advance of a hearing. Please deliver 50 copies of your written response to these questions to Room 2129 Rayburn House Office Building by 9:30 a.m., October 8, 1990. You will be given 10 minutes to summarize your testimony at the beginning of the hearing.

Thank you for your time and consideration of this request. The Committee looks forward to your testimony.

With best wishes.

Sincerely,
Henry B. Gonzales
Henry B. Gonzales
Chairman

HBG:dk

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October 4, 1990

Mr. John D. Macomber
Chairman
U.S. Export-Import Bank
811 Vermont Avenue, N.W.
Washington, D.C. 20571

Dear Mr. Macomber:

The Committee on Banking, Finance and Urban Affairs will hold a hearing at 9:30 a.m., October 16, 1990 in Room 2129 Rayburn House Office Building, to explore the U.S. operations of Banca Nazionale del Lavoro (BNL). You are invited to testify at that hearing.

A segment of this hearing will explore U.S. export promotion policy towards Iraq and the Iraq participation in Export-Import Bank programs through BNL.

Specifically, the Committee would like your testimony to address the following:

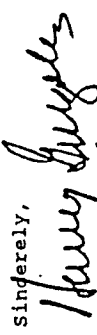
- 1) Please explain U.S. policy towards Iraq participation in Export-Import Bank programs prior to August 2, 1990 and after August 2, 1990.
- 2) Please provide the Committee with an overview of the Export-Import Bank programs utilized by Iraq.
- 3) What is the current Export-Import Bank exposure to Iraq?
- 4) Please explain BNL participation in Export-Import Bank programs?

In addition, please feel free to provide any additional information relating to BNL's use of Export-Import Bank programs.

- 2. Is the regulatory structure governing the U.S. branches and agencies of foreign banks adequate or is the fragmented structure that exists (i.e., the regulation and oversight of these entities is divided among the FDIC, FRB and Federal Reserve as well as the 50 States) more or less than such as the one that occurred in the BNL Atlanta case?
- 3. Do you have any recommendations for improving or streamlining the regulation and examination of these entities? Do you have any suggestions for improving coordination between the state banking agencies and the federal bank regulatory agencies?
- 4. Please explain the Federal Reserve's role in regulating the U.S. branches and agencies of foreign banks. What type of examination does the Federal Reserve conduct (i.e. safety and soundness or compliance)?

I thank you for your time and consideration. Your cooperation is most appreciated, and I look forward to your testimony.

With best wishes.

Sincerely,

 Henry B. Gonzalez
 Chairman

HBG:dk

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When I receive your comment, I will forward it to the following: Mr. L. R. Brown, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515. Mr. J. J. Pickens, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515. Mr. J. J. Pickens, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515. Mr. J. J. Pickens, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515.

Chairman of the U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515. Mr. J. J. Pickens, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515. Mr. J. J. Pickens, Chairman, U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Room 2129 Rayburn House Office Building, Washington, DC 20515.

U. S. HOUSE OF REPRESENTATIVES
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED FIRST CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON DC 20515

September 25, 1990

Mr. Pietro Lombardi
 Regional Manager
 Banca Nazionale Del Lavoro
 25 West 51st Street
 New York, New York 10019

Dear Mr. Lombardi:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta Branch of Banca Nazionale Del Lavoro (BNL) and the regulation of U.S. branches and agencies of foreign banks on October 9, 1990, at 9:30 a.m. in Room 2129 Rayburn House Office Building. You or your designee(s) are invited to testify at that hearing.

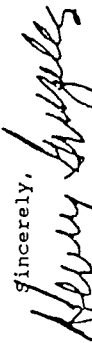
In order that the Members of the Committee may understand the events that led up to the alleged unauthorized loans to Iraq by former employees of the Atlanta Branch of BNL, I ask that your testimony address the following questions.

- 1) Please explain the circumstances at BNL-Atlanta over the past five years that resulted in your institution filing a civil case against former BNL employees Mr. Drogoul & Mr. von Wedel.
- 2) How often did the Federal Reserve and/or the State of Georgia examine BNL-Atlanta operations? What type of examinations were conducted? Did BNL sign a supervisory agreement with the Federal Reserve? Why or why not? Are you confident that BNL has corrected the problems that led to the unauthorized loans to Iraq? What specific actions have been taken to correct these problems?
- 3) Please explain the steps the Italian Government has taken related to the BNL-Atlanta predicament?

- 4) In your opinion, is the regulatory structure governing the U.S. branches and agencies of foreign banks adequate or is the fragmented structure that now exists (i.e., the regulation and examination of these entities is divided among the OCC, FDIC, and Federal Reserve as well as the 50 States) prone to breakdowns such as the one that occurred in the RNL-Atlanta case?
- 5) Do you have any recommendations for improving or streamlining the regulation and examination of these entities? Do you have any suggestions for improving coordination between the state banking agencies and the federal bank regulatory agencies?
- Committee rules require your testimony be made available to Members twenty-four hours in advance of a hearing. Please deliver 50 copies of your written response to these questions to Room 2129 Rayburn House Office Building by 9:30 a.m., October 8, 1990. You will be given 10 minutes to summarize your testimony at the beginning of the hearing.

Thank you for your time and consideration. Your cooperation is most appreciated, and I look forward to your testimony.

With best wishes.

Sincerely,

 Henry B. Gonzalez
 Chairman

HBG:dk

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Office of the Attorney General

Washington, D.C. 20530
 September 26, 1990

The Honorable Henry B. Gonzalez
 Chairman
 Committee on Banking, Finance,
 and Urban Affairs
 U.S. House of Representatives
 Washington, D.C. 20515

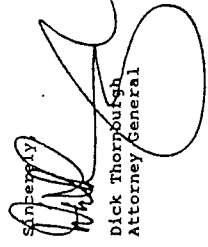
Dear Mr. Chairman:

The purpose of this letter is to express my profound disappointment in your decision to ignore the strong objections of this Department in the Banca Nazionale del Lavoro (BNL) matter. I am similarly distressed by your refusal last evening to discuss the matter with me.

Your intention to schedule a hearing for October 9th on the investigation of unauthorized loans to Iraq by BNL and the request to interview both the Assistant United States Attorney and the government witnesses in the case raises the prospect that culpable parties will elude prosecution. Your staff is fully aware of the existence of our ongoing criminal investigation and the likely impact that these actions will produce on our efforts.

As you should be aware, this is a sensitive case with national security concerns. The United States Attorney in Atlanta advises me that both witness security and the willingness of witnesses to continue to cooperate with the investigation and prosecutions will be jeopardized by your Congressional staff interviews and hearing.

Mr. Chairman, a decision to proceed with these interviews and the hearing at this time significantly diminishes the Department's ability to successfully prosecute this matter. Accordingly, we again request that your staff work with the Department to find alternatives that allow both the legislative and the law enforcement processes to function.

Sincerely,

 Dick Thornburgh
 Attorney General

order to ensure the U.S. branches and agencies of foreign banks do not pose an undue risk to the already beleaguered FDIC, the Banking Committee will continue to investigate the adequacy of the regulation and examination of these entities. The BNL case provides a clear case of a regulatory breakdown that needs to be understood and addressed.

With regard to the Banking Committee's legislative interest in BNL, the Federal Reserve has notified me that the BNL investigation uncovered a loophole in the criminal code that will probably allow former employees of BNL to escape Federal prosecution for fraud, theft, embezzlement, misapplication of funds, and bribery. You can be sure that I will continue to work to correct this over decade long Justice Department oversight. I have been given permission by the Rules Committee, and I intend to offer, a floor amendment to the crime bill that will close this loophole in the criminal code.

I hope this letter has served to properly inform you as to the Banking Committee's legislative and investigative interests in BNL. I trust the Justice Department will provide its full cooperation.

Sincerely,
Henry B. Gonzalez
Henry B. Gonzalez
Chairman

HBG:dk

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED FIRST CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON DC 20515

September 28, 1990

Honorable Richard L. Thornburgh
Attorney General
Washington, D.C. 20530

Dear Mr. Attorney General:

The purpose of this letter is to respond to your letter of September 26, 1990, and to express my distress over your apparent lack of understanding of the investigative and legislative functions of the Congress.

On September 21, 1990, I agreed to allow my staff to meet with your staff to discuss the Justice Department's concerns related to the Banking Committee's investigation of the Atlanta Agency of Banca Nazionale Del Lavoro (BNL). During, and subsequent to this meeting, your staff was unable to comply with my request for specific justification for suspending this most important inquiry.

Specifically, the Justice Department failed to reveal how interviewing employees from the Federal Reserve Board, the Federal Reserve Bank of Atlanta, the Department of Banking and Finance of the State of Georgia, and current and former employees of BNL would, as your letter states, "significantly diminish the Justice Department's ability to successfully prosecute this matter." In addition, the Justice Department failed to demonstrate how the Banking Committee's investigation would jeopardize the personal security of witnesses or inhibit their cooperating with the Justice Department's investigation of BNL.

As Chairman of the Banking Committee, I am concerned that the regulation and examination of the U.S. branches and agencies of foreign banks (see the International Banking Act 92 Stat. 607) is inadequate. These entities command over \$500 billion in assets in the U.S., and a significant portion of their liabilities are guaranteed by the Federal Deposit Insurance Corporation (FDIC). The magnitude of the BNL fiasco (i.e., \$2.8 billion in unauthorized loans to Iraq), while not directly posing a risk to the FDIC, certainly raises the question of the adequacy of state and federal regulation and oversight of these entities. Rest assured, in

FEDERAL RESERVE BANK OF
 ATLANTA
 FEDERAL RESERVE BANK OF
 BOSTON
 FEDERAL RESERVE BANK OF
 CHICAGO
 FEDERAL RESERVE BANK OF
 CINCINNATI
 FEDERAL RESERVE BANK OF
 CLEVELAND
 FEDERAL RESERVE BANK OF
 DALLAS
 FEDERAL RESERVE BANK OF
 DENVER
 FEDERAL RESERVE BANK OF
 KANSAS CITY
 FEDERAL RESERVE BANK OF
 LOS ANGELES
 FEDERAL RESERVE BANK OF
 MINNEAPOLIS
 FEDERAL RESERVE BANK OF
 NEW YORK
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 PHOENIX
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 PORTLAND
 FEDERAL RESERVE BANK OF
 RICHMOND
 FEDERAL RESERVE BANK OF
 SAN FRANCISCO
 FEDERAL RESERVE BANK OF
 ST. LOUIS
 FEDERAL RESERVE BANK OF
 TAMPA
 FEDERAL RESERVE BANK OF
 WASHINGTON, D.C.

U.S. HOUSE OF REPRESENTATIVES
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
 ONE HUNDRED FIRST CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20518
 August 23, 1990

Mr. Robert L. Clarke
 Comptroller of the Currency
 Office of the Comptroller
 of the Currency
 Washington, D.C. 20219

Dear Mr. Clarke:
 During your testimony before the House Banking Committee on August 9, 1990, I briefly mentioned that I would be writing you to get additional information on the U.S. branches and agencies of foreign banks. I would be most appreciative if you could answer the following questions regarding this issue.

- 1) What is OCC's role regarding the U.S. branches and agencies of foreign banks?
- 2) Regarding the regulation and examination of these entities, please explain the coordination that occurs between the Office of the Comptroller of the Currency (OCC), the Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC).
- 3) Please provide financial information on the federally-chartered U.S. branches and agencies of foreign banks including aggregate balance sheet and income statement data, number of branches and agencies and their total employees.
- 4) How many of these entities are insured by FDIC? What percentage of the aggregate liabilities of these entities are insured by the FDIC?
- 5) How often are these entities examined by the OCC? How many examiners does the OCC have specifically dedicated to examining these entities?
- 6) Please explain the enforcement authority of the OCC as it pertains to the U.S. branches and agencies of foreign banks.

U.S. Department of Justice
 Federal Bureau of Investigation
 Washington, D.C. 20535
 October 5, 1990



Honorable Henry B. Gonzalez
 Chairman
 Committee on Banking, Finance,
 and Urban Affairs
 U. S. House of Representatives
 Washington, D. C. 20515

Dear Mr. Chairman:
 The purpose of this letter is to express my concern with the Banca Nazionale del Lavoro (BNL) matter. I have been informed that your committee plans to hold an open meeting on Tuesday, October 9, 1990, on the BNL investigation with the intention of voting on issuing subpoenas for documents and individuals. I also understand that you intend to hold a hearing on these matters on October 16, 1990.

Mr. Chairman, you should be aware of the existence of an ongoing criminal investigation into these matters and the likely negative impact that the Committee's actions could have on this investigation. Among my concerns are the possibility of grand jury information being inadvertently disclosed in your proceedings or other statements or evidence being disclosed prior to the anticipated trial. I am similarly concerned that the Committee's actions may prevent both further cooperation by witnesses and in fact may pose a serious threat to witness security or jeopardize successful prosecution.

I regret that we did not have the opportunity to discuss these matters today. I hope that we can work together to prevent serious damage to a very sensitive and important case.

Sincerely,
 William S. Sessions
 Director

Sincerely,
 William S. Sessions
 Director

JEC:aga



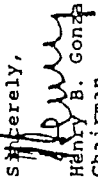
7) Are federally-chartered U.S. branches and agencies of foreign banks subject to criminal penalties such as bank fraud, embezzlement, false bank entries, misapplication of funds, and bribery as enumerated under Title 18 of the U.S. Code? Please explain.

Thank you for your time and consideration of this request. If you have any questions regarding this request, please feel free to contact Mr. Dennis Kane of my staff at (202) 225-4247.

Your cooperation is most appreciated, and I look forward to your timely reply.

With best wishes.

Sincerely,


Henry B. Gonzalez
Chairman

HBG:dk



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

October 1, 1990

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am replying to your request for information concerning U. S. branches and agencies of foreign banks. As you know, the Comptroller of the Currency (OCC) is the primary bank regulatory agency for Federal branches and agencies established by foreign banks. In order to assure a complete response, our reply addresses each of your questions in turn.

1. What is the OCC's role regarding the U. S. branches and agencies of foreign banks?

The passage of the International Banking Act of 1978 (IBA) afforded foreign banks the opportunity to apply for a Federal branch license in those states in which the bank was not operating a State branch pursuant to State law and the establishment of a branch or agency, as the case may be, is not prohibited by State law. In short, the IBA affords foreign banks a Federal branch alternative in those states that do not prohibit foreign bank entry on a branch or agency basis. The IBA identified the OCC as the U. S. bank regulatory agency charged with primary responsibility for supervising Federal branches and agencies. The OCC is responsible for acting on all applications to license Federal branches, performing examinations and providing an overall program of supervision to assure safety and soundness of operations.

2. Regarding the regulation and examination of these entities, please explain the coordination that occurs between the Office of the Comptroller of the Currency (OCC), the Federal Reserve

and the Federal Deposit Insurance Corporation (FDIC).

In the regulation of Federal branches, the OCC, the Federal Reserve, and the FDIC shoulder the same responsibilities as they do with the national banking system. The OCC, as the primary supervisor of Federal branches, shares information with the Federal Reserve and FDIC regarding such things as requirements of the Bank Holding Company Act, bank reserves, and insurance of deposits. Beyond this, all three regulatory agencies are empowered under the IBA to issue such rules, regulations and orders as each of them may deem necessary in order to perform their respective duties and functions as bank regulators. As the primary supervisor of Federal branches, our position has always been to prevent duplication of effort by sharing information with the Federal Reserve and FDIC and assisting them in the fulfillment of their responsibilities as well as our own.

3. Please provide financial information on the federally-chartered U.S. branches and agencies of foreign banks including aggregate balance sheet and income statement data, number of branches and agencies and their total employees.

At present, there are 80 Federal branches in operation in three states (New York, California, and Illinois). By far, the majority of Federal branches are located in New York City although several are located on the west coast. A single Federal agency, Banco Colpatricia, operates in Miami, Florida. In addition to those in operation, there is an approved but unopened Federal branch in Tucson, Arizona and four Federal branch applications in process. One Federal branch, Union Bank of the Middle East, Ltd. is undergoing voluntary liquidation. Enclosed is an up-to-date listing of the current licensees giving name, location, license number, special powers, and other corporate information.

As of June 30, 1990, the 81 Federal licensees had approximately \$33.3 billion in total assets, \$13.1 billion in total loans, and \$14.9 billion in total deposits. Total liabilities to non-related third parties amounted to \$29.3 billion. Income information for our licensees is something which we do not collect or monitor in the same way as balance sheet information because Federal branches, despite their "stand alone" status under the IBA, are simply branch offices of a larger parent institution. Many Federal branches are subject to managed profitability by the parent bank (i.e. funded and managed to break-even profitability or, perhaps, even to show a loss on operations). For these reasons, income information is not collected by the Federal branch call report (FFIEC 002) or included as a component in the regulatory ratings (AIM)

assigned by the OCC. Likewise, the total number of employees at Federal branches is operational information which the OCC does not collect; however, we believe it varies considerably from branch to branch based upon size and scope of operations.

4. How many of these entities are insured by the FDIC? What percentage of the aggregate liabilities of these entities are insured by the FDIC?
As indicated by the list enclosed, only seven Federal branches are insured by the FDIC. The small number covered by deposit insurance reflects the fact that most Federal branches are not retail banking operations. Most Federal branches are of a wholesale nature and oriented to international trade and commerce. For the most part, those Federal branches that are FDIC insured also serve sizeable ethnic markets comprised of people who have migrated from the home country of the parent bank. In the aggregate, the seven Federal branches insured by the FDIC had total deposits of approximately \$758 million as of June 30, 1989. This represents approximately 5% of the deposit liabilities of all Federal branches.

5. How often are these entities examined by the OCC? How many examiners does the OCC have specifically dedicated to examining these entities?

The IBA requires the OCC to perform an examination of each Federal branch at least once each calendar year. The OCC does not have a cadre of examiners with exclusive responsibility for Federal branches. Rather, the first line responsibility for examination and supervision of the various Federal branches rests with an OCC examiner and is part of his or her assigned portfolio of banks. The number of examiners at any one time assigned to the examination of Federal branches depends upon a number of factors including scope of the examination and previously identified problem areas. We examine Federal branches the same way we examine national banks making use of the same resources and regulatory expertise.

The entire program of Federal branch examination and supervision is administered by the Multinational Banking Department of the OCC located in Washington, D. C. Multinational Banking is responsible for the processing of all Federal branch applications, program administration and operation, policy formulation, and oversight of examination and supervision. Multinational Banking works to ensure the examination and supervision of Federal branches is consistent with both the IBA and national treatment.

6. Please explain the enforcement authority of the OCC as it pertains to the U. S. branches and agencies of foreign banks.

The IBA empowered the OCC with the authority to issue such rules, regulations, and orders as deemed necessary to carry out its functions and the purposes and provision of the IBA. We have the same enforcement tools available with respect to Federal branches as we do for national banks. Civil money penalties, cease and desist orders and other enforcement measures are available and have been used as enforcement and compliance tools. In addition, the OCC has the authority under the IBA to terminate the license of a Federal branch for noncompliance with any rule, order or regulation. This tool remains an ultimate sanction for extreme cases.

7. Are federally-chartered U. S. branches and agencies of foreign banks subject to criminal penalties such as bank fraud, embezzlement, false bank entries, misapplication of funds, and bribery as enumerated under Title 18 of the U. S. Code? Please explain.

National treatment of Federal branches and agencies is manifested by the IBA in a number of ways. The IBA creates similar liabilities and responsibilities as the National Bank Act. The IBA states, in part, at 12 USC 3102 (b), "operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location."

I appreciate the opportunity to share the foregoing information with you. Should you or any member of your staff require additional information or need clarification of any of the points discussed, please do not hesitate to contact my office.

Sincerely,



Robert L. Clarke
Comptroller of the Currency

Enclosure

Northwestern_District	Home_State
Mr. Assaad S. Assaad 202/842-7950 President & Managing Director Abu Dhabi International Bank, Inc. 1776 G Street, N.W. Washington, D.C. 20006 Opened 1-30-81	DC Curacao, Netherlands
Dr. G.J.M. Viak 212/838-7300 General Manager Amsterdam-Rotterdam Bank N.V. 500 Park Avenue New York, NY 10022 Opened 7-15-81	NY Amsterdam, Netherlands
Mr. Dale A. Doll 212/850-0600 General Manager Arab Banking Corporation B.S.C. 245 Park Avenue New York, NY 10167 Opened 9-14-81	NY Manama, Bahrain
Dr. M.A. Rahal 212/715-9700 Executive Vice President Arab Bank Ltd. 520 Madison Avenue New York, NY 10022 Opened 1-3-83	NY Amman, Jordan
Mr. Michael A. Cancilla 212/820-9800 Senior Vice President Australia & New Zealand Banking Group Ltd. 120 Wall Street New York, NY 10005 Converted 7-14-80	NY Melbourne, Australia
Mr. Anthony Franco 212/758-5040 General Manager Banca Popolare di Milano 375 Park Avenue New York, NY 10022 Opened 11-4-83	NY Milan, Italy
Mr. Anthony Pain 212/644-6460 General Manager Banco Bamerindus do Brazil S.A. 745 5th Avenue New York, NY 10151 Opened 10-15-82	NY Curitiba, Brazil

Mr. Wang Xuebing 212/935-3101
General Manager
Bank of China
410 Madison Avenue
New York, NY 10017
Opened 9-18-81 & 9-26-85

Mr. Roderick Richards 212/980-0510
Executive Vice President
Bank of East Asia Ltd.
450 Park Avenue
New York, NY 10022
Opened 5-1-84

Mr. Chan Kai Karp
Branch Manager
Bank of East Asia Ltd.
185 Canal Street
New York, NY 10013
Opened 3-27-89

Mr. Robin P. Tuckey 212/984-1400
Vice President & Deputy Manager
Bank of New Zealand
575 Park Avenue, 38th Floor
New York, NY 10017
Opened 2-22-82

Mr. Howard H. McHattie 212/490-8030
Executive Vice President
Bank of Scotland
380 Madison Avenue
New York, NY 10017
Opened 5-26-81

Mr. Jean-Louis Recoussine 212/489-7000
General Manager
Bank Brussels Lambert, S.A.
630 5th Avenue
New York, NY 10111
Opened 1-4-84

Mr. Wilfried Freudenberger & Mr. Joachim Klose
Senior Vice President & General Manager
Bayerische Landesbank Girozentrale
560 Lexington Avenue
New York, NY 10022
Opened 10-1-81

#128 & #191 People's Rep. of China
42-44 East Broadway
New York, NY 10002
(FDIC Insured)

#181 Hong Kong, B.C.C.

#197 Hong Kong, B.C.C.
(FDIC Insured)

#137 Wellington, New Zealand

#21 Edinburgh, Scotland

#75 Brussels, Belgium

#30 Munich, Germany

Mr. Ivar Haller 212/418-2205
General Manager
Caisse Nationale de Credit Agricole
520 Madison Avenue
New York, NY 10022
Opened 3-15-84

Mr. Giorgio Cuccolo 212/980-0690
General Manager
Cassa di Risparmio di Torino
500 Park Avenue
New York, NY 10022
Opened 12-2-85

Mr. Norbert M. Tiedemann 212/207-2420
General Manager
Commercial Bank of Kuwait SAK
350 Park Avenue
New York, NY 10022
Opened 8-20-84

Mr. Abdallah Jadallah 212/
General Manager
The Commercial Bank of Kuwait, S.A.K.
4201 Connecticut Avenue, N.W.
Washington, DC 20008
Opened 10/10/89

Mr. Adrian Tolver Walker 212/848-9200
Executive Vice President
Commonwealth Bank of Australia
599 Lexington Avenue
New York, NY 10171
Opened 7-1-81

Mr. Marko Musulin & Mr. Frederick Hertel
General Managers
Creditanstalt-Bankverein
245 Park Avenue
New York, NY 10167
Opened 4-4-83

Mr. Syed Rafiuddin 212/509-4030
General Manager
Doha Bank Ltd.
127 John Street
New York, NY 10038
Opened 4-15-83

#177 Paris, France (LFB)

#192 Torino, Italy

#88 Safat, Kuwait

#99 Safat, Kuwait (LFB)

#22 Sydney, Australia

#60 Vienna, Austria
(Trust Powers)

#63 Doha, Qatar

Mr. Hans Krikava 212/286-3882
 General Manager
 Girocentrale Vienna
 Park Avenue Tower
 65 East 55th Street
 New York, NY 10022
 Opened 3-2-87

#94 Vienna, Austria NY

Mr. Brian W. Clark 212/303-3060
 Executive Vice President
 Gulf International Bank
 380 Madison Avenue, 21st Floor
 New York, NY 10017
 Opened 10-1-80

#10 Manama, Bahrain NY

Mr. Patrick Leung 212/608-0070
 General Manager
 Hang Seng Bank Limited
 27 East Broadway
 New York, NY 10022
 Opened 9-23-83

#69 Hong Kong, B.C.C. NY
 (FDIC Insured)

Mr. Philip Hung
 General Manager
 Hang Seng Bank Limited
 268-270 Canal Street
 New York, NY 10013
 Opened 6-16-89

#98 Hong Kong, B.C.C. NY
 (FDIC Insured)

Mr. Luigi Maranzana 212/750-7600
 Senior Vice President & General Manager
 Istituto Bancario San Paolo di Torino
 499 Park Avenue
 New York, NY 10022
 Converted 1-3-84

#7 Turin, Italy CA
 (LFB)

Mr. Edgar Pang 212/308-5500
 Vice President & Manager
 Ka Wah Bank Ltd.
 520 Madison Avenue, 38th Floor
 New York, NY 10022
 Opened 3-1-83

#58 Hong Kong, B.C.C. NY

Mr. Kovit Rojanasomsit 212/704-0001
 General Manager
 Krung Thai Bank Ltd.
 452 5th Avenue, 12th Floor
 New York, NY 10018
 Opened 9-3-82

#47 Bangkok, Thailand NY

Mr. William Wen Pai Yu 212/775-0927
 Vice President & General Manager
 Metropolitan Bank & Trust Company
 10 East 53rd Street
 New York, NY 10022
 Opened 6-1-83
 (FDIC Insured)

#66 Manila, Philippines NY

Mr. Sampath Kumar 212/557-2500
 General Manager
 Middle East Bank Ltd.
 330 Madison Avenue
 New York, NY 10017
 Opened 12-7-81

#35 Dubai, United Arab Emirates NY

Mr. John Dean 212/916-9501
 Senior Vice President
 National Australia Bank Ltd.
 200 Park Avenue, 34th Floor
 New York, NY 10166
 Opened 10-21-80

#11 Melbourne, Australia NY

Mr. George Y. Nasra 212/303-9800
 General Manager
 National Bank of Kuwait S.A.K.
 299 Park Avenue
 New York, NY 10171
 Opened 9-19-84
 (Trust Powers)

#89 Safat, Kuwait NY

Mr. Javaid A. Abbasi 212/462-7373
 General Manager
 National Bank of Pakistan
 1825 Connecticut Avenue, N.W.
 Washington, D.C. 20009
 Opened 7-1-80

#3 Karachi, Pakistan DC
 (LFB)

Mr. Camille A. Chebeir 212/916-9000
 Acting General Manager
 National Commercial Bank
 245 Park Avenue, 37th Floor
 New York, NY 10167
 Opened 9-1-83
 (Trust Powers)

#68 Jeddah, Saudi Arabia NY

Mr. Friedrich Heigl 212/593-0099
 General Manager
 Osterreichische Landerbank Aktiengesellschaft
 767 5th Avenue
 New York, NY 10153
 Opened 7-1-87

#95 Vienna, Austria NY

Mr. Hugo Steensma 212/916-7800 NY
 Senior Vice President & General Manager #119 Utrecht, Netherlands
 Rabobank Nederland
 245 Park Avenue
 New York, NY 10167
 Opened 4-9-81

Mr. James M. Walker 212/407-9306 & 212/806-3119 NY
 Senior Vice President & General Manager #72 & 71 Montreal, Canada
 The Royal Bank of Canada & One Pierrepont Plaza
 Financial Square Brooklyn, NY 11201
 New York, NY 10055
 Opened 11-1-83 for both

Mr. James Strang Bell #101 Montreal, Canada
 General Manager
 The Royal Bank of Canada
 300 Pearl Street
 Buffalo, New York 14202
 Opened 2-1-90

Mr. David J. Hogan 212/355-6530 NY
 General Manager #65 London, England
 Saudi International Bank
 520 Madison Avenue
 New York, NY 10022
 Opened 5-3-83

Mr. Cecil Fu 212/619-7070 NY
 General Manager (LFB)
 Shanghai Commercial Bank Ltd.
 135 William Street
 New York, NY 10038
 Opened 4-8-83

Mr. John M. Bartholomew 212/682-1300 NY
 Senior Vice President #45 Sydney, Australia
 State Bank of New South Wales Limited
 645 5th Avenue, 18th Floor
 New York, NY 10022
 Opened 7-8-82

Mr. Methee Pattarakornkul 212/432-0890 NY
 Vice President & General Manager #8 Bangkok, Thailand
 Thai Farmers Bank Ltd.
 One World Trade Center, Suite 8373
 New York, NY 10048
 Opened 9-22-80

Mr. Ade Coker 212/308-7222 #82 Lagos, Nigeria
 General Manager
 United Bank for Africa Ltd.
 551 Madison Avenue
 New York, NY 10022
 Opened 5-1-84

Mr. Jerry Ford Steele 212/832-6700 #70 London, England
 General Manager
 United Bank of Kuwait Ltd.
 126 East 56th Street
 New York, NY 10022
 Opened 9-29-83
 (Trust Powers)

Mr. P.K. Bahri 212/688-9494 #38 NY
 General Manager
 Union Bank of the Middle East Ltd.
 560 Lexington Avenue
 New York, NY 10022
 Opened/Converted 3-1-82
 (IN LIQUIDATION)

Mr. Brian Howard 212/551-2700 #19 Sydney, Australia
 Senior Vice President
 Westpac Banking Corporation
 335 Madison Avenue, 27th Floor
 New York, NY 10017
 Opened 10-1-80

FA FEDERAL AGENCY
 FB FEDERAL BRANCH
 LFB LIMITED FEDERAL BRANCH

Mr. Sergio de Lima Conter 212/308-5400 #59 NY
 General Manager
 Banco do Estado do Parana, S.A.
 9 West 57th Street
 New York, NY 10019
 Opened 3-8-83

Mr. Carlos Roberto Becker 212/759-7887 #52 NY
 General Manager
 Banco do Estado do Rio Grande do Sul, S.A.
 500 Fifth Avenue, Suite 1238
 New York, NY 10110
 Opened 10-27-82

Mr. Anthony J. Ellery Cavour 212/759-7878 #34 NY
 General Manager
 Banco do Estado do Rio de Janeiro, S.A.
 500 Park Avenue
 New York, NY 10022
 Opened 11-23-81

Mr. Robert D. Azevedo 212/758-3700 #1 NY
 General Manager
 Banco Economico, S.A.
 499 Park Avenue
 New York, NY 10022
 Opened 4-11-80

Mr. Carlos Garcia 202/466-7540 #51 DC
 General Manager
 Banco Real, S.A.
 1800 K Street, N.W.
 Washington, D.C. 20006
 Opened 10-18-82

Mr. Chansak Fuangfu 212/422-8200 #80 CA
 Vice President & Manager
 Bangkok Bank Ltd.
 23 Broadway
 New York, NY 10006
 Opened 4-2-84

Mr. David Z. Bodner 212/949-9044 #78 NY
 Senior Vice President & General Manager
 Bank Julius Baer Banking Corporation
 330 Madison Avenue
 New York, NY 10017
 Opened 4-2-84

(Revised 9/14/90)

Southwestern District Home State

Mr. Ernest Cordovez 305/374-4026 #32 (FA) FL
 General Manager
 Banco Colpatria
 848 Brickell Avenue, Suite 1200 A
 Miami, FL 33131
 Opened 11-2-81
 Bogota, Columbia

Central District Home State

Ms. Joann F. Boules 312/236-6835 #23 (LFB) NY
 Manager
 Australia & New Zealand Banking Group Ltd.
 190 South LaSalle Street
 Chicago, IL 60603
 Opened 7-6-81
 Melbourne, Australia

Mr. Henry Rodriguez-Trujillo 312/772-0010 #85 IL
 Branch Manager de Puerto Rico
 Banco Popular de Puerto Rico
 2525 North Kedzie Dr.
 Chicago, IL 60647
 Opened 5-21-84
 (FDIC Insured)
 San Juan, Puerto Rico

Mr. W. Les P. Savell 312/876-1200 #90 (LFB) NY
 Branch Manager
 Commonwealth Bank of Australia
 30 South Wacker Dr., Suite 2806
 Chicago, IL 60606
 Opened 8-1-85
 Sydney, Australia

Mr. Edward V. Russell 312/782-5960 #49 (LFB) NY
 General Manager
 National Australia Bank Ltd.
 303 West Madison St., 26th Floor
 Chicago, IL 60606
 Opened 10-1-82
 Melbourne, Australia

Mr. Barry D. Bint 312/630-0170 #48 (LFB) NY
 Senior Vice President & Manager
 Westpac Banking Corporation
 225 West Washington, 28th Floor
 Chicago, IL 60606
 Opened 9-7-82
 Sydney, Australia

Western District

()
 Mr. Rubén Gonzales
 Vice President
 Banco Internacional, S.N.C.
 5255 Williams Circle, Suite 2080
 Tucson, Arizona 85711
 Approved 5-16-83

Mr. Lawrence Avilasakul 213/488-9170
 Senior Vice President
 Bangkok Bank Ltd.
 800 West 6th Street, Suite 1250
 Los Angeles, CA 90071
 Opened 4-2-84

Mr. Che Jun 213/688-8700
 Branch Manager
 Bank of China
 444 South Flower Street, 39th Floor
 Los Angeles, CA 90071
 Opened 10-6-88

Mr. Luan T. Le 415/398-3781
 Senior Vice President
 Dab Sing Bank Ltd.
 300 Montgomery Street, Suite 515
 San Francisco, CA 94104
 Opened 2-20-81

Mr. Walter On Chit Lam
 Branch Manager
 Hang Seng Bank Limited
 555 Montgomery Street
 San Francisco, CA 94111
 Opened 12/19/89

Mr. Clinton Y.J. Wan 213/489-3000
 General Manager
 International Commercial Bank of China
 445 S. Figueroa Street, Suite 3200
 Los Angeles, CA 90071
 Opened 7-2-84

Mr. Flario Frascaroli 213/489-3100
 Vice President & General Manager
 Istituto Bancario San Paolo di Torino
 444 South Flower Street, Suite 1350
 Los Angeles, CA 90071
 Opened 11-26-82

Mexico City, Mexico

Bangkok, Thailand CA
 People's Rep. of China CA
 Hong Kong, B.C.C. CA
 Hong Kong, B.C.C. NY
 Taipei, Taiwan CA
 Turin, Italy CA

Mr. Roberto L. Paladini 212/972-7455
 General Manager
 Banco Bandeirantes, S.A.
 280 Park Avenue, 38th Floor
 New York, NY 10017
 Opened 9-1-82

Mr. Jose Faria 212/688-9855
 General Manager
 Banco Bradesco, S.A.
 450 Park Avenue
 New York, NY 10022
 Opened 6-1-82

Mr. Robert Warfield 212/980-1770 & 212/759-7557
 General Manager
 Banco Consolidado, C.A.
 220 East 51st Street & 10 West 58th Street
 New York, NY 10022 & New York, NY 10019
 Opened 11-4-81 & 6-28-82

Mr. L. Hernan Donoso 212/758-0909
 General Manager
 Banco de Chile
 124 East 55th Street
 New York, NY 10022
 Opened 6-21-82

Mr. Manuel Roogero 212/644-6644
 General Manager
 Banco de Credito del Peru
 410 Park Avenue
 New York, NY 10022
 Converted 12-20-83

Mr. Celso Barison 212/980-8383
 General Manager
 Banco de Credito Nacional, S.A.
 439 Park Avenue
 New York, NY 10022
 Opened 1-2-81

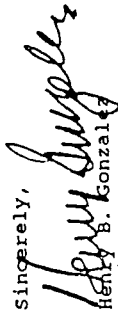
Mr. Paul Carcavallo 212/307-9600
 Senior Vice President & General Manager
 Banco de la Republica Oriental del Uruguay
 1270 Avenue of the Americas, 30th Floor
 New York, NY 10020
 Opened 10-1-81

Sao Paulo, Brazil NY
 Sao Paulo, Brazil NY
 Caracac, Venezuela NY
 Santiago, Chile NY
 Lima, Peru NY
 Sao Paulo, Brazil NY
 Montevideo, Uruguay NY

Thank you for your time and consideration of this request. Your cooperation is most appreciated. Again, I look forward to your testimony on October 16, 1990.

With best wishes.

Sincerely,


Henry B. Gonzalez
Chairman

HBG:dk



Comptroller of the Currency
Administrator of National Banks

Washington, D C 20219

October 15, 1990

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and Urban Affairs
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am replying to your letter of October 6, 1990 to Comptroller of the Currency Robert L. Clarke requesting information concerning U. S. branches and agencies of foreign banks. In order to assure a complete response, our reply addresses each of your questions in turn.

1. Please explain the criteria used by the OCC in determining whether or not an applicant is granted a license for a federal branch or agency.

The OCC, in acting on Federal branch applications, considers the financial and managerial ability of the applicant foreign bank and the proposed Federal branch, competition, the convenience and needs of the community to be served, economic conditions and the system of supervision in the home country, and international banking expertise. If, after considering these factors, the OCC is not convinced the applicant foreign bank has a reasonable likelihood of success, the application is denied.

2. What are the primary differences between federally-licensed branches and agencies and state-licensed branches and agencies?

The primary difference between federally licensed branches and agencies and state licensed branches and agencies is one of regulatory authority. The OCC is the primary regulator for Federal branches and agencies and we discharge our responsibilities under the International Banking Act (IBA) in accordance with national treatment.

State licensed branches and agencies are primarily supervised by the state banking authority which granted their license to operate. The Federal Reserve Board shares supervisory responsibilities for state branch licensees with the state banking authorities in a number of states.

Aside from the difference in regulator, the major aspects of conducting business are the same. All licensees are subject to the same interstate banking prohibitions, reserve and deposit insurance requirements and have similar banking powers. Beyond the basics, however, there are differences with regard to pledged asset accounts, licensing procedures and fees and examinations.

Another difference is that federally licensed branches may either be a "full service" Federal branch or a limited Federal branch. Limited Federal branches are restricted to receiving international related deposits. By establishing a limited Federal branch, the foreign bank can engage in deposit taking activity in more than one state. State licensed branches can only accept deposits in one state.

3. Please explain the main components of an OCC examination of a federally-licensed branch and agency.

Generally, Federal branches and agencies can exercise the same rights and privileges available to national banks, are exposed to the same risks and are subject to the same laws, rulings, and regulations. Therefore these institutions are examined in much the same way as a national bank. Full scope examinations are conducted, which include reviews of asset quality, assessment of allowance for loan loss of both a general and a specific nature, as well as other solvency issues consistent with our responsibility under the IBA. Our examination efforts also include a review for compliance with applicable banking and consumer legislation.

4. In your response to previous questions regarding federally-licensed branches and agencies, you mention the concept of "managed profitability" whereby these entities are actually set up to break-even or even lose money. Please explain this concept in more detail. Are these entities being established as tax avoidance vehicles?

It is not believed that these entities are being established as tax avoidance vehicles. Federal branches are generally established to generate business with companies either domiciled in their home country or doing business with their home country. In some cases, a branch is not established to generate profits, but rather to refer business to the head office. Federal branches and agencies often do not generate sufficient U. S. dollar based income to offset their operating expenses. Therefore, in our experience, few federal branches and agencies generate significant taxable income.

5. Does the OCC collect information on the number of persons employed by national banks? If so, please explain why this information is not collected for federally-licensed branches and agencies.

No, the OCC does not collect information on the number of persons employed by either national banks or federally licensed branches and agencies.

6. Has the OCC ever revoked the license of a branch or agency? Please explain.

The OCC has not revoked the license of a branch or agency, but our ability to revoke or retrieve a Federal branch license remains the ultimate sanction. We believe that the IBA empowered the OCC to issue rules, regulations, and orders deemed necessary by the OCC. The same enforcement tools available to the OCC for national banks exist for Federal branches. Civil money penalties, cease and desist orders and other enforcement tools are available, and we have issued seven (7) enforcement actions during the last year.

7. Please provide a list of the federally-licensed branches and agencies that are owned, in whole, or in part, by foreign governments. What are the total assets of these entities?

There are thirteen (13) federal branches that are owned in whole, or in part by foreign governments, with total assets of \$3 billion. A listing of these is attached.

I appreciate the opportunity to share the foregoing information with you. Should you or any member of your staff require additional information or need clarification of any of the points discussed, please do not hesitate to contact this office.

Sincerely,



Stephen R. Steinbrink
Deputy Comptroller
Multinational Banking

Enclosure

FEDERAL BRANCHES AND AGENCIES	AS OF DATE	TOTAL ASSETS (000's)
Abu Dhabi International Bank, Inc. Curacao, Netherlands	6/30/89	126,268
Banco de la Republica Oriental del Uruguay Montevideo, Uruguay	9/30/89	323,506
Banco do Estado do Rio de Janeiro S.A. Rio de Janeiro, Brazil	7/11/90	32,718*
Banco do Estado do Rio Grande do Sul S.A. Porto Alegre, Brazil	3/31/90	4,586
Bank of China/LA Republic of China	6/30/89	21,555**
Bank of China/NY Republic of China	6/29/90	1,107,756**
Caisse Nationale de Credit Agricole Paris, France	9/30/88	214,603
Gulf International Bank BSC Manama, Bahrain	6/30/89	275,196
Middle East Bank Ltd. Dubai, United Arab	12/31/89	22,259
National Bank of Pakistan Karachi, Pakistan	8/31/89	341,519
National Commercial Bank Jeddah, Saudi Arabia	12/31/89	329,054
United Bank of Kuwait LTD London, England	8/31/89	285,552

* All numbers were retrieved from the latest bank Report of Supervisory Activity, except Banco do Estado do Rio de Janeiro, S.A. (from Quarterly Report).

** Bank of China had two bank reports: one for 196 and one for 198.



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

August 10, 1990

ALAN GREENSPAN
CHAIRMAN

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
House of Representatives
Washington, D.C. 20515

RECEIVED

AUG 14 1990

FEDERAL RESERVE SYSTEM

Dear Mr. Chairman:

I am enclosing for your consideration proposed amendments to the criminal code that would cover branches and agencies of foreign banks and Edge and Agreement Corporations under provisions of the criminal code that deal with bank crimes.

As a result of an ongoing federal investigation involving a branch of a foreign bank it was recognized that many provisions of the criminal code that apply to U.S. banks do not apply to the above-mentioned banking entities even though they engage in international banking business in the United States under authority of the International Banking Act of 1978 or the Federal Reserve Act. The proposed amendments would correct this omission and include these banking offices under provisions of the criminal code dealing with bank fraud, theft, embezzlement, misapplication of funds and bribery.

The Board has reviewed these amendments and believes they should be forwarded to the Congress for appropriate consideration. We can think of no reason why these banking entities and their employees should not be covered by the criminal code in the same manner, and to the same extent, as other U.S. banking offices.

If the Board or its staff may be of further assistance, please do not hesitate to contact us.

Sincerely,

Enclosure

FINAL

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[Amdt. #1]
[9-6-90]

AMENDMENT TO H.R. 5269, AS REPORTED
OFFERED BY MR. GONZALEZ OF TEXAS

(Page and line references are to H.R. 5269, as reported by the
Judiciary Committee: Part I of Report No. 101-681)

Page 165, before line 12, insert the following new
section:

- 1 SEC. 2111. AMENDMENTS TO INCLUDE VARIOUS ENTITIES WHICH
- 2 ENGAGE IN INTERNATIONAL BANKING BUSINESS WITHIN
- 3 THE UNITED STATES WITHIN THE SCOPE OF FINANCIAL
- 4 CRIME PROVISIONS.
- 5 (a) DEFINITION OF FINANCIAL INSTITUTION.--Section 20 of
- 6 title 18, United States Code, is amended--
- 7 (1) by striking the period at the end of paragraph
- 8 (6) and inserting a semicolon; and
- 9 (2) by adding at the end the following new
- 10 paragraphs:
- 11 "(7) a Federal Reserve bank or a member bank of the
- 12 Federal Reserve System;
- 13 "(8) an organization operating under section 25 or
- 14 section 25(a) of the Federal Reserve Act; or

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2

- 1 terms are defined in paragraphs (1) and (3) of section
- 2 1(b) of the International Banking Act of 1978)." .
- 3 (b) OFFER OF LOAN OR GRATUITY TO BANK EXAMINER.--Section
- 4 212 of title 18, United States Code, is amended--
- 5 (1) in the 1st undesignated paragraph--
- 6 (A) by striking "System or the deposits of
- 7 which" and inserting "System, the deposits of
- 8 which";
- 9 (B) by inserting "which is a branch or agency of
- 10 a foreign bank (as such terms are defined in
- 11 paragraphs (1) and (3) of section 1(b) of the
- 12 International Banking Act of 1978), or which is an
- 13 organization operating under section 25 or section
- 14 25(a) of the Federal Reserve Act," after "deposits
- 15 of which are insured by the Federal Deposit Insurance
- 16 Corporation,"; and
- 17 (C) by inserting "branch, agency,
- 18 organization," after "who examines or has authority
- 19 to examine such bank,"; and
- 20 (2) in the 2d undesignated paragraph--
- 21 (A) by striking "System or insured" and
- 22 inserting "System, insured"; and
- 23 (B) by inserting "branches or agencies of
- 24 foreign banks (as such terms are defined in
- 25 paragraphs (1) and (3) of section 1(b) of the

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3

1 International Banking Act of 1978), organizations
 2 operating under section 25 or section 25(a) of the
 3 Federal Reserve Act, after "financial
 4 institutions,".
 5 (c) ACCEPTANCE OF LOAN OR GRATUITY BY BANK
 6 EXAMINER.--Section 213 of title 18, United States Code, is
 7 amended--
 8 (1) by striking "System or financial institutions
 9 the deposits of which" and inserting "System, financial
 10 institutions the deposits of which";
 11 (2) by inserting "which are branches or agencies of
 12 foreign banks (as such terms are defined in paragraphs
 13 (1) and (3) of section 1(b) of the International Banking
 14 Act of 1978), or which are organizations operating under
 15 section 25 or section 25(a) of the Federal Reserve Act,"
 16 after "deposits of which are insured by the Federal
 17 Deposit Insurance Corporation,";
 18 (3) by inserting "branch, agency," after "accepts
 19 a loan or gratuity from any bank,".
 20 (d) CUSTODIANS, GENERALLY, MISUSING PUBLIC
 21 FUNDS.--Section 648 of title 18, United States Code, is
 22 amended by inserting "including any branch or agency of a
 23 foreign bank (as such terms are defined in paragraphs (1) and
 24 (3) of section 1(b) of the International Banking Act of
 25 1978)," after "or deposits in any bank".

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1 (e) THEFT BY EXAMINER.--Section 655 of title 18, United
 2 States Code, is amended--
 3 (1) in the 1st undesignated paragraph--
 4 (A) by striking "System or which is insured"
 5 and inserting "System, which is insured";
 6 (B) by inserting "which is a branch or agency of
 7 a foreign bank (as such terms are defined in
 8 paragraphs (1) and (3) of section 1(b) of the
 9 International Banking Act of 1978), or which is an
 10 organization operating under section 25 or section
 11 25(a) of the Federal Reserve Act," after "by the
 12 Federal Deposit Insurance Corporation,"; and
 13 (C) by inserting "branch, agency, or
 14 organization," after "premises of such bank,"; and
 15 (2) in the 2d undesignated paragraph--
 16 (A) by striking "System or banks the deposits of
 17 which" and inserting "System, banks the deposits of
 18 which"; and
 19 (B) by inserting "branches or agencies of
 20 foreign banks (as such terms are defined in
 21 paragraphs (1) and (3) of section 1(b) of the
 22 International Banking Act of 1978), or organizations
 23 operating under section 25 or section 25(a) of the
 24 Federal Reserve Act," after "are insured by the
 25 Federal Deposit Insurance Corporation,

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1 of this title''.

2 (g) CERTIFICATION OF CHECKS.--Section 1004 of title 18,

3 United States Code, is amended--

4 (1) by striking ``or'' after ``Federal Reserve bank''

5 and inserting a comma;

6 (2) by inserting ``insured bank (as defined in

7 section 3(h) of the Federal Deposit Insurance Act),

8 branch or agency of a foreign bank (as such terms are

9 defined in paragraphs (1) and (3) of section 1(b) of the

10 International Banking Act of 1978), or organization

11 operating under section 25 or section 25(a) of the

12 Federal Reserve Act,' after ``member bank of the Federal

13 Reserve System,'; and

14 (3) by inserting `` , branch, agency, or

15 organization,' after ``has been regularly deposited in

16 the bank''.

17 (h) BANK ENTRIES, REPORTS, AND TRANSACTIONS.--Section

18 1005 of title 18, United States Code (as amended by section

19 2104(d) of this subtitle) is amended--

20 (1) in the 1st undesignated paragraph--

21 (A) by striking ``national bank or insured bank''

22 and inserting ``national bank, insured bank, branch

23 or agency of a foreign bank, or organization

24 operating under section 25 or section 25(a) of the

25 Federal Reserve Act,'; and

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1 (E) THEFT, [REDACTED] BY BANK

2 OFFICER OR EMPLOYEE - Section 1006 (1) of title 18, United States

3 Code (as amended by section 2104(b) of this subtitle) is

4 amended--

5 (1) in the 1st undesignated paragraph--

6 (A) by striking ``national bank, or insured

7 bank'' and inserting ``national bank, insured bank,

8 branch or agency of a foreign bank, or organization

9 operating under section 25 or section 25(a) of the

10 Federal Reserve Act,';

11 (B) by inserting ``insured bank, branch, agency,

12 or organization'' after ``receiver of a national

13 bank,';

14 (C) by inserting `` , branch, agency, or

15 organization'' after ``misapplies any of the moneys,

16 funds or credits of such bank'';

17 (D) by inserting ``branch, agency, or

18 organization,' after ``custody or care of such

19 bank,'; and

20 (2) in the 2d undesignated paragraph--

21 (A) by striking ``and'' after ``one of the

22 Federal Reserve banks,'; and

23 (B) by inserting before the period the following:

24 ``; and the term ``branch or agency of a foreign bank'

25 means a branch or agency described in section 20(9)

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8

1 Code, is amended--

2 (1) by striking ``and`` at the end of subparagraph

3 (F);

4 (2) by striking the period at the end of subparagraph

5 (G) and inserting a semicolon; and

6 (3) by adding at the end the following new

7 subparagraphs:

8 `` (H) a branch or agency of a foreign bank (as

9 such terms are defined in paragraphs (1) and (3) of

10 section 1(b) of the International Banking Act of

11 1978); and

12 `` (I) an organization operating under section 25

13 or section 25(a) of the Federal Reserve Act.``

14 (k) DISCLOSURE OF INFORMATION FROM A BANK EXAMINATION

15 REPORT.--Section 1906 of title 18, United States Code, is

16 amended--

17 (1) by striking ``System, or bank insured`` and

18 inserting ``System, any bank insured``;

19 (2) by inserting `` , any branch or agency of a

20 foreign bank (as such terms are defined in paragraphs (1)

21 and (3) of section 1(b) of the International Banking Act

22 of 1978), or any organization operating under section 25

23 or section 25(a) of the Federal Reserve Act,`` after ``by

24 the Federal Deposit Insurance Corporation``;

25 (3) by inserting ``branch, agency, or organization,``

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7

1 (B) by inserting `` , branch, agency, or

2 organization`` after ``of such bank`` each place such

3 term appears;

4 (2) in the 3d undesignated paragraph, by striking

5 ``bank or company`` each place such term appears and

6 inserting ``bank, company, branch, agency, or

7 organization``; and

8 (3) in the last undesignated paragraph--

9 (A) by striking ``and`` after ``one of the

10 Federal Reserve banks``; and

11 (B) by inserting before the period the following:

12 `` ; and the term ``branch or agency of a foreign bank``

13 means a branch or agency described in section 20(9)

14 of this title``.

15 (i) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE

16 APPLICATIONS.--Section 1014 of title 18, United States Code

17 (as amended by section 2104(g) of this subtitle) is amended

18 by inserting ``a branch or agency of a foreign bank (as such

19 terms are defined in paragraphs (1) and (3) of section 1(b)

20 of the International Banking Act of 1978), or an organization

21 operating under section 25 or section 25(a) of the Federal

22 Reserve Act,`` after ``or the National Credit Union

23 Administration Board``.

24 (j) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH

25 COMPUTERS.--Section 1030(e)(4) of title 18, United States

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9

1 after, "proper officers of such bank,";

2 (4) by inserting "or a Federal branch or Federal

3 agency (as such terms are defined in paragraphs (5) and

4 (6) of section 1(b) of the International Banking Act of

5 1978)" after "national bank";

6 (5) by inserting " , an uninsured State branch or

7 State agency (as such terms are defined in paragraphs

8 (11) and (12) of section 1(b) of the International

9 Banking Act of 1978), or an organization operating under

10 section 25 or section 25(a) of the Federal Reserve Act"

11 after "as to a State member bank";

12 (6) by inserting " , including any insured branch (as

13 defined in section 3(s) of the Federal Deposit Insurance

14 Act)," after "any other insured bank"; and

15 (7) by inserting "or organization" after "board of

16 directors of such bank".

17 (1) BANK ROBBERY AND INCIDENTAL CRIMES.--Section 2113(f)

18 of title 18, United States Code, is amended by inserting

19 "including a branch or agency of a foreign bank (as such

20 terms are defined in paragraphs (1) and (3) of section 1(b)

21 of the International Banking Act of 1978)," after

22 "operating under the laws of the United States,".

Page 215, strike line 19 and all that follows through

350

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10

line 21 and insert the following:

1 Subtitle F--National Commission on Financial Institution

2 Crimes

Page 216, line 1, strike "Reform, Recovery, and

Enforcement" and insert "Crimes".

Page 216, strike line 5 and all that follows through line

19 (and redesignate subsequent paragraphs and any cross

reference to any such paragraph accordingly).

Page 219, strike line 10 and all that follows through

page 221, line 7 (and redesignate subsequent subsections and

any cross reference to any such subsection accordingly).

MEMORANDUM FOR THE CHAIRMAN
DATE: 10/16/90
SUBJECT: ...

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING FINANCE AND URBAN AFFAIRS
ONE HUNDRED FIRST CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON DC 20515

October 6, 1990

John P. LaWare, Member,
Board of Governors of the
Federal Reserve System, and
Chairman, FRB's Committee
on Supervision
20th & C Streets, N.W.
Washington, D.C. 20551

Dear Governor LaWare:

I am writing to ask you to provide the following additional information related to your appearance before the Banking Committee on October 16, 1990.

- 1. Please provide a list of the state-licensed branches and agencies that are owned, in whole, or in part, by foreign governments. What are the total assets of these entities? What percent of their liabilities are insured by FDIC?
2. A foreign bank can be owned, in whole or in part, by a foreign government or by private interests in a foreign country. Related to the regulation and supervision of branches and agencies of foreign banks, does the Federal Reserve differentiate in any way between those branches and agencies that are run by foreign banks that are owned by foreign governments versus those that are run by foreign banks that are privately owned?

Thank you for your time and consideration of this request. Your cooperation is most appreciated. Again, I look forward to your testimony on October 16, 1990.

With best wishes.

Sincerely,
Henry B. Gonzalez
Chairman

Table with 3 columns: State, Number of Foreign Banks with State Licensed Branches or Agencies, Primary Examining Authority. Rows include California, Florida, Georgia, Hawaii, Illinois, Massachusetts, New York, Oregon, Pennsylvania, Texas, Washington.

U.S. OFFICES OF FOREIGN BANKS Federally licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office	Location	Total Assets	Entity Type	Federal deposit
COUNTRY=AUSTRALIA				
COMMONWEALTH BANK AUSTRALIA	CHICAGO	\$6	Branch no	no
STATE BANK OF NEW S WALES	NEW YORK	\$239	Branch no	no
		\$435	Branch no	no
		\$678		
COUNTRY=AUSTRIA				
N= 3				
COUNTRY				
Office	Location	Total Assets	Entity Type	Federal deposit
CREDITANSTALT-BANKVEREIN	ATLANTA	50	Agency no	no
CREDITANSTALT-BANKVEREIN	NEW YORK	488	Branch no	no
OSTERREICHISCHE LN BK	NEW YORK	8782	Branch no	no
		\$1,250		
COUNTRY=BAHRAIN				
N= 1				
Office	Location	Total Assets	Entity Type	Federal deposit
GULF INTL BANK BSC	NEW YORK	\$351	Branch no	no
COUNTRY=BRAZIL				
N= 3				
Office	Location	Total Assets	Entity Type	Federal deposit
BCO DO EST DO RIO DE JNARO	NEW YORK	\$27	Branch no	no
BCO DO EST DO PARANA SA	NEW YORK	\$28	Branch no	no
BCO ESTADO RIO GRANDE SUL	NEW YORK	\$3	Branch no	no
		\$58		

U.S. OFFICES OF FOREIGN BANKS Federally licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office	Location	Total Assets	Entity Type	Federal deposit
COUNTRY=CHINA (HAINLAND)				
N= 1				
Office	Location	Total Assets	Entity Type	Federal deposit
BANK OF CHINA	NEW YORK	\$1,108	Branch yes	yes
COUNTRY=FRANCE				
N= 2				
COUNTRY				
Office	Location	Total Assets	Entity Type	Federal deposit
UNITEO BANK FOR AFRICA LTD	NEW YORK	\$155	Branch no	no
CAISSE NAT DE CREDITO AGRIC	NEW YORK	\$242	Branch no	no
		\$395		
COUNTRY=GERMANY (WEST)				
N= 1				
Office	Location	Total Assets	Entity Type	Federal deposit
BAY LANDESBK GIRZENTRE	NEW YORK	\$1,584	Branch no	no
COUNTRY=INDONESIA				
N= 1				
Office	Location	Total Assets	Entity Type	Federal deposit
BANK MASYAT INDONESIA	NEW YORK	\$247	Agency no	no
COUNTRY=ITALY				
N= 3				
COUNTRY				
Office	Location	Total Assets	Entity Type	Federal deposit
BANCO DI ROMA NETH AGENCY	HOUSTON	\$91	Agency no	no
FIRST BANC SAN PAOLO TORINO	LOS ANGELES	\$894	Branch no	no
INST BANC SAN PAOLO TORINO	NEW YORK	\$4,062	Branch no	no
		\$9,047		

U.S. OFFICES OF FOREIGN BANKS Federally licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
BANK OF NEW ZEALAND	NEW YORK	8006			no

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
NATIONAL BANK OF PAKISTAN	WASHINGTON	8355			no

Office	Location	Total Assets	Entity type	Federal deposit insurance	Agency no
BANCO FONSECAS E BURNAY	NEW YORK	8175			no

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
SAUDI INTERNATIONAL BANK	NEW YORK	87			no

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
KRANG THAI BANK LIMITED	NEW YORK	8107			no
SIAM COMMERCIAL BANK LIMITED	LOS ANGELES	856			no

U.S. OFFICES OF FOREIGN BANKS Federally licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
ABU DHABI INTL BK INC	WASHINGTON	9127			no

Office	Location	Total Assets	Entity type	Federal deposit insurance	Branch no
BANCO REP ORNT URUGUAY	NEW YORK	8356			no

U.S. OFFICES OF FOREIGN BANKS State licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office		Location		Total	Entity	Federal deposit
COUNTRY=ARGENTINA	MIAMI	BANCO DE LA NACION ARG AGENCY	NEW YORK	8126	Agency	no
		BANCO DE LA NACION ARGENTINA	NEW YORK	8351	Agency	no
Total				8172		
Type					Insurance	no
Assets				7762		

Office		Location		Total	Entity	Federal deposit
COUNTRY=AUSTRALIA	LOS ANGELES	COMMONWEALTH BANK AUSTRALIA	NEW YORK	829	Agency	no
		STATE BK OF VICTORIA	NEW YORK	8121	Agency	no
Total				8150		
Type					Insurance	no
Assets						

Office		Location		Total	Entity	Federal deposit		
COUNTRY=BRAZIL	MIAMI	BANCO DO BRAZIL SA	NEW YORK	8139	Agency	no		
		BANCO DO BRAZIL SA AGENCY	LOS ANGELES	8715	Branch	no		
		BANCO DO BRAZIL SA AGENCY	NEW YORK	8310	Agency	no		
		BANCO DO BRAZIL SA AGENCY	SAN FRANCISCO	8295	Agency	no		
		BANCO DO ESTADO DE SAO PAULO	SAN FRANCISCO	8415	Agency	no		
		BANCO DO ESTADO DE SAO PAULO	MIAMI	8577	Branch	no		
		BANCO DO ESTADO DE SAO PAULO	NEW YORK	8577	Branch	no		
		Total				82,541		
		Type					Insurance	no
		Assets						

Office		Location		Total	Entity	Federal deposit
COUNTRY=CHINA (HAINAN)	LOS ANGELES	BANK OF CHINA	LOS ANGELES	862	Branch	no
Total				862		
Type					Insurance	no
Assets						

U.S. OFFICES OF FOREIGN BANKS State licensed branches and agencies, controlled by foreign governments. As of June 30, 1990. Dollar amounts in millions.

Office		Location		Total	Entity	Federal deposit
COUNTRY=EL SALVADOR	SAN FRANCISCO	BANCO AGCL CCRN DE EL SALV	LOS ANGELES	80	Agency	no
Total				80		
Type					Insurance	no
Assets						

Office		Location		Total	Entity	Federal deposit		
COUNTRY=FRANCE	CHICAGO	BANQUE NATIONALE DE PARIS	NEW YORK	8308	Branch	no		
		BANQUE NATIONALE DE PARIS AG	LOS ANGELES	8308	Branch	no		
		BANQUE NATIONALE DE PARIS AG	SAN FRANCISCO	8115	Agency	no		
		BANQUE NATIONALE DE PARIS AG	MIAMI	890	Agency	no		
		CHISS NAT DE CRED AGRICOLE	CHICAGO	8735	Agency	no		
		CREDIT LYONNAIS	LOS ANGELES	850	Branch	no		
		CREDIT LYONNAIS	CHICAGO	862	Branch	no		
		CREDIT LYONNAIS AGENCY	NEW YORK	87,109	Branch	no		
		CREDIT LYONNAIS AGENCY	SAN FRANCISCO	84	Agency	no		
		CREDIT LYONNAIS AGENCY	MIAMI	186	Agency	no		
		Total				813,555		
		Type					Insurance	no
Assets								

Office		Location		Total	Entity	Federal deposit
COUNTRY=GERMANY (WEST)	NEW YORK	HESISCHE LANDESBANK GRTLE	NEW YORK	8567	Branch	no
		HESISCHE LANDESBANK	NEW YORK	82,046	Branch	no
Total				82,613		
Type					Insurance	no
Assets						

U.S. OFFICES OF FOREIGN BANKS, State licensed branches and agencies, controlled by foreign governments. As of June 30, 1970. Dollar amounts in millions.

Office	Location	Total Assets	Entity Type	Federal deposit
Office	CHICAGO	665	Branch	yes
	BOSTON	887	Branch	yes
		150		

COUNTRY=GREECE

N# 2

Office	Location	Total Assets	Entity Type	Federal deposit
Office	NEW YORK	816	Branch	yes
	NEW YORK	818	Branch	yes
	NEW YORK	817	Branch	yes
	SAN FRANCISCO	815	Agency	yes
	CHICAGO	819	Branch	yes
	NEW YORK	811	Branch	yes
	LOS ANGELES	810	Agency	no
	NEW YORK	822	Branch	no
		809		

COUNTRY=INDIA

N# 7

Office	Location	Total Assets	Entity Type	Federal deposit
Office	NEW YORK	824	Branch	no
	LOS ANGELES	828	Agency	no
	NEW YORK	867	Agency	no
	NEW YORK	866	Branch	no
	NEW YORK	865	Branch	no
		871		

COUNTRY=INDONESIA

N# 5

Office	Location	Total Assets	Entity Type	Federal deposit
Office	NEW YORK	824	Branch	no
	LOS ANGELES	828	Agency	no
	NEW YORK	867	Agency	no
	NEW YORK	866	Branch	no
	NEW YORK	865	Branch	no
		871		

COUNTRY=IRAN

N# 3

Office	Location	Total Assets	Entity Type	Federal deposit
Office	CHICAGO	826	Branch	no
	NEW YORK	855	Branch	no
	LOS ANGELES	829	Agency	no
	MIAMI	824	Agency	no
	ATLANTA	823	Agency	no
	LOS ANGELES	819	Agency	no
	CHICAGO	817	Branch	no
	NEW YORK	816	Branch	no
		812		

COUNTRY=ITALY

N# 10

Office	Location	Total Assets	Entity Type	Federal deposit
Office	CHICAGO	826	Branch	no
	NEW YORK	855	Branch	no
	LOS ANGELES	829	Agency	no
	MIAMI	824	Agency	no
	ATLANTA	823	Agency	no
	LOS ANGELES	819	Agency	no
	CHICAGO	817	Branch	no
	NEW YORK	816	Branch	no
		812		

COUNTRY=JAPAN

N# 1

Office	Location	Total Assets	Entity Type	Federal deposit
Office	NEW YORK	8175	Branch	no
		8175		

U.S. OFFICES OF FOREIGN BANKS, State licensed branches and agencies, controlled by foreign governments. As of June 30, 1970. Dollar amounts in millions.

U. S. OFFICES OF FOREIGN BANKS. State licensed branches and agencies, controlled by foreign governments as of June 30, 1990. Dollar amounts in millions

Office	Location	Total Assets	Entity type	Federal deposit insurance
T. C. ZIRAAT BANKASI	NEW YORK	8435	Branch	no
COUNTRY=TURKEY				
BANCO IND. DE VENEZUELA CA	MIAMI	8433	Agency	no
COUNTRY=VENEZUELA				
Total Assets				
Entity type				
Federal deposit insurance				
8468,765				

U. S. OFFICES OF FOREIGN BANKS. State licensed branches and agencies, controlled by foreign governments as of June 30, 1990. Dollar amounts in millions

Office	Location	Total Assets	Entity type	Federal deposit insurance
DUPRENT BK. OF SINGAPORE LTD	LOS ANGELES	87	Agency	no
COUNTRY=SINGAPORE				
BANCO EXTERIOR DE ESPANA SA	LOS ANGELES	876	Agency	no
COUNTRY=SPAIN				
BANK OF CHINA CO	SAN JOSE	8158	Branch	no
COUNTRY=TAIWAN				
SIAM COMMERCIAL BANK LIMITED	NEW YORK	8202	Branch	no
COUNTRY=THAILAND				
BANCO IND. DE VENEZUELA CA	MIAMI	8215	Agency	no
COUNTRY=VENEZUELA				
Total Assets				
Entity type				
Federal deposit insurance				
8173				

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20515

October 12, 1990

John P. LaWare
Chairman of the Board

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance and
Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter of August 23 in which you asked a number of follow-up questions to my testimony before the House Committee on Banking, Finance and Urban Affairs on August 9, 1990.

The answers to your questions are presented in the enclosure. Please let me know if I can be of further assistance.

Sincerely,

John P. LaWare
John P. LaWare

Enclosure



1. Please explain the entire regulatory structure for such entities, including chartering, regulation and examination.

ANSWER

Prior to the passage of the International Banking Act of 1978 (IBA), the U.S. operations of foreign banks conducted through branches and agencies had been governed by state banking laws and supervised by state banking authorities. The IBA established a framework for federal participation in the supervision of the U.S. operations of foreign banks.

The IBA gave foreign banks the option of a federal license for their branches and agencies. Currently, in addition to the OCC, eleven states have licensed branches or agencies to operate within their state. Criteria for licensing of a foreign bank branch or agency varies among the states and between the states and the OCC.

Under the IBA, foreign bank branches that accept deposits of less than \$100,000 are required to obtain deposit insurance from the FDIC. The IBA gave the Federal Reserve broad authority to supervise and regulate foreign banks that engage in banking in the United States. Therefore, all three federal banking agencies are involved in some way with the supervision and regulation of the U.S. branches and agencies of foreign banks. On June 20, 1979, the federal bank regulatory agencies adopted a supervisory policy statement through the Federal Financial Institutions Examination Council (FFIEC). The regulatory agencies stated that their supervisory interests were directed towards ensuring that the operations of branches and agencies are conducted in a safe and sound manner and serve the needs of the borrowers, depositors and other creditors in the United States and that the branches and agencies of foreign banks adhere to U.S. laws and regulations.

The regulatory authority primarily responsible for the supervision and examination of individual branches and agencies is the licensing agency, whether state or federal (OCC), or the FDIC if retail deposits are accepted. The Federal Reserve is involved, to varying degrees, in the examinations conducted by the various states.

Shortly after passage of the IBA, the federal bank regulatory agencies, together with many of the state supervisory agencies, developed a uniform Report of Examination for Branches and Agencies of Foreign Banks (FFIEC 005). This report was approved by the FFIEC in 1979 and recommended for use by the state banking authorities. This report was substantially revised in 1984 and is currently undergoing less extensive revisions.

The federal banking regulatory agencies also developed a uniform Report of Condition (FFIEC 002) that is required to be completed on a quarterly basis by each branch and agency. This report is similar to the one prepared by all insured banks and provides information needed to monitor the condition of the U.S. branches and agencies of foreign banks. This report became effective as of June 30, 1980 and has undergone minor revisions in subsequent years.

In addition to the quarterly Report of Condition, branches and agencies must also file the Country Exposure Report for U.S. Branches and Agencies of Foreign Banks (FFIEC 019). This report is filed on a quarterly basis by branches and agencies that have total claims on foreign residents in excess of \$70 million. The report provides information on exposure to the home country and the next five countries for which exposure is the largest (and in excess of \$5 million). This report was implemented in 1987.

2. **What is Federal Reserve's role regarding the U.S. branches and agencies of foreign banks?**

Answer

The Federal Reserve has no licensing authority with regard to branches and agencies of foreign banks. The IBA gave the Federal Reserve authorization to act as the residual examining agency in order to ensure a national overview of multi-state activities of foreign banks. The Board, as the residual examining authority, is responsible for reviewing the operations of all branches and agencies. In keeping with the requirement of the IBA, the Board is relying, to the maximum extent possible, upon examinations that are conducted by the primary federal or state banking authority, although it is sharing examination responsibilities in several states. The Federal Reserve has, however, begun to assert its residual examination authority in certain cases, especially when individual states are having problems meeting their examination schedules, when the Federal Reserve has concerns about the adequacy of the state examinations or when extraordinary problems exist. The Board has requested that all federal and state chartered branches and agencies be examined once during every eighteen months and this schedule is, for the most part, being followed.

Each of the nine Federal Reserve Banks with foreign bank branches and agencies in their districts have developed ongoing relationships with the states licensing these institutions. With regard to examinations, various coordinated efforts exist. For example, the Federal Reserve Bank of San Francisco examines the branches and agencies of foreign banks located in California on an alternate year basis with the State of California. They examine branches and agencies in Oregon and Hawaii on a joint basis with these two states and take a very active role in these examinations. Lastly, the San Francisco Fed has a very limited presence during the examinations of foreign bank branches and agencies in the State of Washington.

Over the past ten years, the relationships between the states and the various Federal Reserve Banks have evolved as the states have gained more expertise and have increased their staffs devoted to the examinations of foreign bank branches and agencies. During 1989, 295 branches and agencies were examined of which the Federal Reserve participated, to some extent, in 169 (or 57%). The Federal Reserve is least involved with the examinations of branches and agencies in the State of New York. The New York State Banking Department had a long history of examining branches and agencies of foreign banks prior to the passage of the International Banking Act and the large expansion of foreign banks into other states during the early 1980's. The State

of New York, therefore, has not reported Federal Reserve involvement in the examination of foreign banks. It is a fact that the Federal Reserve has participated in ten of the 111 examinations of foreign banks and agencies conducted by the State of New York during 1989.

While the U.S. banking regulatory agencies have developed a supervisory framework to review the operations of foreign banks, the ultimate responsibility for the operations resides in the host office located within the United States. The Board felt it necessary to be able to assure itself about the consolidated condition of the foreign parent bank; therefore, the Board imposed annual reporting requirements for all foreign banks that engage in banking in the United States. These reports (FR Y-7 and FR 2068) were first implemented in 1981 and cover the financial condition of the foreign bank as well as provide information on their direct and indirect U.S. activities. It is felt that these reports assist the Board in analyzing the parent organization's ability to act as a source of strength to its U.S. branches and agencies.

In addition to the various reporting requirements and participation in examinations, the Federal Reserve has taken an active role in meeting with both branch and agency management in the United States and parent bank management in the home country.

The various Reserve Banks have developed schedules for meeting with branch and agency management on a regular (usually annual) basis in order to discuss topics of interest and concern. Board staff has called on the parent bank management of many of the largest foreign banks with significant U.S. operations in order to gain insight into the operations and financial condition of the parent organization and to learn of their business plans for their U.S. branches and agencies.

3. Regarding the regulation and examination of these entities, please explain the coordination that occurs between the Federal Reserve, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the state bank regulatory agencies.

Answer

The federal and state banking agencies coordinate the regulation and examination of branches and agencies of foreign banks through various formal and informal channels. The Federal Financial Institutions Examination Council (FFIEC) provides an avenue for formal coordination between the Federal Reserve, the OCC and the FDIC as regards development and initiation of required quarterly data reports and reports of examination. The three federal agencies also work with the Conference of State Bank Supervisors. The various Federal Reserve Banks have close working relationships with the state supervisory agencies within their respective districts and it is at the Reserve Bank level that such matters as examination coordination are handled.

On several occasions, the federal and state banking authorities have had to work closely on supervisory matters related to problem offices and the implementation of formal enforcement actions. These exceptional cases have demonstrated the ability of the various regulatory agencies to provide coordinated comprehensive and forceful supervision of problem branches and agencies.

4. Please provide financial information on the U.S. branches and agencies of foreign banks including aggregate balance sheet and income statement data, number of branches and agencies and their total employees. Please distinguish between state-chartered and federally-chartered.

U.S. BRANCHES AND AGENCIES OF FOREIGN BANKS

Aggregate Balance Sheet data as of June 30, 1990, dollar amounts in millions.

	FEDERALLY LICENSED	STATE LICENSED	TOTAL COMBINED
Total assets	\$33,296	\$541,642	\$574,938
Total loans (net of unearned income)	\$13,119	\$254,313	\$267,432
Total deposits and credit balances	\$14,926	\$229,859	\$244,785
Total liabilities to non-related parties	\$29,340	\$480,223	\$509,563

¹ Data collected from one federally licensed agency and seventy-one federally licensed branches.

² Data collected from 189 state licensed agencies and 270 state licensed branches.

³ Includes fifty-five FDIC insured, federal or state licensed branches. FDIC insured branches comprise 1.5% of aggregate total liabilities to non-related parties.

Note: Financial information collected from the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FRIECO02). Balances of International Banking Facilities (IBFs) are included. Information regarding total employees, and income derived from foreign bank's U.S. branch and agency operations is not readily available.

5. How many of these entities are insured by FDIC? What percentage of the aggregate liabilities of these entities are insured by the FDIC?

Answer:

There are 55 FDIC insured Federal or State licensed branches which comprise 1.5% of the aggregate total liabilities of all branches and agencies to non-related parties.

6. How often are these entities examined by the Federal Reserve? How many examiners does the Federal Reserve have specifically dedicated to examining these entities? Please differentiate between state-chartered versus federally-chartered branches and agencies.

ANSWER

As previously discussed, the Federal Reserve is not the primary examining authority for any of the branches or agencies of foreign banks. Therefore, it is difficult to provide any uniform data on the involvement of the Federal Reserve in examinations as it varies significantly from state to state. It can be said that the Federal Reserve has virtually no participation in the examinations of federally-licensed or FDIC insured branches and agencies. Most branches and agencies are examined on an eighteen month cycle and the Federal Reserve reviews all of the reports derived from these examinations whether or not the Federal Reserve participated.

It is also difficult to provide information on the number of Federal Reserve examiners involved in examining branches and agencies of foreign banks. In most cases, Reserve Bank examiners not only examine branches and agencies but are also actively involved in the examination of international activities of U.S. banks and bank holding companies and Edge Corporations.

7. Please explain the enforcement authority of the Federal Reserve as it pertains to the U.S. branches and agencies of foreign banks.

The Federal Deposit Insurance Act ("FDI Act"), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), designates the "appropriate Federal banking agency" to which enforcement authority is given for the various offices of foreign banks in the United States. The Federal Reserve is the agency designated with enforcement authority over foreign banks without an insured branch and state-chartered agencies and commercial lending companies (12 USC 1818(g)(2)). The Office of the Comptroller of the Currency is the Federal banking agency for federal branches and agencies of foreign banks (12 USC 1818(g)(1)). The Federal Deposit Insurance Corporation is the designated agency for foreign banks with an insured branch (12 USC 1818(g)(3)). The Federal Reserve also has special enforcement authority over any branch or agency with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978 (12 USC 1818(g)(2)(B)).

The federal bank regulatory agencies now have statutory authority with respect to U.S. branches and agencies of foreign banks to pursue the full range of enforcement remedies provided in the FDI Act. These remedies include: cease-and-desist orders; temporary cease-and-desist orders; suspension and removal authority over directors, officers, employees, agents and other persons participating in the affairs of the branch or agency; civil money penalties; and criminal penalties. (12 USC 1813(a)(1), (c)(3); 1818(b)-(j)).

The Federal Reserve Board is also given the authority to pursue these remedies against a foreign bank as if it were a bank holding company and against any of the foreign bank's nonbank subsidiaries (12 USC 1818(b)(4)). The exceptions to this authority over foreign banks are that the Federal Reserve does not have suspension and removal authority over, nor can criminal penalties be imposed on, persons affiliated only with the foreign bank and not its U.S. branches and agencies.

8. These questions concern Banca Nazionale del Lavoro (BNL).
- A. How often did the Federal Reserve Examine the U.S. operations of BNL over the past five years?

ANSWER

Banca Nazionale del Lavoro (BNL) has branches in New York and Chicago and agencies in Miami, Atlanta, and Los Angeles. As required under the International Banking Act, the Federal Reserve accepts the on-site examinations conducted by the licensing authorities which, in the case of BNL, are the States of New York, Florida, Illinois, Georgia and California. Federal Reserve believes that branches and agencies of the foreign banks should be examined at least every 18 months. In some states, such as California, the Federal Reserve conducts alternate year examinations on a twelve month cycle. In Florida, the Federal Reserve Bank of Atlanta conducts yearly examinations of the Florida agencies. In New York, Illinois and Georgia, the State Bank Supervisory Authorities conduct the examinations. In summary, the states conducted 17 examinations of BNL from 1985 through 1990 while the Federal Reserve conducted 6 examinations directly. Each office of BNL was examined within the eighteen month guideline and most were examined yearly.

- B. On what date was the Federal Reserve notified of the BNL scandal?

ANSWER

The Federal Reserve was notified of possible irregularities at the Atlanta Branch on July 28, 1989.

- C. What was the Federal Reserve's role in the BNL investigation?

ANSWER

On August 4, 1989, the Federal Reserve began an examination of BNL Atlanta. The Federal Bureau of Investigation entered the bank simultaneously with Federal bank examiners to obtain and secure any and all files relating to the suspected unreported activities. The Reserve Bank provided the FBI with assistance in identifying the records associated with the unreported activities.

The Reserve Banks of Atlanta, Chicago, New York and San Francisco conducted simultaneous examinations on all other U.S. offices of BNL. These examinations were intended to focus on whether any other unreported transactions were evident in these offices and to conduct a regular examination of all activities to review asset quality and to

determine whether adequate internal controls were in place. All suspicious activities that were identified, which were confined to the Atlanta agency, were referred to appropriate agencies such as Customs, Internal Revenue Service, Department of Defense, Export-Import Bank and Commodity Credit Corporation, to determine whether these activities complied fully with all pertinent laws, rules and regulations.

The Federal Reserve Bank of Atlanta has detailed an examiner to the U.S. Attorney's Office on a full time basis to assist in analyzing documents, conducting witness interviews and preparing possible indictments. Staff of both the Federal Reserve Bank of Atlanta and the Federal Reserve Board continue to remain in close communication with the U.S. Attorney's Office in order to provide any requested support.

9. Do the U.S. branches and agencies of foreign banks have access to the discount window? Please explain.

U.S. branches and agencies of foreign banks were provided access to the Federal Reserve's credit facilities when Congress enacted the International Banking Act of 1978 (the "IBA"). One of the purposes of the IBA was to provide for competitive equality between domestic and foreign banking organizations within the United States. The legislation adopted a principle of national treatment -- or parity of treatment for domestic and foreign banking institutions in similar circumstances. In accordance with this principle, the IBA amended the Federal Reserve Act to provide access to the discount window to U.S. branches and agencies of foreign banks that maintain reserves in the United States (12 USC 347d).

All U.S. branches of foreign banks are subject to reserve requirements to the same extent as U.S. banks (12 USC 461). In addition, any U.S. agency of a foreign bank with more than one billion dollars in worldwide assets (or any foreign bank whose parent has more than one billion dollars in worldwide assets) is subject to federal reserve requirements (12 USC 3105(a)). Thus, all U.S. branches of foreign banks and all U.S. agencies of foreign banking organizations with more than one billion in worldwide assets are subject to federal reserve requirements and therefore have access to the discount window.

Under the Federal Reserve Act, as amended by the IBA, Reserve Banks are authorized to discount paper endorsed by, and make advances to, U.S. branches and eligible agencies of foreign banks in the same manner and to the same extent that they may exercise such powers with respect to member banks. The Reserve Banks are, however, mandated to consider the account balances that the branch or agency maintains with the Reserve bank. Such account balances include, but are not necessarily limited to, reserves maintained to satisfy reserve requirements. The Reserve Banks are also required to consider the portion of the branch's or agency's assets held in satisfaction of reserve requirements.

The Federal Reserve Act, as amended by the IBA, also subjects discount window lending to U.S. branches and agencies of foreign banks to any restrictions and limitations imposed by the Board. The Board has not imposed any specific limitations upon lending to branches and agencies. The Board has, however, imposed certain general conditions upon lending availability and terms for all borrowers. For example, the Board limits the availability of short-term adjustment credit to circumstances in which reasonable alternative sources of funds have been fully used (12 CFR 201.3(a)). Similarly, the Board limits the availability of other extensions of credit, such as lending to ease financial strains on a particular depository institution, to cases in which similar assistance is not reasonably available from other sources (12 CFR 201.3(b)(2)).

10. Are all U.S. branches and agencies of foreign banks not subject to criminal penalties such as bank fraud, embezzlement, false bank entries, misapplication of funds, and bribery as enumerated under title 18 of the U.S. Code? Please explain.

The criminal code, Title 18 of the U.S. Code, defines "financial institution" to include insured U.S. branches of foreign banks (18 USC 20). U.S. branches of foreign banks that are not insured, as well as U.S. agencies of foreign banks, are not included within the definition of "financial institution." Thus, to the extent that any provision of the code applies to financial institutions, insured U.S. branches of foreign banks are subject to criminal penalties but agencies and uninsured branches are not. The provisions of the criminal code that apply to financial institutions, and their officers, employees, directors and agents, include the provisions on bribery (18 USC 212, 213 and 215).

Other provisions of the criminal code, including the provisions on bank fraud (18 USC 1344), false entries (18 USC 1005), and embezzlement and misapplication of funds (18 USC 656), do not specify financial institutions as one of the types of institutions to which they apply but otherwise enumerate the list of institutions to which they apply. Although it is not entirely clear, it appears that the provisions on bank fraud apply to insured branches of foreign banks and federally-chartered branches and agencies of foreign banks. The bank fraud provisions do not apply to state-chartered agencies or uninsured, state-chartered branches. The provisions on false bank entries and embezzlement, which are also not entirely clear, appear to apply to insured branches of foreign banks. The provisions do not apply to agencies or uninsured branches of foreign banks.

11. Please explain the amendments your General Counsel drafted to ensure the U.S. branches and agencies are subject to the criminal penalties such as bank fraud, embezzlement, false bank entries, misapplication of funds, and bribery as enumerated under Title 18 of the U.S. Code?

The revisions to the criminal code were drafted in response to a request by the U.S. Attorney that the Federal Reserve prepare amendments to ensure that branches and agencies of foreign banks are subject to the same criminal sanctions as are U.S. financial institutions. The provisions of the code relating to crimes by banks, savings and loan associations and other financial institutions or by employees or examiners of these entities have developed on an ad hoc basis over time and there is little consistency in the usage of terms between provisions. Consequently, there are some inconsistencies in the coverage of financial institutions by the criminal code.

The draft amendments attempt to subject U.S. branches and agencies of foreign banks to the same provisions of the code that are applicable to banks. Section 20 of Title 18, United States Code, defines the term "financial institution" for purposes of the criminal code. As noted above in response to question 10, the definition of "financial institution" currently includes insured branches of foreign banks. The draft amendments add all branches and agencies to the definition of "financial institution." Thus, under this proposed amendment, any action by a financial institution that the code makes a crime would also be a crime when conducted by any U.S. branches or agencies of a foreign bank. Similarly, by virtue of this proposed amendment, actions by employees or examiners of branches or agencies or by other persons in connection with a branch or agency would be made a crime where the same action is a crime when taken in connection with a bank.

However, as noted in response to question 10, there are provisions of the criminal code that set out a specified list of types of institutions that are covered. The proposed amendments would add U.S. branches and agencies of foreign banks to the list of specified institutions in these provisions to ensure uniform coverage by the criminal code of all financial institutions. These other provisions include the provisions on bribery (which currently apply only to insured financial institutions) (18 USC 212 and 213), misuse of public funds by custodians (18 USC 648), theft by bank examiners (18 USC 655), theft or embezzlement by bank employees (18 USC 656), false certification of checks (18 USC 1004), falsification of bank reports or loan applications (18 USC 1005 and 1014), computer fraud (18 USC 1030), disclosure of confidential examination information (18 USC 1906), and bank robbery (18 USC 2113).

The amendments would also cover Edge and agreement corporations in the same manner as banks, branches and agencies. Because these Edge and agreement corporations are authorized to

conduct an international banking business in the United States, we believe it is appropriate to subject them to uniform coverage.

The proposed amendments seek to address specific examples of failure to cover institutions where we believe it is appropriate that they be covered. The proposed amendments do not attempt to present a comprehensive reconsideration of the provisions of the criminal code as they apply to financial institutions.

OFFICE OF THE CLERK, U.S. HOUSE OF REPRESENTATIVES
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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED FIRST CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20518

August 23, 1990

Mr. Peter M. Philbin
 Deputy Superintendent of Banks
 and Chief Examiner
 State of New York
 Two Rector Street
 New York, New York 10006

Dear Mr. Philbin:

During your testimony before the House Banking Committee on August 9, 1990, I briefly mentioned that I would be writing you to get additional information on the State of New York's supervision and examination of state-chartered branches and agencies of foreign banks. I would be most appreciative if you could answer the following questions regarding this issue.

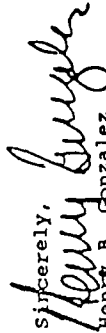
- 1.) What is New York State Banking Department's role regarding the U.S. branches and agencies of foreign banks?
- 2) Please explain the regulatory structure for such entities, including the State of New York's relationship with the Federal Reserve, the FDIC, and other state bank regulatory agencies.
- 3) Please provide financial information on the New York state-chartered U.S. branches and agencies of foreign banks including aggregate balance sheet and income statement data, number of branches and agencies and their total employees.
- 4) How many of these entities are insured by FDIC? What percentage of the aggregate liabilities of these entities are insured by the FDIC?
- 5) How often are these entities examined by the State of New York? How many examiners does the State of New York have specifically dedicated to examining these entities?

- 6) Please explain the enforcement authority of the State of New York as it pertains to the U.S. branches and agencies of foreign banks.
- 7) This question concerns Banca Nazionale del Lavoro (BNL).
 The U.S. headquarters of BNL are in New York.
 A. How often did the State of New York examine BNL over the past five years?
 B. Did the State of New York Banking Department ever examine any of the other BNL operations such as BNL-Atlanta? Please explain.
 C. On what date was the State of New York notified of the BNL scandal?
 D. What was your department's role in the BNL investigation?
- 8) Are the New York state-chartered U.S. branches and agencies of foreign banks subject to criminal penalties such as bank theft, fraud, embezzlement, false bank entries, misapplication of funds, and bribery as enumerated under Title 18 of the U.S. Code?

Thank you for your time and consideration of this request. If you have any questions regarding this request, please feel free to contact Mr. Dennis Kane of my staff at (202) 225-4247.

Your cooperation is most appreciated, and I look forward to your timely reply.

With best wishes.

Sincerely,

 Henry B. Gonzalez
 Chairman

HBG:dk



STATE OF NEW YORK
BANKING DEPARTMENT
TWO BUCKLE STREET
NEW YORK, N.Y. 10006

JILL M. CONSIDINE
SUPERINTENDENT OF BANKS

October 10, 1990

Honorable Henry B. Gonzalez, Chairman
Committee on Banking, Finance and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to your letter of August 23, 1990 regarding the State of New York's supervision and examination of state-licensed branches and agencies of foreign banks, I am pleased to provide the following information.

1. The New York State Banking Department is the primary regulator of the 208 state-licensed branches and agencies of foreign banks operating in New York. The aggregate resources of these institutions comprise approximately 70% of the assets of all branches and agencies of foreign banks in the United States.

The regulatory process in New York begins with the initial approval of the license. All organizations must receive the approval of the New York State Banking Board before commencing business. The screening process involves an extensive analysis of such factors as the business purpose of the proposed institution, the financial history and standing of the bank, home country supervision, the character and ability of proposed management, forecasts of expected operations, and the public convenience and advantage to be served.

Once an entity is established in New York, the on-going supervisory process utilizes a combination of on-site examinations, visitations and off-site monitoring. The scope of the review of foreign bank offices includes an evaluation of assets, credit administration, credit documentation, internal operating procedures and controls, external and internal auditing, funding sources, off-balance sheet activities and compliance with laws and regulations. In

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Committee on Banking, Finance
and Urban Affairs

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addition, an evaluation of local management and parent bank supervision is made.

The report format utilized in the examination of branches and agencies of foreign banks was developed jointly with federal bank regulatory agencies. When an examination is completed, copies of the report reflecting the examiner's findings are supplied to the licensed entity in New York as well as to the head office of the bank overseas. Findings are also shared with the Federal Deposit Insurance Corporation, in the case of insured institutions, and the Federal Reserve Bank of New York in order to assist those agencies in fulfilling the supervisory mandate imposed by the International Bank Act.

The operations of branches and agencies of foreign banks are governed by Article V of the New York Banking Law, supplemented by various regulations and supervisory pronouncements. Some of the more significant aspects of the regulatory structure include the following:

2.

In accordance with the New York Banking Law, a foreign bank may not maintain both an agency and a branch in New York State and the choice of organizational form depends upon the type of business it wishes to conduct.

Foreign bank branches possess investment and loan powers virtually identical with those of a commercial bank. As stipulated in the New York Banking Law, lending limits are the same as those applicable to a state-chartered bank or trust company with the branch limits based on head office capital converted to its U.S. dollar equivalent.

Foreign bank branches that have selected New York as the home state under the International Banking Act may accept deposits, subject to certain restrictions. A branch of a foreign bank is exempt from FDIC insurance requirements if its retail deposits do not exceed 4 percent of total third-party deposits based on monthly averages. Moreover, the branch may not solicit deposits from the general public and must notify each account holder of the noninsured status.

In New York, non-insured branches are required to pledge assets with a depository approved by the Superintendent of Banks in an amount not less than 5 percent of liabilities, excluding amounts due to other offices of the bank and wholly-owned subsidiaries. Section 202-b(1) of the Banking Law stipulates certain high quality securities which may be deposited and Part 322 of the Superintendent's Regulations adds top rated commercial paper, certificates of deposit,

bankers' acceptances and reserves held at the Federal Reserve Bank to the list.

In the event the Superintendent were to take possession of an uninsured foreign bank branch, the pledged assets serve as an immediate liquid resource.

Under Part 346 of the FDIC Rules and Regulations, a branch is required to be insured if it is engaged in "domestic retail deposit activity" and is located in a state which requires a bank to have deposit insurance whenever the bank accepts deposits from the general public. New York is such a state.

The powers of agencies of foreign banks are similar in many respects with those of branches, with the principal distinction involving the ability to accept deposits. The Banking Law generally bars agencies from receiving deposits. However, there are three significant exceptions to the general prohibition:

- Agencies have the authority to maintain credit balances incidental to or arising from the exercise of their lawful powers.
- The statute also permits agencies to issue large-denomination obligations (i.e. \$100 thousand or more) to corporations, partnerships and unincorporated associations. These obligations may be evidenced by a promissory note, a certificate of deposit, a statement or a book entry. Thirty days before the initial issuance of large-denomination obligations the agency must notify the Superintendent of such intention.
- The Banking Law also permits a foreign agency to accept deposits from non-U.S. citizens who are non-residents. The amounts may be less than \$100 thousand and may be taken from individuals. However, each depositor must be notified that accounts are not insured by the FDIC. In fact, agencies are not eligible for FDIC insurance.

While the investment and loan powers are essentially the same as a branch's, agencies are not subject to a legal lending limit. In addition, there is no asset pledge requirement.

Foreign banks operating agencies and branches are expected to conform with the International Convergence of Capital Measurement and Capital Standards promulgated by the Basle Committee.

Foreign branches and agencies are both authorized to conduct fiduciary activities. However, the exercise of such powers must be specifically approved by the Superintendent.

Branches and agencies are subject to asset maintenance requirements, which are imposed by the Superintendent on a case-by-case basis as circumstances warrant. This provision of the Banking Law and General Regulations of the Banking Board requires that an institution maintain eligible assets in excess of third party liabilities as a means of protecting creditors and for the benefit of the public. In general, the concept of eligibility extends to those assets for which there is a reasonable expectation of liquidation on a timely basis. The specific qualifications for eligibility for most classes of assets are defined in the Superintendent's Regulations. Amounts due from the head office, other non-U.S. offices and wholly-owned subsidiaries within the parent organization are not eligible. Thus, imposition of asset maintenance precludes a New York branch or agency from being a net provider of funds to non-U.S. segments of its organization.

Asset maintenance is typically imposed in cases when there is a perceived weakness in the financial condition of the bank or when circumstances in the home country may adversely affect the New York office. At this time only 33 branches and agencies are subject to the asset maintenance requirements.

As indicated previously, the Banking Department furnishes copies of all branch and agency examination reports to the Federal Reserve Bank of New York. The FDIC receives copies for all insured institutions. In general, the Banking Department maintains a close relationship with Federal regulatory authorities.

With respect to other state regulatory agencies, state regulators in California, Florida, Illinois, Georgia, Michigan and Washington recently joined New York in an agreement to exchange information about the foreign banks operating within their borders, whenever problems are encountered. Examples of information to be shared include: financial condition, examination ratings, business practices, compliance record and the bank's record with its home country supervisor and its parent organization. All information is to be shared on a confidential basis.

This initiative was established in response to the entry of foreign banks into new markets and serves as a means of further strengthening the State supervision system. Efforts are also being made to organize the supervision of a foreign

October 10, 1990

bank so that all its U.S. offices are examined at the same time. It is also anticipated that other states will sign this agreement. A similar supervisory initiative has been launched with respect to multi-state domestic bank holding companies.

3. Aggregate balance sheet data for the 204 foreign branches and agencies operating as of June 30, 1990 is presented below. Aggregate income data is not routinely collected for branches and agencies. Profitability data for individual institutions is obtained and analyzed during the examination of these offices. Likewise, employment statistics are not routinely reported. However, it is estimated by the Institute of International Bankers that foreign banks in New York employ approximately 40,000 people.

Aggregate Balance Sheet Data
New York State Licensed Branches and Agencies
As of June 30, 1990

	(In Millions)
Cash & Balances With Other Banks	105,710
Bonds & Corporate Stocks	35,404
Federal Funds Sold	12,013
Loans & Overdrafts	157,810
Customers' Liability On Acceptances	20,495
Other Assets	15,354
Net Due From Related Depository Institutions	45,436
Total Assets	392,222
Demand Deposits	6,291
Time & Savings Deposits	193,729
Federal Funds Purchased	50,608
Other Borrowed Money	71,596
Liability On Acceptances	26,741
Other Liabilities	13,843
Net Due To Related Depository Institutions	29,914
Total Liabilities	392,222

4. As of June 30, 1990, only 16 of the foreign banks operating branches and agencies maintained FDIC-insured offices. Of the aggregate liabilities of all 294 state-licensed institutions, 0.61% are insured by the FDIC.
5. Formal, comprehensive examinations are supplemented by periodic visits by Department personnel which provide an update of the condition of the branch or agency since the previous examination. These visits are conducted by representatives of the Banking Department's Foreign Banks Division, who are responsible for the relationship with the individual institutions. This unit is devoted solely to the supervision of foreign institutions and consists of a deputy superintendent of banks and a staff of 24. Depending upon the condition of the entity as reflected in its rating, the strength of the parent and the assessment of country risk, examinations are conducted on 12 to 24 month cycles. Entities that are not on a 12 month examination cycle are subject to special visitations at periodic intervals.

The examination function for all state licensed or chartered banking organizations is performed by the Department's Examinations Division which draws from a pool of approximately 200 field bank examiners.

6. The Superintendent of Banks has a broad range of options in dealing with a problem situation, governed by its severity and any other mitigating factors. In a less serious instance the matter may be handled by a disciplinary letter to the institution and in the other extreme by revocation of the license. Other options include an informal agreement, a memorandum of understanding and a cease and desist order. The parent bank would be notified in all cases and may be asked to participate if the situation warranted such action. As discussed earlier, an asset maintenance requirement may be imposed.

The Superintendent has the power to assume control of a foreign branch or agency. This would occur only under extreme circumstances after other measures had been exhausted. This type of action has been rare and has most often occurred when the parent bank has failed or has experienced severe difficulties.

- 7(a) The New York State Banking Department examined the New York Branch of Banca Nazionale del Lavoro (BNL) in 1986, 1987, 1988 and 1989. The 1990 examination has not yet commenced.

Honorable Henry B. Gonzalez, Chairman
Committee on Banking, Finance
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(b) The New York State Banking Department has not examined any of the offices of BNL outside New York. The Department has no jurisdiction over offices of foreign banks located in other states. The examination of a branch or agency entails the review of assets, liabilities and other matters pertaining to the New York entity.

(c) On the afternoon of Friday, August 4, 1989, the Department was informed by the Federal Reserve Bank of New York that BNL was under investigation by the US Attorney's office in Atlanta for initiating transactions from the Atlanta agency that were not recorded on its books.


(d) At 5:00 PM on Friday, August 4, 1989 the Federal Reserve Bank of New York commenced a surprise examination of the New York branch of BNL. On Saturday, August 5, 1989 Deputy Superintendent P. Vincent Conlon, representing the New York State Banking Department, met with BNL New York management. Head office management in Italy was contacted and on Sunday, August 6 the Vice Chairman of BNL flew to New York and met with Deputy Conlon and Federal Reserve Bank officials. He subsequently journeyed to Atlanta. Meanwhile a commitment was secured from Bank of Italy to provide whatever liquidity might be necessary to support the activities of BNL in the United States in the event of a negative reaction to publication of the matter.

New York State examiners joined the Federal Reserve examiners on Monday, August 7, 1989 in order to perform a joint examination focusing on the impact of the problems in Atlanta on the New York branch and any involvement the New York branch might have in the Atlanta situation.

8. Title 18 would not apply to New York State chartered branches and agencies except in the case of a branch whose deposits are insured by the Federal Deposit Insurance Corporation. However, the enumerated criminal acts would be subject to the provisions of the New York State Banking Law and the Penal Law.

We hope our response has fully addressed all your questions. If we can be of further assistance please let us know.

Very truly yours,


Peter M. Philbin
Deputy Superintendent of Banks
Foreign Commercial Banks Division

JEM/db

Department of Banking and Finance

2990 Peachtree Road, Suite 200
Atlanta, Georgia 30341-5565

Joe Frank Harris
Governor

E. B. "Jack" Bunn
Commissioner

October 1, 1990

Hon. Henry B. Gonzalez, Chairman
Members, Committee on Banking, Finance,
and Urban Affairs

U. S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Ladies and Gentlemen:

I am pleased to provide the following comments relative to the Georgia Department of Banking and Finance (Georgia) and its supervision of international banking presence in the State of Georgia specifically as it pertains to the Banca Nazionale Del Lavoro, Atlanta Agency. Due to schedule conflicts, I am unable to personally appear before the committee; however, John B. Kline, Deputy Commissioner for Supervision, is available to the committee in my absence.

These written comments and the testimony of Mr. Kline are offered for whatever assistance they may be to the committee in carrying out its oversight responsibilities; however, they are necessarily limited because of statutory restrictions regarding the confidentiality of bank examination records and ongoing criminal investigations.

1. (a) Explain the State of Georgia's role in regulating the U. S. Operations of BNL-Atlanta.

Under the dual licensing system established under the International Banking Act, foreign banks may conduct business within a given state to the extent that such state's statutes permit. Georgia laws permit foreign bank presence as an agency (non-depository banking office) or as a representative office (business solicitation office). BNL elected to establish an agency and had the choice of doing so under either a state or federal license. Federal regulatory supervision for a federal license holder is provided through the Office of the Comptroller of the Currency (as with national banks). Federal regulatory supervision for state license holders, to the extent applicable, is through the Federal Reserve Board with the primary regulatory supervision coming from the licensing state regulatory

Hon. Henry B. Gonzalez
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Page 2

authority. BNL elected to obtain a state license and has operated its agency in Atlanta under such license since March 10, 1980.

(b) What type of oversight did the State of Georgia conduct of BNL-Atlanta operations over the past five years?

Georgia has conducted annual examinations of BNL since it commenced business in Atlanta. Such examinations have been conducted in accordance with examination procedures used in the supervision of domestic banks and consistent with standard examination methods and procedures utilized by federal examining authorities. These procedures are, of course, modified to reflect specific differences in the financial structure of a non-deposit taking institution. Representatives of the Federal Reserve Bank of Atlanta, Division of Supervision and Regulation, are invited to participate in all such examinations. The Department also utilizes semi-annual reports of condition and reports by BNL's external auditors to monitor interim developments consistent with the regulatory supervision given domestic institutions.

(c) How often did the State of Georgia examine BNL-Atlanta operations?

Annually.

(d) What type of examinations were conducted?

Full scope examinations utilizing techniques and procedures consistent with those utilized by Georgia and federal regulatory agencies in the supervision of domestic financial institutions but modified to reflect unique features of international bank operations.

(e) Did BNL sign a supervisory agreement with the State of Georgia? Why or why not?

No. Prior to the 1989 examination/investigation no irregularities warranting such disciplinary action had previously been observed. As a result of the 1989 examination/investigation BNL management undertook certain actions both independently and in cooperation with regulatory authorities to address the findings of internal auditors and examining personnel.

(f) Are you confident that BNL has corrected the problems that led to this predicament?

BNL has reported changes within its internal audit and corporate structure which should add further safeguards against reoccurrence of the recent irregularities. The existence and effectiveness of these changes will be subject to verification at the next examination of the agency. It should be recognized that a fundamental cause for the events at BNL, assuming no corporate intent, was a breakdown of the basic ingredient of any security system - dual control. Significant collusion and a highly sophisticated scheme to conceal the illegal

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activities were successful to a point. This is frequently true when the perpetrators have the ability to direct their full attention to the concealment and auditors have a limited amount of time and resources to devote to detection. Pursuit of audit exceptions and the unwieldy size and complexity of the scheme are thought to be the reasons the affair finally surfaced, however. The network of internal control, internal audit, external audit, and regulatory overview ultimately caused the irregularities to be revealed despite extraordinary efforts to conceal them.

2. In regulating the state chartered U. S. branches and agencies of foreign banks, please explain the coordination that is supposed to occur with the Federal Reserve Bank of Atlanta, the Federal Reserve Bank of New York, and the Board of Governors of the Federal Reserve System.

Regulation of international banking agencies operating in Georgia is fully coordinated with the Federal Reserve Bank of Atlanta. The Federal Reserve sends a representative on virtually all examinations and all important reports and correspondence is exchanged. Supervisory meetings with foreign bank representatives are also coordinated for joint participation. Coordination within the Federal Reserve System is the responsibility of FRB and questions regarding such coordination should be directed to that agency. The current examination and supervision program has been in place relative to the State of Georgia since 1976.

3. (a) Please provide data on the number of branches and agencies of foreign banks supervised by the State of Georgia including balance sheet and income statement data.

Attached please find excerpts from the 1989 Annual Report of the Georgia Department of Banking and Finance reflecting the international bank agencies and representative offices operating in Georgia as of December 31, 1989. As a result of developments in eastern Europe and the evolution of the European Community, many foreign banks are reassessing their worldwide operations and regional focus. This reassessment is expected to cause some internal restructuring and resource reallocation within each of the foreign banks which will effect their U. S. operating structure and, in some cases, their continued U. S. presence. Detailed financial information is reported by international bank agencies utilizing forms and procedures prescribed by the FRB. Current data should be requested directly from the FRB.

(b) How many examiners has the State of Georgia dedicated to examining these entities?

Georgia's full field examination staff of approximately 80 professional examiners having an average experience level of 8 1/2 years is available for examination of international banks to the extent needed. Most examinations are handled by an examination district staff of 15 examiners.

Hon. Henry B. Gonzalez
October 1, 1990
Page 4

(c) How often are these entities typically examined?

Only those international banks licensed and operating at the agency level require financial examinations. Representative office activity can be monitored for compliance through a limited scope visitation since all balance sheet activity is handled through another U S office. Agencies are examined annually unless findings dictate a greater frequency.

(d) What type of training do these examiners receive?

All state examiners are familiar with the basic statutory provisions and possess the credit examination and financial analysis skills essential to examination of the books and records of a financial institution, including the international departments of domestic banks and international bank agencies. These skills are developed through on-job training, in-house training programs, Conference of State Bank Supervisors and federal regulatory schools and seminars, and industry sponsored schools and seminars. Senior members of a skilled examination team have been accorded specific training related to international banking transactions through on-job training as well as classroom training utilizing federal regulatory and industry sponsored schools and seminars.

4 Is the regulatory structure governing the U S branches and agencies of foreign banks adequate or is the fragmented structure that now exists (i.e., the regulation and examination of these entities is divided among the OCC, FDIC, and Federal Reserve as well as 50 states) prone to breakdowns such as the one that occurred in the BNL-Atlanta case?

Georgia rejects the premise that the BNL Atlanta case was the result of any regulatory breakdown. Nothing other than virtually constant, on-site regulatory presence could have enabled regulatory authorities to become aware of the irregularities at an earlier date. Earlier communication from BNL internal auditors to regulatory authorities might have brought the matter to light a little sooner. Communication of knowledge alleged in the media to be possessed by non-regulatory agencies of the federal government to bank regulatory agencies may have brought the matter to light sooner. Regulatory coordination prior to the events coming to light could not have been better and there is not evidence that a different structure would have brought about earlier revelation of the irregularities or prevented them from occurring.

The bank regulatory structure was never designed to provide front line fraud detection. It has an overseers role. As soon as evidence came to regulatory attention, the existing networks were activated to provide an appropriate response to the developing problem. The FRB provided coordination within the federal system and Georgia provided such coordination to the appropriate states under the Subcommittee on International Regulation of the Conference of State Bank Supervisors.

Cross jurisdictional problems that occurred during the investigation of the BNL-Atlanta affair could be addressed using experiences gained

Hon. Henry B. Gonzalez
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during this unique event. However, legislative attention is not clearly needed.

5 Do you have any recommendations for improving or streamlining the regulation and examination of these entities?

At the local level, we would have no recommendations for improvement in the process inasmuch as full cooperation and consultation has always been practiced. It would be most productive, however, for annual supervisory meetings between all state regulators who have international branch and agency supervisory responsibilities and the appropriate federal representatives within the Federal Reserve System to be held. In the past, state participation has been limited by the FRB.

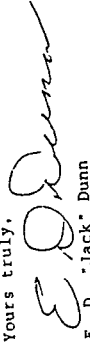
The Conference of State Bank Supervisors proposes a number of changes in the state/federal relationship which are designed to enhance the regulatory oversight and Georgia fully supports those proposals.

Do you have any suggestions for improving coordination between the state banking agencies and the federal bank regulatory agencies?

During the investigation of the BNL-Atlanta matter, the state was severely limited in its access to information being developed by or at the request of the U S Attorney's Office. At times communication seemed to be a "one-way street". Georgia is now and has always been willing to provide technical assistance in the investigation and prosecution of criminal matters occurring within institutions it supervises. The state has the legal obligation to pursue those investigations and prosecutions in its own right. To avoid duplication of effort, however, Georgia generally defers to federal authorities having competent jurisdiction and which have already become involved in an investigation. Because of the state's statutory responsibility, such cooperation must be as full partners and not simply as a convenient resource. In the case of BNL-Atlanta, the state's involvement was reported to have been limited by the U S Magistrate but further limitations appear to have been imposed through the U S Attorney's office.

Georgia appreciates the opportunity to address the BNL-Atlanta affair before the Committee. We believe that the developments at BNL-Atlanta reflect more on how the regulatory system has worked, not failed. It certainly can be improved and reaction to such crisis situations can be better managed. Problems appear to have been greatest, however, in the management of the crisis and communications from agencies other than those directly involved in bank regulation to the bank regulatory system. Perhaps this should be the focus of the Committee's attention.

Yours truly,


E D "Jack" Dunn

INTERNATIONAL BANK AGENCIES

ATLANTA AGENCY & ADDRESS FOREIGN LOCATION AGENT, TELEPHONE NO., AND DATE LICENSE ISSUED

GEORGIA ASSETS (in Thousands)

148,447

Jerome A. Wolfe Manager 404-396-0066

Amsterdam, The Netherlands June 24, 1977

2,420,919

Luciano Silvestri First Vice Pres. & Mgr. 404-581-0143

Rome, Italy February 09, 1982

19,279

Samuel C. Barnes Vice President & Manager 404-898-9600

London, England June 11, 1976

401,084

Bruce A. Ofenich Vice President & Manager 404-873-6500

Munich, West Germany December 01, 1980

174,027

Peter K. Thiels Manager 404-873-6868

Frankfurt, West Germany October 31, 1978

6,201

Hayo Wilms Senior VP and Manager 404-524-3966

Frankfurt, West Germany May 31, 1989

Agencies with no assets operate as Representative Offices only

ATLANTA AGENCY & ADDRESS FOREIGN LOCATION AGENT, TELEPHONE NO., AND DATE LICENSE ISSUED

GEORGIA ASSETS (in Thousands)

121,447

John C. H. Menzies Regional Manager South 404-396-2900

London, England November 03, 1987

167,158

Richard B. Land Vice President & Manager 404-522-1600

Basle, Switzerland July 14, 1977

1,731,653

D. Norman Gillespie Agent 404-581-0807

Toronto, Ontario, Canada May 21, 1977

258,836

Masaaki Suzuki General Manager 404-581-0200

Tokyo, Japan December 01, 1987

236,089

Shoji Kurita General Manager 404-653-2100

Tokyo, Japan December 09, 1987

Thomas L. Gleason Office Manager 404-880-5000

Montreal, Quebec, Canada March 23, 1989

Agencies with no assets operate as Representative Offices only

INTERNATIONAL BANK AGENCIES

ATLANTA AGENCY & ADDRESS	FOREIGN LOCATION	AGENT, TELEPHONE NO., AND DATE LICENSE ISSUED	GEORGIA ASSETS [in Thousands]
The Sanwa Bank, Limited Georgia Pacific Center, Suite 4750 133 Peachtree Street, N.E. Atlanta, GA 30303	Tokyo, Japan	Shinichi Hiraga General Manager 404-566-6880 November 14, 1984	761,570
The Sumitomo Bank, Limited Suite 3210 133 Peachtree Street Atlanta, GA 30303	Osaka, Japan	Hasao Harada General Manager 404-526-8500 August 04, 1987	293,664
The Tokai Bank, Limited 285 Peachtree Center Avenue, N.E. Harquits Two Tower, Suite 2802 Atlanta, GA 30303	Nagoya, Japan	Tomio Tanaka General Manager 404-880-0000 October 10, 1989	

*Agencies with no assets operate as Representative Offices only

INTERNATIONAL BANK REPRESENTATIVE OFFICES - 1989

ATLANTA OFFICE & ADDRESS	FOREIGN LOCATION	REPRESENTATIVE, TELEPHONE NO., AND REGISTRATION DATE
Credit du Nord - Atlanta 8 Piedmont Center Suite 414 Atlanta, GA 30305	Paris, France	Brenda O. Head Vice President & Manager 404-233-5427 August 31, 1989
Lloyds Bank PLC Harquits Two Tower, Suite 2301 285 Peachtree Center Avenue Atlanta, GA 30303	London, England	William N. Paly Managing Officer 404-524-6544 January 03, 1989
National Australia Bank Limited Atlanta Rep Office 225 Peachtree Street Suite 2200 - South Tower Atlanta, GA 30303	Melbourne, Australia	P. Scott Bennett Senior Vice President 404-688-5018 January 03, 1989
The Bank of Tokyo, Limited 5050 Georgia-Pacific Center 133 Peachtree Street, N.E. Atlanta, GA 30303	Tokyo, Japan	Kazuhisa Konoma Managing Officer 404-577-2960 January 03, 1989
The Industrial Bank of Japan, Ltd. Atlanta Rep Office 235 Peachtree St., N.E. Suite 1500 Atlanta, GA 30303	Tokyo, Japan	Ken Kiyoshi Chief Representative 404-524-8770 January 03, 1989
The Long-Term Credit Bank of Japan, Ltd. Japan, Ltd. 245 Peachtree Center Avenue, N.E. Suite 2801, Harquits One Tower Atlanta, GA 30303	Tokyo, Japan	Yasuyoshi Tsuji Managing Officer 404-659-7210 January 03, 1989
The Mizui Bank, Limited 230 Peachtree Street Suite 2360 Atlanta, GA 30303	Tokyo, Japan	Harayoshi Ohzori Managing Officer 404-523-9831 January 03, 1989
The Taiyo Kobe Bank, Limited One Atlantic Center, Suite 4950 1201 West Peachtree Street, N.E. Atlanta, GA 30309	Kobe, Japan	Shigemoto Morisaki Chief Representative 404-872-8101 March 13, 1989

INTERNATIONAL BANK REPRESENTATIVE OFFICES - 1969
REPRESENTATIVE, TELEPHONE NO.
AND REGISTRATION DATE

Katsuke Miyata
Managing Officer
404-584-7807
January 03, 1989
David M.G. Williams
Managing Off. for
404-668-5430
January 03, 1989

Hamburg, West Germany

Tokyo, Japan

FOREIGN LOCATION

The Yasuda Trust and Banking
Company, Limited
265 Peachtree Center Avenue, N.E.
Suite 2104, Marquis Two
Atlanta, GA 30303
Veritas-und Westbank AG
Representative Office
229 Peachtree Street
Suite 2300
Atlanta, GA 30303

[Translation - Italian]
SENATE OF THE REPUBLIC
SPECIAL COMMITTEE

on the case of the Banca Nazionale del Lavoro's branch in Atlanta
Tuesday, May 22, 1990
2nd Session

Under the Chairmanship of Chairman Carta
The Minister of the Treasury takes the floor

The session begins at 3 35 p m

The Chairman, Senator Carta, thanks Minister Carli for having accepted the invitation extended by the Office of the Committee Chairman last May 9. Inasmuch as the Minister had already referred in Parliament, both before the Chamber of Deputies and before the Senate, to the matter that involved the Banca Nazionale del Lavoro (BNL) with its branch in Atlanta, the Committee has thought that the hearing of the Minister should constitute its first act because he has more recent facts of record in the investigation that is underway and in what has emerged with regard to the case under examination.

He warns, furthermore, that on May 9, 1990, the documentation submitted by the Minister of the Treasury, concerning the beneficiaries of the illicit operations by the Atlanta branch, was sent to the Committee by the Office of the President of the Senate.

He further recalls that, since this is the first session of the committee, after its establishment its nature and tasks were established by a vote of the Assembly of the Senate on January 24, 1990. The proposal accepted on that date by the Assembly was to suspend the examination of the proposal for a parliamentary inquiry until September 30 of this year setting up in the meantime a special committee provided with the fact-finding investigative powers of the standing committees to go into depth and complete the findings of fact that have already been made by the Finance and Treasury Committee for passing them along later to the Senate for the possible renewal of the examination of the parliamentary inquiry proposal. He thus yields the floor to Minister Carli.

Minister Carli starts off by saying that the facts which emerged from the administrative investigation ordered by the banking oversight organization on the matters relative to the Atlanta branch of the BNL and the news deriving from the other available sources of information have constituted the object of preceding communications to the Chamber of Deputies on September 20, 1989 and to the Senate Finance and Treasury Committee on September 14, October 24, November 16 and December 14, 1989. It is sought to recall these communications by making a summary that bears in mind a more complete overall picture.

In the attempt to assure Parliament of the most ample awareness of the facts - having itself of the procedure which allows the governor of the Banca d'Italia (Bank of

Italy - BDD to refer to the Minister of the Treasury as Chairman of the Inter-ministerial Committee for Credit and Savings (CICR), the data and the news obtained by Oversight, protected by a rigorous duty of confidentiality - the Minister, on September 29, 1989, answered questions presented by the parliamentarian groups. In particular he referred to the development of the facts, to the fraudulent ways whereby the immense banking credits to Iraq were set up and to the techniques used for the outlays of the funds. Subsequently, on October 24, 1989, the Minister provided further information and expressed further evaluations before the Senate Finance and Treasury Committee, which in relevant session had under examination the proposal for a parliamentarian investigation put forth by Senator Pechioli and others.

On the occasion, the Minister emphasized the substantial coincidence between what was being proposed to investigate in a parliamentary session and what was investigated in the appropriate sessions. In confirmation of the adequateness of the investigations underway in satisfying the informative requirements of Parliament, the Minister surrendered to the aforesaid Committee, during the course of the November 16 session, detailed lists of the financing operations that were abusively set in place by the Atlanta branch with Iraqi counterparts, from which it is possible, within the limits allowed by the techniques used for the expenditures, to single out the beneficiaries of the operations and the merchandise whose exportation to Iraq was financed.

Having pointed out the opportunity to take stock of the events that took place in that time, the Minister thus recalls along essential lines the affair as it emerged from the inspections conducted by the BDI and from the information rendered by the Bancoper itself, with reference to the aspects that have aroused the biggest questions: the abnormal operations carried out by the Atlanta office, the position of the central offices and other organizational departments of the BNL in the affair, the business context in which the irregularities came to fruition.

Minister Carli observes that the inspections conducted at the Atlanta office of the BNL from August 7, 1989 to November 10, 1989 have made it clear that the activity was carried out, particularly in the last three-year period, for the purpose of relevant affairs, the fruit of autonomous initiatives in credit matters that were abusively taken by the director of the branch.

The same initiatives - carried out in a context of administrative and accounting disorder, with varied contrivances, thefts and forgeries aimed at concealing descriptions and purposes of the operations - have involved relevant economic-financial implications.

Against clean and signed credits to Iraqi counterparts and not regularly recorded in the accounting department on July 31, 1989 in the amount of 921 million dollars altogether, the easy terms concealed from the mother branch and from the internal and external oversight bodies, which subsequently emerged on August 4, turned out to be worth 2,867 billion dollars, related to: a) 1,798 billion dollars cash outlay to the Central Bank of Iraq (CBI)(1,017 billion dollars) and to the Rafidain Bank of Baghdad (781 million dollars), b) 520 million dollars, commitments deriving from confirmed letters of credit, in whole or in part unused, issued by the CBI, c) 49 million dollars, cash outlays to diverse beneficiaries, but attributed by the Atlanta branch to Rafidain; d) 500 million dollars, other cash and signed credits to diverse customers and banks.

The outlays to the CBI (1,017 billion dollars) took place on the basis of four "agreements" entered into with Iraqi government agencies for a total of 2,155 billion dollars, according to the techniques often described, which provided for direct payment to the exporters by the branch (option "A", 216 million dollars), or else what was through transfers drawn upon instructions of the CBI in favor of various banks (option "B"; 693 million dollars) or, even, through transfers of funds to the CBI and upon verbal request, through the Irving and Manhattan Banks in New York (option "C", not expressly provided for by the agreements, 107 million dollars).

The credits to the Rafidain Bank amounted to 781 million dollars, of which 706 were for outlays to help American exporters of farm products, assisted by the collateral (?) of the Commodity Credit Corporation which, however, is conducting investigations into the regularities of the subordinate business operations.

Among the further irregular outstanding debts at point d), the concessions of cash and signature credits for a total amount of 442 million dollars, do not concern Iraqi counterparts, although some companies that benefitted turned out to be among those which, in other instances, were recipients of the outlays to the Central Bank of Iraq.

Minister Carli remarks at this point that the inquiries have permitted the reconstruction of some of the operational techniques used to conceal the irregular operations. These materialized in the manipulation of some accounts, in keeping the administrative and accounting documents in places other than the bank's offices, in the falsification of some confirmations requested of correspondents at an oversight session by Internal Auditing of New York, in the removal of the official collection of other documents. The ways of recording the irregular operations left some traces in the branch's accounting office and thus they could not have been able to escape more incisive internal supervision, as is also shown by the investigations of the branch conducted by the U.S. authorities.

The numerous accounting expedients and artifices aimed at concealing the operations placed the person in charge of the Atlanta branch in a position of uncontrolled autonomy beyond the limits allowed by the operational discipline in force at the BNL, in such a situation, interests not compatible with those of the BNL could be pursued. It is significant that, from the analysis conducted on the movements that concerned the "backup accounts" used for handling the relations with the Central Bank of Iraq and the Rafidain Bank - on these regarding other accounts, among which the account opened in the name of "Entrade", a New York company with which Mr Drogoul might have had convergent interests, stands out because of its anomaly - debit entries appear whose nature and purpose it has not been altogether possible to clarify.

The speaker then states that along the lines of the role of the central offices and other organizational departments of Bancoper in the affairs that took place at the Atlanta branch, from the oversight investigations facts emerge that confirm contacts between Mr. Drogoul and employees forming part of the Home Office with regard to some of the operations conducted by the branch in question, revealed to be irregular; however, no facts emerged from which it shows that the bank's top management had any awareness of the existence or the irregular nature of the operations.

The inspectors, in particular, have directly investigated the following circumstances in the ambit of interventions on behalf of Danieli & Co. Officine Meccaniche di Budrio (Udine) - relative to the designing and production of rolling mill installations in Iraq - it was learned that from the first contacts, set up by the corresponding branch in Udine, the offices of the Home Office established that a financing operation for 140 million DM would be channelled through the branch office in Atlanta in the ambit of the agreements, which Mr Drogoul said existed, between the branch and the Central Bank of Iraq for the setting up of collateral deposits. This resulted from a telex dated February 2, 1989 sent from the finance section of the home office to the Central Bank of Iraq. The modes of operation that were followed would likewise fit into the practice adopted by the BNL of having the collateral deposits set up, with guarantee of easy credit terms correlated with contracts entered into by Italian businesses with Iraq, some through their foreign branches (Atlanta, London) for the purpose of avoiding the risk that other Italian firms that claimed credits disputed by Iraq might make good said deposits through legal channels.

The inspectors have likewise pointed out that, through a fax of April 17, 1989, a few days after the signing of the fourth agreement (April 8, 1989) an official at the financing department of the Home Office sent Mr Drogoul two memorandums on the contents of the contracts entered into by Danieli and the Iraqi purchaser, "State Enterprise for Iron and Steel", contracts with regard to which the Central Bank of Iraq afterwards actually asked the Atlanta branch to issue letters of credit to Danieli.

The inspectors discovered, in addition, a telex of December 13, 1988, sent by the BNL's branch in Hong Kong to the Atlanta branch and, for their information, to the above-mentioned finance area as well as to the U.S. area in New York, in which reference is made to contacts that took place with the Centrifugal Casting Machine Co., Inc. concerning the possibility of granting advance funds on the explanation referred to in letter of credit no. 1158 for 263 million dollars approved by the Atlanta branch upon order of the Central Bank of Iraq.

After having thus recalled that the reports by it is connected with the Atlanta case are the object of judicial investigations in the United States as well as in Italy the speaker reports that last April 19 the U.S. judicial authorities in the ambit of the criminal investigations concerning the facts that were pointed out at the Atlanta branch, issued to the BNL a subpoena (?) aimed at obtaining a copy of the report drawn up by those in charge of the Italian oversight following the investigative inquiries made at that branch from August 7 to November 10, 1989. The greatest amount of collaboration was given this request.

The Minister then recalls that concurrent with the investigations conducted by the Bank of Italy, the Federal Reserve Bank of Atlanta made an inspection of the coexisting branch of the BNL in the framework of the coordinated investigations of all the banking firms in the United States.

The scope of the inspection inquiries was limited to determining the extent of the unauthorized transactions, their cause, the corresponding violations of federal law and regulations and the branch's credit risk. The activity that was carried out included an analysis of the accounts, the documentation, the guidelines that were followed, the

operations, the internal controls, and the information that was sent to the Reserve Bank and to the home office and of the auditing functions.

The speaker observes at this point that the American authorities' results converge with the conclusions which the supervisory department of the Bank of Italy is reaching.

In particular, bearing in mind the level of risk existing in the branch's assets and the inefficiency of the internal controls, the situation at the time it was examined was evaluated by that authority as being wholly unsatisfactory.

It was shown that the instructions from the home office were systematically ignored and that the local management neglected every principle of prudent management by extending credit and acquiring funds for amounts greatly exceeding the limits of autonomy recognized by the home office.

The Federal Reserve expressed the opinion that the branch's unsatisfactory situation was able to be protracted in time also because of inadequate controls on the part of the Institute's home office and stated its intention of asking Bancoper for the advance preparation of a detailed program of actions to be embarked on in order to put the U.S. branches in order.

Then, dwelling on the business context in which the irregularities were verified, Minister Carli states that the anomalies that turned up, surely determined by fraudulent conduct, had been carried out in an organizational context of American culling, characterized by structural deficiencies in the system of controls. In particular the procedures for verification of the accounting data were not adequately formalized, the branch's net worth (?) was not subjected to adequate analysis for the purpose of checking the consistency of any examinations done on the movements of the correspondence account that was maintained between the Atlanta branch and the Morgan, the treasury bank through which almost all the operations done by the branch passed, the activity of oversight control entrusted to the internal auditing function appear not to have been very effective, since they were based on investigation techniques that were not sufficiently extensive, more in-depth controls could have been able to cause the data that were not proportional to the official operations of the branch to emerge and specific clues from which to go back to the irregular operations, a separate informational-accountable system was used by the branch, in addition to the official ones. Such a system was adopted by the branch through recourse to special programs, as well as the management of unofficial statements (?).

The speaker observes that since the irregular actions emerged, the extent of Atlanta's arbitrary activity has raised questions on the BNL's organizational form and on the status of the internal controls. The investigations conducted by the Bank of Italy's inspectors brought to light the existence of dysfunctions even at the firm's general management.

The BNL has been for some time showing weaknesses in its organizational structure, for which the Banking Supervision Body had called for corrective action. The institute has tackled the reorganization demands and that of reducing costs in order to free up greater profit volumes. The measures taken have shown themselves to be, actually,

insufficient to solve the bank's problems and furthermore they were taken in a hasty manner and at the expense of an effort to strengthen internal controls generating uncertainties and revealing the need to take more drastic Atlanta actions to lock place

The main organizational structure of the bank is based on the division of the bank into three main areas: the head office, the Atlanta branch and the foreign branches. The head office is responsible for the overall management of the bank, the Atlanta branch for the management of the bank's operations in Italy, and the foreign branches for the management of the bank's operations in the rest of the world.

In the account of the bank there emerged the risk of the necessary integration among the procedures introduced at diverse times, for the foreign branches the functionality of the same has been conditioned by the use of differentiated software, aimed in particular at satisfying the requirements of the individual nations

Procedures, methodologies and insufficiently specified assignments of responsibility have weighed upon the effectiveness of the internal controls. With reference to the foreign activity, deficiencies connected to the absence of summary data concerning clients assisted by two or more units of the group were found. The same controls exercised by the internal inspectorate turned out to be inadequate and infrequent because of the continuous use of this structure for the performance of other tasks

Minister Carli then proceeds to illustrate the tidying up action set in motion by the BNL, dealing point by point with the interventions of capital, the organizational tidiness and with the arranging of the irregular credits

At the first point, he observes that in relation to the situation which came to be in the BNL group the Bank of Italy invited the firm in September 1989 to opportunely take on initiatives aimed at recovering the complete administration of the foreign network and deemed it necessary to apply as a prudential measure of an immediate nature a net worth coefficient linked to a business risk more restrictive than that in effect for ordinary banks, which provides for a double consideration of the assets that headed the foreign branches and of the assets held by the home office vis a vis the foreign participants. An assets requirement of over a trillion (currency not given) was determined

For this latter purpose the BNL carried out interventions of recapitalization for a total amount of 2017 trillion, 817 billion deriving from the increase of the share held by the Istituto Nazionale delle Assicurazioni and the Istituto Nazionale della Previdenza Sociale, 12 trillion connected with a subordinate loan granted by the INA. A further contribution was supposed to have come from the bill, presently under examination by Parliament, concerning the reorganization of public banks

In order to overcome the complex problems that characterize the bank's situation, as emerged following the oversight group's investigation, Bancoper has now initiated corrective measures aimed at reestablishing control of management and, more generally, at improving operational security

In particular initiatives turn out to have been taken in the foreign section under the aspect of the information flow directed at the home office and concerning the evolution of the operation and of the risk, the limits of autonomy of the foreign branches have been reduced, the regulation of the U.S. branches, the structures entrusted with the inspection control are on the way to being strengthened

However more far reaching interventions among them the creation of an integrated information system extending to the entire business and to the group, which presupposes among other things, the homogenization of the survey on the activities of the foreign branches, takes no small amount of time, these involve a constant verification action by the oversight body in conjunction with the authorities of other countries, because of the jurisdiction aspects of these latter

In a framework of reciprocal exchange of information necessary for the purposes of banking control, the U.S. oversight authorities were informed about the final results of the interventions carried out by the Bank of Italy and about the first interventions assumed by the BNL

In the ambit of the measures initiated by the business, the speaker mentions the significant reform of the by laws, deliberated by the special assembly of the BNL's participants, at the meeting on April 26, 1990. The text is characterized by an adjustment of the guidelines concerning the essential aspects of the operation, of the capital and the organizational structure to that of joint stock companies

The organizational structure remains at the top the figure of the president, by ministerial appointment, with specific powers, it provides for the corporate administrative bodies to be regulated in accordance with company plans and introduces, thus closely following the BNL's organizational order, the post of one or more managing directors, who head up the entire structure of the company's executive department

With regard to the systematization of irregular credits the Minister recalls that Bancoper, from the moment the irregular operations at the Atlanta branch surfaced, held it to be its duty to reconstruct the operations brought about by that branch, to establish a general criterion of conduct towards the third party beneficiaries of letters of credit extended by the same branch, in the sense of meeting only the commitments resulting from documentation formally unexceptional and binding on the bank and subordinately to the issuance of affidavits on the nature of the merchandise to bring to the attention of the concerned judiciary authorities all that has emerged

According to the institute, the opening of a legal office with Iraq would have given the sole benefit of avoiding further residual payments influencing contracts, but in any case, it might have jeopardized the repayment of what had already been paid out, thus leaving the bank exposed to legal actions by the third party beneficiaries and by the Iraqis themselves, with property, management and image consequences

In this framework, since August 1989, two delegations from the bank have gone to Baghdad, but found, however, a substantial unwillingness on the part of the Iraqis to discuss the contracts that had been entered into with the Atlanta branch. The Ministers

of the Treasury, Foreign Affairs and Overseas Trade, as well as the Supervisory Body were kept informed of the contacts underway with Iraq

In mid December, 1989 after the Italy Iraq inter-governmental talks, the Iraq counterpart manifested a resumption of interest in the contractual definition of the matter

The negotiations between the parties culminated in an agreement for the systematization of the credits in dispute (?), signed in Geneva on January 19 and 20, 1990, whose ameliorative aspects regard, in the bank's evaluations substantially the economic profile and the prospects of getting back the expenditure

The Geneva understandings determined the sum of the credit still usable by the Iraqi purchasers, even following the substitution and renegotiation of some operations that had been started and not concluded. The parties agreed in particular to cancel two letters of credit to the General Motors Corporation (for 114 million dollars) and the letters of credit to Matrix Churchill, Ltd (for 70 million dollars)

The subsequent clauses of the agreement regulate in particular the use of the sums rendered altogether available in a way so as to favor Italian exports

It was indeed established that one part of the above mentioned quota, to be used for imports from Italy, be made available to the Iraqis solely for financing advance payments relative to contracts insured by SACE and financed by the bank, having a value of not less than a billion dollars

As concerns the predictions in defense of the bank being reimbursed, the management reports that the commitment on the part of the Iraqis to maintain deposits at the BNL for nearly 100 million dollars subsists on which the same BNL will pay interest at the market rate

Minister Carli adds that the budget policy followed by Bancooper is also made a part of the framework of greater openness in management

The institute closed financial year 1989 with an accountable loss of 493 billion, with reference to the choice of calculating the assets according to criteria more in line with market values. In particular, capital losses were registered on the securities being held for investment purposes as 416 billion and reserve funds of 232 billion in addition to those fiscally exempt, were realized as compared to the risk country (?)

However, let it be said that the operational gross income for 1989, reconstructed according to criteria that do not take into account the components of an unusual nature, shows substantial holding firm with respect to 1988

After having recalled that in his appearance in December of last year before the Senate Finance and Treasury Committee he had also dwelled upon the steps taken at the international level to call the attention of the Supervisory Authorities to the risks inherent in operations that are carried out by banks in foreign markets, Minister Carli reports that the Basel Committee for Regulation and Oversight Practices, in subsequent sessions that were held between October 1989 and March of this year, was informed by the Bank of Italy

along the lines of the developments in the Atlanta affair for the aspects more directly pertaining to the control over banks with international scope

Reflections are underway that are moved by the observation that it is no coincidence that cases of relevant losses that have concerned the major banks of the different countries have almost always been connected with operations of an international nature

It is necessary on one hand to strengthen the internal controls exercised by the home office making them more effective and on the other, to develop operational cooperation between the national oversight authorities leading to the principle of home country control which is not under discussion, an application to make better use of the different capabilities of supervisors in the country of origin and in the host country

In this framework it is the specific task of the oversight authorities to require the adoption by the banks of a good administrative and accounting organization and adequate internal checks. With the responsibility of the oversight authorities of the individual nations brought to an end, much progress could be obtained if the diverse control groups would discuss the possible contents to be inserted into a minimum standards list. To this effect, the Bank of Italy in November of last year made clear to the banking system the minimum requirements that must exist in the organization structure of the foreign section

The importance of cooperation between the authorities of the diverse countries for the purpose of an effective supervision activity over the individual banks and banking groups was stated in the most authoritative way by the Basel Convention and is now recognized in most places

The existing standards and agreements, at least within the G-10 countries, may be considered sufficient for carrying out the exchange of information. The problem is that of giving specific attention to the principles of cooperation. A regular system of bilateral meetings would undoubtedly render oversight more effective

On the point of concluding, the Minister furnishes some informative data on recent affairs that appear to concern the intercurrent credit relations between the Società delle Fucine di Terni and the local branch of the BNL

The facts fit into the broader context of the judicial investigations underway into the supply of war materiel to Iraq

According to the news reported by Bancooper, in December 1988, the executive committee deliberated, by proposal of Terni branch and within the framework of the assistance furnished to the public steel industry, on guarantees to the Ternian company for a total of 31 billion lira, regarding entering into an agreement with an Iraqi state enterprise for the supplying of forged steel. The bank's credit intervention would be split up (?) in the technical forms - widespread in international banking practice - of guarantees in favor of the customer either through advance payments or through the regular fulfillment of the contract

In partial application of the credit opened for "Fucine" in 1989 a contract was executed for 3.3 billion lira which entailed a commitment for the BND of an aggregate

In thanking the Minister for the ample report he furnished to the Committee, Senator Colombo asks what the understandings of the Italian authorities are with regard to the BNL - Atlanta case and whether the Minister of the Treasury believes that the course of the administrative investigations are now concluded.

Minister Carli states that the oversight body is constantly in contact with the BNL and that there are some control operations by the Bank of Italy while the Minister of the Treasury is studying the changes to be introduced to the BNL's by-laws.

In the opinion of Senator Riva, the adjective "fraudulent," attributed by the Minister to the conduct of the BNL's representative in Atlanta explains little of what really happened. It is quite strange that no suspicions of any sort were aroused about the autonomy which the manager of that branch enjoyed in view of the immense amounts of money involved in the banking operations. One wonders, in other words, how it is possible that automatic market control mechanisms were not set off.

To this objection the Minister responds that the subject is very debated by the finance operators and that the control of these operations is very difficult to handle because of their complexities and their dimensions. The true nature of the operations is difficult to ascertain and often escapes the oversight bodies who are supposed to exercise a complex series of controls that could, however, harm the functioning of the entire system.

Senator Riva asks for clarifications on the treasury function bestowed by the Morgan Bank and, given the debit and credit operations of a constant and conspicuous flow of money, he wonders how come the necessary control mechanisms were not set off.

Senator Carli emphasizes that the income and expenditures of money of the Morgan Bank balanced out.

Senator Gerosa asks the Minister what, more exactly, was the weak point in the BNL's structure.

The Minister explains that the bank has broadened operations enormously, but has not subsequently corrected the organization and the control mechanisms.

Senator Riva remarks that the mechanism of affidavits represents a useful form of coverage.

Minister Carli recalls that the same question was put to him a few years back during the so-called currency proceedings. Also on that occasion he replied that the big Italian contribution to the development of international trade was having built it on documents. To a further request by Senator Acquarone for clarification, the Minister confirms that the Morgan Bank intervened only as a treasury and that the flow of income and expenditures of money were balanced.

Senator Ferrara asks the Minister if there are not, therefore, mechanisms of defense against operations which, although seemingly regular, may have fraudulent ends.

amount of 1.9 billion (681 million as advance payment bond, 1.3 billion as performance bond). The operation, according to the bank, is not included among those that were irregularly realized by the Atlanta branch and did not entail any financing in favor of the Iraqi authorities.

Indeed, from the reconstruction carried out by the firm, it is shown that on June 1, 1990 the sum of 661 million lira was accredited to the company, representing 20 percent of the amount of the contract in question. The sum had been acknowledged on March 3, 1989 by the Dresdner Bank of Cologne on the account of the Iraqi embassy in Bonn and the payment had been subordinated to the issuance, in favor of the same embassy, of a guarantee by the BNL under the form of an advance payment bond.

Another tranche for 1.3 billion lira was paid to "Fucine" on November 20, 1989 following the deposit by the Unione di Banche Arabe (Union of Arab Banks), by order of the Central Bank of Iraq, of the relative amount to the BNL. The Terni branch acknowledged the sum to the beneficiary after having verified the existence of the funds and having obtained from "Fucine", as integration of the prescribed currency declaration, an affidavit relative to the nature of the merchandise. The practice followed reflects the greater caution that was generally adopted by the BNL in the aftermath of the Atlanta actions for all the operations relative to transactions with Iraq.

The BNL furthermore relates a payment of 661 million lira, made on May 11, 1989 by check to the order of "Fucine", negotiated by the Iraqi embassy on its own account, maintained at the Banco di Roma (Bank of Rome) and consigned to the same firm. The check was remitted by the "Fucine" company to the drawee Bank with instructions to sign over the amount to the Terni branch of Bancoper. The sum, which reached the branch on May 14, 1990, was carefully set aside in a special account upon instructions from the home office of the BNL.

An analogous procedure was followed for another check for nearly 150 million, which Bancoper believes to presumably be referable to another consignment. The BNL has pointed out that the Terni office had negotiated for the client, beginning on February 16, 1990 and up until April 27, 1990, checks negotiated by the Iraqi embassy on the Bank of Rome for a total of 729,543 dollars. On this point Bancoper says that the connection of these payments with the described operation or with others is not known.

For completeness the BNL has also pointed out that on July 27, 1989 the Rasheed Baghdad had sent to the institute's Terni branch a documentary credit of 1.2 billion lira with request for confirmation [?]. On December 12, 1989, the home office, in relation to the situation of conflict with the Iraqi banks, would not authorize the assumption of the risk notwithstanding that the Rasheed had put the funds in on its own account at the BNL. On February 25, 1990 the Iraqi bank cancelled the documentary credit.

Minister Carli closes by pointing out that from the firm's reports it turns out that in early February of this year the assignments to "Fucine" were reduced to 1.3 billion lira, an amount correlated to the existing effective risk.

Senator Carli thanks the Minister for the ample report which sums up and furnishes a picture of the reports already made in the two branches of Parliament.

Solon firm called part of pipeline for arms to Iraq

BY KEITH EPSTEIN, KAREN HENDERSON and THOMAS W. GERDEL
STAFF WRITERS

WASHINGTON — For five decades in a one-story building in Solon the dome-shaped, Midwest-style, brick building has been the headquarters of a company that has sold machinery to the Middle East. The metal molding high tech lathes and grinders made in Britain were popular in the United States. The North American headquarters was in the words of a top executive in England, simply sales and service.

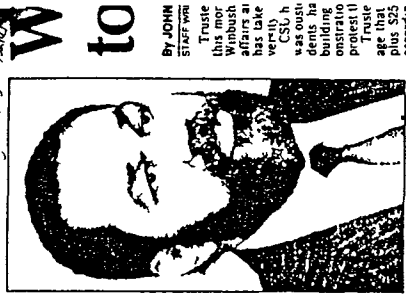
Federal authorities are saying that in recent years a customer of Hussien bin Saddam had other uses for lathes and grinders besides building automobiles or tractor parts. Federal authorities said yesterday that the Solon firm was ultimately owned by Iraq and that the business served as a clearinghouse for Saddam's international procurement of machinery.

On Monday federal agents sent workers home sealed the doors and froze the company's bank accounts — the first seizure of an Iraqi asset since the shuttering of Iraqi Airways' offices shortly after President Bush's announcement of a freeze of Iraqi assets on Aug. 2.

Matrix was acting as purchasing and selling agent for Iraq, said Steven Hartkop, assistant agent in charge of U.S. Customs in Cleveland. A Treasury Department official in Washington said the firm was identified as being involved in international weapons procurement.

Abdul Qaddumi, the company's secretary responded. "These are lies. Qaddumi, a native of Jordan and a former member of the Iraqi army, said the firm was involved in repairing machines installed in the United States and Canada. But interviews with government sources records and previously published accounts suggest that the firm was part of an extensive international network of companies, subsidiaries and agencies through which Saddam secretly built his daunting military arsenal."

SEE SOLON/13-4



RAYMOND A. WINBUSH—Cleveland State trustee to vote on a severance package for former university vice president

Cheers for Olympi



CRS-12

The Minister emphasizes that the systems of control may be of various degrees and nature. Each system, however, has a cost also in terms of fraudulent use, thus, it is a matter, in short, of limiting this cost once the system is chosen.

Senator Garofalo asks for clarifications on the existence of a fund at the Atlanta branch of the BNL, whose nature has not been pinpointed by today's report by the Minister.

In Minister Carli's opinion a verification of the inspection groups would be timely before being able to speak of the nature of this fund which does not necessarily need to be fraudulent. He believes, however, that an analysis of his report and of the other documents furnished to Parliament may furnish data sufficient for a reply to this question.

Chairman Carta, thus invites the Committee to express itself on the future tasks, reminding it that the Chair believes that the initiation of a fact-finding inquiry in accordance with Article 48 of the Regulations is in order with a first hearing from the Bank of Italy's home office manager of oversight on credit affairs and the general manager and president of the BNL.

Senator Colombo proposes the hearing of financial brokerage experts who are competent in both Italian and international systems.


After further participation by Senators Ri a, Postal and Gerosa, the Committee agrees to proceed according to the plan outlined by the chairman, with the hearing from the general manager and president of the Banca Nazionale del Lavoro (BNL) and the Bank of Italy's home office manager of oversight.

The session ends at 5:05 p.m.

Translated by Wesley Edward Kerney
CRS - Language Services
October 5, 1990

INSIDE

L F S



NINTENDON™
Video game mall
to ban rentals
Business

85215-1566-11140
S
LABRARY OF
CONGRESS
WASHINGTON, DC
20540

E PLAIN DEALER

OF-O-S LARGEST NEWSPAPER CLEVELAND FROM SEPTEMBER 21 1990 (21) 248 7-150

operation was touted as strictly sales service and spare parts for customers in the United States and Canada. Abdul Qadumi, the company's secretary, denies that the firm was doing Saddam's bidding.

He said the firm played a role in Iraq's invasion of Kuwait, but he said the firm's main business is selling and servicing video game machines. He said the firm's main business is selling and servicing video game machines.

Interviews with business associates of Matrix Churchill suggest the firm played a role in Iraq's invasion of Kuwait, but he said the firm's main business is selling and servicing video game machines.

He said the firm played a role in Iraq's invasion of Kuwait, but he said the firm's main business is selling and servicing video game machines.

Nothing was manufactured at the location and the one-story building at 5803 Harper Rd. was used as a storage facility for the equipment.

USX spokesman Steve C. Wainwright said the firm's main business is selling and servicing video game machines.

He said the firm played a role in Iraq's invasion of Kuwait, but he said the firm's main business is selling and servicing video game machines.

He said the firm played a role in Iraq's invasion of Kuwait, but he said the firm's main business is selling and servicing video game machines.

red satellite tip-off of inva

By PATRICK J. SLOVAN

WASHINGTON — Leader of the coalition against Iraq, the United States, has begun hauling supplies to 100,000 Iraqi troops in the desert.

But a U.S. K131 satellite using its infrared system and a system that magnifies starlight picked up the "cellar" movement of the supplies.

For Army Gen. Colin Powell, chairman of the Joint Chiefs of Staff and William Webster, director of the Central Intelligence Agency, the supplies were the clincher proof an invasion was imminent, a senior Pentagon official said.

The supplies were the clincher proof an invasion was imminent, a senior Pentagon official said.

The supplies were the clincher proof an invasion was imminent, a senior Pentagon official said.

U.S. had suspicions about Solon company, parent firm

By KEITH C. EPSTEIN

WASHINGTON — For at least one year federal authorities harbored suspicions about the parent company of a firm that was believed to be a key link in a network of Iraqi companies arranging exports to Baghdad's national security apparatus.

The government's suspicions were confirmed when the parent company, Solon, was found to be a subsidiary of a firm that had been identified as a key link in a network of Iraqi companies arranging exports to Baghdad's national security apparatus.

The government's suspicions were confirmed when the parent company, Solon, was found to be a subsidiary of a firm that had been identified as a key link in a network of Iraqi companies arranging exports to Baghdad's national security apparatus.

nends death

Cleveland State protesters arrest

Solon

nattress

factory

ORIGINAL

9 different models priced from \$49 to 189 Twin each piece \$79 to 229 Full each piece \$249 to 399 Queen set \$329 to 749 King set

7 We make odd sizes

Office of the President

September 19, 1990

The Honorable John Joseph Moakley
Chairman
Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

RE: The Gonzalez Amendment to H.R. 5269

Dear Chairman Moakley:

The Conference of State Bank Supervisors strongly supports the amendment proposed by Chairman Gonzalez to the crime bill, H.R. 5269. Accordingly, we ask that you and the members of the Rules Committee fashion a rule that provides for the floor consideration of this necessary and timely amendment.

The Conference of State Bank Supervisors represents the state officials that charter, examine, supervise, and regulate the over 9000 state banks. In addition to domestic banks, state supervisors regulate the activities of 557 foreign bank branches or agencies that hold nearly \$625 billion in assets.

Due to an apparent oversight, foreign bank branches and their employees are not subject to the federal criminal sanctions for crimes such as fraud, theft, embezzlement, and bribery. These institutions should be subject to federal as well as state criminal prosecution. The Gonzalez amendment squarely addresses this omission.

We appreciate your attention to this matter and your support of effective bank supervision.

Sincerely,

James B. Watt
James B. Watt
President

Saudis stock oil supplies

Stephen Bryan the Pentagon's deputy undersecretary of defense for trade security policy during the Reagan years, said he usually could do little to stop the flow of oil to Iraq. He said the flow of oil to Iraq is a major component and stockpiling of a major chemical warfare capability in Iraq - the same capability now being used by Iraq in the Persian Gulf. Bryan, writing in the publication "Middle East" warned last year that Iraq's oil exports had been stopped all its oil deliveries to Saudi Arabia. He said that Iraq had not received payments for oil exports for several months. Bryan said that Iraq's oil exports had been stopped all its oil deliveries to Saudi Arabia. He said that Iraq had not received payments for oil exports for several months. Bryan said that Iraq's oil exports had been stopped all its oil deliveries to Saudi Arabia. He said that Iraq had not received payments for oil exports for several months.

Similar names hair-raising for Solon manufacturer

There are two companies with the name Matrix in Solon, Ohio. One is very happily assisting the shipment of high-tech machine tools to Iraq. The other is very happily assisting the shipment of high-tech machine tools to Iraq. The United States and many other countries have been preoccupied with the export of arms and weapons. The export of arms and weapons is a major component of the United States' foreign policy. The export of arms and weapons is a major component of the United States' foreign policy. The export of arms and weapons is a major component of the United States' foreign policy.

Solon

At a trade fair last year British manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq. The manufacturer also made tools for Iraq.

CONFERENCE OF STATE BANK SUPERVISORS
1015 18th Street, N.W. • Washington, D.C. 20036 5725 • (202) 296-2840 • FAX (202) 296-1928

Joint Statement of Principles on the Coordination of Applications for Offices Possessing Privileged Access to the Exchange of Information on Foreign Banking Operations

June 1, 1966

- 1. This Statement is issued jointly by the State Banking Regulatory Authorities of California, Florida, Georgia, Illinois, Michigan, New York and Wisconsin (Authorities).
- 2. The Authorities recognize the importance of greater communication and coordination on situations of mutual regulatory concern regarding foreign banking activities in the United States in order to more effectively assess such situations and implement appropriate actions, if necessary. At the same time, the Authorities are aware of the need to preserve the confidentiality of information exchanged in this context, subject to Freedom of Information Laws, and to make certain that the information is used only for legitimate regulatory purposes.

Accordingly, the Authorities hereby agree in principle to coordinate the supervision and regulation of foreign banking entities in the United States and will endeavor to observe the following principles and practices:

- (a) To implement procedures whereby each Authority will exchange information regarding its experience with an Applicant Bank when applications are filed in other states for foreign banking offices (Agencies, Branches and Representative Offices). This information would include financial condition, rating assessment from latest Report of Examination, home country supervision, parent bank supervision, business practices, and compliance with state and federal laws.
- (b) To implement procedures whereby each Authority will attempt to coordinate its examination schedule of foreign banking offices with the other appropriate Authorities within the framework of: (1) existing statutory requirements and (2) special needs relative to policy or problem situations.
- (c) To implement procedures whereby when one Authority contemplates taking an enforcement action against a foreign bank, notification would be made to the other Authorities.
- (d) To implement procedures whereby, when one Authority initiates a criminal referral pertaining to an officer or employee of a foreign bank, the other Authorities will be so advised.

(e) Each Authority will treat the information obtained from the other Authorities as privileged and confidential to the extent the information is privileged and confidential in the hands of the originating Authority. No Reports of Examination, in full or in part, shall be released to any person or entity that is not a party to this agreement without the written consent of the Authority which conducted the examination.

(f) Each Authority assures that the information will be used for legitimate supervisory purposes and that no unilateral supervisory action against a foreign bank would be taken based solely upon the information

James E. Gilligan
James E. Gilligan
Superintendent of Banks
State of California

E. D. Jack Dunn
E. D. Jack Dunn
Commissioner of Banking &
Finance State of Georgia

Eugene W. Kuby
Eugene W. Kuby, Commissioner
Financial Institutions Bureau
State of Michigan

Thomas H. Oldfield
Thomas H. Oldfield
Supervisor of Banking
State of Washington

Gerald Lewis
Gerald Lewis
State Comptroller
State of Florida

William C. Harris
William C. Harris
Commissioner of Banks
& Trust Companies of
Illinois

Jill M. Conscience
Jill M. Conscience
Superintendent of Banks
State of New York

3. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 because it is a controversy between a citizen of a foreign state and citizens of this state in which the matter in controversy exceeds \$50,000, exclusive of interest and costs. This Court further has jurisdiction over this matter pursuant to 18 U.S.C. §1964 and the doctrine of pendent jurisdiction.

4. Venue is proper in this Court because Defendants reside in this district and further because the claim arose in this district.

BACKGROUND INFORMATION

5. During the period from 1984 through August, 1989, Drogoul was employed by BNL as First Vice President and Manager of BNL's Atlanta Agency. Drogoul was continuously employed in that position at all times relevant to this Complaint.

6. During the period from 1984 through September, 1989, Von Wedel was employed by BNL as Vice President of BNL's Atlanta Agency. Von Wedel was continuously employed in that position at all times relevant to this Complaint.

7. Through its Atlanta Agency, BNL conducts various banking activities, as authorized by the Official Code of Georgia Annotated ("O.C.G.A.") § 7-1-710 et seq. The Atlanta Agency is engaged in both interstate and international commerce, and it is subject to regulation and examination by both the Board of Governors of the Federal Reserve System and the Georgia Department of Banking and Finance.

RECEIVED

FILED IN CLERK'S OFFICE
U.S.C. Atlanta
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION
OCT 12 1989

BANCA NAZIONALE DEL LAVORO,)
Plaintiff)
LIVINGSTON THOMAS,)
By: [Signature] Deputy Clerk)
CIVIL ACTION NO.)

CHRISTOPHER DROGOUL and
PAUL VON WEDEL,
Defendants

1:89-CV-2319
-HTW

COMPLAINT

Plaintiff BANCA NAZIONALE DEL LAVORO ("BNL") makes and files this Complaint against Defendants Christopher Drogoul ("Drogoul") and Paul Von Wedel ("Von Wedel") (collectively "Defendants"), and states as follows:

PARTIES AND JURISDICTION

1. BNL is a banking institution organized under the laws of Italy with its principal place of business in Rome, Italy. BNL conducts business within this district through its international bank agency (the "Atlanta Agency") licensed by the Georgia Department of Banking and Finance.

2. Drogoul is a citizen of the State of Georgia and of this district. Drogoul is personally subject to the jurisdiction of this Court. Von Wedel is a citizen of the State of Georgia and of this district. Von Wedel is personally subject to the jurisdiction of this Court.

8. As First Vice President and Manager of BNL's Atlanta Agency, Drogoul oversaw and directed the activities of the Atlanta Agency. He had ultimate responsibility for accurately reporting those activities both to BNL's offices in Rome and New York and to the responsible state and federal regulatory authorities. In addition, as First Vice President and Manager of BNL's Atlanta Agency, Drogoul owed fiduciary duties of loyalty and due care to BNL. As Vice President of BNL's Atlanta Agency, Von Medel had responsibility for overseeing and directing the letter of credit operations of the Atlanta Agency and for accurately reporting those activities. In this capacity, Von Medel also owed fiduciary duties of loyalty and due care to BNL.

9. At a time unknown to BNL, Defendants, acting in concert with others whose identities are not currently known to BNL, began a pattern of unauthorized and illegal conduct designed to defraud BNL and to enrich the Defendants. This pattern of conduct included at least the following:

- (a) Defendants negotiated and executed, purportedly on behalf of BNL, a series of unauthorized credit facilities and loan agreements with various commercial banks in Iraq, the Iraqi Ministries of Trade and Industry, the Central Bank of Iraq, and other entities in the United States and other countries. Pursuant to these credit facilities and agreements, Defendants purported to commit BNL to extend credit in various forms to these various entities.

- (b) the loan agreements and credit facilities negotiated and executed by Defendants were outside of the scope of their actual or apparent authority to act on behalf of BNL or BNL's Atlanta Agency. Defendants were aware of this fact at the time that they negotiated and executed the facilities and agreements, but they failed to disclose either the existence of the facilities and agreements or their terms to the appropriate officials of BNL.
- (c) The loan agreements and credit facilities purported to obligate BNL to extend credit to the Iraqi banks, the Iraqi Ministries of Industry and Trade, and other entities at interest rates, fees, and other compensation below the prevailing market rates for such loans, a fact that was known or should have been known both to Defendants and those acting in concert with them.
- (d) Following the negotiation and execution of the unauthorized loan agreements and credit facilities, Defendants and those acting in concert with them caused the Atlanta Agency to implement the loan agreements through various devices, including the issuance of unauthorized letters of credit, confirmations of letters of credit issued by other banks, and discounting of deferred payment letters of credit. Through these activities, Defendants and those acting in concert with

Books and records for the unauthorized transactions;

(2) concealing the secret books and records from the appropriate officials, auditors, and examiners; and

(3) preparing, maintaining, and disseminating to officials at BNL and to governmental regulatory agencies materially false and misleading financial information about the Atlanta Agency and its operations.

(g) Defendants further engaged in other unauthorized and illegal activities, including purporting to commit BNL to fund various commodity exports to foreign countries secured only by the commodities shipped, purporting to agree to discount drafts under letters of credit issued by commercial banks at rates far below market rates, and purporting to commit BNL's Atlanta Agency to add its confirmation to letters of credit issued by various banks in foreign countries. Furthermore, Defendants purported to enter into oral commitments with various persons and entities, allegedly on behalf of BNL. Defendants and those acting in concert with them also engaged in a pattern of conduct and activity designed to conceal these actions from the appropriate authorities within BNL.

10. As a direct and proximate result of the actions of Defendants and others acting in concert with them, BNL has suffered substantial damage in an amount as yet unquantified, but

them have either disbursed funds or purporting to commit BNL's Atlanta Agency to disburse funds in an amount believed by BNL to exceed two billion dollars

(e) Defendants and others acting in concert with them further arranged for direct transmittal of funds from BNL's Atlanta Agency to accounts that the Central Bank of Iraq or other entities maintained at other banks throughout the world. BNL understands that some of these transmittals were to be treated as loans or advances. These transmittals, however, were not authorized by the appropriate officials of BNL and were not made in accordance with the terms of the loan agreements and credit facilities negotiated and executed by Defendants.

(f) Following the execution of the credit facilities and loan agreements, Defendants and others acting in concert with them engaged in a conscious, deliberate, and widespread effort to conceal the existence of the agreements and facilities and the actions of the Atlanta Agency taken pursuant to the agreements and facilities from the appropriate officials of BNL, BNL's Internal and outside auditors, and the state and federal regulatory officials. These actions included, but were not limited to: (1) maintaining separate and secret

believed to exceed several million dollars. In addition, BNL suffers the threat of immediate and irreparable injury from the continuing effects of the various actions initiated by Defendants and those acting in concert with them.

FIRST CLAIM - BREACH OF FIDUCIARY DUTY

11. BNL incorporates by reference the allegations set forth in paragraphs 1 through 10 above as fully as if set forth verbatim herein.

12. The actions of Defendants constitute a breach of their fiduciary duties of loyalty and due care, as well as other fiduciary duties owed to BNL by virtue of their positions as First Vice President and Manager of the Atlanta Agency and Vice President of the Atlanta Agency.

13. Defendants' violation of their fiduciary duties to BNL has directly and proximately caused damage to BNL in an amount as yet undetermined, which amount is believed to be in excess of several million dollars. In addition, Defendants' violations of their fiduciary duties are continuing to cause damage to BNL and will continue to do so for the foreseeable future.

14. Defendants violated their fiduciary duties intentionally and willfully, and with a reckless disregard for the consequences of their actions upon BNL. Accordingly, BNL is entitled to recover punitive damages in an amount sufficient to deter Defendants from future violations.

SECOND CLAIM - COMMON LAW FRAUD

15. BNL incorporates paragraphs 1 through 9 above as fully as if set forth verbatim herein.

16. Defendants have defrauded BNL through their actions and through their misrepresentation of financial records and information to BNL. Specifically, Defendants made or caused others acting in concert with them to make materially false and misleading statements to BNL regarding the financial condition and operations of the Atlanta Agency. Defendants also concealed the true financial condition and operations of the Atlanta Agency from BNL in order to further and conceal their unauthorized and illegal activities.

17. Defendants were aware that the false and misleading statements they made and caused to be made were false. Defendants made and caused the statements to be made in order to deceive BNL.

18. BNL was entitled to rely, and did rely, upon the truth of the statements Defendants made or caused to be made regarding the financial condition and operations of the Atlanta Agency.

19. As a direct and proximate result of the fraudulent conduct of Defendants and others acting in concert with them, BNL has been damaged in an amount yet to be determined, which amount is believed to exceed several million dollars. In addition, as a direct and proximate result of such fraudulent conduct, BNL will continue to be damaged for the foreseeable future.

20. Defendants' fraudulent conduct was undertaken intentionally, willfully, and with reckless disregard for the consequences of the fraudulent actions upon BNL. Accordingly, BNL is entitled to punitive damages in an amount sufficient to deter Defendants from such conduct in the future.

THIRD CLAIM - VIOLATION OF 18 U.S.C. § 1962

21. BNL incorporates paragraphs 1 through 10 above as fully as if set forth verbatim herein.

22. Through the actions described above, Defendants and those acting in concert with them have engaged in a pattern of racketeering activity, including mail fraud and wire fraud. Defendants and those acting in concert with them have engaged in repeated uses of the mails and interstate and international electronic wire facilities and telephone lines in furtherance of their scheme to defraud, including (1) making false and misleading statements in connection with the negotiation, execution, and implementation of the unauthorized and illegal loan agreements and credit facilities described in more detail above, (2) submitting materially false financial information regarding the business and operations of the Atlanta Agency to BNL's New York and Rome offices, including monthly and periodic reports and statements from the Atlanta Agency to these offices that materially misstated the financial condition and operations of the Atlanta Agency during 1987, 1988, and 1989, (3) making false oral statements to customers and others purporting to commit BNL to

various transactions, (4) transmitting telexes, telecopies, and letters implementing the various loan agreements and credit facilities, and (5) executing and implementing the other unauthorized and illegal transactions described above.

23. Defendants and those acting in concert with them constitute an enterprise engaged in interstate commerce. This enterprise was an association-in-fact engaged in the business of making unauthorized and illegal loans and entering into unauthorized and illegal business transactions for the benefit of Defendants and those acting in concert with them. This enterprise used the name and resources of BNL's Atlanta Agency to further the business of the enterprise.

24. Further, BNL's Atlanta Agency is an enterprise engaged in interstate commerce or activities which affect interstate commerce. BNL's Atlanta Agency is ongoing and has an existence distinct from the pattern of racketeering activity alleged herein.

25. Defendants were employed by or associated with BNL's Atlanta Agency and the association-in-fact described in paragraph 23 above. Defendants conducted or participated, directly or indirectly, in the conduct of affairs of BNL's Atlanta Agency and the association-in-fact through the pattern of racketeering described above in violation of 18 U.S.C. § 1962(c).

26. Defendants and those acting in concert with them have further conspired, in violation of 18 U.S.C. § 1962(d), to conduct

the interstate enterprise described above through the racketeering activity described above.

27. BNL has suffered injury to its business and property by reason of the violations of 18 U.S.C. § 1962(c) and (d) described above. BNL is entitled to treble damages, in an amount to be shown at trial, and to the recovery of its reasonable attorneys' fees for bringing and prosecuting this action.

FOURTH CLAIM - VIOLATION OF O.C.G.A. § 16-14-1

28. BNL incorporates paragraphs 1 through 10 and 22 through 27 above as if fully set forth verbatim herein.

29. This Count arises under the Racketeer Influenced and Corrupt Organizations Act of the State of Georgia, O.C.G.A. § 16-14-1, et seq.

30. The actions of Defendants constituting mail and wire fraud as specified in paragraph 22 above constitute "racketeering activity" as that term is defined in 18 U.S.C. § 1961(1)(B) and as such constitute racketeering activity under O.C.G.A. § 16-14-3(j)(A)(xxix).

31. Upon information and belief, Defendants and those acting in concert with them have, through the pattern of racketeering activity described more fully in paragraph 22 above, acquired personal property or money for their personal benefit, in violation of O.C.G.A. § 16-14-4(a).

32. Defendants and those acting in concert with them have conducted an enterprise through a pattern of racketeering activity

within the meaning of O.C.G.A. § 16-14-4(b), as described more fully in paragraphs 23 and 24 above.

33. Defendants and those acting in concert with them have further conspired to violate the provisions of O.C.G.A. § 16-14-4(a) and (b), thereby violating O.C.G.A. § 16-14-4(c).

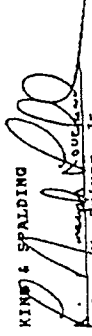
34. As a direct and proximate result of defendants' violation of O.C.G.A. § 16-14-4(a), (b), and (c), BNL has been injured in its business or property in an amount to be shown at trial.

35. Defendants are liable to BNL for treble damages, together with all costs of this action, plus reasonable attorneys' fees as provided by O.C.G.A. § 16-14-6(c).

WHEREFORE, BNL prays that it recover from Defendants, jointly and severally, damages in an amount to be shown at trial, punitive damages on its First and Second Claims, and treble damages and attorneys' fees on its Third and Fourth Claims. BNL also prays that it receive such other and further relief as the Court may deem just and proper.

2500 Trust Co. Tower
Atlanta, Ga. 30303
(404)572-4600

KING & SPALDING


Walter M. Driver, Jr.
State Bar No. 210900
L. Joseph Loveland
State Bar No. 459350
Leuka A. Owens
State Bar No. 451025

Attorneys for Plaintiff
BANCA NAZIONALE DEL LAVORO

Copia della richiesta di archiviazione e della richiesta di rinvio a giudizio formulate dal Procuratore della repubblica di Roma in relazione al caso BNL Atlanta.

Documento n. 417

393

394



TRIBUNALE PENALE DI ROMA
SEZIONE DEI GIUDICI PER LE INDAGINI PRELIMINARI

N. 38262/90 R.G. GIP

Roma, li 19.3.1992.....

Ufficio 17° del Giudice

Risposta a nota del N. Allegati N.

OGGETTO:

.....

Alla Commissione speciale
sul caso della Filiale di Atlanta
della Banca Nazionale del Lavoro
Ufficio di Segreteria
R O M A

In riferimento a nota n. 445-92 in data 16.3.1992
del Presidente della Commissione, trasmetto copia della ri-
chiesta di archiviazione e della richiesta di rinvio a giu-
dizio formulate dal Procuratore della Repubblica in relazio-
ne al caso BNL Atlanta.

Distinti saluti.

IL GIUDICE
PER LE INDAGINI PRELIMINARI
(dott. *Vittorio De Cesare*)

295

417

02102



PROCURA DELLA REPUBBLICA
PRESSO IL TRIBUNALE DI ROMA

RICHIESTA DI RINVIO A GIUDIZIO

(Artt. 416, 417 c. p. p., 130 D. Lv. 271/89)

AL GIUDICE PER L'UDIENZA PRELIMINARE
PRESSO IL TRIBUNALE DI ROMA

Il Pubblico Ministero

Visti gli atti del procedimento n. 16324/90A

- nei confronti di
- 1) DROGOUL CHRISTOPHER PETER, n. a Jersey City - New Jersey (U.S.A.)
il 9.7.1949 - 1067 Lakesore Drive Avondale Estates Georgia 30002 U.S.A.;
 - 2) VON WEDEL PAUL ROBERT; n. a Queens-New Jork (U.S.A.) il 19.3.1938 -
5346 Kanawha Court - Stone Mountain Georgia 300087 U.S.A.;
 - 3) THERESE BARDEN, n. a OCTEVILLE S/MERE (France) -- il 3/10/1926 - 5048
N. REDAN CIRCLE - STONE MOUNTAIN, GA 30088;
 - 4) AMEDEO DE CAROLIS, n. a L'Aquila il 13.9.1955 - 3971 CITROO COURT-
NORCRODS, GA30093;
 - 5) THOMAS FIEBELKORN, n. il 3.3.1945 ad ATLANTA (GA) - 3051 FANNINTON
DRIVE - ATLANTA, GA 30339;
 - 6) BRENDA FORREST, n. il 19.4.1959 a FORT BENNING (GA) - 1016 JEANETTE
ST. RT.1 - DALLAS, GA 30132;
- ~~XXXXXXXXXX~~
- 7) MELA MAGGI, n. il 28.7.1956 a MOLINE (ILL.) - 3106 VININGS RIDGE -
ATLANTA, GA 30339;
 - 8) LEIGH NEW, n. il 29.3.1943 in U.S.A. - P O BOX 1198, CANOLLTON, GA
30117;
 - 9) ROBERT POST, n. il 9.4.1958 a MARIETTA (GA) - 338 HOOD PKWAY -
KEWNESAW, GA 30144.

I M P U T A T I

V. allegato N. 1

(1) Generalità, domicilio e difensore dell'imputato.

396

Identificat la person .. offes ... in :

legale rappresentante BANCA NAZIONALE DEL LAVORO Via Bissolati-Roma.

Evidenziata l'acquisizione delle seguenti fonti di prova :
V. allegato N. 2

Visti gli artt. 416. 417 c. p. p.

C H I E D E

L'emissione del decreto che dispone il giudizio nei confronti degli imputati e per i reati sopraindicati.

Manda alla Segreteria per gli adempimenti di competenza e in particolare per la trasmissione, unitamente alla presente richiesta, del fascicolo contenente la notizia di reato, la documentazione relativa alle indagini espletate e i verbali degli atti eventualmente compiuti davanti al giudice per le indagini preliminari.

N.B. : Per gli alti profili della vicenda, si chiede - con separato provvedimento in pari data - l'archiviazione degli atti.


Roma, li 28. Settembre 1992

IL PUBBLICO MINISTERO
IL PROCURATORE DELLA REPUBBLICA
(UGO GIUDICE ANDREA)

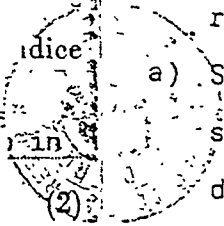
Depositata nella Cancelleria del

in data 27/9/92 ore 13,10

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A) delitto p. e p. dagli artt.110, 48, 112 n.1, 81 CP e 2621 Cod. Civ. perchè di concerto fra loro ed in concorso con altre persone allo stato non identificate (fra le quali anche funzionari del Governo dell'IRAQ e della Banca Centrale Irachena) - nelle rispettive qualità: il Drogoul di Direttore della Filiale di Atlanta della Banca Nazionale del Lavoro; il Von Wedel di funzionario della suddetta Filiale, con incarico di responsabile del Settore Lettere di Credito; la Barden di funzionaria della suddetta Filiale, con incarico di Responsabile del Settore Contabilità; il De Carolis di funzionario della suddetta Filiale, con incarico di addetto al Settore Contabilità; la Maggi di funzionaria della suddetta Filiale, con incarico di Tesoriere; il Post di funzionario della suddetta Filiale, con incarico di vice/responsabile della Contabilità; la Forrest di funzionaria della suddetta Filiale, con incarico di addetta al Settore Lettere di Credito; la New di funzionaria della suddetta Filiale, con incarico di segretaria del Direttore Drogoul; il Fiebelkorn di funzionario della suddetta Filiale, con mansioni di stretto collaboratore del Direttore Drogoul - mediante le seguenti modalità operative (alla cui attuazione tutti a vario titolo collaboravano, avvalendosi delle rispettive funzioni):



a) Stipula di n.8 accordi con la irachena Rafidain Bank (sottoscritti per la BNL dal Drogoul e dal Von Wedel, a far data dal 23/1/85 fino al 1987), accordi che prevedevano da parte della BNL con concessione di finanziamenti per complessivi 2.065.000.000. dollari USA alla stessa Rafidain Bank, da utilizzare (e poi effettivamente utilizzati) per il rilascio di lettere di credito in favore di importatori iracheni di prodotti agricoli esportati da operatori

statunitensi (operazioni, peraltro, che risultavano in gran parte garantite dalla Commodity Credit Corporation, organismo del Governo USA per la copertura assicurativa delle esportazioni di prodotti agricoli).

- b) Adozione di artificiose tecniche contabili per nascondere agli organi controllo, interni ed esterni alla BNL, le esposizioni derivanti dai citati accordi. In particolare, fra l'altro: inizialmente mediante l'eliminazione dalla contabilità ufficiale, alla fine di ogni mese, di tutte le operazioni eccedenti i limiti (di importo estremamente più contenuto) delle linee di fido autorizzate a favore della Rafidain Bank, con successiva riannotazione in contabilità nei primi giorni del mese successivo; il tutto mediante acquisizione nel sistema interbancario, a carico della BNL, dei fondi necessari per i suddetti artifici contabili, fondi poi fatti falsamente apparire come bonifici destinati ad eliminare le accennate esposizioni eccedenti; in prosieguo, mediante integrale annotazione delle operazioni in questione su supporti cartacei e magnetici non ufficiali (detti "Grey Books"); movimentazione dei fondi necessari per dette operazioni su un conto di compensazione tenuto dalla Filiale presso la Morgan Guaranty Trust; annotazione delle artificiose contropartite inerenti a dette operazioni irregolari su conti ufficiali intestati alla Rafidain Bank e su un conto di comodo abusivamente intestato ad altro soggetto; creazione di falsa documentazione bancaria, necessaria per evitare i rilievi degli organi di controllo.
- c) Stipula di n.4 accordi (i primi due sottoscritti per la BNL dal Drogoul e dal Von Wedel, gli altri dal solo Drogoul) con i Ministeri iracheni dell'Industria e del Commercio e con la Central Bank of Iraq, accordi che prevedevano

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da parte della BNL (a tassi oggettivamente non remunerativi, a condizioni di rimborso di estremo favore e non assistite da adeguate garanzie; il tutto in assoluto contrasto con la normativa interna della BNL disciplinante la materia) la concessione di finanziamenti per prestiti a medio e lungo termine rispettivamente e complessivamente ammontanti a 200 milioni di dollari USA (accordo stipulato il 22/2/88 a Baghdad), a 300 milioni di dollari USA (accordo stipulato il 6/10/88 ad Atlanta), a 500 milioni di dollari USA (accordo stipulato il 3/12/88 a Washington) ed a 1155 milioni di dollari USA (accordo stipulato l'8/4/89 a Londra), finanziamenti poi utilizzati mediante aperture di credito a favore di numerose imprese di diverse nazionalità per forniture all'IRAQ di prodotti alimentari ed industriali di varia natura; il tutto essenzialmente attraverso l'adozione, nel tempo, di tre diverse procedure convenzionalmente denominate "Option A" (Lettere di Credito emesse dalla Central Bank of Iraq confermate direttamente dalla Filiale BNL, che provvedeva quindi al pagamento dei relativi importi agli esportatori indicati nelle L/C stesse), "Option B" (gli irregolari finanziamenti venivano convogliati su conti correnti tenuti dalla Central Bank of Iraq presso altre banche, le quali provvedevano poi a confermare le Lettere di Credito) ed "Option C" (l'erogazione dei finanziamenti avveniva sostanzialmente in modo analogo al caso precedente, sulla base peraltro esclusivamente di istruzioni impartite telefonicamente alla Filiale BNL da parte di funzionari governativi iracheni).

d) Mancata registrazione dei suddetti 4 accordi e mancata contabilizzazione regolare degli impegni derivanti dai suddetti accordi (il tutto veniva registrato su supporti

cartacei e magnetici non ufficiali, convenzionalmente denominati "Grey Books"), occultamento delle esposizioni irregolari effettuato mediante artifici contabili di varia natura (quali, ad esempio, la creazione di conti con false intestazioni, su cui venivano registrate le partite derivanti dagli irregolari finanziamenti; reperimento a carico delle Filiali BNL del collaterale-sempre assoggettato a false intestazioni- necessario all'erogazione dei finanziamenti; creazione di falsa documentazione di varia natura per evitare l'accertamento delle operazioni irregolari da parte degli organi di controllo interni e degli organi di vigilanza bancaria statunitensi ed italiani; spese connesse alle suddette operazioni, addebitate su conti di comodo abusivamente intestati ad altri soggetti ed irregolarmente alimentati con utili, che sarebbero stati invece destinati ad affluire sul conto economico della Filiale).

Attraverso le accennate modalità operative, si ripete, inducevano in errore gli Organi centrali della BNL competenti a redigere le scritture contabili ufficiali della banca stessa per gli esercizi dal 1985 al 1989, nonchè ad approvare i bilanci relativi agli esercizi dal 1985 al 1988, facendo così in modo che nei bilanci e nelle altre comunicazioni sociali non risultassero annotate le rilevantisime operazioni collegate agli irregolari finanziamenti di cui sopra e venissero, di conseguenza, fraudolentemente tenuti nascosti fatti concernenti le condizioni economiche della BNL. Tutto ciò, in generale, con riferimento agli importi derivanti dalle aperture di credito a favore della Rafidain Bank, nonchè derivanti dai 4 accordi stipulati con la Central Bank of Iraq. In particolare poi, con riferimento a questi

ultimi accordi ed al bilancio relativo all'esercizio 1988, in detto bilancio non trovavano alcun riscontro (nel conto "Impegni e Rischi" e nel conto "Impieghi") le rilevanti variazioni patrimoniali corrispondenti agli importi derivanti dai tre accordi sottoscritti con la C.B.I. nel corso del 1988. (complessivamente un miliardo di dollari USA) ed agli importi derivanti (per complessivi 856 milioni di dollari USA) dalle menzionate, irregolari aperture di credito a favore della Rafidain Bank; nè in detto bilancio venivano indicati (nella Sezione "Rendite e Profitti") interessi attivi e commissioni attive (rispettivamente per 832.500 e per 1.386.300 dollari USA) derivanti dalle menzionate, irregolari operazioni di finanziamento poste in essere nel corso dell'esercizio 1988.

Con l'aggravante del numero delle persone e con più azioni esecutive del medesimo disegno criminoso.

Condotta posta in essere in Atlanta (Georgia, USA) ed altrove; eventi verificatisi in Roma; il tutto fino al 4/8/89.

- B) delitto p. e p. dagli artt. 110, 112 n.1, 48, 81 CP e 4 legge n.114 del 17/4/86 perchè di concerto fra loro ed in concorso con altre persone allo stato non identificate nelle rispettive qualità indicate nel capo precedente ed attraverso le modalità operative specificamente illustrate sempre nel capo precedente- con più azioni esecutive del medesimo disegno criminoso inducevano ripetutamente in errore i competenti Organi centrali della Banca Nazionale del Lavoro, facendo in modo (con riferimento al complesso delle irregolari operazioni di finanziamento con l'Iraq analiticamente descritte nel capo precedente) che nelle prescritte comunicazioni periodicamente inviate dalla

BNL alla Banca d'Italia venissero esposti fatti non rispondenti al vero sulle condizioni economiche della stessa BNL, nonché nascosti fatti concernenti dette condizioni; il tutto allo scopo di ostacolare l'esercizio delle funzioni di vigilanza proprie della Banca d'Italia. Con l'aggravante del numero delle persone.

Condotta posta in essere in Atlanta (Georgia, USA) ed altrove; eventivamente verificatisi in Roma. Il tutto fino al 4/8/89.

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La nota vicenda della Filiale di Atlanta della Banca Nazionale del Lavoro è stata oggetto di approfonditi ed analitici accertamenti in sede di ispezioni da parte degli organismi bancari di controllo statunitensi ed italiani, nonché da parte dei servizi ispettivi della stessa BNL.

All'esito di tale attività di verifica, nonché delle ampie e dettagliate indagini svolte dalla Guardia di Finanza, non occorre certo spendere molte parole per evidenziare le responsabilità del Drogoul e del suo più stretto collaboratore Von Wedel, responsabilità che emergono in modo imponente ed incontestabile da tutti gli atti del fascicolo. Per quanto concerne gli altri funzionari della Filiale dei quali si chiede il rinvio a giudizio, gli elementi di corresponsabilità a loro carico sono quelli specificamente evidenziati nelle informative di P.G. e nelle menzionate relazioni ispettive, elementi il cui spessore risulta ovviamente diverso a seconda delle varie posizioni, ma che per tutti comunque consentono di superare ogni ragionevole dubbio circa la loro consapevole partecipazione in quel complesso di irregolari attività amministrative e contabili che ha costituito l'indispensabile supporto delle operazioni di finanziamento in esame. Ciò posto, corre comunque l'obbligo in questa sede di sottolineare le difficoltà operative incontrate - nel corso dell'attività di indagine - a causa del fatto che le condotte criminose risultano essere state poste in essere essenzialmente in USA e che ivi è stata reperita la documentazione comprovante l'illecita attività della Filiale BNL in questione.

Tali difficoltà sono state accentuate dalla oggettivamente non esaustiva collaborazione offerta dalla Procura Federale di Atlanta, la quale - nel corso dei contatti verificatisi

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in occasione della espletata rogatoria- ha apertamente manifestato l'impossibilità allo stato (per problemi procedurali) di soddisfare tutte le esigenze investigative prospettate (anche verbalmente "in loco") da questo Ufficio; e ciò appunto in attesa della celebrazione del processo istruito sulla vicenda da quella Procura, celebrazione che non è intervenuta prima della scadenza del termine massimo per le indagini preliminari previsto dall'art. 258 Disp. Att. CPP.

Quanto poi alla identificazione di eventuali corresponsabili di nazionalità irachena, va precisato che allo stato- prescindendo in questa sede da ogni questione di merito- si è in possesso esclusivamente di meri nominativi di funzionari, nominativi non supportati dai necessari dati identificativi anagrafici (dati che è assolutamente aleatorio pensare- quanto meno allo stato- di poter acquisire, stanti le travagliate vicende belliche e politiche verificatesi nel frattempo in Iraq). In tale situazione, non resta in proposito che considerare detti funzionari alla stregua di persone allo stato non compiutamente identificate.

Quanto, infine, ad altre ipotesi criminose ravvisabili nella fattispecie ed alla individuazione di altri eventuali corresponsabili in servizio presso la Sede Centrale della ENL o comunque operanti sul territorio nazionale, si rinvia alle considerazioni svolte nell'allegata richiesta di archiviazione in pari data.

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PROCURA DELLA REPUBBLICA
PRESSO IL TRIBUNALE DI ROMA

RICHIESTA DI ARCHIVIAZIONE

(Artt 408/411 c. p. p., 125 e 126 D. L. v. 271/89)

AL GIUDICE PER LE INDAGINI PRELIMINARI
TRIBUNALE DI ROMA
PRESSO

Il Pubblico Ministero

Visti gli atti del procedimento penale n. 16234/90A nei confronti
di/ relativo a 1) PEDDE GIACOMO, n. Sassari il 11.10.26; 2) NESI NERIO n. Bologna
il 16.6.25; 3) COSTANTINI LUCIO, n. Roma il 4.4.32; 4) D'ADDOSIO UMBERTO,
n. Capurso (BA) il 19.4.1930; 5) SARTORI GRAZIANO, n. Reggio Emilia il 5.5.
1936; MESSERE LOUIS, n. Torella del Sannio il 9/5/1950
iscritto nel registro delle notizie di cui all'art. 335 comma 1 c. p. p. in data già pendente al 24/10
Vedi fogli allegati

Rilevato che

Visti gli artt. 408/411 c. p. p. 125 D. L. v. 271/89

C H I E D E

che il Giudice per le indagini preliminari in sede voglia disporre l'archiviazione del procedimento e ordinare la conseguente restituzione degli atti al proprio Ufficio.

Manda alla Segreteria Polizia Giudiziaria per la notifica all - person - - offes - - (1) - -

con avviso che nel termine di 10 giorni può prendere visione degli atti e presentare opposizione con richiesta motivata di prosecuzione delle indagini preliminari.

Roma, li 28 GEN 1992

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IL PUBBLICO MINISTERO
E PROCURATORE DELLA REPUBBLICA
(Usc. GIUDICE ANDREA)

(1) Indicare i nominativi delle persone offese che nella notizia di reato o successivamente abbiano dichiarato di voler essere informate circa l'eventuale archiviazione (art. 408 comma 2 c. p. p.).

Quanto alle ipotesi criminose continuate di appropriazione indebita aggravata e di falsità in scrittura privata ravvisabili nei fatti verificatisi ad Atlanta, va rilevato che trattasi di fattispecie tutte esauritesi entro il 4/8/89, come tali rientranti nell'ambito di applicazione dell'ultimo provvedimento di amnistia (e ciò prescindendo da ogni questione di procedibilità derivante dall'essersi fatti verificati all'estero).

Quanto alla fattispecie criminosa ex art. 1 Legge n.516/82-ipotizzata nell'informativa in data 18/10/90 con riferimento alla mancata contabilizzazione da parte della BNL dei fatti amministrativi concernenti le operazioni irregolari che non venivano comunicate alla Sede Centrale-essa va ritenuta assolutamente insussistente, in quanto alla Filiale BNL di Atlanta deve senz'altro riconoscersi, rispetto alla Sede Centrale, la qualità di "stabile organizzazione all'estero dotata di autonomia funzionale", come tale assoggettata (ai sensi dell'art.7 Legge n.763/1985) esclusivamente all'imposizione fiscale statunitense. Nè, ovviamente, il fatto che la Filiale sia riuscita a sottrarre parte delle proprie attività all'imposizione USA può rendere dette attività assoggettabili ad imposizione fiscale nel nostro Paese.

Per quanto concerne, poi, l'ipotizzata corresponsabilità nella vicenda in esame di funzionari degli Uffici centrali BNL o comunque di persone operanti sul territorio nazionale, va premesso che in effetti l'irregolare attività gestita dal Drogoul risulta avere assunto dimensioni tali da rendere istintivamente poco accettabile l'idea che detta attività abbia potuto svilupparsi (e consolidarsi nel tempo) senza consapevoli coperture a livello di Uffici centrali dell'Istituto bancario. Ed in proposito deve, invero, osservarsi

che il complesso delle espletate indagini -oltre ad evidenziare, in generale, la situazione di sorprendente inefficienza e superficialità in cui versava il sistema dei controlli interni della BNL (e considerazioni sostanzialmente analoghe ben possono farsi, a posteriori, anche in merito al sistema dei controlli della Autorità di vigilanza bancaria Federali e della Georgia)- il complesso delle espletate indagini, si ripete, ha anche evidenziato una serie di specifici profili di sospetto e perplessità a carico di vari altri funzionari periferici e centrali della BNL, profili che in sintesi sostanzialmente si individuano nei seguenti:

- Amplissima ed inusuale autonomia operativa di cui risulta aver goduto il Drogoul in virtù di una procura generale rilasciata dai vertici BNL. (procura che tuttavia risulta essere stata conferita anche ad altri Direttori di Filiale, asseritamente in considerazione di specifiche esigenze operative della banca in determinati Paesi).

- Prolungata inerzia della Direzione di Area e delle Funzioni Centrali dell'Istituto di fronte alle reiterate e consistenti irregolarità (peraltro estranee alla vicenda "Iraq") comunque poste nel tempo in essere dal Drogoul.

Mancato inoltre ai competenti Uffici centrali, da parte dell'ispettore Costantini, della lettera al medesimo consegnata a mano dal Capo Area Sardelli, lettera nella quale lo stesso Sardelli formulava pesanti rilievi (sia pure estranei alla vicenda "Iraq") sull'operato del Drogoul.

- La incredibile incapacità dell'ispettore Messere (come, più in generale, di tutti gli organi di controllo della BNL) di avvedersi, nel corso della sua missione ad Atlanta, della pur imponente massa di operazioni contabili connesse agli irregolari finanziamenti derivanti dai clandestini accordi


stipulati con l'Iraq.

- Inspiegabili lentezze che hanno caratterizzato il difficoltoso "iter" della relazione ispettiva trasmessa dal Sardelli all'Ispettorato circa il censurabile operato del Drogoul (relazione, comunque, anch'essa assolutamente non riguardante la vicenda "Iraq").

Mancata percezione da parte del Dr. Monaco (Responsabile del Settore Medio Oriente della Linea Istituzioni/Estero dell'Area Finanza) delle sintomatiche "anomalie" che risultano aver caratterizzato la pratica di concessione dei crediti alla società Danieli di Udine per l'esportazione di prodotti industriali verso l'Iraq, società che lo stesso Monaco aveva personalmente "indirizzato" verso la lontana Filiale di Atlanta (e ciò, asseritamente, perchè detta Filiale aveva notoriamente acquisito una certa esperienza nel campo delle operazioni verso l'Iraq, garantite da collaterale di provenienza irachena ed assicurate dall'americana Credit Commodity Corporation).

Orbene, dopo aver doverosamente richiamato in sintesi i principali profili di sospetto evidenziati nelle varie informative di P.G. in atti (profili per il cui esame più dettagliato si rinvia alle informative stesse), ritiene peraltro questo Ufficio che ad essi non possa assolutamente riconoscersi -in mancanza dei necessari elementi probatori di riscontro e di raccordo- quella qualità di "indizi gravi, precisi e concordanti" che sola consentirebbe loro di assumere un concreto peso processuale e di giustificare quindi, allo stato degli atti, il fondato promovimento dell'azione penale nei confronti di funzionari BNL diversi da quelli in servizio ad Atlanta.

Tutto ciò va ovviamente ricollegato anche alle oggettive difficoltà operative che hanno caratterizzato l'attività

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d'indagine, in considerazione del fatto che il nucleo essenziale della vicenda risulta essersi verificato negli USA ad opera di persone ivi residenti e che ivi è stata reperita la documentazione comprovante l'attività criminosa in esame. Tali difficoltà sono state, poi, in modo decisivo accentuate dalla oggettivamente non esaustiva collaborazione offerta dalla Procura Federale di Atlanta, la quale -in occasione dei contatti verificati si nel corso della espletata rogatoria internazionale- ha apertamente manifestato l'impossibilità allo stato (per problemi procedurali di segretezza dell'indagine) di soddisfare tutte le esigenze investigative prospettate (anche verbalmente "in loco") da questo Ufficio; e ciò appunto in attesa della celebrazione del processo istruito sulla vicenda da quella Procura, celebrazione prevista per i prossimi mesi.

In tale situazione -tenuto conto dell'ormai scaduto termine di durata massima delle indagini preliminari previsto dall'art.258 Disp. Att. Cod. Proc. Pen.- questo Ufficio ritiene di dover chiedere, in merito a tutti i profili della vicenda sopra accennati, l'archiviazione allo stato degli atti, con espressa riserva di richiedere eventualmente la riapertura delle indagini, ai sensi dell'art.414 Cod. Proc. Pen., ove emergano esigenze di ulteriori investigazioni.



Articolo del Los Angeles Times del 19 marzo 1992.

Documento n. 419

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17/03/96

Los Angeles Times

U.S. Is Said to Stall Charging 2 Iraqi Banks

By DOUGLAS FRANTZ and MURRAY WAAS
SPECIAL TO THE TIMES

WASHINGTON—The Justice Department delayed filing criminal charges against four Iraqi officials and two government-owned banks in a \$4-billion loan-fraud scheme in early 1990 when the Bush Administration was struggling to retain close ties to Baghdad, according to confidential documents and interviews.

The indictment was not brought until the day after President Bush ordered a cease-fire in the Persian Gulf War. That was more than a year after the U.S. attorney and his assistant handling the case notified officials at two federal agencies charges were imminent, according to the documents.

Even when the charges were filed, the government-owned Central Bank of Iraq was removed as a defendant after last-minute objections by the State Department, according to classified records.

While the documents do not spell out why the indictment was delayed, records and interviews show that, from the outset, the case caused grave concerns in the Bush Administration over its potential impact on U.S. relations with the regime of Saddam Hussein. The delay raises further questions about the secret accommodations the Administration provided for the Iraqi government in a vain effort to curry its favor.

ly 1990, they would have created a substantial hurdle for the Administration's efforts to provide Iraq with another \$500 million in promised loan guarantees from the Agriculture Department.

Allegations of high-level Iraqi government collusion in the scheme also would have sounded a new alarm in Congress, which already was skeptical about U.S. aid to Saddam Hussein.

Investigators in the case speculated that the delay eliminated the chance to arrest Iraqi government officials involved in the scheme. Two Iraqi officials were in the United States in early 1990 and might have been arrested, said the investigators. By the time the indictment was returned on Feb. 28, 1991, however, the officials were in Baghdad and out of reach of U.S. law enforcement.

"My feeling is that it was delayed until it became politically nice," said a federal investigator familiar with the case. "It would have precipitated a decline in our relationship with Iraq."

A Justice Department official in Washington denied that political or foreign-policy considerations played any role in the timing of the indictment.

The case involved \$4 billion in loans made to Iraq in the late 1980s by the Atlanta branch of Italy's Banca Nazionale del Lavoro, or BNL. About \$900 million of those loans, were backed by guarantees from the Agriculture Department's Commodity Credit Corp. On Aug. 4, 1989, agents from the FBI and Customs Service raided the BNL branch and seized thousands of documents after a tip from two bank employees that loans to Iraq far exceeded limits imposed by bank officials in Rome and levels reported to U.S. regulators.

The investigators discovered evidence that the branch had provided billions in secret, unsecured loans to the Iraqi government and contractors that it controlled. The Iraqis allegedly lied to the bank officials about the purpose of the loans, and investigators said that much of the money was apparently used to finance military projects.

An attorney for BNL, who spoke on the condition that his name be withheld, said it was clear immediately that the massive fraud involved the Iraqi government.

That assessment is supported by an internal Customs report, dated Sept. 21, 1989, which said investigators already had evidence linking BNL loans "to various U.S. firms for the illegal export to Iraq of missile-related technology."

Among the documents found at BNL was a 1989 telex wishing a happy Easter to the bank staff. It was from Hussain Kamil, Saddam Hussein's son-in-law and Iraq's minister of industry and military production.

Another Iraqi official implicated early was Safa al-Habobi, director of Iraq's main weapons complex to confidential records.

In a joint letter on Jan. 9, 1990, to the Federal Reserve Bank requesting assistance from one of its arms-procurement networks, BNL scandal was raised by the speed and depth of the investigation and said Federal Reserve Board and Treasury Department to try to halt the "early next month."

On Feb. 6, 1990, a Federal Reserve memo also quoted McKenzie State Department is trying to determine whether the actions of reported that McKenzie had said Iraq in the BNL case were those of elements of the case had been renegade Iraqis or reflected official taken over by Justice Department Iraqi government policy. The latter headquarters in Washington case appears to be true.

However, when the Agriculture Department responded by trying to cut Iraq's CCC loan guarantees to \$400 million from \$1 billion, the Bush Administration downplayed the case and mounted a strenuous campaign to block any cut.

Administration officials invoked a secret national security decision issued by President Bush in early October ordering U.S. agencies to expand economic ties with Baghdad. And despite warnings of Iraqi government involvement in the BNL fraud, Secretary of State James A. Baker III personally persuaded then Secretary of Agriculture Clayton K. Yentler to restore the \$1 billion.

Pressure also was coming from Italian leaders concerned about the impact on BNL, which is owned by the Italian government. On Oct. 19, 1989, the bank's two top officers—both prominent politicians—sought the help of the new U.S. ambassador in Rome, Peter Secchia.

By early 1990, the federal prosecutor in Atlanta handling the case, Gale McKenzie, and her boss, U.S. Attorney Robert L. Barr Jr., expected indictments very soon, according to confidential records.

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An Administration official said it was normal for headquarters to take a keen interest in such a case. Indeed, later in 1990, then-Atty Gen Dick Thornburgh wrote a letter to House Banking Committee Chairman Henry B. Gonzalez (D-Tex.) asking him to postpone the committee's inquiry into the BNL case because it was "sensitive... with national security concerns."

It was not until February, 1991, with the air war in the Gulf under way, that the Justice Department in Washington conducted a final review of the indictment proposed by the U.S. attorney's office in Atlanta.

According to a secret government report, the prosecutors wanted to indict the Central Bank of Iraq and its government-owned commercial equivalent, Rafidain Bank, as part of the conspiracy to defraud BNL. Charging the Central Bank, the prosecutors said, would allow them to freeze \$1.5 billion in Iraqi assets.

Also slated to be charged were two Iraqis who were top officers of both banks as well as Safa al-Habobi and another procurement official, the BNL Atlanta manager and two other BNL employees.

McKenzie declined to comment on the case, but her immediate supervisor, Gerrilyn G. Brill, said that the early predictions on the indictment were "overly optimistic" and she denied that there was any interference.

The BNL employees go to trial in June. The Iraqi officials and Rafidain Bank have not been arrested or made an appearance in the case.

Gli Stati Uniti avrebbero bloccato l'incriminazione di due banche irachene

Di DOUGLAS FRANTZ e MURRAY WAAS

(Traduzione di Sara Scrinzi)

WASHINGTON - Documenti riservati ed interviste rivelano che, all'inizio del 1990, quando l'Amministrazione Bush cercava in ogni modo di mantenere contatti stretti con Baghdad, il Dipartimento della Giustizia intervenne con ritardo per muovere accuse di rilevanza penale nei confronti di quattro funzionari iracheni e due banche statali, nel quadro di una frode relativa ad un credito di 4 miliardi di dollari.

L'incriminazione fu formalizzata solo il giorno successivo al cessate-il-fuoco nella Guerra del Golfo decretato dal Presidente Bush. Secondo i documenti ciò avvenne, quindi, più di un anno dopo che il procuratore federale e l'assistente che trattava il caso avevano notificato a funzionari di due agenzie diverse che era imminente la messa sotto accusa.

Anche quando le accuse furono formalizzate, la Banca Centrale statale irachena - risulta da documenti riservati - fu tolta dalla lista dei convenuti a seguito di obiezioni giunte all'ultimo minuto dal Dipartimento di Stato.

Se i documenti non chiariscono perché l'incriminazione fu ritardata, documenti ed interviste mostrano che sin dall'inizio il caso creava gravi preoccupazioni all'interno dell'Amministrazione Bush per le conseguenze che avrebbe potuto avere sulle relazioni degli Stati Uniti con il regime di Saddam Hussein.

Il ritardo solleva ulteriori questioni riguardo agli accordi segreti che l'Amministrazione avrebbe avuto con il governo iracheno nel vano tentativo di ingraziarselo.

Se le accuse fossero state formalizzate all'inizio del 1990 avrebbero costituito un grosso ostacolo agli sforzi americani per concedere all'Iraq altri 500 milioni di dollari sotto forma delle promesse garanzie al credito del Dipartimento dell'Agricoltura.

Voci di collusione ad alto livello del governo iracheno nel caso avrebbero suonato un campanello d'allarme nel Congresso, già scettico riguardo agli aiuti americani a Saddam Hussein.

Gli inquirenti ipotizzarono che il ritardo avesse impedito la possibilità di arrestare i funzionari del governo iracheno coinvolti. Gli inquirenti sostennero che due funzionari iracheni si trovavano negli Stati Uniti all'inizio del 1990 e si sarebbe potuto arrestarli. Quando, il 28 febbraio 1991, l'incriminazione fu definitivamente formalizzata i funzionari, però, si trovavano a Baghdad, fuori dalla portata della legge americana.

"Ho l'impressione che fu ritardata finché ritenuto politicamente opportuno" disse un inquirente federale addentro nella questione, "Avrebbe fatto precipitare le nostre buone relazioni con l'Iraq".

Un funzionario del Dipartimento della Giustizia di Washington negò che considerazioni politiche o di politica estera avessero in qualche modo condizionato la scelta dei tempi per la formale incriminazione.

Il caso riguardava 4 miliardi di dollari in prestiti concessi all'Iraq verso la fine degli anni '80 dalla filiale di Atlanta della Banca Nazionale del Lavoro. Di questi, 900 milioni erano garantiti dalla Commodity Credit Corp. del Dipartimento dell'Agricoltura.

Il 4 agosto 1989 alcuni agenti dell'FBI e della Finanza (Customs Service) irrupero nella filiale BNL e sequestrarono migliaia di documenti a seguito di una "soffiata" di due dipendenti della banca secondo cui i prestiti all'Iraq superavano abbondantemente i limiti imposti dai dirigenti di Roma e quelli effettivamente comunicati agli enti di controllo americani proposti.

Gli inquirenti scoprirono prove per cui la banca aveva messo a disposizione del governo iracheno e dei fornitori da esso controllati miliardi di dollari sotto forma di prestiti segreti non garantiti. A quanto pare gli Iracheni mentirono ai funzionari della banca riguardo alla destinazione dei prestiti e gli inquirenti dichiararono che, a quanto risultava, la

maggior parte di essi fu utilizzata per finanziare progetti militari.

Un legale della BNL, disposto a parlare solo a condizione che il suo nome non fosse fatto, disse che fu immediatamente chiaro che la grande truffa coinvolgeva il governo iracheno.

Tale dichiarazione è corroborata da un rapporto interno della Finanza datato 21 settembre 1989, il quale riferiva che gli inquirenti erano già in possesso di prove che legavano i prestiti della BNL "a varie ditte statunitensi per l'esportazione illecita all'Iraq di tecnologia missilistica".

Tra i documenti trovati nella filiale BNL vi era un telex del 1989 di auguri per il personale della banca. Proveniva da Hussain Kamil, genero di Saddam Hussein e ministro dell'industria e produzione militare.

Un altro funzionario iracheno implicato in prima battuta era Safa al-Habobi, dirigente del maggior consorzio iracheno per la produzione di armi e funzionario di varie società che i servizi segreti americani avevano individuato come teste di ponte della rete mondiale di forniture belliche dell'Iraq.

Nell'autunno del 1989 il Federal Reserve Board e il Dipartimento del Tesoro sollevarono il problema del pericolo scandalo BNL per tentare di bloccare le garanzie al credito della Commodity Credit Corp. (CCC). Un documento riservato della Commodity Credit Corp. riportava: "Il Dipartimento di Stato sta cercando di chiarire se le azioni dell'Iraq nel caso

BNL fossero quelle di Iracheni 'traditori' o rispecchiassero la politica ufficiale dell'Iraq. Sembra più probabile la seconda ipotesi".

Tuttavia, quando il Dipartimento dell'Agricoltura reagì cercando di ridurre da un miliardo a 400 milioni di dollari le garanzie al credito della CCC, l'Amministrazione Bush minimizzò il caso e mise in moto una potente campagna per bloccare i tagli.

Funzionari dell'Amministrazione fecero appello ad una decisione segreta per la sicurezza nazionale adottata dal Presidente Bush all'inizio di ottobre con la quale si dava disposizione che le agenzie governative americane ampliassero i legami economici con Baghdad. E, nonostante gli avvertimenti di un coinvolgimento del governo iracheno nell'illecito BNL, il Segretario di Stato James Baker persuase personalmente l'allora Segretario dell'Agricoltura Clayton K. Yeutter a riportare l'importo a un miliardo.

Pressioni erano esercitate anche dai leader italiani, preoccupati per le conseguenze per la BNL, banca controllata dallo Stato italiano. Il 19 ottobre 1989 i due maggiori dirigenti della banca - entrambi noti politici - chiesero l'aiuto del nuovo ambasciatore americano a Roma Peter Secchia.

Appare da documenti riservati che il procuratore federale di Atlanta che trattava il caso, Gale McKenzie e il suo superiore, il procuratore Robert Barr Jr., già all'inizio del

1990 si attendevano di lì a poco la formalizzazione dell'incriminazione.

In una lettera alla Federal Reserve Bank del 9 gennaio 1990 in cui si chiedeva la consulenza durante l'inchiesta di uno dei suoi legali, Barr e McKenzie parlavano della "velocità e profondità" dell'investigazione prevedendo che l'incriminazione sarebbe stata anticipata all'"inizio del mese prossimo".

Il 6 febbraio 1990 anche una nota interna del Federal Reserve riportava che la McKenzie aveva detto che si attendeva che le accuse sarebbero state mosse quel mese. Ma la stessa nota riportava inoltre che McKenzie aveva detto che alcuni elementi del caso erano stati avocati dagli uffici di Washington del Dipartimento della Giustizia.

Un funzionario dell'Amministrazione disse che era normale che il Dipartimento si interessasse tanto a un caso del genere. Ma, in effetti, l'allora Ministro della Giustizia Dick Thornburgh successivamente scrisse una lettera al Presidente della Commissione sulle Attività Bancarie della Camera, Henry B. Gonzalez, chiedendogli di rinviare l'inchiesta della Commissione sul caso BNL in quanto "questione delicata.. per la sicurezza nazionale".

Fu solo nel febbraio 1991, con la battaglia aerea in corso nel Kuwait, che il Dipartimento della Giustizia a

Washington condusse un riesame definitivo dell'incriminazione promossa dalla procura di Atlanta.

Secondo un rapporto governativo segreto la procura intendeva mettere sotto accusa la Banca Centrale dell'Iraq ed il suo equivalente commerciale, di proprietà statale, la Rafidain Bank, per aver preso parte alla tentativo di truffare la BNL. La procura sosteneva che, accusando la Banca Centrale, avrebbe avuto la possibilità di congelare 1,5 miliardi di dollari in beni iracheni.

Dovevano essere incriminati anche due iracheni, dirigenti al massimo livello delle due banche, insieme a Safa al-Habobi e ad un altro funzionario addetto alle forniture, il direttore della BNL Atlanta ed altri due dipendenti BNL.

Il procuratore McKenzie si rifiutò di fare commenti sul caso, ma il suo diretto superiore, Gerrilyn G. Brill, disse che le prime previsioni sull'incriminazione erano state "eccessivamente ottimistiche" e negò che vi fosse mai stata alcuna interferenza.

I dipendenti BNL saranno processati a giugno. I funzionari iracheni e la Rafidain Bank non sono stati né arrestati né sono mai comparsi nel corso della vicenda.

Articolo del New York Times del 20 marzo 1992.

Documento n. 420

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THE NEW YORK TIMES INTERNATIONAL, 20 marzo 1992

GLI INQUIRENTI AFFERMANO CHE GLI USA PROTESSERO GLI IRACHENI
DALL'INCHIESTA BANCARIA

di Dean Baquet

WASHINGTON, 19 marzo - Invischiata nel suo fatale corteggiamento a Saddam Hussein, votato all'insuccesso, l'amministrazione Bush intralciò ripetutamente, nel 1989 e nel 1990, il lavoro delle proprie autorità inquirenti e di vigilanza, impegnate ad esaminare il ruolo svolto dall'Iraq nella truffa bancaria multimiliardaria di Atlanta, secondo quanto emerge da interviste e documenti governativi.

Gli investigatori governativi incaricati del caso affermano che il Dipartimento di Stato impedì loro di recarsi all'estero per interrogare testimoni chiave e sospetti.

Inoltre, il Dipartimento di Stato scoraggiò le procure dal formalizzare accuse penali contro uno spedizioniere giordano con vasti agganci politici e diplomatici, e contro la Banca Centrale dell'Iraq, come mostrano documenti dei Dipartimenti di Stato e della giustizia.

Accesa polemica governativa

Alcune interviste alle autorità inquirenti e di vigilanza, nonché l'analisi di documenti interni straordinariamente rivelatori, descrivono un'accesa polemica tra agenzie governative, e dimostrano con quanto impegno l'amministrazione perseguì il suo obiettivo di corteggiamento dell'Iraq, allo scopo di bilanciare l'influenza dell'Iran nella regione.

Il 28 febbraio 1991, il giorno successivo al cessate il fuoco nel Golfo ordinato da Bush, Dick Thornburgh, allora Ministro della giustizia, annunciò l'incriminazione di alcuni funzionari iracheni e di ex dirigenti della filiale di Atlanta di una banca pubblica italiana, la Banca Nazionale del Lavoro, nota anche come Bank Lavoro.

L'inchiesta, disse Thornburgh, aveva rivelato l'esistenza di "un disegno criminoso internazionale di colletti bianchi con terribili conseguenze mondiali" - un disegno che, finora, è sfociato nell'ammissione di colpevolezza di alcuni ex dirigenti bancari che hanno ammesso di aver concesso all'Iraq crediti illegali.

Quello che Thornburgh non disse era che le procure che si occupavano del caso cercavano da più di un anno di formalizzare delle incriminazioni, e che nel 1989 e nel 1990, il Dipartimento della giustizia aveva chiesto ai responsabili di Washington della Federal Reserve Bank di rinviare l'azione di vigilanza.

In effetti, il Governo trattava gli Iracheni con mano talmente delicata che, nel marzo 1990, le autorità giudiziarie, private di ogni altro mezzo per interrogare i testimoni chiave, si ridussero ad invitare i sospettati iracheni a recarsi negli Stati Uniti, a spese del governo americano, per essere interrogati.

Gli Iracheni non si fecero vedere.

Le autorità inquirenti e di vigilanza spiegano che nel 1989, quando ormai era chiaro che personaggi iracheni ad alto livello erano implicati nella truffa bancaria da 4 miliardi di dollari, tentarono senza alcun successo di persuadere il Dipartimento di Stato e quello dell'agricoltura a negare al governo iracheno la concessione di garanzie sui crediti per 500 milioni di dollari. Le agenzie ignorarono questa richiesta e approvarono le garanzie sui crediti, e il governo degli Stati Uniti è

attualmente esposto per gran parte di quella cifra perchè gli Iracheni sono risultati inadempienti.

Robert L. Barr Jr., l'ex procuratore federale di Atlanta che si occupò della fase iniziale dell'inchiesta, non ha voluto parlare in modo specifico del caso. Ma ha riconosciuto che, nel caso della Banca Nazionale del Lavoro, considerazioni di politica estera si erano intrecciate a quelle di natura giudiziaria.

Barr, importante esponente repubblicano di Atlanta, ha detto che il Dipartimento di Stato si interessò del caso fin dal principio, e che il caso "divenne complesso sia dal punto di vista legale che a causa di preoccupazioni di politica estera."

Alla richiesta di commentare le interviste in cui alcuni inquirenti avevano dichiarato la propria crescente frustrazione di fronte all'atteggiamento del Dipartimento di Stato, Barr ha soggiunto, "Ipoteticamente, e non mi sto riferendo al caso in esame, quando si ha in mano un buon caso e intervengono considerazioni di natura politica, i rinvii possono essere frustranti."

Lawrence Urgenson, attualmente vice procuratore generale associato, ha dichiarato che considerazioni legate alla politica estera non avevano avuto alcun ruolo nell'inchiesta.

Urgenson ha inoltre detto che se alcune trasferte sono state vietate, ciò è stato dovuto a problemi di calendario.

Colin Cleary, portavoce del Dipartimento di Stato, ha diffuso oggi un breve comunicato in cui si afferma che il Dipartimento della giustizia aveva consultato il Dipartimento di Stato perchè il caso della ENL "coinvolgeva alti funzionari del governo iracheno". Ha dichiarato inoltre che il Dipartimento di Stato appoggiava l'incriminazione elaborata da quello della giustizia ma, insieme ad altre agenzie, tra cui la Difesa, si opponeva all'incriminazione

della Banca Centrale dell'Iraq, perchè ciò avrebbe potuto rappresentare un brutto precedente giuridico.

Dopo la guerra con l'Iraq, il governo accusò due ex dirigenti della BNL di aver cospirato con funzionari iracheni al fine di procurare illegalmente più di 4 miliardi di dollari in crediti non autorizzati e crediti all'esportazione a favore dell'Iraq.

Secondo i 347 capi d'imputazione, i due dipendenti della filiale di Atlanta truffarono la banca madre di Roma concedendo prestiti all'Iraq all'insaputa di questa. La Procura afferma che alcuni dirigenti della banca ricevettero tangenti per centinaia di migliaia di dollari da commercianti interessati ad esportare beni in Iraq, beni che quel paese, sconvolto dalla guerra, non sarebbe stato in grado di acquistare senza ingenti iniezioni di liquidi.

Nel periodo in cui fu attuato il disegno criminoso, tra il 1985 e il 1989, gli Stati Uniti stavano cercando di stabilire legami con l'Iraq. Dopo la fine della guerra Iran-Iraq, nel 1988, gli Stati Uniti cominciarono ad aiutare l'Iraq a ricostruire la sua economia.

Il rappresentante democratico texano Henry B. Gonzalez, la cui commissione bancaria ha esaminato numerosi documenti interni del Dipartimento di Stato relativi alla Banca del Lavoro, ha affermato che la guerra con l'Iraq dimostrava come la precedente politica del governo fosse stata "completamente sbagliata".

Il caso cominciò sul serio il 4 agosto 1989, quando agenti dell'FBI e funzionari della Federal Reserve, sollecitati da una soffiata, fecero irruzione nell'ufficio di Atlanta della banca e sequestrarono migliaia di pagine di documenti.

Dopo l'irruzione, il governo fece chiudere la filiale di Atlanta della Banca Nazionale del Lavoro, una delle maggiori banche italiane.

Quasi immediatamente, il caso attirò l'attenzione dei funzionari dei servizi di sicurezza e diplomatici.

"La perdita dei finanziamenti BNL e, soprattutto, ogni riduzione delle garanzie americane sui crediti agricoli, dovuta alla pubblicità negativa derivante dallo scandalo, con ogni probabilità danneggerebbero le relazioni commerciali USA-Iraq", scrisse la Direzione Intelligence della CIA in un appunto datato 6 novembre 1989.

Nel maggio 1990, l'ambasciata americana a Baghdad, preoccupata perchè il Dipartimento dell'agricoltura stava valutando la possibilità di escludere l'Iraq dal programma delle garanzie di credito, fece pressioni con un telegramma, argomentando che "dal punto di vista della politica estera" ciò sarebbe stato un errore.

I documenti sequestrati nell'irruzione di agosto fornirono prove così evidenti che Barr propose di formalizzare un'incriminazione entro l'ottobre 1989, secondo quanto risulta dai documenti interni. Quella data trascorse, e il 9 gennaio 1990, in una lettera alla Federal Reserve Bank, Barr fece riferimento all'"incriminazione prevista per l'inizio del mese prossimo".

In una serie d'interviste, i responsabili della giustizia e gli avvocati coinvolti nel caso, parlando sotto anonimato, dissero che alla fine del 1989 o all'inizio del 1990, il governo scrisse effettivamente un'incriminazione, che tuttavia non venne presentata ad un gran giurì. Questi funzionari affermarono che l'incriminazione fu passata ai funzionari di Washington del Dipartimento della giustizia, e di non sapere che fine avesse fatto. Urgenson, a nome del Dipartimento, non ha voluto parlare dell'incriminazione.

I funzionari rivelano che, durante questo periodo, essi chiesero al Dipartimento di Stato l'autorizzazione a recarsi in Turchia e in Iraq per ascoltare i personaggi chiave della cospirazione. L'ufficio di Barr negò loro l'autorizzazione.

Essi hanno aggiunto che le loro richieste di interrogare un uomo d'affari giordano, Wafal Dajani, fratello di un ex ministro giordano, vennero respinte.

Dajani figurava nei documenti del tribunale di Atlanta come cospiratore non incriminato. Gale McKenzie, l'assistente procuratore federale incaricato del caso, ha dichiarato che Dajani resta oggetto dell'inchiesta.

In un'intervista telefonica da Londra, Dajani ha dichiarato di non essere mai stato contattato dalle autorità inquirenti o di vigilanza.

Il 26 marzo 1990, gli inquirenti di Atlanta, a questo punto preoccupati, proposero un piano molto inconsueto per interrogare gli Iracheni sospettati di aver aiutato a pianificare il disegno criminoso.

Su loro richiesta, il Dipartimento della giustizia scrisse a Michael Young, allora viceconsigliere giuridico del Dipartimento di Stato, chiedendo l'autorizzazione per far venire i sospettati iracheni negli Stati Uniti per essere interrogati.

Secondo questa lettera, il Governo avrebbe assicurato agli Iracheni che non sarebbero stati incriminati finché rimanevano negli Stati Uniti e che il governo avrebbe sostenuto le loro spese di viaggio.

Alla fine del febbraio 1991, poco prima della vittoria alleata nel Golfo, il Dipartimento di Stato espresse riserve in merito all'incriminazione che la Procura di Atlanta stava in quel momento preparando.

Dai documenti interni emerge che i funzionari del Dipartimento della giustizia sostenevano che fosse importante incriminare la Banca Centrale dell'Iraq perché questa deteneva un miliardo di dollari in attività americane che potevano essere sequestrate per indennizzo. Secondo l'appunto, i responsabili della Procura di Atlanta erano particolarmente fermi sull'importanza di un'incriminazione

della Banca Centrale dell'Iraq. Il Dipartimento di Stato avanzò obiezioni, argomentando che la Banca Centrale doveva essere considerata un'agenzia governativa, e che la sua incriminazione avrebbe costituito un brutto precedente legale.

L'appunto del Dipartimento di Stato indirizzato a Robert Kimmit, all'epoca Segretario di Stato per gli affari politici, non poneva grosse obiezioni all'incriminazione di singoli individui, ma anticipava alcuni problemi, in particolare in relazione a Dajani.

Dajani è un personaggio molto potente in Giordania, e suo fratello, sottolineava l'appunto, "è un ex ministro dell'interno; si ritiene che lo stesso Wahal abbia ottime relazioni con il Re e con gli esportatori americani di cereali." Inoltre, "La sua incriminazione verrebbe interpretata come un ulteriore tentativo degli Stati Uniti di 'punire' la Giordania" per l'appoggio concesso all'Iraq.

Nè la Banca Centrale, nè Dajani comparivano nell'incriminazione, emanata entro pochi giorni da questo appunto interno.

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Organigramma di BNL New York (filiale e direzione di area).
Documento inviato dall'avv. Verzaro in data 30 marzo 1992.
Documento n. 425

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FILIALE DI NEW YORK E COESISTENTE DIREZIONE DI AREA DEL NORD E CENTRO AMERICA

NOMINATIVI MANSIONE IN FORZA AL 6/88 DATA ENTRATA DATA CESSAZIONE IN SERVIZIO IN SERVIZIO DALLA FILIALE TUI

RUOLO ITALIA

ALIBRANDI	LUIGI	LENDING OFFICER		2/90	1/92	
AMATO	RAFFAELLA	CREDIT DEPT. MANAGER		8/90		SI
CIAMPI	CLAUDIO	LENDING OFFICER	SI		6/91	
CONCORDIA	LUIGI	COMPTROLLER		12/88		SI
CORETTI	CLAUDIO	ASSISTANT TO LENDING OFFICER		8/90	12/91	
DEPERO	EMANUELE	DATA PROCESSING		7/88		SI
DI MARTINO	ROBERTO	ASSISTANT TO LENDING OFFICER		4/90		SI
FACCO	GIOVANNI	LENDING OFFICER	SI		12/88	
FELICORI	STEFANO	LENDING OFFICER	SI		11/89	
LANARI	TULLIO	LENDING OFFICER	SI			SI
LOMBARDI	PIETRO	REGIONAL MANAGER		10/89		(*)
MAZZARELLI	MAURO	ADMINISTRATION DIVISION MANAGER		6/89		SI
MISASI	FRANCESCO P.	BRANCH MANAGER	SI		12/88	
MORELLO	LUCIANO	MANAGER TIEC	SI		7/91	
MURA	EDOARDO	GENERAL SERVICE DEPT.	SI			SI
POLPETTINI	GIULIANO	LENDING OFFICER	SI		7/89	
RAFFO	FRANCO	CHIEF INTERNAL AUDITOR		8/91		SI
ROSEANO	DANILO	CREDIT MANAGER		4/90	2/92	
SARDELLI	LUIGI	REGIONAL MANAGER	SI		6/89	
SENTUTI	VINCENZO	ADDETTO		5/90		SI
VETRONE	MAURO	COMPTROLLER DEPT.		4/91		SI
VINCENZINO	GIUSEPPE	LENDING OFFICER	SI		2/90	
VIOLETTA	GIULIANO	COMMERCIAL DIVISION MANAGER		5/91		SI

RUOLO LOCALE

AMENDOLA	FRANZ	CREDIT DEPT.	SI			SI
ANDERSEN	PREBEN F.	FOREIGN EXCHANGE TRADING		2/89		SI
ARSCOTT	ELEANOR	COMPTROLLER DAILY	SI			SI
ATHANASAKIS	EMILY	DATA PROCESSING	SI			SI
BABIKIAN	KARL	MONEY MARKET TRADING		8/89		SI
BADOLATO	THOMAS	DEPUTY OPERATIONS OFFICER	SI			SI
BARSDOM	NAGUI	REGIONAL COMPTROLLER	SI		4/90	
BRYAN	ROBERT	DATA PROCESSING	SI			SI
BUONAGURIO	GRACE	MONEY MARKET DEPARTMENT	SI			SI
CANNITO	VITO	EDP AUDITOR - CONSULTANT	SI		10/90	
CARBONI	ANGELA	DATA PROCESSING	SI		10/91	
CENTRONE	ANTHONY	DATA PROCESSING	SI			SI
CHIU	PAUL	DATA PROCESSING	SI			SI
CUTA	PETER	DEPUTY OPERATIONS OFFICER	SI			SI
CUNNINGHAM	ANDREW	FOREIGN EXCHANGE DEPT.		9/88		SI
D'ORO	EVELINA	CUSTOMER SERVICE DEPARTMENT	SI			SI
DAIBOCH	ALFRED	LENDING OFFICER	SI		1/91	
FRANCAVILLA	LILIANA	LENDING ASSISTANT	SI			SI
FRIEDMAN	DAVID	LENDING OFFICER		7/88	9/88	
GIOVANNETTI	FLORA	UFF. COORD. SETTORI	SI			SI
GIOVINE	GIULIO	LENDING OFFICER		4/90		SI
GLASCO	CHARLES H.	AUDITING DEPT. EDP		9/90		SI
GRANDE	PASQUALE	HUMAN RESOURCES	SI			SI
HENIN	JEAN PIERRE	SR. FOREIGN EXCHANGE DEALER	SI		9/88	
HERMAN	VINCENT	LENDING OFFICER		11/89	3/91	
HERNANDEZ STINNEIT	ANNA	LOAN & DISCOUNT DEPT.	SI			SI
IANNACONE	LEONARD	DEPUTY OPERATIONS OFFICER	SI			SI
INGARGIOLA	FRANCESCO	LENDING OFFICER	SI			SI
JOACHIM	THOMAS	DEPUTY AUDITOR		6/91		SI
JOHN	MATHEW	COMPTROLLER	SI		6/89	
LABRIOLA	ANTONIO	OPERATIONS OFFICER	SI			SI
LEE	JONG	DATA PROCESSING	SI			SI
LICINA	MARIA LUISA	COMPENSATION/ADJUSTMENTS & FLOATERS	SI			SI
LONGIARU	EMILIA	ASSISTANT LENDING OFFICER	SI		8/88	
MELIUSO	DRAZIO	DEPUTY OPERATION OFFICER	SI			SI
MESSERE	LOUIS	SECURITY AND COMPLIANCE OFFICER	SI			SI
NAFOLITANO	VINCENZA	BANK RECONCILIATIONS & FOLLOW UP	SI			SI
FACIS	REUBEN	LENDING ASSISTANT	SI			SI
PERRAZZELLI	ANTONIO	LENDING OFFICER	SI			SI
RUSSELLO	CHRISTOPHER	AUDITING DEPARTMENT	SI		4/91	
SABA	EDWARD ROY	ASSISTANT COMPTROLLER		3/89		SI
SALERNO	CHRISTINE	LENDING OFFICER	SI			SI
SALLEE	JOHN	LENDING OFFICER	SI		12/89	
SAMSON	NICANOR	FINANCIAL SERVICES	SI		1/90	
SCHIAVONE	SALVATORE	DATA PROCESSING	SI		5/90	
SHRENZEL	DAVID E.	LENDING OFFICER		10/90		SI
SMITH	HEATHER	FOREIGN EXCHANGE DEPT.		9/88	2/91	
SPINA	VITO	OPERATION DEPT.	SI			SI
VECCHI	CARLO	FINANCIAL DIVISION MANAGER		1/89		SI
WHITE	OTTAVIA	LENDING ASSISTANT	SI			SI

(*) e' stata deliberata in data 27/11/91 la sostituzione con:
 DEL FANTA GUIDO Sostituto del Direttore del Servizio Reti Estero e Istituzioni Finanziarie,
 Direttore di Sede il quale assumerà ad interim l'incarico di Direttore dell'Area e della
 Filiale di New York.

Roma, 24 marzo 1992

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Articolo del Washington Post del 31 marzo 1992 sull'intervento del
Dipartimento di stato perché non si procedesse contro Wafai
Dajani.

Documento n. 427

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(traduzione di Maria Cristina Condemi)

31/3/92 WASHINGTON POST

Un giordano con "ottime relazioni" evitò l'incriminazione americana per la truffa dei prestiti all'Iraq

Un uomo d'affari aveva relazioni con il Re e con esportatori cerealicoli, rivela il Congresso.

Di George Lardner Jr. della redazione del W.P.

L'anno scorso il Dipartimento della giustizia decise di non procedere contro un uomo d'affari giordano in relazione ad un disegno criminoso iracheno di frode sui crediti per 5 miliardi di dollari, dopo che il Dipartimento di Stato aveva fatto presente che costui aveva "ottime relazioni" con il Re di Giordania e con gli esportatori americani di cereali, secondo i documenti resi pubblici ieri dal Congresso.

La procura federale intendeva includere il mediatore giordano, Wafai Dajani, tra gli accusati della cospirazione diretta ad incanalare miliardi di dollari in prestiti bancari illegali all'Iraq, ma decise di non farlo poco prima della formalizzazione dell'incriminazione, il 28 febbraio 1991 - il giorno in cui venne ordinato il cessate il fuoco alle truppe alleate nel Golfo.

In un memorandum interno riservato dello stesso giorno, il Dipartimento di Stato affermava di non avere "alcuna obiezione" all'incriminazione di nessuno degli individui elencati dalla procura, compreso Dajani, ma esprimeva riserve sull'incriminazione di quest'ultimo, alla luce delle sue relazioni.

L'Iraq ricevette più di 5 miliardi\$ in quelli che il governo afferma essere stati "prestiti ed impegni di credito non autorizzati 'fuori contabilità'", concessi dalla filiale di Atlanta dell'italiana Banca Nazionale del Lavoro (BNL) tra il 1985 e il 1989, compresi circa 900 milioni garantiti dalla Commodity Credit Corporation. Le ditte di Dajani prendevano in consegna gran parte delle merci agricole CCC, una volta giunte nel porto giordano di Aqaba, secondo Henry B. Gonzalez (rappresentante democratico del Texas), presidente della Commissione bancaria del Congresso, che ha discusso della faccenda ieri in aula.

Gonzalez ha affermato che Dajani avrebbe inoltre aiutato ad ottenere armi per l'Iraq da ditte portoghesi e cipriote. La Commissione bancaria, ha aggiunto Gonzalez, sta conducendo un'indagine per verificare se "le derrate agricole CCC destinate al centro di smistamento cerealicolo di Dajani, ad Aqaba, siano state o meno dirottate per poter pagare queste armi o altro."

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Nel suo memorandum riservato, il Dipartimento di Stato notava che Dajani era un uomo d'affari, non un funzionario governativo, ma osservava che "suo fratello è un ex ministro dell'interno (in Giordania) e si ritiene che lo stesso Wafai abbia stretti legami con il Re e con gli esportatori cerealicoli americani." L'appunto proseguiva dicendo che "l'incriminazione [di Dajani] sarebbe considerata un ulteriore tentativo americano di 'punire' la Giordania" per essersi schierata con l'Iraq nella guerra del Golfo.

Gonzalez ha definito la decisione di non incriminare Dajani "forse l'esempio più palese dell'intervento del Dipartimento di Stato" nel caso.

Funzionari del Dipartimento della giustizia affermano che l'opinione del Dipartimento di Stato non ebbe niente a che fare con la loro decisione di non incriminare Dajani l'anno scorso. Hanno dichiarato che Dajani era ancora "un obiettivo" della loro inchiesta.

"Se il Dipartimento di Stato ha espresso riserve su Dajani, ciò non ha influenzato la decisione di includerlo o meno nell'incriminazione", ha dichiarato Gerrilyn Brill, capo della sezione criminale della procura federale di Atlanta.

Nel corso di deliberazioni amministrative interne, il Dipartimento di Stato, insieme al Consiglio di Sicurezza Nazionale, continuò ad appoggiare la strategia consistente nel corteggiare l'Iraq fino a poco prima dell'invasione del Kuwait dell'agosto 1990, nonostante la rivelazione dello scandalo BNL nell'agosto 1989 e i forti dubbi espressi da altre agenzie governative circa l'estensione della frode.

Un rapporto riservato del Dipartimento di Stato, per esempio, relativo ad un incontro del 13 ottobre 1989 con funzionari dell'Agricoltura, riferisce che erano in corso ben 10 inchieste separate sul caso BNL-Atlanta. Il rapporto diceva che all'Agricoltura pensavano che "l'inchiesta avrebbe 'fatto esplodere la CCC'," e aggiungeva che appariva "sempre più probabile che i fondi e/o prodotti garantiti dalla CCC possano essere stati dirottati a terzi dall'Iraq in cambio di attrezzature militari."

"Nei casi in cui esiste un'adeguata documentazione," proseguiva il rapporto, "i prodotti CCC possono essere rintracciati fino in Giordania e in Turchia, [ma] in molti casi non è chiaro se tali beni abbiano mai raggiunto l'Iraq. Laddove la documentazione indica le spedizioni come giunte a Baghdad, le date indicate appaiono improbabili - carichi arrivati a Baghdad prima di arrivare ai porti intermedi.

"Se è vero che non c'è fumo senza arrosto, potremmo trovarci di fronte ad una situazione molto grave nel prossimo futuro," concludeva il rapporto.

Il mese successivo, su sollecitazione del Dipartimento di Stato e dello NSC, l'Agricoltura approvò un nuovo programma CCC da un miliardo di dollari a favore dell'Iraq per l'anno fiscale 1990.

In una questione collegata, il Los Angeles Times ha rivelato ieri che gli Usa hanno versato 360.7 milioni\$ ad una banca del Golfo Persico, in parte di proprietà irachena, per onorare i crediti garantiti dalla CCC non saldati dall'Iraq dopo l'invasione. Il presidente della Commissione agricoltura del Senato, Patrick J. Leahy (Democratico-Vermont) ha chiesto spiegazioni con una lettera al Segretario per l'Agricoltura Edward R. Madigan.

"In un momento di grande timore che il governo dell'Iraq continui ad agire in modo illegale sotto il regime di Saddam Hussein, sono molto preoccupato che questo pagamento possa rappresentare un segnale pericoloso," ha scritto Leahy.

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Trascrizione dell'intervista televisiva del CBS a Henry Kissinger,
del 29 marzo 1992.
Documento n. 428

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(Maria Cristina Condemì)

NOTIZIARIO CBS - "60 MINUTI"
Volume XXIV, Numero 28

29 marzo 1992

Kissinger

WALLACE: Non è curioso che 4 ex Presidenti degli Stati Uniti, tuttora viventi, non appaiono insieme in televisione altrettanto spesso di un solo ex segretario di Stato? Non si può accendere il televisore durante una crisi di politica estera senza trovare Henry Kissinger sulla CBS, PBS, NBC, ABC, CNN, o C-SPAN.

Ma che cosa fa quando non appare in TV? Beh, attraverso una società di consulenza chiamata Kissinger Associates, vende consigli ad una dorata serie di società clienti, a volte su come concludere affari con quegli stessi governi, quegli stessi leader, di cui parla in televisione.

C'è forse un conflitto in questo? Henry Kissinger sfrutta forse la sua fama e le sue relazioni, le sue apparizioni pubbliche, per sostenere politiche che giovano ai suoi interessi finanziari, nonché a quelli dei suoi clienti? E sta forse vendendo ai suoi clienti influenza e accesso a determinati ambienti, oltre che consigli?

E' di questo che noi volevamo parlare con lui, ma questa volta non ha voluto apparire in televisione, o almeno non senza le sue regole del gioco; infatti, avrebbe voluto controllare il testo. Così abbiamo deciso di andare avanti senza di lui.

[voce fuori campo] Dopo molti anni di carriera pubblica, mi ha confidato Henry Kissinger, aveva debiti per diverse centinaia di migliaia di dollari. Oggi, come personaggio pubblico/privato, si dice che Kissinger valga più di 30 milioni di \$. Come ci è riuscito? Beh, tanto per cominciare, pronuncia discorsi, pagati fino a 40.000 \$ l'uno. Da questi ricava circa un milione di \$ l'anno netti. Percepisce parcelle per la sua presenza nei consigli d'amministrazione di alcune fra le maggiori società americane, comprese la CBS, American Express, Union Pacific, Revlon, Macy's. Con questo guadagna probabilmente altri 250.000 dollari l'anno. Scrive 20 articoli l'anno per il gruppo del Los Angeles Times, come questo, di poco successivo al massacro di piazza Tienanmen ["La caricatura di Deng come tiranno è ingiusta"], per i quali percepisce fino a mezzo milione di \$ l'anno.

Ma la parte del leone, compresa tra 3 e 5 milioni di \$ l'anno, deriva dalla Kissinger Associates, società da lui fondata nel 1982, sei anni dopo aver lasciato il governo. Si sa che il suo elenco di clienti, benchè tenuto accuratamente segreto, comprende sempre circa 30 delle maggiori

multinazionali mondiali, American Express, Coca Cola, Anheuser Busch, H.J. Heinz, Volvo, Arco, Hunt Oil, Chase Manhattan, l'American International Group (AIG), e Freeport McMoRan, una società mineraria internazionale. Ciascuna di queste versa alla Kissinger Associates parcelle che vanno da un quarto di milione a mezzo milione di \$ l'anno.

WALTER ISAACSON: Questa è gente decisa. Non spenderebbero mezzo milione di \$ senza ottenere niente in cambio.

WALLACE: [voce fuori campo] Il redattore capo della rivista Time, Walter Isaacson, ha passato cinque anni facendo ricerche per scrivere la biografia non ufficiale di Henry Kissinger. Isaacson ha ottenuto la collaborazione di alcuni dei clienti di Kissinger. Egli sostiene che quello che ricevono sono consigli di politica estera, giudizi strategici e, qualche volta, entrate straordinarie.

ISAACSON: C'è un solo consulente a New York o Washington in grado di accompagnarti in Cina, e di farti pranzare nella Grande Sala del Popolo con Deng Xiaoping, ed è Henry Kissinger.

WALLACE: [fuori campo] Questo accadde con uno dei suoi clienti nel 1989, solo 5 mesi dopo il massacro di piazza Tienanmen. Con le relazioni diplomatiche Cina/USA fortemente deteriorate, Kissinger andò a Pechino con il suo cliente, Maurice Greenberg, presidente dell'American International Group, AIG, e a Pechino i due pranzarono con il maggiore leader cinese, Deng Xiaoping. Quando Greenberg lasciò la Cina, ci è stato detto, l'AIG aveva in mano un accordo per espandere la sua presenza nel paese, e questo in un momento in cui i Cinesi non consentivano nemmeno all'ambasciatore americano, James Lilly, di incontrare Deng Xiaoping.

JAMES LILLY: Chiesi di vederlo, e mi dissero che non era disponibile, che si era ritirato.

WALLACE: E tuttavia Henry Kissinger ci andò-

LILLY: Beh, io ero- io ero-

WALLACE: - con Maurice Greenberg -

LILLY: - sì.

WALLACE: e si sedette a tavola con Deng.

LILLY: Beh, vede, io ero il rappresentante del governo degli Stati Uniti, che aveva imposto le sanzioni alla Cina. La mia ambasciata era circondata da truppe armate, ed io non ero certo la loro persona preferita.

WALLACE: [fuori campo] Le straordinarie entrate che Kissinger è in grado di fornire ai suoi clienti si basano sui contatti e i rapporti allacciati quando era al governo, come consulente(..)per la sicurezza e come segretario di Stato sotto due governi.

ISAACSON: Kissinger ha a disposizione una bella rete di persone in tutto il mondo che conosce da anni, persone che hanno raggiunto il potere dopo che Kissinger aveva lasciato il suo incarico, ma con le quali intrattiene relazioni. E' così

che fa i soldi. Egli dispone di una rete di interessi e influenza.

WALLACE: [fuori campo] E la Kissinger Associates ha porte girevoli per gente come Brent Scowcroft e Lawrence Eagleburger, che hanno lavorato per Kissinger nelle amministrazioni Nixon e Ford. Scowcroft e Eagleburger lasciarono il governo per lavorare con la K.Associates, e poi lasciarono questa società per tornare al governo: Scowcroft come consigliere di Bush per la sicurezza nazionale e Eagleburger come numero due del Dipartimento di Stato. Entrambi sono ancora molto legati a Kissinger.

Per esempio, solo 6 giorni dopo il massacro di Tienanmen, Scowcroft si recò, con un aereo del governo, a passare il fine settimana nella tenuta di Kissinger nel Connecticut. Il viaggio figurava come ufficiale.

La "rete senza cuciture" di interessi ed influenza di Henry Kissinger giocò un ruolo nelle relazioni tra la Kissinger Associates e l'Iraq. Ken Timmermann, editore del "Middle East Defence News", autore del libro "La lobby della morte: come l'Occidente armò l'Iraq", afferma che nel 1988, il maggiore problema dell'Iraq erano i soldi.

TIMMERMANN: Alla fine della guerra con l'Iran, l'Iraq era in bancarotta, ed era gravato da circa 35 miliardi\$ di debito commerciale, più altri 35 miliardi di debito verso il mondo arabo.

WALLACE: 70 miliardi di dollari?

TIMMERMANN: 70 miliardi di dollari. E l'Iraq spendeva inoltre il 50% del suo PIL per l'acquisto e la fabbricazione di armi. Avevano perciò bisogno di rinegoziare in qualche modo il loro debito per riacquistare la fiducia delle banche occidentali.

WALLACE: [fuori campo] L'Iraq aveva urgente bisogno di denaro, e nel giugno 1989, a meno di un anno dalla fine della guerra con l'Iran, una delegazione di uomini d'affari appartenenti a un gruppo noto come US-Iraq Business Forum venne invitata a Baghdad per esaminare, tra le altre questioni, come Saddam avrebbe potuto ottenere prestiti a condizioni più favorevoli, per poter raccogliere ulteriori fondi. In quel periodo gli Usa sostenevano segretamente l'Iraq come contrappeso all'Iran. Almeno uno dei clienti di Kissinger faceva parte del gruppo, e ne faceva parte anche un esperto della Kissinger Associates, Allen Stoga. Il capo della delegazione era Marshall Wiley, ex ambasciatore americano in Oman. Gli abbiamo domandato: "Perchè Allen Stoga?"

MARSHALL WILEY: Sono certo che la sua associazione con Kissinger aveva - era probabilmente la principale ragione del suo invito.

WALLACE: E cosa fece Stoga a Baghdad?

WILEY: Parlò in generale delle prospettive di una ristrutturazione del debito iracheno e -

WALLACE: In altre parole, li stava consigliando.

WILEY: Sì. Come tutti noi. Era uno degli scopi del nostro viaggio.

WALLACE: [fuori campo] Joe Conason ha scritto del coinvolgimento della Kissinger Associates in Iraq prima della guerra de Golfo per la rivista "The New Republic", e l'elemento chiave della storia di Conason riguardava il viaggio di Allen Stoga a Baghdad.

CONASON: Io ritengo che lo Us-Iraq Business Forum volesse con sé un rappresentante della Kissinger Associates perchè ciò avrebbe conferito maggior peso alla loro posizione. Penso inoltre che essi volessero qualcuno che, come loro sapevano, avesse legami con i grossi interessi bancari.

WALLACE: [fuori campo] E la Kissinger Associates aveva in effetti da vecchia data un interesse bancario importante: la Banca Nazionale del Lavoro, una delle maggiori banche italiane con filiali negli USA, che si sarebbero dimostrate il canale attraverso il quale l'Iraq avrebbe ottenuto il maggiore flusso di liquidi. La BNL era stata cliente della Kissinger associates dal 1986 al 1988, e Brent Scowcroft, all'epoca vicepresidente della KA, prestò tre volte la sua consulenza, come egli l'ha definita, al consiglio d'amministrazione della BNL. Lo stesso Kissinger è stato membro del comitato consultivo internazionale della BNL dal 1986 al 1991.

La filiale di Atlanta della BNL aveva prestato grosse somme a Saddam, ufficialmente per l'acquisto di beni agricoli, perchè era contrario alle leggi degli Stati Uniti prestare denaro a Saddam per attrezzature militari. Ma il Dipartimento della giustizia scoprì che i fondi erano invece utilizzati illegalmente per le armi e fece sequestrare i documenti contabili della banca. Ciononostante Lawrence Eagleburger, vicesegretario di Stato ed ex membro della Kissinger Associates, scrisse questo appunto del 1989 proponendo addirittura maggiori "prestiti agricoli a Saddam". Dalla lettura dell'appunto, appare chiaro che Eagleburger era al corrente del fatto che la BNL era già sotto inchiesta perchè i prestiti da questa concessi erano stati utilizzati per forniture militari.

L'inchiesta andò avanti e nel febbraio 1991 essa sfociò in una incriminazione di 347 capi d'imputazione contro una serie di ex impiegati della BNL. Ma il coinvolgimento della Kissinger Associates con la BNL e l'Iraq, e l'appartenenza di Kissinger alla commissione consultiva internazionale della BNL non divennero di pubblico dominio che 4 mesi dopo, quando la Commissione bancaria del Congresso indagò sulla BNL e sui suoi prestiti illegali. Il rappresentante texano Henry B. Gonzalez è presidente della Commissione bancaria del Congresso.

446 HENRY GONZALEZ: Kissinger mantenne il suo incarico nel pieno del maggiore scandalo bancario della storia degli Stati Uniti, 4 miliardi di \$ in prestiti segreti all'Iraq concessi dalla filiale di Atlanta della Banca Nazionale. Numerosi clienti della Kissinger Associates facevano affari con gli Iracheni

come conseguenza diretta dei 4 miliardi di prestiti BNL all'Iraq. La Volovo, il cui presidente fa parte del consiglio d'amministrazione della Kissinger Associates, faceva enormi affari in Iraq, beneficiando dei prestiti BNL.

WALLACE: [fuori campo] Henry Kissinger ha dichiarato al Financial Times di Londra di essersi dimesso dalla commissione consultiva della BNL qualche giorno prima della presentazione dei 347 capi d'accusa perchè, "Non voglio essere collegato, non voglio sentirmi rivolgere domande su questo tipo di questione." Ma in realtà, Kissinger non si è dimesso dalla Commissione consultiva BNL fino all'agosto 1991, circa sei mesi dopo la formalizzazione di quelle incriminazioni.

Kissinger dichiarò inoltre al Financial Times: "Non avevo la minima idea di ciò che la BNL stesse facendo in Iraq," ma Ken Timmermann, della Middle East Defense News, ritiene impossibile che Kissinger ignorasse quello che la BNL stava facendo, perchè alcuni dei suoi clienti erano coinvolti nel riarmo dell'Iraq.

TIMMERMANN: Non credo che Kissinger non sapesse, con i suoi contatti negli ambienti dei servizi di intelligence e nelle società direttamente impegnate nel riarmo.

WALLACE: E con il fatto che Brent Scowcroft e Lawrence Egleburger, ex membri della Kissinger Associates, si trovavano ora al vertice dell'amministrazione Bush.

TIMMERMANN: Francamente, non si potrebbe essere più "spalleggiati" di così.

CONASON: L'unica cosa che poteva succedere se si rinegoziava il debito di Saddam Hussein era che questi avrebbe acquistato altre armi, e così è stato.

WALLACE: Dopo la pubblicazione sul The New Republic del suo articolo, Henry Kissinger scrisse al The New Republic affermando: "Ho letto con sorpresa e indignazione un articolo comparso nel vostro numero del 2 ottobre. Il pezzo è pieno di false affermazioni circa le attività della mia società di consulenza in Iraq che, di fatto, sono inesistenti." E' vero?

TIMMERMANN: Assolutamente falso. Allen Stoga andò a Baghdad; ciò significa che andò in Iraq. Ciò significa che era impegnato in attività di consulenza in Iraq.

WALLACE: Per "ascoltare e imparare", sostiene Henry Kissinger.

TIMMERMANN: No. No. Chieda alle persone che parteciparono al viaggio, anzi, chieda ad Allen Stoga che cosa ci faceva, se vorrà venire davanti alle telecamere. Era forse soltanto un turista a cui capitò di sedere e ascoltare Saddam Hussein per due ore? Assolutamente no, e chiunque sia mai stato a Baghdad, chiunque conosca qualcosa dell'Iraq, si rifiuterebbe di credere che Allen Stoga fosse là per ascoltare Saddam. Era quest'ultimo che ascoltava Allen Stoga.

WILEY: L'uomo di Kissinger, Stoga, era nella delegazione su richiesta degli Iracheni, e sono sicuro che uno dei motivi della K.A. era di avere maggiori elementi per poter consigliare i loro clienti. Un altro motivo era di partecipare

alle discussioni, insieme a tutti noi, con il governo iracheno sui problemi in campo, e non vedo in questo nulla di male.

WALLACE: Siamo rimasti sorpresi nel ricevere una lettera sull'articolo di Conason dall'editore del The New Republic, Martin Peretz. Peretz è un vecchio e fidato amico di Kissinger. Peretz disse di non aver sottoposto il pezzo di Conason "ad attento esame, cosa che avrei dovuto fare prima." Ci scrisse inoltre che gli editori della rivista erano pentiti di aver pubblicato l'articolo. Dopodichè a quanto pare Peretz ha cambiato nuovamente idea, chiedendoci, attraverso il suo avvocato, di non utilizzare la sua lettera in alcun modo.

[fuori campo] Ma la pubblicazione dell'articolo su The New Republic non è stata la prima occasione in cui Kissinger ha rivelato la sua sensibilità alle critiche in merito alle sue attività di consulenza. Nel 1989 il Wall Street Journal lo aveva ripreso per il suo doppio ruolo di commentatore e di uomo d'affari nelle sue relazioni con i dirigenti della Repubblica Popolare Cinese. Al Hunt è il direttore della redazione di Washington del Wall Street Journal.

AL HUNT: Non avevo mai visto una reazione come quella di Henry Kissinger. Ci sono state persone anche più arrabbiate di lui per alcuni articoli, e persone che probabilmente avevano maggiori motivi per arrabbiarsi, ma generalmente se la prendevano con i fatti, sostenendo che fossero, ad esempio, inesatti. Kissinger non ha mai detto che i fatti erano errati. Quello che ha detto, in sostanza, era che noi non avevamo il diritto di occuparci della questione.

WALLACE: [fuori campo] L'articolo del Wall Street Journal rivelava che Henry Kissinger e alcuni suoi clienti avevano fondato una società da 75 milioni di \$ chiamata China Ventures, per investire in Cina. Uno dei partner della China Ventures era la China International Trust and Investment Corporation, l'agenzia d'investimenti ufficiale del governo cinese, notoriamente gestita da diversi familiari della élite governativa cinese. Il Wall Street Journal sottolineava che quando Kissinger commentò in televisione il massacro di piazza Tienanmen, i suoi rapporti finanziari con la Cina non vennero mai menzionati.

A Kissinger non piacque l'articolo del Wall Street Journal, e lo disse quando apparve nel notiziario MacNeil/Lehrer.

KISSINGER: [notiziario MacNeil/Lehrer] E' oltraggioso insinuare che le mie opinioni sarebbero state influenzate da considerazioni economiche, e voglio fare- come l'uomo che ha fatto il viaggio segreto in Cina, non ho bisogno di motivazioni economiche per avere una certa posizione in Cina.

JIM LEHRER: Volevo parlare di questo più tardi, ma-

KISSINGER: E' una storia vergognosa.

LEHRER: -sì- e- ma è-

KISSINGER: E' una storia indegna.

LEHRER: -sì, ma -

KISSINGER: Voglio dire, dovremmo poter svolgere dibattiti sul merito delle questioni, così come vengono poste, senza attaccare sempre le motivazioni delle persone che hanno determinate posizioni.

WALLACE: [fuori campo] E più tardi, nella trasmissione della CNN "Fuoco incrociato", disse al conduttore, Micheal Kinsley, che dopo Tienanmen, aveva sospeso le attività della China Ventures.

MICHEAL KINSLEY: [CNN] Il Wall Street Journal ha dato forse una notizia inesatta scrivendo che lei aveva interessi economici che erano minacciati e, di fatto, congelati dal Massacro di piazza Tienanmen, e che lei ha - non che questo sia necessariamente interessante - che lei ha interessi d'affari che beneficerebbero dal ristabilimento di normali relazioni con la Cina?

KISSINGER: Assolutamente no.

KINSLEY: E' completamente falso?

KISSINGER: E' sostanzialmente falso. Io sospesi queste- queste- qualsiasi attività che potesse dare adito a dubbi su un eventuale vantaggio per il governo cinese, io le sospesi, e nessun altro, il giorno dopo Tienanmen-

KINSLEY: Beh, ogni affare, ogni contatto d'affari americano in Cina venne sospeso.

KISSINGER: Non è assolutamente vero- la maggior parte - il 95% degli affari americani in Cina proseguirono senza mutamenti.

KINSLEY: Allora, ha ritirato la sospensione?

KISSINGER: - sono ancora sospesi.

KINSLEY: Sono ancora sospesi? Ma perchè, se lei sostiene che dovremmo riprendere-

KISSINGER: Perchè - proprio per evitare che gli allarmisti creino l'impressione che le mie opinioni siano in vendita.

HUNT: Diventò assolutamente furioso. Telefonò praticamente a tutti quelli che erano citati dall'articolo, chiedendo loro di smentire quello che avevano dichiarato.

WALLACE: [fuori campo] Una delle persone citate dall'articolo era Peter Jennings, con il quale Kissinger aveva collaborato in qualità di esperto nel notiziario speciale della ABC News il giorno del massacro di Tienanmen.

KISSINGER: [ABC News] Non farei nulla, dato che considero quello che Bush ha fatto ieri, la dichiarazione che ha fatto, mi è sembrata giustissima. Bush ha deplorato l'azione, ha rivolto un appello al governo affinché questo torni sul sentiero della conciliazione e del dialogo, ed io sono convinto che questa è la posizione più saggia da assumere.

HUNT: E Peter ci ha detto che se avesse saputo che Kissinger aveva le relazioni d'affari in Cina che sappiamo, non lo avrebbe invitato come analista presso la ABC per parlare della politica americana nei confronti della Cina. Kissinger telefonò a Jennings, parlando delle ottime e lunghe relazioni che aveva intrattenuto con la ABC e suggerendo a Peter di dire

3

che la sua affermazione era stata citata male o comunque fuori contesto.

WALLACE: E Peter rifiutò?

HUNT: E Peter lo mandò a quel paese.

WALLACE: [fuori campo] Peter Jennings ha confermato la storia.

E allora quali conclusioni possiamo trarre? Qual'è l'ultima parola sulla Kissinger Associates? Torniamo a Walter Isaacson, l'uomo che ha passato cinque anni a preparare una biografia di Kissinger.

ISAACSON: La gente non lo paga soltanto per avere intuizioni strategiche e consigli di politica estera. Pagano per il nome Henry Kissinger. Pagano per l'aura che lo circonda. Pagano per il fatto che Kissinger è in grado di atterrare con loro in Malesia, o a Pechino, e che alcuni ministri si faranno avanti e vorranno incontrarlo. Perciò quello che ottengono è un intero pacchetto, e non ritengo sia corretto caratterizzarlo nè come eccessivamente sordido, nè come un paragone di virtù.

WALLACE: Come abbiamo detto, Kissinger ha rifiutato di farsi intervistare a meno che noi non ci adattassimo alle sue regole del gioco, regole di censura per tradizione inaccettabili a "60 Minutes".

Ma nel corso delle nostre ricerche abbiamo avuto frequenti contatti con il suo avvocato di Washington, Lloyd Cutler che, tra l'altro, era consigliere della Casa Bianca durante la presidenza di Jimmy Carter. Questo è quanto ci ha scritto Cutler in relazione alle attività di Kissinger in Iraq.

"Kissinger ha criticato pubblicamente e in modo deciso il comportamento di Saddam Hussein prima e dopo la guerra del Golfo. Per quanto riguarda la Cina, avete ascoltato lo stesso Kissinger difendere la propria condotta, sia con Jim Lehrer che con Michael Kinsley."

Infine, a nome di Kissinger, Cutler ci ha scritto: "Alla luce della sua meritata reputazione di studioso e dei suoi notevoli meriti come servitore della cosa pubblica, ritengo indegno insinuare che i suoi scritti siano motivati da interessi personali invece che dalla difesa di politiche che egli ritiene le più adatte a servire l'interesse pubblico."

[Interruzione pubblicitaria] - FINE

Discorso di Gonzalez dell'8 aprile 1992 alla Camera dei
rappresentanti.

Documento n. 433

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13:40

RESOCONTO DELLA RELAZIONE DEL PRESIDENTE DELLA
COMMISSIONE BANCHE FINANZE E AREE URBANE

GONZALEZ. [...] Signor Presidente, ho già avuto occasione di dire che, quando assunsi la presidenza della mia Commissione, promisi di presentare regolarmente delle relazioni all'aula, perché non tutti i membri di quest'Assemblea fanno parte della pur numerosa (52 membri) Commissione banche, finanze e affari urbani. Quindi usufruisco di un punto speciale dell'O.d.G., strumento prezioso che ci mette a disposizione il regolamento per presentare in aula argomenti di interesse generale non collegati all'attività legislativa e per informare i miei colleghi. Strumento prezioso, dicevo, che dà la possibilità ad ogni rappresentante di prendere la parola per un periodo di tempo compreso tra un minuto ed un'ora, ad un'ora ben precisa dopo che sia stata completata l'attività legislativa del giorno.

Voglio parlare oggi di un problema di cui mi sono occupato negli ultimi tempi, cioè della pericolosità per gli interessi nazionali delle enormi quantità di denaro, o denaro internazionale, che circolano liberamente e senza alcuna regolamentazione nel nostro paese. Una valutazione molto abbottonata dell'anno scorso parlava di 800 miliardi di dollari. Io direi almeno mille miliardi. Nessun ente americano controlla o regola queste attività. Basta solo una piccolissima parte di quella somma a dar luogo ad un effetto moltiplicatore, che può provenire dal riciclaggio dei soldi del narcotraffico, dai contratti per tecnologie o armi sofisticate, come ho dimostrato che avvenne nel caso dell'Iraq a partire dal 1983, quando il Presidente Reagan cancellò quella nazione dall'elenco dei paesi fomentatori del terrorismo, fino alla vigilia dell'invasione del Kuwait da parte irachena. Questo abbiamo dimostrato, e insieme a questo la confusione dell'esecutivo, la

mancanza di coordinamento tra i vari ministeri. Oltre tutto, il sistema di governo di gabinetto che abbiamo creato, o meglio, che il Presidente ha creato, serviva proprio ad evitare questo. Sembra però che negli ultimi decenni ci sia stato un calo di attenzione per gli interessi e il destino della nostra nazione.

Oltre a questo c'è poi, ne ho già parlato ma sembra che nessuno se ne accorga o se ne interessi - forse perché si entra in un area in cui noi qui al Congresso possiamo fare molto poco -, la questione della politica monetaria internazionale, passata ormai all'esecutivo, come pure i trattati, a causa dell'effetto di erosione causato dagli accordi esecutivi. Cento anni fa nessuno avrebbe immaginato che oggi ci sarebbero stati tanti accordi esecutivi.

13:50

Cent'anni fa avrebbero preteso che tali questioni venissero considerate sentito il parere del Senato, ma oggi ci troviamo in una situazione in cui, lentamente, quasi impercettibilmente, ci siamo allontanati dai dettami costituzionali e questo, sia recentemente sia nel passato, ci ha soltanto danneggiati.

La questione è duplice. Da un canto esiste un fatto, dall'altro c'è una questione strettamente collegata alla prima, cioè il pericolo posto dall'indebolimento della nostra valuta. Citando persone non amiche del nostro paese, ma anche nostri governanti che avevano dei nemici, posso dire che "per mettere prima in difficoltà e poi distruggere un paese o il suo governo, bisogna cercare di indebolirne la valuta".

Il dollaro, dal 1985, ossia nel bel mezzo della presidenza Reagan, ad oggi, ha perso oltre il 60% del proprio valore. Nel frattempo, sempre da allora, siamo diventati, per la prima volta dal 1914, un paese debitore. Oltre a tutto ciò, abbiamo accumulato un debito mostruoso a tutti i livelli, non soltanto a livello di finanza pubblica, ma anche a livello di società private: noi, il popolo americano, siamo diventati la più grande struttura debitoria di tutti i paesi o gruppi di paesi. A livello pubblico, abbiamo seimila miliardi di dollari e, accanto

a questo, ci sono altri seimila miliardi di debito fuori bilancio. Ma questo è normale con un sistema bancario privato.

Ho ricevuto molte informazioni in proposito, le ho comunicate a questo organismo, ma finora non mi sembra se ne sia fatto nulla. Sono molto preoccupato. Quando le 20 maggiori banche del nostro paese hanno impegni di spesa e impieghi che oscillano tra il 750 e il 1750% dei fondi di riserva iscritti in bilancio, allora questi impieghi e impegni hanno il valore di un attivo netto contabile. Sembra incredibile, ma tutti fanno finta di niente e pensano che basti concentrarsi per far sparire il pericolo.

Presidente, mi permetta di dire che i problemi non si risolvono da soli e che, prima o poi, tutti i nodi vengono al pettine: i debiti debbono essere pagati. E pagare i debiti con una divisa svalutata è una gravissima minaccia per il nostro paese. Sarà la peggiore sciagura dalla fondazione della federazione ad oggi, guerra di secessione compresa.

Perché? Ma perchè abbiamo accumulato questo debito mostruoso in quanto siamo l'unica nazione che ha il privilegio di pagare con la propria valuta. Ma, voglio dire ai miei colleghi, il pericolo che il dollaro come moneta internazionale di riserva venga sostituito da un'altra valuta è più grande di quanto non si creda o non si voglia ammettere. E se ciò avverrà, tutto questo debito dovrà essere pagato nella valuta di qualche altro paese.

E se ciò avverrà, bisognerà rispettare la vecchia legge della finanza. Quale legge? Che chi ha l'oro fa la legge. E così finiranno la nostra indipendenza, sul versante del benessere fiscale e finanziario, e il tenore di vita che oggi vantiamo e che è in via di erosione sin dagli anni sessanta.

In quegli anni, Presidente, io entrai al Congresso. Ed è da allora che parlo di queste cose: tutto è registrato negli atti parlamentari, quindi non sto parlando con il senno di poi; sono anzi stato il primo a denunciare ciò che allora chiamavamo multinazionali. Alla base delle loro attività ci sono le banche, i soldi e la finanza. Ne ho parlato un numero infinito di volte. Usai anche una frase in latino, quando venni informato di cosa non andava nelle multinazionali, in queste enormi società americane che andavano in Europa, Corea,

Taiwan e Giappone con capitali così ingenti da costruire un legame indissolubile con gli Stati Uniti e la loro economia; e dicevo allora che la vittima di questo sistema erano i lavoratori americani, perché erano stati messi in liquidazione.

Chi se ne curava?

Dissi, con una frase latina: "Non redolent pecunia". Cioè, i soldi non hanno patria. Ora ecco le conseguenze. Siamo un paese importatore. Non siamo un paese produttore. Abbiamo perso quasi cinque milioni di posti di lavoro nell'industria. Posti perduti. Anche ora, solo due settimane fa, ho detto che il cosiddetto libero mercato non è in realtà solo un libero mercato, come quello che c'è tra noi, il Messico e il Canada. Si tratta di libero mercato e libera finanza.

Per esempio, stanno entrando ora tantissimi soldi nella neonata borsa messicana: una bolla di sapone in arrivo dagli USA, che finirà come è finita da noi prima la crisi delle S&L [Savings and Loan Associations, Casse mutui e prestiti] e delle banche. Perché? Perché si tratta di un gioco d'azzardo, di una partita a dadi.

È così che si trattano le questioni fondamentali per il paese?

Ma c'è dell'altro. C'è una cosa di cui non si parla quasi mai, ma che è strettamente collegata a quanto ho già esposto: è il fatto che ogni giorno mille miliardi di dollari cambiano mano istantaneamente, appena un segnale elettronico o un messaggio viene dato da Londra, dalla Germania, da Parigi, da Tokyo o da New York.

14:00

E che soldi sono? Non sono soldi. Non sono transazioni valutarie che seguono transazioni o movimenti commerciali. Sono soldi provenienti da speculazioni, come quelli descritti da una giovane scrittrice americana nel suo libro "The Paper Money", in cui spiega come, a 19 anni, ha guadagnato più di un milione di dollari lavorando a Wall Street per tre mesi.

Come hanno fatto Boesky e Milken ad oliare questo processo? Attraverso una legislazione fiscale inadeguata e l'inosservanza dei requisiti stabiliti dalla legge del 1932 a protezione della Borsa. E questi su che cosa si basano? Sul credito bancario.

Quindi siamo tornati indietro, non abbiamo imparato nulla dalla storia. Abbiamo fatto le stesse cose che facemmo dopo la Prima guerra mondiale. La differenza maggiore, ovviamente, è che il mondo si è rimpicciolito. Oggi ci sono persone che scommettono miliardi di dollari, in una frazione di secondo, sul valore futuro di uno yen, un franco, un marco tedesco, che, incidentalmente, è la valuta più forte dell'Europa e del mondo.

Qual è la conseguenza di tutto ciò? Quali sono i rischi? Tremendi.

Le bolle di sapone scoppiano sempre. Nessuna bolla dura in eterno. Scoppiano tutte.

Non so che cosa possiamo fare. Quando il nuovo presidente della Federal Reserve Board venne per la prima volta di fronte alla mia commissione, nel settembre del 1987, gli chiesi che cosa avrebbe fatto a questo riguardo e che cosa avrebbe fatto riguardo al 23% dei depositi non assicurati dei mercati valutari. Lui mi guardò e disse: "Niente".

Al suo predecessore, il famoso Paul Volcker, chiesi di questi mille miliardi di dollari, che all'epoca erano quattro o cinquecento, e mi rispose: "No, credo che siano di più". Incalzai: "Bene, e cosa intende fare? Cosa può fare questo paese per controllare a livello internazionale questa attività così altamente speculativa?"

"Niente", disse. Proprio così. È scritto nei verbali. Ci sono i resoconti di queste audizioni. Non è una cosa che sto dicendo io adesso.

Sono preoccupatissimo. E ho cercato di parlarne, da sempre, come possono vedere tutti i colleghi sui verbali. Ho sempre dato consigli sul da farsi.

Però non c'è molto che possiamo fare sul versante internazionale. La Federal Reserve Board dovrebbe essere l'equivalente di una banca centrale, ma in realtà non lo è. Noi abbiamo un sistema completamente diverso.

In questo momento così difficile, dobbiamo valutare che tipo di sistema bancario gli americani vogliono, o di cosa hanno bisogno. Vogliono un sistema molto concentrato, alla francese o alla tedesca, con poche banche che gestiscono tutto il mercato? Sarebbe contrario a

200 anni della nostra storia, della nostra cultura. Eppure così stanno le cose.

E che ne è del nostro sistema bancario doppio, con 50 Stati che hanno 50 diversi sistemi di regolamentazione del mercato bancario? Dobbiamo occuparci di una cosa alla volta, come se fossimo stati tanto previdenti da aver cominciato 35 anni fa e non adesso. L'unica cosa da fare, e che io ho fatto, è cominciare con una cosa alla volta. Nel caso delle concentrazioni, abbiamo fatto delle audizioni sulle fusioni. La scorsa settimana, sono stato l'unico a passare due terzi del proprio tempo in quell'ultima audizione. Di quella fusione la stampa non si è minimamente occupata. Il personale della mia commissione è diretto da Kelsay Meek. Si tratta di poche persone. Il bilancio della mia commissione è più o meno la metà di quello, per esempio, della Commissione energia e commercio. Ma non chiedo altri fondi. Chiedo soltanto che venga assegnato qualche consulente alla commissione, cosa che oggi non abbiamo.

In ogni modo, è stata sempre mia abitudine quella di avere uno staff ridotto ma seriamente dedito al lavoro, molto concentrato, sempre e comunque onesto, energico ed efficiente. E staff di questo genere hanno fatto meraviglie.

Ad esempio, per quanto riguarda le fusioni, nello studio che è stato realizzato sotto la mia direzione e pubblicato sotto forma di relazione della Commissione Banche, abbiamo sottolineato che finora si è trattato di "mega-fusioni" e che, a quanto pare, quest'anno nel nostro paese si è diffusa una vera e propria mania per la fusione delle banche, simile a quella che, prima d'ora, si era diffusa a livello aziendale.

Abbiamo insistito su questo punto e sono in possesso di statistiche che dimostrano, per ciascuno di questi casi, che le risorse delle comunità locali e delle regioni vengono praticamente risucchiate. Il loro denaro si sta esaurendo.

Nel caso del Texas, nel corso degli ultimi due anni e mezzo ho messo l'accento sul fatto che più del 50% dell'accesso dello Stato in questione al credito bancario o finanziario viene controllato al di fuori del Texas stesso.

Cosa possiamo farci? A meno che non decidessimo di diventare un paese autoritario, la sola cosa che ci resta da fare nel settore legislativo, in quanto membri di commissioni investite di una certa responsabilità, come appunto questa, è quella di far luce sui fatti, di agire per quanto ci viene accordato dalla Costituzione e, successivamente, cercare di convincere, sulla base di prove documentate, l'amministrazione, dal Tesoro, al Presidente, alla Federal Reserve Board, del fatto che ci attendiamo da loro che decidano di agire laddove noi non possiamo legiferare costituzionalmente.

Quindi, al momento disponiamo di forze considerevoli sulle quali, però, non esercitiamo più alcun controllo. E, indipendentemente da quanto riusciamo a realizzare nell'ambito del nostro paese, è altamente possibile che il nostro lavoro possa risultare vanificato da forze esterne sulle quali non disponiamo di alcuna forma di controllo, anche se avremmo potuto ottenerla, se solo avessimo avuto una visione più estesa e fossimo stati in grado di portare avanti una politica a più ampio raggio, cosa che, a quanto pare, risulta difficile alle democrazie, da qualche anno a questa parte.

D'altro canto, laddove io riferivo circa le attività di alcune di tali istituzioni internazionali, sono state istituite in vari Stati, nel rispetto delle nostre leggi, quelle che vengono definite come agenzie. Non filiali, bensì vere e proprie agenzie. Dette agenzie vengono istituite dai vari Stati, il che aggrava il problema, giacché questi Stati non sono in grado di sapere quel che la Federal Reserve Board potrebbe arrivare a scoprire presso la filiale principale di una determinata banca internazionale, indipendentemente dalla mole delle sue operazioni, e la Federal non ha alcun controllo sull'attività regolatrice dello Stato, o sulla Commissione banche .

Le conseguenze spiacevoli del caso della BNL di Atlanta sono sotto gli occhi di tutti. Ma non dobbiamo dimenticare che la BNL ha filiali anche in Florida, nell'Illinois e ne aveva almeno due in California. Una è stata chiusa perchè era stata istituita dalle autorità statali, che, in molti casi, si sono rivelate più responsabili.

14:10

D'altro canto, abbiamo sottolineato che avevamo finanziato gli armamenti dell'Iraq, da quelli militari convenzionali, fino ai componenti chimici e nucleari più sofisticati e che, sorprendentemente, nel mese di agosto decidemmo di andare avanti, fin quando, il 16 gennaio 1991, entrammo in guerra. Credo che, da quel momento in poi, abbiamo commesso una serie di atrocità delle quali saremo chiamati a rispondere, sia come nazione che come individui.

I comandamenti esistono ancora, e uno dei più importanti è quello che impone di non uccidere. Ma noi abbiamo perpetrato un vero e proprio genocidio, bombardando a tappeto ed uccidendo così migliaia di bambini, donne, uomini, giovani e vecchi. Abbiamo letteralmente massacrato oltre 100.000 cosiddetti soldati, che in realtà erano per lo più coscritti che stavano fuggendo, con la schiena rivolta ai nostri soldati.

Abbiamo praticato l'omicidio di massa. Queste sono cose che il nostro paese non dovrebbe tollerare. Nel corso della nostra storia, non ci siamo mai identificati con le strategie hitleriane. Persino i generali agli ordini di Hitler nella Mitteleuropa riuscirono a salvare dall'estinzione o dalla schiavitù il popolo slavo, condannato per mandato dello stesso Hitler. I suoi ordini, rivolti proprio ai suddetti generali, erano di sopprimere, oppure di salvare solamente coloro che erano in grado di lavorare, facendone degli schiavi. Eppure, alcuni generali tedeschi dimostrarono una maggiore umanità di quella rivelata in molti casi dai nostri generali.

Consideriamo anche quello che abbiamo fatto a Panama. Sicuramente dovremmo saperlo: il popolo americano dovrebbe conoscere ciò che è stato fatto in suo nome. Abbiamo letteralmente incenerito diverse migliaia di persone, tutte di colore, che vivevano in tuguri altamente incendiabili che noi avevamo costruito sul canale di Panama dopo il 1908. Abbiamo agito utilizzando i bombardieri Stealth per poi imporre il regime che si presume stia governando attualmente.

Abbiamo imprigionato il capo di Stato, lo abbiamo condotto negli Stati Uniti, lo abbiamo processato. E' un comportamento senza precedenti: neppure Hitler osò mai tanto.

E quali sono le conseguenze? Penso che gli americani dovrebbero sapere che ancora manteniamo di stanza a Panama i due terzi delle

truppe statunitensi che erano state inviate nel momento culminante dell'invasione e che siamo noi a governare attualmente in quei luoghi. Stiamo occupando Panama, e se decidessimo di rimuovere le nostre truppe da quel paese, coloro che abbiamo insediato sul posto non resisterebbero tre ore, nessun americano si salverebbe.

Si tratta di qualcosa di cui gli americani non sono consapevoli e che dovrebbero invece conoscere? Certamente.

Ciò che intendo dire, è che, anche alla base di tutto ciò, la questione è finanziaria. Le persone che abbiamo inviato a Panama ad occupare posizioni di potere sono banchieri, profondamente coinvolti nel traffico illecito della droga proveniente dalla Colombia. Dovremmo quindi sorprenderci del fatto che, dal momento in cui abbiamo messo in carcere Noriega, sotto accusa di spaccio di droga, il suddetto presunto traffico di droga sia aumentato del 100% all'interno e nei dintorni di Panama e del cartello di Medellín?

Penso che queste siano situazioni delle quali siamo chiamati a rispondere collettivamente. Si tratta di azioni commesse in nostro nome. E' questa la ragione per la quale ho deciso di far sentire la mia voce. All'epoca, sono stato fra quelli, eravamo solo in tre, che hanno protestato nel Congresso per la cosiddetta invasione di Panama.

Allora, cosa facciamo per questa altra faccenda? La BNL, questo ente straniero, questi miliardi di dollari ancora manipolabili, che ancora non risultano registrati, in merito ai quali nessun organismo regolatore in America ha la minima idea, né della loro destinazione, né del modo in cui vengono utilizzati o gestiti.

Orbene, l'anno scorso abbiamo presentato alcuni emendamenti di modesta entità all'International Banking Act (legge sull'attività bancaria internazionale) del 1978. Fino ad allora, se non fosse stato per l'esplosione dello scandalo BCCI, avremmo ancora avuto questa resistenza tenace da parte della Federal Reserve Board. Ma con la rivelazione di quello scandalo, compresero che era meglio per loro fare qualcosa. Così, hanno accettato la parte più modesta, direi la più irrisoria, degli emendamenti da noi proposti alla summenzionata legge.

Questa legge del 1978 era il risultato delle audizioni che io portai avanti nel 1975, nella mia città natale di San Antonio, quando non ero ancora presidente. Nel corso di tali audizioni, emersero chiaramente i

primi casi di quelli che vennero in seguito definiti gli scandali S&L, relativi alla circolazione di enormi quantità di denaro delle quali nessuno era a conoscenza.

A quell'epoca, a quanto pare, sarebbe stato caricato un Cessna e spedito oltre confine, senza che nessuno sia mai venuto a saperlo, né lo abbia rintracciato. Ben presto, alcune istituzioni come le S&L, a sud della mia città, vennero inquisite. Di fatto, quelle audizioni portarono a una o a due messe in stato di accusa.

Ma, ciò che era più importante, esigevo una legislazione. Non esisteva alcuna legge atta a governare l'attività bancaria internazionale, il finanziamento, o comunque le operazioni di questo tipo. Riuscimmo a produrre due leggi.

Una era la cosiddetta "cash reporting transaction" (relativa alle operazioni in contanti). Quella definita "International Banking Act" non venne adottata se non tre anni dopo, nel 1978, risultando una versione "annacquata", asservita alla pressione delle lobby, di quello che io ritenevo essere il minimo strumento indispensabile del quale il nostro paese aveva bisogno nell'ambito della tutela dei suoi interessi a livello internazionale.

Siamo l'unico paese che non dispone di un organismo preposto all'esame e al vaglio di tutti coloro che intendano occuparsi di investimenti diretti o che aspirino alla proprietà di banche, terreni, società. Alcuni di costoro, ritengo, sono legati indissolubilmente con il nostro sistema di difesa nazionale.

In ogni modo, ho preparato un disegno di legge in modo tale che, attraverso le istituzioni finanziarie internazionali che, per la maggior parte, gli Stati Uniti hanno avviato negli anni '70 e alle quali ancora contribuiscono in modo sostanziale, sia possibile restringere l'accesso ai benefici di tali istituzioni per quei paesi che non si impegnano formalmente per la non proliferazione delle armi e degli apparati di distruzione di massa.

Ho deciso quindi di presentare nel 1992 tale disegno di legge che io definisco per la non proliferazione delle armi di distruzione di massa e per il perfezionamento della regolamentazione in tal senso, e vorrei accennare ai fondamenti di questa norma.

Questa legge consta in realtà di due titoli fondamentali. Il primo è a favore della non proliferazione delle armi di distruzione di massa mediante la negazione di fondi alle istituzioni internazionali per lo sviluppo, fin tanto che tali istituzioni non rifiutano come loro membri quei paesi che non aderiscono ai trattati di non-proliferazione delle armi e vieta alla Export-Import Bank di fornire qualsiasi tipo di assistenza finanziaria ai paesi che non aderiscono agli accordi relativi al controllo delle armi per la distruzione di massa.

14:20

Il secondo titolo riguarda le banche straniere controllate da governi esteri. Questo è l'altro aspetto. Quasi tutte queste banche sono di proprietà dei governi.

La BNL, ad esempio, con la sua agenzia di Atlanta, è in realtà di proprietà del governo italiano. Mi sia consentito di dire, e i fatti dovrebbero dimostrarlo, che, laddove le nostre stesse istituzioni, quali la Federal Reserve Bank, il Dipartimento del Tesoro, il Dipartimento di Stato, il Dipartimento dell'Agricoltura [...non hanno agito], io ho convinto la commissione ad emettere più di 100 richieste di documenti, alcuni dei quali ci sono stati negati. Ho avuto modo di convincere ad ottenere tali documenti per me il distintissimo e capace Presidente della Commissione d'inchiesta del Senato italiano, giacché gli italiani stessi stanno indagando da parte loro. Il nostro stesso ramo esecutivo ci ha negato quella documentazione, ma noi siamo riusciti ad ottenerla da un paese straniero il cui Governo è proprietario della banca in questione.

Il secondo titolo della suddetta legge si riferisce a casi come questo. L'organismo regolatore federale adeguato, in questo caso si tratterebbe principalmente della Federal Reserve, sottoporrebbe una simile questione ad un'audizione per revocare lo statuto delle istituzioni federali depositarie, porre termine allo status garantito delle istituzioni depositarie dello Stato, o per imporre restrizioni alle filiali o sulle agenzie delle banche straniere, se un'istituzione, o uno o più funzionari o direttori vengono giudicati colpevoli di illeciti relativi al controllo delle esportazioni.

Il fatto che non disponiamo di tali leggi è sorprendente. Il Fondo Monetario Internazionale (FMI), la Banca Mondiale e le sue consociate, nonché le istituzioni multilaterali per lo sviluppo, sono tutti sotto la giurisdizione della Commissione banche, finanze ed aree urbane. Per 10 anni, tra il 1970 ed il 1981, ho svolto l'incarico di presidente della sottocommissione sulla finanza internazionale. A quell'epoca non si prestava molta attenzione a questo settore. Il tutto è collegato anche con la Export-Import Bank, come ho detto poco fa.

Questo disegno di legge attua le riforme inerenti al regolamento delle banche controllate da governi stranieri. Inoltre, autorizza l'opportuno organismo federale di controllo, sottoposto ad audizione e ai nostri procedimenti consacrati dal tempo, a revocare lo statuto delle istituzioni depositarie garantite a livello federale, qualora uno o più dei suoi funzionari siano ritenuti colpevoli di reati inerenti al controllo delle armi o delle esportazioni.

Non vi è dubbio sul fatto che le armi per la distruzione di massa si stiano diffondendo ad un ritmo sempre più allarmante. Sappiamo che l'Iraq era in grado di costruire un apparato bellico che includeva armi chimiche, biologiche e nucleari, nonché i missili in grado di trasportarle. Per far questo, si servivano non solo delle banche americane, ma anche di quelle di altri paesi, ma molte di queste banche vennero avviate, in qualità di banche corrispondenti, da enti americani.

Certamente, l'Iraq, nel caso specifico, si è poi tramutato in un paese nemico, ma dal 1983 all'estate del 1990, era ritenuto un paese amico o alleato. Lo avremmo appoggiato nella guerra contro l'Iran.

La questione si complica perchè, ahimè, quando ci introducemmo all'interno di quella matassa intricata che è il Medio Oriente, penso che nessun cittadino medio americano si stesse rendendo effettivamente conto della situazione.

Ad esempio, dato che l'unica nazione araba disposta ad allearsi con l'Iran contro l'Iraq era la Siria, questo paese divenne improvvisamente nostro amico. Così, il Presidente Bush si incontrò con il Presidente della Siria Assad in Svizzera nel 1990, mentre si stavano ponendo le premesse di quella che sarebbe stata la nostra guerra nel Golfo Persico. Ma nel frattempo, proprio dopo la cosiddetta fine delle

ostilità nel Golfo Persico, l'Iraq si procurò 300 missili Scud provenienti dalla Corea del Nord.

L'Iran non è una nazione araba, e, incidentalmente, proprio nel corso di questa settimana, ci è giunta la rivelazione che l'Iran ha allestito una macchina da guerra e ci sono delle prove che stanno ad indicare come, ancora una volta in modo indiretto, abbiamo aiutato l'Iran a realizzarla.

Quanta stupidità nelle menti dei nostri leader politici! Specialmente quando dicono: " Vogliamo aiutare l'Iraq, ma al tempo stesso stiamo facendo degli affari con l'Iran, del tipo di quella spiacevole transazione nota con l'appellativo di Iran-Contra". Siamo così ingenui da pensare che questi paesi ed i loro leader siano tanto sciocchi da non sapere che stiamo facendo degli affari con entrambi i paesi belligeranti? Non posso concepire una cosa simile.

Ho un rispetto maggiore per l'abilità di questi cosiddetti enti stranieri e dei loro capi. Questo mio rispetto deriva dal fatto di comprendere l'intera portata della capacità di alcuni paesi, che viene peraltro rilevata anche da alcuni osservatori esterni, quali la Svizzera, la Francia, la Germania, la Spagna e l'Inghilterra.

Il crollo, il cosiddetto crollo dell'Unione sovietica, che io ritengo sia stato frainteso sotto molti aspetti e, quindi, mal descritto, ha avuto sicuramente un effetto: ha scatenato un'ondata di materiale nucleare e di perizia tecnica.

Dirò quanto segue con profondo rammarico: tutti coloro che, in modo fanatico ed assolutamente ideologico, indulgevano nella cultura anticomunista da guerra fredda e che, con sommo gaudio e con profonda gioia, hanno assistito a quello che è stato definito il crollo della Russia sovietica, in un futuro non troppo lontano si augureranno che il vecchio comunismo funzioni di nuovo, data la situazione di disaggregazione, e di caos che stiamo per affrontare.

Con questo flusso di materiale nucleare, di testate nucleari, di perizia tecnica diretto verso i mercati di tutto il mondo, le ex Repubbliche sovietiche hanno minacciato di sospendere il trasferimento delle loro armi nucleari alla Repubblica russa. Di fatto, un articolo apparso su un quotidiano di oggi rivela una notevole divergenza tra la Russia ed il leader della cosiddetta aggregazione, Yeltsin, da un lato, e una

delle Repubbliche principali dall'altro, in merito al controllo della marina del Mar Baltico.

Incidenti di questo tipo possono condurre ad una situazione ancor più minacciosa per quanto concerne il terrorismo rivolto ai danni del nostro paese. E' una sequenza ed una combinazione di eventi straordinaria, facile da prevedere. Per quanto ci è possibile, dal canto nostro, stiamo cercando di mettere a punto questa legislazione.

Per dirla in poche parole, non abbiamo imparato nulla, i nostri leader non hanno imparato nulla, perchè abbiamo contribuito a far sì che l'Iran accumulasse una notevole potenza e, attualmente, l'Iran estende i propri interessi su territori che comprendono da tre a tre milioni e mezzo di musulmani, proprio al confine con l'Iraq. Il confine iracheno, d'altra parte, si trova a sole 90 miglia da quello russo, ma dall'altra parte si trovano delle Repubbliche musulmane.

Il vero risultato della nostra azione nell'area del Golfo Persico è stato di rafforzare il mondo musulmano, giacché abbiamo ucciso 200.000 musulmani, ed il movimento musulmano integralista non è limitato al Medio Oriente, bensì si tratta di un fenomeno di portata mondiale, che interessa il Pakistan ed altri paesi, ed il Pakistan ha sviluppato potenzialità considerevoli.

Consideriamo inoltre la Cina. I nostri leader nel corso degli ultimi anni hanno fornito ai cinesi le licenze per produrre il missile Silkworm che, guarda caso, è quello che ha colpito la nostra nave che era di pattuglia nel Golfo Persico, uccidendo 37 marinai americani.

14:30

Si trattava di un missile di provenienza irachena. Ma era un Silkworm, vale a dire quel tipo di missile per il quale avevamo concesso la licenza di produzione alla Cina. Non bisogna dimenticare che, nel frattempo, la Corea del Nord si è notevolmente aperta agli affari internazionali. Va inoltre detto che i leader cinesi, malgrado tutti gli impegni assunti nel corso di due diverse presidenze americane, non hanno mai mantenuto le loro promesse, e ciò rappresenta naturalmente una fonte di preoccupazione.

Proprio poche settimane fa, il Presidente ha posto il veto alla legislazione volta ad imporre dure condizioni circa il rinnovo di un rapporto di scambi commerciali privilegiato con la Cina. Se è vero che gli Stati Uniti hanno assunto una posizione tradizionalmente dura contro la proliferazione delle armi per la distruzione di massa, è pur vero che questa amministrazione non ha fatto nulla per evitare che Saddam Hussein allestisse una massiccia macchina da guerra e, di fatto, oggi si lamenta di averlo aiutato in tal senso.

Più recentemente, la stampa ha riportato che, nonostante un divieto di vendita di materiale bellico al Pakistan da parte degli Stati Uniti, questa amministrazione ha ampiamente concesso che le forze armate pakistane comprassero pezzi di ricambio per gli aerei da combattimento F-16 da imprese commerciali nel corso dell'ultimo anno e mezzo. Rapporti dei servizi segreti hanno segnalato che il Pakistan sta cercando di equipaggiare questi F-16 destinati al trasporto di armi nucleari. Il direttore della CIA Robert Gates ha affermato nel corso di un'audizione presso la Commissione forze armate della Camera dei rappresentanti (House Armed Service Committee) che il governo iracheno acquista annualmente armi per il valore di due milioni di dollari da fornitori stranieri, nel tentativo di diventare di nuovo una potenza preminente nella regione del Golfo Persico. La Russia, la Cina e la Corea del Nord sono state tra i principali venditori di armamenti all'Iran. L'Iran, inoltre, sta tentando attualmente di acquistare centinaia di carri armati dai paesi dell'Europa dell'Est.

Gates ha inoltre manifestato la propria preoccupazione circa gli sforzi dell'Iran volti a sviluppare testate ai gas tossici da collocare sui missili Scud. Egli ritiene che il programma relativamente rudimentale dell'Iran relativo alle armi chimiche produrrà testate nucleari di questo tipo nel corso dei prossimi anni.

Nel corso della stessa udienza, Gates ha dichiarato che l'Iraq mantiene alcune basi mobili per il lancio di missili Scud, nonché circa alcune centinaia di missili. Gates stesso e la Cia sospettano che, nonostante i continui sforzi di controllo attuati dagli Stati Uniti, parte del materiale iracheno collegato alle armi nucleari sia ancora nascosto. Ciò potrebbe anche essere vero per alcune armi chimiche e biologiche e per i mezzi atti a costruirne delle altre. Gates ha avvertito del fatto

che, se le sanzioni degli Stati Uniti venissero sollevate, l'Iraq, nel corso dei prossimi 3 o 5 anni, potrebbe ripristinare i suoi arsenali militari convenzionali ai livelli precedenti la guerra del Golfo.

Si registra chiaramente un bisogno urgente di azione. Il dopoguerra del Golfo dimostra il bisogno pressante di stabilire degli standard più rigidi per evitare il proliferare di questo tipo di armamenti. Stiamo raggiungendo inequivocabilmente un punto di crisi e ci avviamo verso un crocevia critico nella storia del genere umano. E' giunto il momento per gli Stati Uniti di guardare alla comunità mondiale con occhi nuovi e di cogliere questa opportunità per attuare le riforme più urgenti.

La Russia e le varie Repubbliche, in conseguenza del disintegrarsi della compagine dell'Unione Sovietica, stanno avanzando le loro richieste per entrare a far parte del FMI e della Banca Mondiale. Risulta quindi indispensabile che gli Stati Uniti adottino una posizione ferma e decisa nei confronti della Russia e delle altre Repubbliche emergenti, le quali insistono per diventare membri della comunità internazionale, al fine di raccogliere i frutti dei programmi comunitari. Questo atteggiamento di apertura implica d'altro canto l'esigenza di porsi, nei confronti degli altri Stati membri, nella posizione di cittadini del mondo. Ciò dovrebbe essere vero anche per gli altri paesi che già possiedono, o che stanno mettendo a punto, i loro arsenali.

La scorsa settimana, l' FMI ha approvato il piano di riforma economica della Russia, preparando così la strada per la riscossione, da parte di Mosca, di aiuti da parte dell' FMI per il valore di 4 miliardi di dollari che saranno erogati nel corso del prossimo anno. Alcuni funzionari dell' FMI hanno dichiarato che, secondo le loro previsioni, la Russia e la maggior parte delle altre Repubbliche Sovietiche si uniranno all'FMI nell'ultima parte di aprile, considerati gli aiuti che l'FMI stesso elargisce ai suoi nuovi membri. Nel complesso, la Russia e le altre ex Repubbliche sovietiche dovrebbero ricevere, nel corso dei prossimi tre anni, una cifra pari a 18 miliardi di dollari in aiuti FMI.

Il Presidente Bush ha sottoposto all'esame del Congresso un pacchetto di aiuti su larga scala per sostenere la Russia e le altre Repubbliche e, di fatto, due settimane or sono, in commissione,

abbiamo bloccato il rialzo dei nostri conti con l'estero poiché il Presidente non aveva annunciato il suo cosiddetto pacchetto di aiuti alla Russia, che costituirebbe una parte essenziale di quanto dovremmo tenere in considerazione nell'ambito dell'anticipo che il nostro paese si impegna a versare all'FMI e alla Banca Mondiale. Non è possibile negare che il nostro paese attualmente prova un estremo bisogno di esercitare qualche tipo di leadership nei confronti della Russia e degli altri paesi che costituiscono le ex Repubbliche sovietiche. Sono piuttosto preoccupato per la mancanza, sia da parte degli Stati Uniti che, in senso più generale, a livello internazionale, di una politica estera efficace, volta a coordinare e ad equilibrare le esigenze e le preoccupazioni per il bisogno di qualche forma di moratoria per quel che riguarda le armi per la distruzione di massa e, conseguentemente, la tecnologia necessaria per costruire tali armi.

Un modo per raggiungere questo obiettivo è quello di insistere sul fatto che i paesi che beneficiano dell'attività di queste banche multilaterali per lo sviluppo, la maggior parte delle quali è stata avviata proprio dagli Stati Uniti, rispettino tutti i trattati di non proliferazione. A loro volta, i suddetti trattati dovrebbero essere più solidi, più fermi ed attuati in modo più risoluto. Ma devono essere forniti anche degli incentivi all'osservanza.

Gli obiettivi della politica estera condotta dal Presidente Bush, a volte incoerente e più spesso decisamente sfortunata, dimostrano che gli Stati Uniti in questo particolare momento non stanno di certo inviando un messaggio chiaro e conseguente al resto del mondo. Se gli Stati Uniti continueranno a perseguire interessi strategici e/o commerciali, nonostante le conseguenze negative che questo tipo di azioni può avere in rapporto alla non-proliferazione, probabilmente gli altri paesi si sentiranno autorizzati a fare lo stesso.

Lasciatemi dire in tutta franchezza, e con tutto il rispetto dovuto a questi accordi di non-proliferazione, che alcuni paesi di grande peso, alcuni di quelli che consideriamo nostri alleati, non aderiscono a tali accordi. La Francia e Israele non rientrano nel novero dei paesi che accettano questi trattati. Di conseguenza, esiste un ulteriore aspetto problematico: dobbiamo decidere se spetta a noi esercitare una leadership in questo particolare settore.

Siamo vulnerabili. Il nostro paese è vulnerabile o, quanto meno, non è così invulnerabile come saremmo portati a pensare. La grande quantità di materiale bellico che abbiamo accumulato, e che si è rivelata in modo così palese nel corso della cosiddetta guerra del Golfo, sarà di poco aiuto nelle battaglie economiche e monetarie che abbiamo intrapreso attualmente. Ma, più specificatamente, che cosa siamo chiamati a difendere se, nel frattempo, le nostre città principali stanno crollando sulle nostre teste, se le infrastrutture fondamentali del nostro paese stanno cedendo?

Siamo altresì vulnerabili nei confronti di alcuni dei più sofisticati tipi di terrorismo, Dio non voglia che si concretizzino nella realtà. Viviamo in aree ad altissima densità abitativa, nelle quali, ad esempio, l'esistenza di riserve di acqua e di cibo non è sempre scontata. Mi ricordo del periodo in cui c'era il coprifuoco e ho memoria dell'intervento dei militari quando scoppiavano i tumulti. Era agghiacciante per me il fatto di percorrere a piedi, a mezzanotte, il tratto da casa mia fin qui, al Capitol Hill, e vedermi venire incontro una jeep, e sentirmi dire da qualcuno, con aria di sfida, "Che cosa sta facendo qui a quest'ora?". Era terribile vedere le stazioni di servizio, o i negozi di generi alimentari chiusi a mezzogiorno. Cosa succederebbe se non ci fosse più la possibilità di accedere alle riserve d'acqua, o se queste venissero avvelenate? Sono cose alle quali dovremmo cominciare a pensare.

Personalmente, ricopro anche l'incarico di Presidente della sottocommissione per l'edilizia e lo sviluppo della comunità. In rappresentanza della sottocommissione, nonché della commissione vera e propria, a partire da gennaio, anche se in realtà con la sottocommissione abbiamo iniziato molto tempo prima, abbiamo svolto delle indagini conoscitive in tutto il paese. Abbiamo iniziato il 7 gennaio nel Connecticut, a Bridgeport. Successivamente, siamo scesi nella Carolina del Sud. Poi, ci siamo recati nel Maryland, nell'Ohio, a Cleveland. Cleveland, nel corso di un decennio, ha perso un terzo della sua capacità produttiva nel settore industriale, e la maggior parte di tale capacità si è trasferita al confine con il Messico con la vicenda dei cosiddetti "mequilladores" (?), ma quella storia deve ancora essere analizzata nella sua interezza.

Ma perchè? Perchè il settore più vulnerabile della nostra società, quello dei lavoratori, è stato liquidato con poche o nessuna protesta.

Verrà il giorno della resa dei conti: perchè aspettare? Perchè non anticipare i tempi? Perchè non prepararsi? Perchè aspettare di trovarci nel bel mezzo di una crisi incontrollabile? Voglio dir questo: non sono un profeta, e non sono un esperto, ma conosco i fatti, e ho visitato i suddetti Stati, oltre alla California e al Wisconsin, e la nostra intenzione è quella di continuare per tutto il resto dell'anno perchè il nostro paese si trova in una situazione difficile e quasi tutte le nostre società, a dire il vero più del 65% di esse, si trovano in una condizione di grave disagio finanziario.

Che cosa stiamo difendendo allora? Contro cosa lottiamo? In altre parole, oltre ai pochi esempi che ho appena citato, fino a che punto siamo vulnerabili?

Bene, il mio desiderio sarebbe di giungere almeno ad una moratoria internazionale riguardo all'uso delle armi per la distruzione di massa. Sono sicuro che il mio disegno di legge costituisce un punto di partenza necessario, inevitabile, lo sento nel più profondo del cuore. E' un punto di avvio ragionevole e, in ogni modo, bisognerà pure iniziare da qualche parte.

Come ho puntualizzato prima, questo disegno di legge richiede inoltre che venga vietata alla Export-Import Bank la possibilità di fornire assistenza finanziaria a quei paesi che non aderiscono ai regimi previsti per il controllo delle armi di distruzione di massa.

Esiste attualmente qualche tipo di legislazione pendente che tenderebbe a rimuovere le barriere che non hanno consentito alla Eximbank di finanziare le esportazioni verso l'Unione Sovietica e verso altri paesi del blocco comunista.

Ammiro gli sforzi di questi paesi, volti a modificarsi radicalmente e a muoversi in direzione di un tipo di economia più capitalista e di mercato.

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Lettera del 21 aprile 1992 della Direzione centrale della BNL al
Presidente Carta.
Documento n. 434

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DIREZIONE CENTRALE

Roma, 21 aprile 1992

On.le Senatore Gianuario CARTA
Presidente della Commissione
Parlamentare d'Inchiesta sul caso della
Filiale di Atlanta della B.N.L.
e sue connessioni
R O M A

Strettamente riservato alla persona

Illustre Presidente,

con riferimento alla Sua lettera in data 7 aprile u.s., per quanto concerne la richiesta relativa ai rapporti tra la B.N.L. e la Kissinger Associates e, in particolare, con il signor Scowcroft, si precisa quanto segue:

Il dott. Kissinger, invitato come "guest speaker" alla riunione dell'International Advisory Board, che ebbe luogo a Venezia il 9 settembre 1985, manifestò la propria disponibilità a partecipare anche alla successiva riunione del 10 settembre successivo esprimendo il desiderio di entrare a far parte del Board stesso.

Nel giugno 1986, il Comitato Esecutivo della Banca, preso atto della disponibilità manifestata dal dott. Kissinger, deliberò l'avvio di un rapporto di collaborazione consulenziale con lo Studio Kissinger Associates di New York e Washington. Il contratto (cfr. all. 1), di durata biennale prevedeva un compenso annuo di US. Doll. 150.000 oltre rimborso spese; ha avuto inizio il 1/7/1986 ed è terminato il 30/6/88.

Il signor Scowcroft era all'epoca Vice Presidente della Kissinger Associates il cui Consiglio di Amministrazione era formato da 13 membri (cfr. all. 2).

DIREZIONE CENTRALE

Nell'arco di tempo considerato ebbero luogo cinque riunioni fra esponenti della Banca e della Kissinger Associates come da prospetto allegato 3, dal quale risultano altresì i Paesi a rischio che formarono oggetto di esame. Si rimette altresì il prospetto riguardante tutte le riunioni dell'Advisory Board (cfr. all. 4).

Il signor Scowcroft prese parte alle dette riunioni esclusivamente quale esponente della Kissinger Associates; non vi sono stati, pertanto, diretti incarichi di consulenza con lo stesso signor Scowcroft, né quindi gli fu mai corrisposto alcun compenso personale. Per la partecipazione del signor Scowcroft furono rimborsate, così come per gli altri componenti della Kissinger Associates, le sole spese di viaggio e soggiorno.

Conclusosi il rapporto con la Kissinger Associates, la Banca instaurò un rapporto di consulenza diretto con il dott. Kissinger che fu perfezionato il 1° luglio 1988 (cfr. allegato 5); la collaborazione del dott. Kissinger ebbe termine con la riunione svoltasi a Vienna dal 2 al 4 giugno 1991.

Per quanto concerne le informazioni riguardanti il personale i documenti ufficiali dell'epoca correlavano l'incremento dell'organico del gruppo BNL - Sezioni, all'inizio degli anni '80, con le strategie di espansione perseguite in tale periodo sia sul piano territoriale (estensione della rete operativa nazionale ed estera) sia in termini di nuovi servizi per la clientela e di attenzione al loro livello qualitativo.

Per quanto concerne i dipendenti adibiti a compiti ispettivi nel ramo amministrativo contabile, per lo più appartenenti alla categoria del personale direttivo, riportiamo di seguito un quadro numerico per il periodo di riferimento:

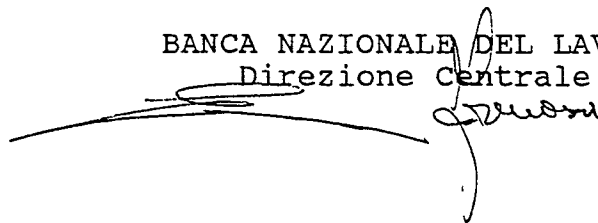
DIREZIONE CENTRALE

	<u>Pers. dir.</u>	<u>Pers. imp.</u>	<u>totale</u>	<u>totale</u> <u>org. Banca</u>
al 31/12/80 nn. 38		2	40	20.769
" " 81 nn. 63		3	66	21.780
" " 82 nn. 63		3	66	22.425
" " 83 nn. 69		4	73	22.781
" " 84 nn. 81		4	85	23.104
" " 85 nn. 94		4	98	23.195
" " 86 nn. 99		4	103	23.449
" " 87 nn. 112		4	116	23.636
" " 88 nn. 124		6	130	22.397
" 04/08/89 nn. 103		6	109	21.860
" 31/12/89 nn. 105		6	111	21.507

Relativamente infine ai criteri di selezione, risulta che in sede di assunzione la Banca si è indirizzata sia a giovani laureati o diplomati sia, in funzione delle necessità delle unità operative, a personale con titoli di studio inferiori. Per la destinazione all'estero di personale di ruolo Italia le scelte erano effettuate tenendo conto dei requisiti professionali maturati attraverso le esperienze operative.

Con i migliori saluti.

BANCA NAZIONALE DEL LAVORO
Direzione Centrale



①

CONSULTING AGREEMENT

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CONSULTING AGREEMENT, dated as of July 1, 1986, by and between KISSINGER ASSOCIATES, INC., a Delaware corporation ("Kissinger Associates"), and BANCA NAZIONALE DEL LAVORO, an Italian corporation (the "Client").

The Parties hereby agree as follows:

1. Consulting Engagement. Subject to the terms and conditions hereinafter set forth, the Client hereby engages Kissinger Associates to provide advice and consultation as to world political, economic, strategic and social development affecting the Client's affairs, and Kissinger Associates hereby agrees to act as a consultant to the Client with respect to such matters.

2. Compensation. As compensation for the services to be provided by Kissinger Associates hereunder, the Client agrees to pay Kissinger Associates the sum of \$ 150,000 (one hundred and fifty thousand U.S. Dollars) per annum (the "Fee"). The Client shall also pay or reimburse to Kissinger Associates all reasonable out-of-pocket expenses incurred by or on behalf of Kissinger Associates in connection with the services provided hereunder ("Expenses"), including, without limitation, all travel and related expenses, expenses relating to the security detail for Dr. Kissinger and, with the Client's prior approval (which shall not be unreasonably withheld), disbursements to third party consultants engaged by Kissinger Associates.

3. Payment of Fees and Expenses. The Fee shall be paid by the Client in quarterly installments in advance, the first such installment to be made on the date hereof. Expenses shall be paid by the Client to Kissinger Associates or as otherwise directed by Kissinger Associates within 30 days after the presentation to the Client of expense statements, invoices, vouchers or other supporting information.

4. Other Transactions. In the event the Client requests Kissinger Associates to represent the Client in connection with specific business transactions or to provide the Client with services other than those contemplated under paragraph 1 hereof (the "Additional Services"), the Client and Kissinger Associates shall enter into an agreement setting forth the relevant terms and provisions, including the compensation to be paid to Kissinger Associates, pursuant to which Kissinger Associates shall provide the Additional Services.

5. Term. The term of this Agreement (the "Term") shall commence on the date hereof and shall end on the second anniversary thereof and it may be further renewed subject to arrangements between the parties concerned.

6. No Liability. Neither Kissinger Associates nor any of its stockholders, officers, directors, controlling persons, employees or agents shall have any liability to the Client with respect to, or arising out of, any of the services provided by Kissinger Associates hereunder, other than as a result of Kissinger Associates' willful misconduct or gross negligence, as

determined by a final judgment of a court of competent jurisdiction. The Client hereby agrees to indemnify and hold harmless Kissinger Associates and all of its stockholders, officers, directors, controlling persons, employees and agents (each, an "Indemnified Party"), against any and all losses, claims, liabilities and expenses (including attorney fees and expenses reasonably incurred in connection therewith and amounts paid in settlement of any claim) which any Indemnified Party may incur or become subject to arising out of or based upon this Agreement. Kissinger Associates agrees to furnish prompt written notice to the Client of any claim, suit or proceeding which might entitle an Indemnified Party to indemnification hereunder provided that the failure by Kissinger Associates to provide such notice shall not affect the rights of any Indemnified Party hereunder. The provisions of this paragraph 6 shall survive any termination of this Agreement.

7. Confidentiality; No Publicity. The Client hereby agrees, for itself and on behalf of each of its officers, directors, employees and agents, to maintain the confidentiality of all information, reports, studies, oral advice, or other documents or information provided hereunder to the Client by Kissinger Associates. Kissinger Associates hereby agrees for itself, and on behalf of its officers, directors, employees and agents, that it will maintain the confidentiality of all nonpublic information regarding the Client supplied hereunder to Kissinger Associates. Neither party hereto shall make or cause or permit to be made an announcement or disclosure of the existence of, or the subject matter of this Agreement, without the express prior written consent of the other party.

Notwithstanding anything to the contrary set forth herein, the confidentiality obligations referred to in this paragraph 7 shall not apply to (i) information publicly known through no wrongful act of either party hereto or (ii) information required to be disclosed by applicable laws, regulation or judicial or regulatory process, provided that advance written notice of any required announcement or disclosure is given to the other party. The provisions of this paragraph 7 shall survive any termination or expiration of this Agreement.

8. Nature of Relationship. Kissinger Associates and the Client are not, shall not be deemed to be, and shall not represent themselves as being, partners or joint ventures with each other. Notwithstanding anything to the contrary set forth in this Agreement, Kissinger Associates shall be under no obligation to provide any service to the Client if such service (i) would require Kissinger Associates, under any applicable law or governmental rule, regulation or order to register as a foreign agent or be deemed a domestic or foreign agent of, or lobbyist for, the Client or (ii) would otherwise violate any applicable law or governmental rule, regulation or order.

9. Parties in Interest; Assignment and Amendment. This Agreement is binding upon and is for the benefit of the parties hereto and their respective successors, legal representatives, heirs and permitted assigns. This Agreement is personal in nature and the rights hereunder cannot be assigned nor can the duties hereunder be delegated without the prior written consent of the parties hereto. This Agreement cannot be amended or modified, except by a written agreement executed by the parties hereto.

10. Entire Agreement. This Agreement supersedes any and all oral or written agreements and understandings heretofore made relating to the subject matter hereof and contains the entire agreement of the parties relating to the subject matter hereof.

11. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be delivered personally, telegraphed, telexed, sent by facsimile transmission or sent by certified, registered or express mail, postage prepaid. Such notice shall be deemed given when so delivered personally, telegraphed, telexed or sent by facsimile transmission or, if mailed, five days after the date of deposit in the United States mail as follows:

(i) if to Kissinger Associates, to:

Kissinger Associates, Inc.
350 Park Avenue
New York, New York 10022
Attention: Mr. Lawrence S. Eagleburger

(ii) if to the Client, to:

Banca Nazionale del Lavoro
Via V. Veneto 119
00187 Rome
Attention: Prof. Francesco Bignardi

12. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely within such State. The parties hereto (i) agree that any legal suit, action or proceeding arising out of or relating to this Agreement may be instituted in State or Federal Court in the City of New York, State of New York, (ii) waive any objection which they may have now or hereafter to the laying of venue of any such suit, action or proceeding and (iii) irrevocably submit to the nonexclusive jurisdiction of the United States District Court for the Southern District of New York, or any court of the State of New York located in the City of New York in any such suit, action or proceeding. Further, the parties hereto agree that the mailing of any process by registered mail, postage prepaid, in any such suit, action or proceeding to any party at its address set forth in paragraph 11 above shall, upon receipt, constitute personal service thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written by their respective officers thereunto duly authorized.

KISSINGER ASSOCIATES, INC.

By: 

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BANCA NAZIONALE DEL LAVORO

By: 

(

BOARD OF DIRECTORS
Kissinger Associates

- Dr. Henry A. Kissinger - Chairman Kissinger Associates
- X Lawrence S. Eagleburger - President, Kissinger Associates,
former Undersecretary of
State for Political Affairs
- Gen. Brent Scowcroft - Deputy Chairman, Kissinger Associates
- William D. Rogers - Partner, Arnold & Porter,
former Undersecretary of State
for Latin American Affairs
- Robert O. Anderson - Chairman of the Board,
Atlantic Richfield
- Pehr G. Gyldenhammer - Chairman and Chief Executive
Officer, AB Volvo
- William E. Simon - Chairman, Wesray Corporation,
former Secretary of the
Treasury
- Edward L. Palmer - former Chairman of the
Executive Committee of Citibank
- Viscount Etienne Davignon - President, Societe Generale de Belg
former Vice President of
the European Community
- The Right Honorable
The Lord Roll of Ipsden - Chairman, S.G. Warburg & Company
- Sir Y.K. Kan - former Chairman of the Bank of
East Asia Limited
- Dr. Saburo Okita - Chairman, Institute for
Domestic and International
Policy Studies, former Minister
for Foreign Affairs, Government
of Japan
- T. Jefferson Cunningham III - Senior International Advisor,
Midland Bank, PLC

May 14,

(3)

BNL

KA

PAESI TRATTATI

New York 14.7.1986

Florio
Guadagnini
Locuratolo

Dr. Kissinger
L.S. Eagleburger
Gen. Scowcroft
Alan Stoga

(riunione propedeutica)

Copenhagen 15-16.9.1986

Del. I.A.B.
Nesi
Del Monte
Florio
Mucci
Lanzara
Masini
Locuratolo
Alhadeff

Dr. Kissinger
Gen. Scowcroft
Alan Stoga

Brasile
Argentina
India
Messico
Giappone

New York 13.12.86

Florio

Gen. Scowcroft
Alan Stoga

Australia
Cina
Taiwan
Indonesia

Madrid 3.5.1987

Del. I.A.B.
Nesi
Florio
Mucci
Lanzara
Masini
Locuratolo
Cornini
Alhadeff
Rastelli

Dr. Kissinger
Gen. Scowcroft
Alan Stoga

Cina
Paesi America Latina
Messico

3

New York 5.10.1987

BNL

Nesi
Lolli
Alhadeff
Florio
Mucci
Locuratolo
Cornini

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Dr. Kissinger
e collaboratori

PAESI TRATTATI

Argentina
Brasile
Cina
Spagna
Turchia
Uruguay

INTERNATIONAL ADVISORY BOARD

4

Guest Speaker

Speakers

ROMA

(3-4 Sept. 1984)

H.E. the Ambassador
E.G. Whitlam
Former Prime Minister
of Australia

Lord Ezra
W. Heller
W. Takagaki
R.de Oliveira Campos

LONDON

(15-16 April 1985)

The Lord Thorneycroft

R. Barre
N. Samuels
P. Shelbourne
W. Takagaki

VENEZIA

(9-10 Sept. 1985)

Dr. H.A. Kissinger

R. Barre
R. Campos
W. Heller
H.L. Merkle

BRUXELLES

(22-23 April 1986)

The Lord Carrington

R. Barre
W. Heller
L. Lambert
P. Shelbourne

COPENHAGEN

(15-16 Sept. 1986)

S. De Capitani
R. De Oliveira Campos
Lord Ezra
H.A. Kissinger

Guest Speaker

Speakers

MADRID

(4-5 May 1987)

The Lord Charles Forte

R. Barre
W. Heller
H.A. Kissinger
Lord Thorneycroft

TOKYO

(19-20 May 1988)

Dr. H.A. Kissinger

R. Barre
Lord Ezra
H.A. Kissinger
P. Ledoux

MUNICH

(16-17 May 1989)

Dr. H.A. Kissinger

R. Barre
R. De Oliveira Campos
S. De Capitani
H.A. Kissinger

VENEZIA

(21-22 May 1990)

Dr. H.A. Kissinger

R. Barre
H.A. Kissinger
H.L. Merkle
P.E. Trudeau

VIENNA

(3-4 June 1991)

Dr. H.A. Kissinger

R. Barre
R. De Oliveira Campos
Lord Ezra
H.A. Kissinger

MILANO-CERNOBBIO

(4-5 June 1992)

R. Barre

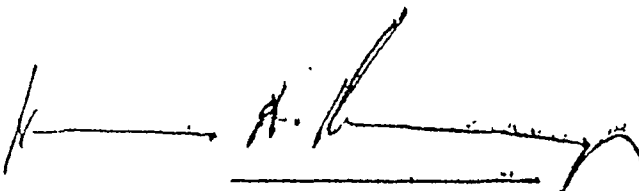
R. Barre
P. Ledoux
H.L. Merkle
D. Rockefeller
W.T. Takagaki

CONSULTING AGREEMENT

Consulting agreement dated as of July 1, 1988 by and between Dr. Henry Kissinger and Banca Nazionale Del Lavoro (BNL)

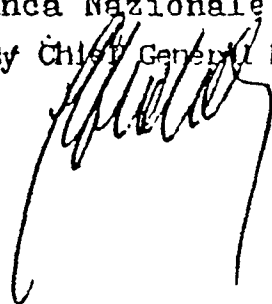
The parties hereby agree as follows:

- 1) Dr. Kissinger agrees to be a member of BNL International Advisory Board and to be the speaker at the dinner prededing the annual meeting of the Board. Dr. Kissinger also agrees to provide his advice if and when requested by the Chairman or the General Manager of BNL.
- 2) BNL agrees to pay Dr. Kissinger the sum of U.S. Dollars 50.000 per annum, in quarterly installments, and to reimburse him all reasonable out-of-pocket expenses incurred in connection with the functions indicated under point 1)
- 3) This agreement shall commence on the date hereof and shall end on June 30, 1989 and it may be further renewed subject to arrangements between the parties.



 Dr. Henry Kissinger

Banca Nazionale Del Lavoro
 By Chief General Manager



DIREZIONE GENERALE

Dr. Henry A. Kissinger
Former U.S. Secretary of State
Suite 1021
1800 K Street, N.W.
Washington, D.C. 20006

Rome, June 22, 1989

Dear Dr. Kissinger,

We are pleased to advise that the Bank's Executive Committee has just approved the extension of the validity of the "Consulting Agreement" dated July 1, 1988, for a further period of one year expiring on June 30, 1990.

This new Agreement will be renewable subject to prior approval by both parties.

Very truly yours,

Banca Nazionale del Lavoro
Head Office

G. Pedde

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N. Nesi

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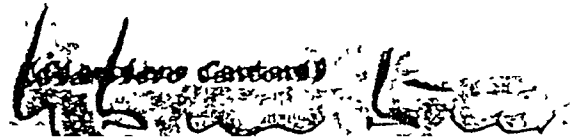
Rome, June 26, 1990

Dear Dr. Kissinger,

I am pleased to advise that the Bank's Executive Committee recently approved the extension of the validity of the "Consulting Agreement" dated July 1, 1988, for a further period of one year expiring on June 30, 1991.

Kindly return the enclosed copy of this letter signed for acceptance.

Warm personal regards.



DR. HENRY A. KISSINGER
Suite 1021
1800 R Street, N.W.
Washington, D.C. 20006

KISSINGER ASSOCIATES
350 PARK AVENUE
NEW YORK, NEW YORK 10022-6022
(212) 759-7819
TELECOPY: (212) 759-0042

Handwritten notes:
V d m. 6
W w
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February 22, 1991

Dear Mr. Lolli:

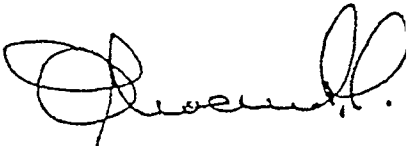
In the process of reviewing my board commitments, I have determined that my schedule will no longer permit me to serve on the Banca Nazionale Del Lavoro International Advisory Board. However, I will attend the upcoming meeting in Vienna on June 3 and 4 and look forward to seeing you then.

Warm regards,

Signature of Henry A. Kissinger
Henry A. Kissinger

Mr. Ettore Lolli
Chairman
International Advisory Board
Banca Nazionale Del Lavoro
119, Via Vittorio Veneto
00187 Rome, Italy

KISSINGER ASSOCIATES INC.
350 PARK AVENUE
NEW YORK, NEW YORK 10022-6020
(212) 558-7211
TELECOM (212) 558-0041

Received 14/10/91


October 10, 1991

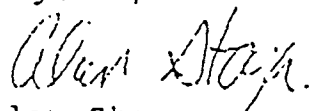
Oronzo Locuratolo
Banca Nazionale del Lavoro
Rome, Italy

BY FACSIMILE

Dear Mr. Locuratolo:

I understand from Mr. Lolli that you do not have a copy of the letter Dr. Kissinger wrote him resigning from BNI's International Advisory Board. A copy is enclosed.

Regards,


Alan Stoga
Managing Director

AS/JE
enclosure

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Rome, 22nd October, 1991

IL PRESIDENTE

Dear Dr. Kissinger,

on my return to Rome after the conclusion of the Bangkok I.M.F. - World Bank Meetings, I found Mr. Alan Stoga's facsimile dated October 10 enclosing facsimile of your letter dated February 22, 1991 the original of which apparently never reached Mr. Lolli.

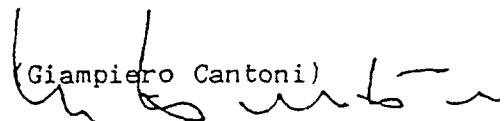
I regret very much that you consider it advisable to resign from our International Advisory Board. On the other hand, I fully appreciate that your many activities require your constant commitment and end up by encroaching on the very little time left for yourself.

On behalf of the Bank's Board of Directors and all members of the International Advisory Board I would like to express our grateful appreciation for the invaluable contribution offered by you throughout your permanence on the Board.

I do hope that our paths will cross again in a not too distant future.

Warmest personal regards,

Sincerely,


(Giampiero Cantoni)

Dr. Henry A. Kissinger
Former U.S. Secretary of State
Suite 1021
1800 K Street, N.W.
WASHINGTON, D.C. 20006
U.S.A.

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