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INVESTIGATIONS:  
INVESTIGATIVE REPORT

THE OIL-FOR-FOOD PROGRAM: THE SYSTEMIC FAILURE OF  
THE UNITED NATIONS

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INTRODUCTION

This report details management and leadership weaknesses in the United Nations. In parallel with its investigatory work on the UN, the Committee has pursued a legislative agenda in support of UN reform, namely, the “Henry J. Hyde United Nations Reform Act of 2005” (Hyde bill), a bill which twice has passed the House of Representatives.<sup>1</sup>

<sup>1</sup>The bill first passed the House of Representatives on June 17, 2005 as a free-standing bill H.R. 2745, by a vote of 221–184; and another vote on July 20, 2005 as an amendment to the State Department Authorization bill, H.R. 2601, by a vote of 226–195.

The earliest iteration of what would become the Oil-for-Food Program (OFFP) dates from 1991. The UN designed the program to feed and care for Iraqis suffering as a result of Saddam Hussein's continued non-compliance with provisions of the ceasefire that ended the First Gulf War the previous year. Humanitarian goods supplied to Iraq were paid for with proceeds from the controlled sale of its oil. Under UN auspices, the oil was to be sold, the proceeds would be deposited with Banque National de Paris-Paribas (BNP) and then humanitarian goods would be supplied to Iraq. Once the arrival of the goods was authenticated, the goods could be paid for.

The initial and ultimately fatal weakness of this arrangement was the exclusive authority it granted to Saddam Hussein to choose buyers for Iraq's oil as well as the suppliers of humanitarian goods. Once firmly ensconced as gatekeeper of contracts, Saddam Hussein's strategy of corrupting the program was relatively simple and was achieved by a number of means: fraudulent orders for humanitarian goods paid for, but never delivered; a partial delivery of humanitarian goods with proceeds shared among regime elements; goods shipments with obscure descriptions to hinder timely inspections; overpricing of humanitarian goods designed to hide kickbacks; after sale service fees of as much as 30 percent, a portion of which was paid as a kickback; overcharging for shipping costs and outright theft of goods destined for the Iraqi people.

Of the estimated \$65 billion in oil sales during the life of the program (1996–2003) at least as much as \$10 billion was siphoned off by Saddam Hussein in the form of illicit revenue from oil smuggling and contract kickbacks, all on the backs of the Iraqi people for whom this program was intended to benefit.

The program's principal banker is also implicated in the web of problems that plagued the program. On more than 400 occasions, and without approval of the UN, the New York office of BNP made unauthorized payments from the program to so-called third-parties that received payments for humanitarian contracts negotiated and agreed to by others. Under U.S. banking laws, BNP was required to undertake security background checks in accordance with U.S. "know-your-customer" rules that were strengthened after the September 11th attacks. Investigators still have not determined whether these third-parties were legitimate companies, front companies for Saddam Hussein's bribery machine, or worse.

Numerous investigations have exposed corruption within the UN and the OFFP. These investigations have aided Congress in understanding mismanagement and corruption within the UN and spurred the ongoing legislative debate on UN reform. None of these investigations has had greater access to information than the Independent Inquiry Committee (IIC) chaired by former Federal Reserve Chairman Paul A. Volcker. The IIC's investigation produced important ground-breaking reports, running into the thousands of pages, on mismanagement and corruption within the UN and its OFFP.

The UN's capacity to punish wrongdoing within its ranks also suffers from a lack of a functioning independent administrative justice system, allowing crimes or malfeasance to go unpunished, and when cases are brought up, they frequently are riddled with procedural errors such that many are overturned on appeal by the

United Nations' own supreme tribunal. Each of the deficiencies detailed in this report has individually and collectively contributed to the culture of impropriety and the lack of accountability that undergirded the oil-for-food era. The very fact that the IIC had to be created is a sign of the UN's inability to investigate and expose its own wrongdoing.

Problems associated with the OFFP are not isolated or unique to that particular UN-administered program. The OFFP, and the myriad of problems associated with it, are symptomatic of a pervasive mismanagement and failure of leadership at the UN.

Among the management and organizational weaknesses are a lack of appropriate and effective internal or external independent oversight (including both audit and investigations); the near absence of adequate internal controls within the Secretariat; and a lack of appropriate and modern accountability mechanisms, including a functioning whistleblower protection policy; a code of ethics; an ethics training and certification regime; a financial disclosure process and policy; and a freedom of information policy.

In addition to being decades behind other public institutions in its business processes, internal controls, and accountability mechanisms, the UN suffers from a lack of proper leadership and commitment to excellence by the organization's senior most leadership.

The UN plays a useful role by, among other things, facilitating diplomacy, mediating disputes, monitoring the peace, feeding the hungry and fostering sustainable economic growth in regions in need of assistance. Such work fulfills the core values embodied in the UN charter and enjoys broad public support. But there is growing criticism of the UN's poor management and corruption and a public consensus for reform of the UN. The UN itself has acknowledged the need for extensive measures and has put forward a number of useful proposals for consideration. But to be effective, the reform effort must come from UN Member States.

Both the Hyde bill and the Lantos alternative, which were considered by the House, set forth a number of reforms necessary to restore credibility to UN management practices. Among these reforms are: the establishment of complete investigatory and budgetary independence for the Office of Independent Oversight Services in order to avoid political interference in the operations of its duties; creation of an Independent Oversight Board through which direct oversight over all issues related to the audit and investigatory functions of the UN can be observed, regulated, and carried out; prompt establishment of an Ethics Office through which a proper Code of Conduct can be established for the operations of the UN, including a proper policy on financial disclosure for salaries, gift acceptance, travel allowances, and outside employment; the establishment of a whistleblower policy that both protects and encourages employees of the UN to come forward when they see actions committed within the UN system that violate the rules of procedure; and the establishment of a Chief Operation Officer.

#### THE FINDINGS OF THE COMMITTEE ON INTERNATIONAL RELATIONS RELATING TO THE UNITED NATIONS OIL-FOR-FOOD PROGRAM

The Committee on International Relations has after consideration made the following findings and recommendations as to the

performance of the UN, its employees, the IIC and others during and after its operation of the OFFP:

1. *Senior Management of the United Nations.*—The Committee finds that the senior management of the UN failed to: (1) ensure the ethical and proper conduct of themselves and their subordinates within the Secretariat; (2) keep the Security Council informed of allegations of kickbacks; (3) cooperate with internal and external oversight bodies; and (4) adhere to the UN's own staff rules and regulations governing conduct of officials of the UN.
2. *The oversight bodies of the United Nations.*—The Committee finds that,
  - The Office of Internal Oversight Services, because of political interference from the UN Senior Management, was prevented from providing an adequate degree of oversight of the OFFP, and failed to object when Benon Sevan denied OIOS the ability to deploy auditors in Iraq;
  - The Joint Inspection Unit of the UN failed to undertake a single audit report during the entire duration of the OFFP, bringing into question its effectiveness or added-value in the oversight structure of the UN;
  - The External Board of Auditors of the UN failed to undertake adequate audits of the Secretariat, funds, programs, or independent agencies of the UN system associated with the OFFP, bringing into question the effectiveness and utility of that entity.
  - There was no independent oversight authority within the UN capable of withstanding political interference from senior UN officials.
3. *The United Nations' Procurement Department.*—The Committee recommends that an independent body investigate corruption within the UN Procurement Department.
4. *IHC Services, Inc., Eurest Support Services, Inc., and Compass Group.*—The Committee finds that all three companies must be further investigated for the roles they played with respect to their work with the UN, particularly the UN Procurement Department.
5. *BNP-Paribas.*—The Committee finds that BNP failed to adequately monitor transactions within OFFP. Additionally, the Committee finds that BNP made at least 400 unauthorized payments to unapproved third-parties in the humanitarian side of the OFFP. The Committee recommends that an independent body examine the bank's role, and the role of its European branches and subsidiaries, in the OFFP.
6. *Final Disposition of the Files of the IIC.*—The Committee recommends that the IIC place all of its work papers, documents and records in public custody rather than turn them back to the UN. This work was paid for by the Iraqi people, with their oil revenues, not the UN. The Committee believes that these records be given to a public institution to allow further research and review. To the extent possible, the archives of the IIC should be accessible on the internet.

## GLOSSARY

*Kofi Annan:*

Kofi Annan, the seventh Secretary-General of the UN, began his first term on January 1, 1997, and was appointed to a second term beginning January 1, 2002 and ending December 31, 2006. Prior to his role as Secretary-General, Kofi Annan served as Assistant Secretary-General for Peacekeeping Operations (March 1992–February 1993) and as Under-Secretary-General (March 1993–December 1996).

*Kojo Annan:*

The son of Secretary-General Kofi Annan, Kojo Annan was born in Geneva, Switzerland in June 1978. From 1995 to 1997, Kojo Annan was a marketing consultant for the Swiss-based inspection company, Cotecna.

*BNP:*

The Bank Nationale de Paris (BNP, now BNP-Paribas), is incorporated in France but has branch offices in New York. The UN awarded the escrow account in the OFFP to BNP.

*Boutros Boutros-Ghali:*

Boutros Boutros-Ghali served as Secretary-General from 1992 to 1996. He previously held a number of high positions in the Egyptian government. Boutros-Ghali faced significant controversy during his term because peacekeeping missions in Cambodia, Somalia, Rwanda, and Bosnia required considerable resources but yielded only mixed results. His efforts at UN reform were mostly ineffectual. After initially expressing an intent to serve one term, Boutros-Ghali sought a second term but was blocked, largely because of objections from the United States.

*Cotecna:*

Cotecna Inspection, SA, is a Geneva-based inspection company that began a contract in February 1999 with the UN to inspect food and medicine imported into Iraq via the OFFP. Cotecna won its contract with the lowest bid after the UN terminated its earlier contract with Lloyd's Register. The firm's founder and president is Eli Georges Massey, who transformed his company from salt-extraction in Iran in the early 1970s, to a major pre-shipment inspection company. At the time of Cotecna's bid for the U.N inspection contract, Cotecna's reputation was in decline. CEO Robert Massey was indicted by a Swiss magistrate in a bribery and money laundering scandal involving Pakistan's former Prime Minister, Benazir Bhutto. A former employee of Societe Generale de Surveillance (SGS), which at the time owned a majority stake in Cotecna, was also indicted. Cotecna was subsequently sold back to the Massey family. After winning the UN inspection contract, London's *Daily Telegraph* questioned Cotecna's employment of the Secretary-General's son, Kojo Annan<sup>2</sup>. Cotecna employed Kojo Annan in Nigeria from 1995 to December 1997, and as a consultant until the end of

<sup>2</sup>Andrew Alderson, "Fury at Annan son's link to £6m UN deal," *Daily Telegraph*, January 24, 1999.

1998 (when Cotecna secured the OFFP contract). Kojo Annan remained on Cotecna's payroll until 2004.

*The Committee:*

The Committee on International Relations of the United States House of Representatives.

*CPA:*

The Coalition Provisional Authority (CPA) was the transitional government in Iraq from April 21, 2003 to June 28, 2004. According to UN Security Council Resolution 1483 and the laws of war, the CPA assumed executive, legislative, and judicial authority over the Iraqi government. Retired United States Army Lieutenant General Jay Garner was the first chief executive of the CPA. Garner was replaced on May 11, 2003 by L. Paul Bremer because of his refusal to remove members of the Ba'ath Party from the Iraqi government and military. The CPA was responsible for managing the Development Fund for Iraq, which took the place of the OFFP and provided funding for the wheat purchase program, the currency exchange program, the electricity and oil infrastructure programs, equipment for Iraq's security forces, Iraqi civil service salaries, and various government ministries. The CPA also formed the Iraqi Governing Council on July 22, 2003, which was responsible for appointing representatives to the UN, appointing interim ministers to vacant cabinet positions, and drafting a temporary constitution. Due to rising tensions and conflict in Iraq, the CPA was disbanded three days before power was transferred to the Iraqi Interim Government.

*Richard Goldstone:*

Richard Goldstone served nine years as a justice on the Constitutional Court of South Africa. While serving as a Justice, Goldstone oversaw the nation's democratic progress and interpreted the new South African Constitution. Prior to this position, Goldstone was chairperson of the Standing Commission of Inquiry Regarding Public Violence and Intimidation. From 1994 to 1996, he was the chief prosecutor of the United Nations International War Crimes Tribunals for the former Yugoslavia and Rwanda. When Argentina began investigating Nazi activity, Goldstone was appointed a member of the international panel created in 1997. In 1999, Goldstone became chairman of the International Independent Inquiry on Kosovo.

*Hyde Bill*

"The Henry J. Hyde United Nations Reform Act of 2005"—twice passed by the U.S. House of Representatives—the legislation links payment of U.S. dues to the UN with the modernization of UN management practices.

*Independent Inquiry Committee:*

The Independent Inquiry Committee (IIC) was appointed by Secretary-General Annan in 2004 to investigate the management of the OFFP. Paul Volcker was the Chairman of the IIC. Justice Richard Goldstone and Mark Pieth were Members of the committee. The IIC's mandate was to gather and assess information on the ad-

ministration of the OFFP, including alleged corruption by UN officials and contractors.

*Lloyd's Register:*

Lloyd's Register Inspection, Ltd. is a London-based company that was contracted by the UN in 1996 to inspect and monitor humanitarian goods imported into Iraq under the OFFP. A UN audit found evidence of possible over-payments of \$3 million. The company also billed the UN for agents deployed in December 1996, two months before the first contracts for humanitarian supplies were issued. Lloyd's Register was also able to negotiate inflated renewals of its contract because the UN failed to consider competitors. In 1998, the UN terminated its contract and replaced Lloyd's with Cotecna.

*Pierre Mouselli:*

Pierre Mouselli was a business partner of Kojo Annan. Mr. Mouselli formed a series of partnerships with Kojo Annan to do business in the fields of inspection, oil, and trade.

*Oil-for-Food Program:*

A UN-run program designed to provide humanitarian goods to the people of Iraq. The OFFP was paid for through the sale of Iraqi oil and administered at UN headquarters by the Office of the Iraq Program (OIP). The OFFP grew out of the sanctions imposed against Iraq for their invasion of Kuwait in August 1990. It ran from December 1996 through March 2003, ending with the United States invasion of Iraq.

*Parton Documents:*

Documents obtained by the Committee through subpoena from Robert Parton, former IIC investigator.

*Saybolt:*

Saybolt Eastern Hemisphere B.V. is a Dutch engineering company that was awarded a UN contract in 1996 to oversee the export of oil and oil products through approved export points at Zakho in Northern Iraq and Umm Qasr in the Persian Gulf.

*Secretariat*

The UN Secretariat is headed by Secretary-General Kofi Annan. The Secretariat is the executive office within the UN responsible for day-to-day management of the portion of the UN budget funded with assessed contributions from member states. The Secretariat was directly responsible for oversight of the OFFP.

*Benon Sevan:*

Benon V. Sevan was appointed by Secretary-General Annan as the Executive Director of the Iraq Programme on October 15, 1997. He was responsible for the management and oversight of the UN OFFP until its end in November, 2003. Prior to that, he served as Assistant Secretary-General for Conference and Support Services and the United Nations Security Coordinator, and he continued the latter job until July 2002. From 1992 until his recent resignation, he served as the Special Envoy to the Secretary-General for issues related to missing persons in the Middle East. Until recently,

Sevan remained on the UN payroll as a \$1 a year “adviser” to the OFFP inquiry. He resigned from the UN on August 7, 2005, one day before the IIC published its *Third Interim Report* investigating the OFF scandal. The report found that Sevan took \$147,184 in cash bribes from December 1998 to January 2002—money Sevan claimed he had received from his late aunt.

*Joseph Stephanides:*

Joseph Stephanides was a Field Division Director in Namibia for the UN. Before his termination by Secretary-General Annan in June 2005, Stephanides was a senior official in the OFFP. Stephanides, the head of the Security Council Affairs Division, was the first UN employee to be fired in wake of the scandal. The IIC accused Stephanides of aiding Lloyd’s in obtaining its contract. Secretary-General Annan said Stephanides violated UN rules and committed “serious misconduct” while at his post. Stephanides, however, maintains his innocence. The former official continues to claim that he was only following orders issued to him by the Security Council and UN executives.

*USUN:*

The Permanent Mission of the United States to the UN in New York.

*Paul Volcker:*

Paul A. Volcker was appointed by Kofi Annan in April 2004 to chair the IIC. He is also the current Chairman of the Board of Trustees of the Washington-based Group of Thirty. He is perhaps best known as Chairman of the Federal Reserve from August 1979 to August 1987 under Presidents Carter and Reagan. Volcker was also president of the New York Federal Reserve Bank from 1975 to 1979. Prior to this, Volcker served as the Undersecretary of the Treasury for international monetary affairs.

*Alexander Yakovlev:*

Yakovlev was a Russian procurement officer at the UN and was the first UN official to be criminally charged in the OFFP. Yakovlev was charged with wire fraud and money laundering and was accused of accepting \$1 million in bribes from different UN contractors while working outside the OFFP.

BACKGROUND TO CORRUPTION WITHIN THE OIL-FOR-FOOD PROGRAM

The Oil-for-Food Programme (OFFP) was intended to alleviate a humanitarian crisis engendered by economic sanctions on Iraq. Four days after Iraq’s invasion of Kuwait on August 2, 1990, the United Nations Security Council passed Resolution 661, which imposed economic sanctions designed to contain the Government of Iraq. A later embargo provided for an end to sanctions once Iraq fully complied with international efforts to end its weapons of mass destruction (WMD) program.<sup>3</sup> WMD inspections, however, proceeded slowly. Without oil revenues, Iraq was unable to import suf-

<sup>3</sup>U.N.S.C.R. 687 (April 3, 1991).

ficient quantities of food and medical supplies and living conditions in Iraq deteriorated.

In July, 1991, Sadruddin Aga Khan led a humanitarian team of experts from UNICEF, the World Health Organization, the World Food Program, and other UN agencies, to Iraq. The delegation issued a report to the UN that documented widespread starvation. The delegation recommended that Iraq be allowed to sell oil to address humanitarian needs.<sup>4</sup> This recommendation led to Security Council Resolutions 706 (August 15, 1991) and 712 (September 19, 1991), which would have established an early oil-for-food plan allowing Iraq to export \$1.6 billion in oil every six months. Iraq, however, rejected this plan as too limited in scope and as an infringement of Iraqi sovereignty.

From 1991 to 1995, there were dramatic declines in living standards in Iraq. On April 15, 1995, the UN Security Council adopted Resolution 986, which allowed the export of \$2 billion in oil every six months. On May 20, 1996, Iraq accepted this proposal and entered a Memorandum of Understanding with the UN, creating the OFFP<sup>5</sup>.

#### THE UNITED NATIONS OUTMATCHED

The OFFP was supposed to help Iraq meet its international obligations and ensure equitable distribution of imports to the Iraqi people, but Saddam Hussein was able to exploit the suffering in his country to negotiate a sanction-relief program that he could easily manipulate. Vic Comras led the State Department's foreign policy trade control and sanctions programs, and testified at a hearing before the Oversight and Investigations subcommittee on July 27, 2005 that:

*When the oil for food program was first proposed in Security Council resolution 706 of August 15, 1991 it laid out a simple and direct control mechanism. Iraq would be allowed to export up to \$1.5 billion worth of oil during a six-month period. Further allotments would be accorded for additional six month periods as warranted. Saddam Hussein rejected this program outright. He chose to hold his own people hostage and use their deteriorating humanitarian situation as a bargaining chip to press for sanctions removal. And this gambit led, in time, resulted in increased international pressure on the US and other Security Council members to loosen the sanctions.<sup>6</sup>*

Charles Duelfer, the advisor to the Director of Central Intelligence on Iraq's WMD went further, concluding:

*The introduction of the Oil-For-Food program (OFF) in late 1996 was a key turning point for the regime. OFF rescued Baghdad's economy from a terminal decline created by sanctions. The regime quickly came to see that OFF could be corrupted to acquire foreign exchange both to further undermine*

<sup>4</sup>Report of the Executive Delegate for the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran Border Areas, Sadruddin Aga Khan to the Security Council, S/22799, July 17, 1991.

<sup>5</sup>Report of the Executive Delegate for the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran Border Areas, Sadruddin Aga Khan to the Security Council, S/22799, July 17, 1991.

<sup>6</sup>Testimony of Vic Comras before the International Relations Committee Subcommittee on Oversight and Investigations, July 27, 2005.

*sanctions and to provide the means to enhance dual-use infrastructure and potential WMD-related development.*<sup>7</sup>

The OFFP was a complex operation that was vulnerable to corruption given the scope of the operation and the nature of the Iraqi regime. Consequently, the OFFP required modern management practices and effective diplomatic skills, neither of which the UN possessed or demonstrated during the OFFP.<sup>8</sup> As one former 661 Committee diplomat said, “the UN didn’t stand a chance against the Iraqis.” Iraq, he said, “outmaneuvered the UN at every point.” The UN, he continued, “had no authority to tell the Iraqis what to do. The Iraqis would only cooperate to the extent it would benefit them.”<sup>9</sup>

From the start, the OFFP was compromised in favor of Saddam Hussein’s sovereignty. Officials at the U.S. Mission to the UN maintained that there were real battles conducted within the UN over sovereignty. “Short of taking over a country, how do you tell Saddam Hussein what to do?” suggested one U.S. official.<sup>10</sup> A former Treasury Department official said that the U.S. wanted an inspection regime similar to one used in Yugoslavia a few years before.<sup>11</sup> The UN, however, did not institute such a system.<sup>12</sup> The compromise was “the best political deal that could be gotten,” suggested our diplomats in New York.<sup>13</sup>

Saddam Hussein was allowed to choose the bank, BNP,<sup>14</sup> which was awarded the escrow account into which the proceeds of the sale of Iraqi oil were deposited. Iraqi Bank officials told the Committee that one reason the bank was chosen was that BNP was a major holder of Iraqi government accounts overseas.<sup>15</sup> BNP maintains that it won the contract in a fair bid, a point that the IIC disputes.<sup>16</sup> According to the IIC, former Secretary-General Boutros Boutros Ghali unfairly awarded the contract to BNP.<sup>17</sup>

As the program was devised and accepted in 1995 in United Nations Security Council Resolution 986, Iraq was authorized to sell up to \$1 billion of oil every 90 days and use the proceeds from these sales to finance the purchase of humanitarian supplies to the country. These supplies were to be procured in a controlled manner, under the inspection of UN-contracted inspectors stationed on the borders and in the ports of Iraq. Contracting, however, was to

<sup>7</sup> Comprehensive Report of the Special Adviser to the DCI on Iraq’s WMD, Section on Regime Intent, 2004, p. 1.

<sup>8</sup> In an interview with the BBC, Secretary-General Kofi Annan regretted that the UN had ever accepted the charge of taking on the program in the first place. “Oil-for-food was an extra programme we were asked to undertake. Honestly, I wish we had never been given that programme, and I wish the UN will never be asked to undertake that kind of a programme again.” See “Full text: Kofi Annan’s BBC interview with Lyse Doucet, BBC News,” *BBC News*, September 6, 2005, available online at <http://news.bbc.co.uk/1/hi/world/americas/4217694.stm>.

<sup>9</sup> HIRC Interview with a former 661 Committee diplomat, June 24, 2005.

<sup>10</sup> HIRC Interview with U.S. State Department official, Amman, Jordan, June 4–5, 2004.

<sup>11</sup> Discussions with former a former official of the United States Treasury Department; also see David Hughes, “SATCOM Network Helps UN Spot Sanctions Violations,” *Aviation Week & Space Technology*, May 30, 1994, Vol. 140, No. 22, p. 70.

<sup>12</sup> HIRC Interview with a former official of the United States Treasury Department, Washington, D.C., June 15, 2004.

<sup>13</sup> HIRC Interview with members of the United States Mission to the United Nations, New York, April 15, 2004.

<sup>14</sup> BNP merged with Paribas Bank in 2000–2001.

<sup>15</sup> HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>16</sup> Robert Winnett and Mark Hollingsworth, “MI6 probes French links to Iraq scam,” *London Times*, August 1, 2004. Committee staff have attempted on two occasions to interview Mr. Auchin in London, but were unable due to scheduling conflicts.

<sup>17</sup> IIC First Interim Report, pp. 16–18.

be done directly between the various Iraqi ministries and suppliers, giving Saddam Hussein and his regime the opportunity to corrupt the program in the absence of effective oversight from the UN.

As Victor Comras, a former State Department sanctions expert told the Oversight and Investigations Subcommittee:

*By the spring of 2000 UN sanctions on Iraq were unraveling. The sanctions were being violated openly and on a regular basis. The United States was under enormous international pressure to scrap or restructure them.*<sup>18</sup>

U.S. diplomats feared this result from the start of the program. Wolfgang Weisbrod-Weber, then an assistant to Under-Secretary-General for Political Affairs Chinmaya Gharekhan, in May 1996 when he wrote in a “Note for the File”:

*The main concern of the US was that Iraq might use its right to negotiate directly with the purchasers and the present oversupply on the oil market to give preferential rates to purchasers in return for hidden payments.*<sup>19</sup>

Paul Conlon, a former deputy secretary of the Iraq Sanctions Committee at the UN, was forced out of the UN after he identified inadequacies in the UN’s initial attempts to alleviate the effects of sanctions. At the outset of the program, Conlon indicated that the UN was not properly staffed to implement the program.<sup>20</sup> Conlon stated that “In view of the . . . general lack of expertise in the UN Secretariat . . . assessments of the effectiveness of sanctions cannot be done with any degree of sophistication and accuracy.”<sup>21</sup> Conlon commented, “In 1991, for example, when plans for the oil-for-food scheme in Resolution 712 were drawn up, the UN Secretariat in New York had only three officials and one Assistant Secretary-General with expertise in the oil industry (out of some 5,000 employees).” Eight years later, none of these people were with the UN.<sup>22</sup>

In addition to the lack of personnel and expertise, the UN’s basic initial strategy was flawed. As a former 661 Committee diplomat explained, obtaining the cooperation of the Iraqi government was the problem but also the key to the program. Saddam Hussein, he said, had the advantage from the start.<sup>23</sup> Mr. Conlon explained that former Secretary-General Boutros Boutros-Ghali, under whose tenure the program began, was interested in “the humanitarian mitigation of sanctions, not the[ir] enforcement.”<sup>24</sup> Another 661 Committee diplomat said that it was, “. . . assumed from the beginning that Iraq would corrupt it [the oil-for-food program] from the start.”<sup>25</sup>

<sup>18</sup>Testimony of Vic Comras before the International Relations Committee Subcommittee on Oversight and Investigations, July 27, 2005.

<sup>19</sup>Wolfgang Weisbrod-Weber, “Note for the File, re: Mr. Gharekhan’s meeting with the Ambassador of France on res. 986 (31 May 1996).

<sup>20</sup>HIRC Telephone discussion with Paul Conlon, October 4, 2004. Mr. Conlon was forced out of the United Nations due to his complaints about the inadequacies of the precursor sanctions program at the UN.

<sup>21</sup>Paul Conlon, *United Nations Sanctions Management: A Case Study of the Iraq Sanctions Committee, 1990–1994* (Ardsley, New York: Transnational Publishers, Inc. 2000), p. 14.

<sup>22</sup>Ibid, p. 155.

<sup>23</sup>HIRC Interview with 661 Committee diplomat, February 14, 2005.

<sup>24</sup>HIRC Discussion with Conlon.

<sup>25</sup>HIRC Interview with 661 Committee diplomat, June 24, 2005.

Mr. Conlon also noted the UN's abject failure to plan for evasive efforts by the Iraqi regime to circumvent sanctions. According to Mr. Conlon, the UN did not consider Saddam Hussein's past evasions of sanctions. In the 1980s, when Iraq attempted to rearm itself after the eight-year war with Iraq, it did so in part with U.S. financing. The architects of the OFFP did not heed previous examples of the regimes corrupt handling of credits extended to it by the United States and others. These corrupt practices were repeated in the OFFP.

Mr. Conlon also stated that UN staff were "not interested in any accountability." When he approached them about the problems encountered with the early sanctions enforcement at the UN, UN staff responded that "no one will ever ask us." In short, Mr. Conlon concluded, there was "no fear of ever being asked to explain their actions."<sup>26</sup>

Mr. Conlon commented further on the time Iraq needed to corrupt the program. "On average, a target state needed about one year to evolve effective sanctions busting strategies, but the process could be speeded up by the many small professional sanctions busting firms."<sup>27</sup> Former 661 Committee diplomats were more generous, estimating that it would take the Iraqis two years.<sup>28</sup>

#### FORMS OF CORRUPTION

Dr. Hans Blix, formerly the Executive Chairman of the UN Monitoring, Verification and Inspection Commission (UNMOVIC) in Iraq wrote that "revenues from the Oil-for-Food Program provided many billions of dollars and huge purchase orders were so placed as to produce maximum political benefit—or punishment."<sup>29</sup>

According to the Committee's findings and those of former officials with the Coalitional Provisional Authority in Iraq, as well Iraqi officials, numerous illicit financial schemes prevailed during the program:

- *A purely paper transaction in which humanitarian goods were never delivered.* According to a CPA official, this type of transaction involved the active participation of the inspection team, who was bribed, and the Iraqi Ministry, who was ordered to sign for the receipt of non-existing goods. Proceeds of the sale were shared among regime officials.<sup>30</sup>
- *A partial delivery of the goods.* This also required the participation of UN inspection firms who wittingly or unwittingly provided only a partial inspection of the incoming goods. An inaccurate or exaggerated delivery note would cover the shortage of goods.<sup>31</sup>

<sup>26</sup>HIRC Discussion with Conlon.

<sup>27</sup>Paul Conlon, "Statement On The Background To The Oil-For-Food Scandal: Sanctions Committee Experiences With Fraud And Manipulation Prior To The Actual Start Of The Program," Released March 2, 2005 by the Subcommittee on Oversight and Investigations, International Relations Committee, submitted February 14, 2005.

<sup>28</sup>HIRC Telephone interview with 661 Committee Diplomat, June 23, 2005; HIRC Telephone interview with 661 Committee Diplomat, June 24, 2005.

<sup>29</sup>Hans Blix, *Disarming Iraq* (New York: Pantheon Books, 2004), p. 54.

<sup>30</sup>HIRC Interview with former CPA official, Washington, D.C, September 21, 2005.

<sup>31</sup>Ibid.

- *Shipping goods with obscure descriptions.* This technique was designed to tie up inspections, forcing Saybolt inspectors to perform a cursory inspection of the delivery.<sup>32</sup>
- *Overpricing of the delivered goods.* The program was rife with overpricing, as confirmed in 2003 by the Defense Contracting Audit Agency.<sup>33</sup>
- *The shipment of inferior goods to Iraq despite contractual obligations to ship goods.* Iraqi officials consistently told the Committee that regime officials told Iraqi officials that they did not care what was done with the materials imported into Iraq, inferior or otherwise, and that they could “throw them in the river.”<sup>34</sup>
- *“Service fees”.* An after sales service fee of at least 10 percent, and sometimes as much as 30 percent, or additional shipping costs, port fees, storage fees, or other last minute costs.<sup>35</sup>
- *Theft.* Theft of goods occurred en route during delivery.<sup>36</sup>
- *Overcharged Shipping Costs.* Overcharging of transportation costs as a way of paying the kickbacks to the regime.<sup>37</sup>

Under this system, Saddam Hussein and his lieutenants rewarded friends and supporters of the regime with preferential contracts both for oil deals and humanitarian aid contracts. Bribes were another facet of the program. The widespread nature of bribery on the part of the Iraqi Regime, its officials, and others seeking to profit from the program offered many opportunities to earn money by illicit means.

#### INSTITUTIONALIZED BRIBERY

Creation of a voucher system was described by Iraqi officials as “a daring move by Saddam Hussein who saw that he could get away with many things . . . to make more money.”<sup>38</sup> Saddam Hussein’s regime, given its ability to choose with whom it would do business and with whom it would not, was afforded an extraordinary power to profit through the extraction of kickbacks from favored customers and contractors alike. Because there was never an agreement on standards for companies applying to participate in the program, the Iraqi regime had a much easier time manipulating the companies and the program.<sup>39</sup>

Vouchers enabled companies that publicly supported Saddam Hussein and criticized the United States to obtain business from an immensely profitable enterprise. The billions of dollars made

<sup>32</sup> Ibid.

<sup>33</sup> Joint Defense Contract audit Agency and Defense Contract Management Agency OFF Pricing Evaluation Team, “Report on the Pricing Evaluation of Contracts Awarded Under the Iraq Oil for Food Program, September 12, 2003.

<sup>34</sup> Comments of an Iraqi Oil Ministry official made in a series of interviews conducted in Amman, Jordan, July 24–25, 2004; HIRC Interview with former member of the Iraqi Interim Government, Washington, D.C., April 22, 2004.

<sup>35</sup> Joint Defense Contract audit Agency and Defense Contract Management Agency OFF Pricing Evaluation Team, “Report on the Pricing Evaluation of Contracts Awarded Under the Iraq Oil for Food Program, September 12, 2003.

<sup>36</sup> HIRC Interview with former CPA official, Washington, D.C, September 21, 2005.

<sup>37</sup> Ibid.

<sup>38</sup> Comments of an Iraqi official made in a series of interviews conducted in Amman, Jordan, July 24–25, 2004.

<sup>39</sup> HIRC Interview with Pascal Texiera, Deputy Director of UN Affairs in the French Ministry of Foreign Affairs, Washington, D.C., December 16, 2004.

available through the sale of oil created ample opportunity for Saddam Hussein and his lieutenants to steal and bribe at the expense of the Iraqi people.

#### VOUCHERS

There appear to have been two types of vouchers, one for oil purchases and the other for humanitarian aid provisions.

##### *Oil Vouchers*

According to Iraqi officials in the Oil Ministry, the voucher program was initiated in 1998. A voucher entitled the recipient to the privilege of purchasing barrels of oil in specified quantities. Most recipients were unable to dispose of perhaps millions of barrels of oil, and many were left to arrange for companies or even brokers of oil to purchase the oil and to sell it on the open market, if not directly through the official OFFP. According to Iraqi officials familiar with the program, the contract would be written as if it was directly negotiated between the oil company or broker and the Iraqi Ministry of Oil. In the margin of the contract would be typed or written the name of the recipient of the voucher. As required under rules of the OFFP, a clean copy of the oil contract, without the voucher recipient's name, would be forwarded to the UN for clearance and processing. On four occasions (one company doing it twice), the side agreements were forwarded on to the UN for processing.<sup>40</sup> It is not clear what happened to these contracts.

##### *Humanitarian Trade Vouchers*

Iraq's Ministry of Trade manipulated every aspect of the OFFP, and chose its contracting parties.<sup>41</sup> According to personnel from this ministry, Iraq rewarded those companies from countries supporting Iraq with contracts in its fight against international isolation and UN sanctions.

According to personnel from this and other Iraqi ministries, Iraq developed an "exemption list" of countries and companies that were viewed favorably by the regime:

*These "privileged" companies obtained their exempt status from higher up authority in the old regime (usually from the office of former Vice President Taha Yasin Ramadhan) for a variety of reasons most are unknown to us. Those companies used to get contracts for commodities, products or goods regardless of origin or trading area.<sup>42</sup>*

Iraq restricted contracting to favored countries including Russia, France, and China. According to an Iraqi SOMO official, contracts with favored countries could only be made through traders subject to the approval of Taha Ramadan.<sup>43</sup> Some Iraqi ministry officials warned of the poor level of quality coming from these transactions. They were put off by senior ministry officials who told them "you

<sup>40</sup> According to an Iraqi Oil Ministry official interviewed in Amman, Jordan in July 2004.

<sup>41</sup> Description provided by an official of the Iraqi Foreign Trade Ministry, HIRC Interview, Amman, Jordan, June 4-5, 2004.

<sup>42</sup> Description provided by an official of the Iraqi Foreign Trade Ministry, HIRC Interview, Amman, Jordan, June 4-5, 2004.

<sup>43</sup> HIRC interview with Iraqi Oil Ministry official, Amman, Jordan, July 25, 2004.

can buy even bad medicine from Russia, say, then dump it in the river.”<sup>44</sup>

As the sanctions situation eased by 2000, it became easier to flaunt. As Dr. Blix wrote, “More foreign airplanes were landing. Business people came to Baghdad.”<sup>45</sup> Ministry officials said the same thing, “many delegations were coming to Baghdad by plane. They had businessmen, artists breaking the sanctions laws by coming to Iraq. They spread propaganda.”

Officials from the Central Bank were also notified of the identities of those on the exemption list in order to give them priority for letters of credit applications. VP Taha Ramadan, Uday and Qusay Hussein, and two Deputy Prime Ministers, Hikmat Al Azzawi and Tariq Azziz as well as Abdel Hamoud, Saddam Hussein’s Secretary placed names on this list.<sup>46</sup> According to former Iraqi Oil Minister Amir Muhammad Rashid Tikriti Al Ubaydi, Saddam Hussein “had the last word. He could add or delete anyone from the secret list. If an entity did not perform to the expectations of the Hussein regime that entity could be removed, with Hussein’s approval, from the allocation list.”<sup>47</sup>

It is estimated by Trade Ministry personnel that 10–15 percent of the 30,000 plus contracts were granted to “exempted” companies. This number, upon examination of the lists, may in fact be higher.

One episode of “illegal activities” that took place was the overfilling of the tanker, the “Essex,” in October 2001. At issue was the practice of “topping off,” or filling the vessel with more oil than contracted for and then stopping off, out of port and off-loading the difference and selling it for illegal profit. A lack of proper measuring equipment at the ports helped to facilitate the practice of “topping off” as well as other irregularities. Were it not for the disclosure by the Essex’s ship captain, the vessel loading the oil, who sent a letter to the UN Oil-Overseer informing him as to what happened, the incident might never have been discovered.<sup>48</sup> Because of the poor oversight and management by the UN, there is no way to confirm whether or not such practices were routine.

#### CORRUPT OIL LOADING PRACTICES

Under terms of the OFFP, Saybolt was obligated to inspect the loading of oil at Iraqi ports. In a letter of February 25, 1997, SGS Senior Executive Vice President M.A.M. Gisiger complained to Benon Sevan that:

*We have observed that the nominated expert for the United Nations is not only contravening the requirements of the above clauses [relating to the Request for Proposal for the inspection contract] but it is also (together with the United Nations employees on site) actively discouraging the oil purchasers from ex-*

<sup>44</sup> Ibid.

<sup>45</sup> Blix, p. 54.

<sup>46</sup> According to former Iraqi Oil Minister Amir Muhammad Rashid Tikriti Al Ubaydi, questioned in writing by HIRC, October 27, 2004 and by officials of the Iraqi Ministry of Trade interviewed by HIRC staff in Jordan.

<sup>47</sup> HIRC Written interview with former Iraqi Oil Minister Amir Muhammad Rashid Tikriti Al Ubaydi, October 27, 2004.

<sup>48</sup> Letter of Chlidakis Theofanis to the United Nations, September 21, 2001, HIRC Saybolt documents, #S023917–S023922. American Embassy officials in Caracas, Venezuela had notified the State Department on October 24, 2001 of Venezuela’s rejection of the oil cargo on the Essex as being illegal. See Cable, American Embassy Caracas, October 24, 2001, Document Number 20001CARACA03153.

*ercising their rightful prerogative of selecting the independent third party of their choice to inspect the cargo in accordance with their own sales contract.*<sup>49</sup>

Although Saybolt denied this practice amounted to an ethical and managerial problem, the UN Board of External Auditors found differently in its November 14, 1998, report to the Office of Iraq Programs:

*During first phase [sic], Board had observed that M/S Saybolt had been working at the same time for the UN and the buyer. In view of the remarks of the legal adviser that by working for oil inspectors to work as Inspection agents both for UN and the buyer, it has created a conflict of interest. . . .*<sup>50</sup>

This dual inspection role by Saybolt, and the UN's lack of acceptable measuring system for oil quantity verification,<sup>51</sup> lent itself to oil loading measuring errors and corruption. This in fact, did happen in October 2001 when one of the UN-appointed Oil Overseers informed Mr. Sevan that, on two occasions, oil was loaded at Mina al Baker, outside of Saybolt's control on vessels which carried oil shipments for the program.<sup>52</sup>

#### BOYCOTT OF ISRAEL

Saddam Hussein's regime also blacklisted companies from participating in the OFFP. As detailed by the list, many refusals for allowing participation were due to accusations of "Dealing with the Zionist Entity," the common Arab rejectionist reference to Israel.<sup>53</sup> In fact, a required step in signing contracts with an Iraqi Ministry was a requirement to not deal with Israel.

Some companies chose to abide by the boycott of Israel. Bayoil, an American company with a subsidiary company in the Bahamas, signed a statement in 1999 attesting that the company had never sold directly or indirectly to Israel and would refuse to do so in the future. August Giangrandi, signing on behalf of Bayoil Supply and Trading Limited, had the document notarized.<sup>54</sup> Similarly, Bayoil's Houston representative Ludmil Dionossiev, assured an unidentified Russian oil contact, Sergei Sharapov that the Bayoil vessel "World Champion" had never traded in Israel.<sup>55</sup> Dionossiev and Bayoil Chairman David Chalmers were indicted on April 14, 2005 by the U.S. Attorney for the Southern District of New York on four counts related to the OFFP.<sup>56</sup>

<sup>49</sup> Letter of SGS Senior Executive Vice President M.A.M. Gisiger to Benon Sevan, then Assistant Secretary-General, United Nations, February 25, 1997, HIRC Saybolt documents, #S053937.

<sup>50</sup> UN Board of Auditors Audit Query No. 7, November 14, 1998, Subject Contract for Oil Inspectors, HIRC Saybolt Documents, #S023699.

<sup>51</sup> UN Office of the Iraq Programme fax to Peter Boks, Saybolt Nederland BV, November 23, 1998, HIRC Saybolt files, #S024218.

<sup>52</sup> Email of Morten Buur-Jensen to Benon Sevan, October 29, 2001, 8:44 pm, HIRC Saybolt documents, #S023856.

<sup>53</sup> Blacklist Table, Iraqi Health Ministry, n.d.

<sup>54</sup> Sayolt documents obtained by the HIRC, #45426. See Appendix G.

<sup>55</sup> Letter of Ludmil Dionossiev to Sergie Sharapov, November 25, 1998. See Appendix H.

<sup>56</sup> *The United States of America v. David B. Chalmers, Jr., John Irving, Ludmil Dionossiev, Bayoil (USA), Inc., and Bayoil Supply & Trading*, United States District Court, Southern District of New York, Indictment S1 05 Cr. 59 (DC).

*Kickbacks*

Companies negotiating with Iraqi Ministries for contracts paid kickbacks to assure ample contract business. Once the 10 percent kickback was paid to the regime, the contract was approved. An email from a finance manager of a company shipping humanitarian goods into Iraq discussed the kickbacks to Saddam Hussein's regime as a matter of standard business.<sup>57</sup>

*From: husam Naaseh—Finance Mgr  
Sent: Sunday, June 13, 2004 8:01 PM  
To:  
Subject: RE: LC Amendment Confirmation—COMM 1100650  
Importance: High*

*Dear Sir*

*Reference to our phone conversation, I would like to draw your attention that reference to Comm. # 1300036 for 10,000 MT Vegetable Ghee, and according to previous Iraq regime, that no any trucks or goods are allow to enter Iraq if the 10% is not paid, under this comm. we shipped the quantity of 355 MT before 17 March 2003, and as you can see from the Rafdeen voucher the sum of Euro 63,756 covering 1,000 MT already paid. At time of renegotiation the same contract with WFP they deduct the 10% for the remaining qty (10,000—355 = 9,644 MT ) copy of WFP contract is attached. So, from above the amount of Euro 41,036/—deducted twice , once paid to Rafdeen bank and other deducted by WFP. You are kindly requested to arrange to pay us the amount of Euro 41,036 directly. our bank details as bellow:*

*Account # 65888  
Arab bank plc  
Abdali branch—Amman—Jordan  
Swift code : Arab bank Joax 100*

*Best Regards,,,*

*Husam Naiseh  
The Finance Manager*

Kickback funds were to be deposited in banks into what Iraqi officials called "bridge accounts," which were made accessible to every ministry in the Iraqi government.<sup>58</sup> Each ministry was given the account numbers to supply to the companies with which they dealt in order to exact the 10 percent kickback amount. The money was sent to these accounts from suppliers, as well as the Syrian Government and suppliers there.<sup>59</sup>

Another company that supplied humanitarian goods to Iraq discovered that its employees were paying kickbacks to the Iraqi regime. These kickbacks were paid through an Iraqi-approved agent with whom companies were required to deal.<sup>60</sup> The Weir Group, an

<sup>57</sup> Email received as part of ongoing investigations into the Oil-for-Food program by the now-defunct Coalition Provisional Authority.

<sup>58</sup> HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>59</sup> IRS-CI Details of Investigation with Senior Auditor for the Iraqi Board of Supreme Audit and SOMO, Amman, Jordan, October 19, 2003, p. 1; HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>60</sup> HIRC Interview with former member of the Iraqi Interim Government, Washington, D.C., April 22, 2004.

engineering firm in Scotland which had secured 38 contracts in the OFFP, an Iraqi-sponsored agent requested that payments be made through accounts in Switzerland under the names of Corsin Financial Ltd and to Inpojex International. As Alan Mitchelson of The Weir Group declared, payments like those made by their employees were “a general acceptance that was the cost of doing business in Iraq.” Weir officials had disclosed these actions by their employees voluntarily and the employees were fired.<sup>61</sup>

As the Weir experience shows, Iraq insisted on using approved middle men. In the beginning days of the program, some American companies were allowed to do business including Chevron and Mobil, as well as Coastal Corporation<sup>62</sup> and Bayoil.<sup>63</sup> Mobil, in buying oil from Iraq had to use agents, like the Weir employees did. In Mobil’s case, they used two Iraqis in London to act as a go-between the company and Iraq. Between the two agents working for Carrington Ltd. and Crescent International, Mobil paid them over \$160,000 in fees and expenses.<sup>64</sup> The Committee makes no allegation of bribes being paid by Mobil.

Bridge accounts for kickbacks were held in a number of currencies in banks in a number of countries including those in Jordan, in the Rafidain Bank (an Iraqi State bank<sup>65</sup>); The National Bank of Jordan; The Cairo-Amman Bank; the Export and Finance Bank, the Union Bank for Savings and Investment; and the Al-Eskan Bank.<sup>66</sup> U.S. Treasury Department agents suggested that there were as many as 1,600 bank accounts in Jordan alone.<sup>67</sup>

At Rafidain, kickbacks, according to Internal Revenue Service Criminal Investigators, were deposited into at least two accounts.<sup>68</sup> Iraqi officials provided these depositors guarantees that their deals with Iraq would not fall through. In return for this guarantee, companies would pay a fee to the bank and a percentage of that fee was forwarded back to Iraq. According to bank officials, 600–700 guarantees were written.<sup>69</sup>

Kickback payments were also made to banks in Lebanon, including The Beirut Bank, The Beirut and Arabic Countries Bank, The Saradar Bank, The Franca Bank, Beirut and Al Mawarid Bank.<sup>70</sup> IRS investigators believe that Al Mawarid Bank at times received transferred funds from accounts in banks in Damascus.<sup>71</sup> In these

<sup>61</sup>HIRC Interview with Alan Mitchelson and Malcolm Kelly of The Weir Group, London, December 2, 2004.

<sup>62</sup>There have been allegations that Oscar Wyatt, in coordination with Samir Vincent, provided food supplies to Iraq through the foundation, “The Friendship Foundation, in Summer 1996 before the Oil-for-Food program began and in subsequent years. See Memorandum of Agreement Between Phoenix International, LLC and Mercy Corps International, Final Draft Agreement; Letter of Wm. Boyd Lyons to Carl Corrallo, Coastal Corporation May 1, 1997. Wyatt was indicted in a superseding indictment along with Bayoil’s David Chalmers on October 21, 2005 and was charged along with two Swiss citizens of paying kickbacks to Iraq in the OFF program.

<sup>63</sup>SOMO contracts with Chevron, provided by Chevron; SOMO contracts with Mobil, provided by ExxonMobil; “Coastal Corporation and Subsidiaries Payment Request, October 1997.

<sup>64</sup>HIRC Interview with ExxonMobil representatives, Jeanne Mitchell and Pat Conlon, Washington, D.C. January 27, 2005.

<sup>65</sup>When questioned as to why an Iraqi State bank was allowed to operate in Jordan while Iraq was under sanction by the UN, the Governor of the Jordanian Central bank responded that it was a “political issue” that should be raised with the Jordanian government, Umayya Toukan, Governor and Chairman of the Board, Jordanian Central Bank, Washington, D.C., October 1, 2004.

<sup>66</sup>HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>67</sup>HIRC Treasury Department briefing, July 23, 2004.

<sup>68</sup>U.S. Department of the Treasury Report of Interview, June 2003.

<sup>69</sup>Interview officials of Rafidain Bank, Amman, Jordan, July, 26, 2004.

<sup>70</sup>Ibid.

<sup>71</sup>IRS-CI Details of Investigation in Damascus, Syria, September 30, 2003, p. 3.

banks, many of the accounts were set up under individual names, some from the CBI or the individual Ministry employees, and some were simply numbered accounts.<sup>72</sup>

Once the money arrived at the various banks, the CBI was notified within 24 hours. With notification to CBI, suppliers were then comfortable to move forward with pending deals for humanitarian goods bound for Iraq.<sup>73</sup>

Each ministry in the Iraqi government had use of these funds, but there were quotas for the amounts they would be able to use.<sup>74</sup> All releases from the accounts required two signatures. There was also a procedure set up whereby funds from the cash account, when the balance reached \$1 million, would automatically be transferred to other banks for eventual transfer, through banking operations, back to the Central Bank of Iraq in Baghdad.<sup>75</sup>

In the case of funds held in Syrian banks, the money was transferred to the Syrian Lebanese Bank in Beirut.<sup>76</sup> In some cases, the diplomatic pouch of the Iraqi Consulate General, which was housed in the Algerian Embassy in Damascus, would act as the conduit for transfer of funds to CBI.<sup>77</sup> Cash withdrawn from the accounts was also transported back to Baghdad by diplomatic pouch or diplomatic courier over land from Lebanon.<sup>78</sup> In one case, Central Bankers couriered the funds, in gold bars back to Baghdad, in the trunk of a car.<sup>79</sup>

Iraq also sought to reward some of its employees from the various ministries for their participation in the kickback system. Of the kickbacks provided, .05 percent were “trickled down,” in the words of one Iraqi, as a reward.<sup>80</sup> One Iraqi remembers a fellow ministry employee being able to buy a pair of earrings with the money.<sup>81</sup>

Payments of \$25,000 were paid from kickback accounts to surviving families of Palestinian suicide bombers. These payments were funneled, in part, from kickback accounts in Rafidain bank.<sup>82</sup>

#### THE ROLE OF BANQUE NATIONAL DE PARIS-PARIBAS

The bank responsible for operating the finances of the program, BNP, made unauthorized transfers of funds to third-parties.

The UN had selected BNP to hold proceeds from oil sales. Such funds were deposited directly by the oil purchasers into this UN-monitored escrow account held at the New York branch of BNP.<sup>83</sup> In this role, BNP was the recipient of funds for the sale of oil and

<sup>72</sup> Ibid; HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>73</sup> Ibid.

<sup>74</sup> *Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*, p. 50.

<sup>75</sup> HIRC interviews with the Rafidain Bank officials, Amman, Jordan, July 26, 2004.

<sup>76</sup> IRC-CI Details of Investigation, Interviews with the Iraqi Supreme Board of Audit, Representatives of the State Oil Marketing Organization and the Commercial Bank of Syria and of the Commercial Bank of Syria, Branch 5, Damascus, October 23, 2003, p. 2; *Comprehensive Report of the Special Advisor to the DCI on Iraq's WMD*, p. 177.

<sup>77</sup> IRS-CI Details of Investigation, Interviews with former Officials of the Military Industry in Iraq (MMI), May 30, 2003, p. 1.

<sup>78</sup> HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 29, 2004.

<sup>79</sup> HIRC Interviews with Iraqi Bank officials, Dubai, UAE, June 28, 2004.

<sup>80</sup> HIRC interview with Iraqi Oil Ministry official, Amman, Jordan, July 25, 2004.

<sup>81</sup> HIRC Interviews with Iraqi Bank Officials, Dubai, UAE, June 29, 2004.

<sup>82</sup> HIRC Interviews with unnamed Iraqi officials, Amman, Jordan, July 24, 2004.

<sup>83</sup> In response to UN concerns that too much money was being concentrated at BNP, the number of banks receiving oil-for-food deposits was expanded after 2000 to include: JP Morgan Chase, Deutsche Bank, Banco Bilbao Vizcaya, Credit Agricole Indosuez, Credit Suisse, and HypoVereinsbank.

the disbursing party for those same funds for the payment of humanitarian goods into Iraq.

At a hearing with BNP before the Full Committee on November 17, 2004, BNP North American CEO Everett Schenck was asked to explain why BNP had made payments to a company called East Star Trading, a third party payee that was not a party authorized by the UN. At the time, there was no clear identification for this company and moreover, no clear explanation why it received three reassigned payments. During the hearing, Mr. Schenck suggested that these payments were permitted by the UN. U.S. State Department officials dispute this claim:

*. . . the United Nations has found no record authorizing BNP to make third party payments to the East Star Trading Company on March 23, April 12, and May 3, 2001. BNP has asserted that it received authorization to make these third party payments. The UN reports that their records indicated they ordered BNP to pay the named party on the Letters of Credit on these dates, that is, Al Riyadh International Flowers Companies Group.<sup>84</sup>*

Mr. Schenck promised a full review of the bank's files on the program. This review, in the form of an Interim Report, was delivered to the Subcommittee on Oversight and Investigations on April 28, 2005, during another hearing on the issue.<sup>85</sup> In delivering the report, BNP CEO for North America, Mr. Schenck admitted that mistakes were made "that should not have occurred."<sup>86</sup> He also disclosed that the bank had made 403 unauthorized third-party payments, but argued that they were made to "financing facilities." Under Section 2.3.2 of BNP's contract with the UN, such transactions to non-bank third-parties, were forbidden unless authorized by the UN.<sup>87</sup>

BNP is scheduled to deliver an updated report on the unauthorized payments supplied earlier to the Committee. The Committee awaits the results of this new report.

#### THE UN AND CORRUPTION

Referring to the beginning of the kickback scheme, a UN official told the IIC that:

*The Iraqis at some point started to refuse selling the amount of oil needed to recover the costs of the humanitarian imports. They managed to get more and more control over the Oil-for-Food Program and Sevan was letting them.<sup>88</sup>*

The Secretary-General and other UN officials advocated increasing Iraq's ability to produce oil and lifting the limits on Iraqi oil sales. Their interest in loosening sanctions was not matched with a commensurate interest in management or enforcement of the OFFP. Officials at the U.S. oil company Mobil explained that the

<sup>84</sup> Committee Memorandum to File.

<sup>85</sup> See Appendix B.

<sup>86</sup> Testimony of Everett Schenck before the Oversight and Investigations Subcommittee of the House International Relations Committee, Prepared Testimony, p.4, April 28, 2005

<sup>87</sup> Section 2.3.2, Banque National de Paris, "Agreement for Banking Services, Pursuant to Security Council Resolution 986 (1995), pp. 38-39.

<sup>88</sup> IIC Record of Conversation/Interview with UN official, September 15, 2004, p. 4.

UN did not effectively manage or oversee the OFFP contracts.<sup>89</sup> Mr. Sevan, as the program grew as well, according to one UN official, cared less and less about this increasing control exercised by Iraq over the OFFP.<sup>90</sup>

Benon Sevan was consistently notified of the surcharges and kickbacks by the UN-appointed Oil Overseers as well as Saybolt.<sup>91</sup> Mr. Sevan, according to one Oil Overseer, refused to act or permit the overseers to investigate the reports of corruption. Mr. Sevan demanded that all overseer reports be delivered to him and not the 661 Committee, the UN body charged with overseeing the OFFP. The Oil Overseer said that Mr. Sevan tried to stop them from “being vocal on the oil side.”<sup>92</sup> “Sevan,” the official insisted, “did not feel it was his job to keep them [Iraqi officials] from taking over control or to stop the kickbacks.”<sup>93</sup>

*UN Observation of the Movement of Goods in Iraq*

Large shipments of humanitarian goods were being moved across Iraq’s borders under the OFFP—borders that companies operating under UN contracts were supposed to monitor for evidence of smuggling illicit goods.

Rehan Mullick, an American employee of the UN working in Baghdad as a research officer with the UN’s Office of the Humanitarian Coordinator in Iraq (UNOHCI) in 2000, tried to bring UN management shortcomings and smuggling to the attention of his UN superiors, but little was done by the UN to monitor or combat smuggling.<sup>94</sup> As Mr. Mullick wrote to the Committee:

*Soon after I started my job, it became amply evident to me that there were gaping holes in UNOHCI’s [United Nations Humanitarian Coordinator for Iraq] efforts to meet the above objectives. A robust, functional database on the use of SCR 986 supplies, that one expects should have already been in place, was just not there.*<sup>95</sup>

Mr. Mullick testified to the HIRC Subcommittee on Oversight and Investigations that:

*The Iraqi regime had rendered the UN observation meaningless, penetrated its information nerve centers by planting Saddam Hussein loyalists in the UN observation process . . . the*

<sup>89</sup>HIRC Interview with ExxonMobil representatives, Jeanne Mitchell and Pat Conlon, Washington, D.C. January 27, 2005.

<sup>90</sup>HIRC Interview with ExxonMobil representatives, Jeanne Mitchell and Pat Conlon, Washington, D.C. January 27, 2005.

<sup>91</sup>Email of Graham Brett to Benon Sevan, November 16, 2000, HIRC Saybolt documents #S157305.

<sup>92</sup>HIRC Interview with UN Oil Overseer, April 16, 2004. It should be noted that this Overseer was one of numerous recipients to receive letters prohibiting them from talking to outsiders about the Oil-for-Food program. Letters sent to this Overseer, as well as others, were signed under Sevan’s name, by Maurice Crichley. This letter was sent by the UN at the end of April 2004.

<sup>93</sup>IIC Record of Conversation/Interview with UN official, September 15, 2004, p. 4.

<sup>94</sup>In 1999, Dr. Mullick was a Statistical Research Analyst for the Rural Development Initiative, a program in association with Iowa State University with the goal of improving policy decisions that stimulate rural development and economic growth. In 2000, became a research officer of the United Nations Office on the Humanitarian Coordination in Iraq and provided expertise to the Multidisciplinary Observation Unit, which, among other things, was responsible for assessing and monitoring humanitarian conditions in Iraq and measuring the impact of the UN Oil-For-Food Program. From 2003 through 2004, Dr. Mullick began work for the USAID’s Iraq Local Governance Project and was head of the Monitoring Evaluation Unit for this project.

<sup>95</sup>Rehan Mullick, “Two Years in UNOHCI,” Statement prepared for the Committee on International Relations Subcommittee on Oversight and Investigations, March 17, 2005.

*Iraqi military rebuilt its logistics by diverting thousands of trucks, pickups, 4X4s etc. that were delivered to Iraq under the Oil-for-Food Program. Similarly, it' [sic] was common knowledge in Iraq that thousands of Toyota Camrys, and Avalons imported under the program were promptly gifted to the functionaries of the Iraqi Intelligence, and the Bath [sic] Party. Correspondingly, the Malaysian built Proton cars were offered freely to military officers at token prices. The UN was responsible to insure the proper distribution of these cars.<sup>96</sup>*

The provision of cars, luxury and otherwise, was a prominent feature of the program. One former Iraqi Ministry official told of thousands of Mercedes cars being purchased in the program and used as rewards for the Iraqi Military Industrial Program as well as other Iraqi Ministries. In other cases, this official suggested, motorcycles were being diverted for use by Iraq's irregular forces or "fedeyeen."<sup>97</sup> Some of these motorcycles, he suggested, were used against American forces during the American invasion.<sup>98</sup> Because of the restriction placed on them for funding their investigations, the OIOS was prevented from auditing all the program's border inspection areas.<sup>99</sup>

OIOS officials agreed that the UN did not investigate or try to prevent diversions that were ongoing in the OFFP. As Mr. Mullick, suggested ". . . it was all stage-managed." Mr. Mullick's warnings and criticisms of corruption within the OFFP were ignored by his UN supervisors, his superiors relieved him of his OFFP duties and failed to renew his employment contract when it expired.<sup>100</sup>

Members of the staff at the OIOS Investigative Division complained of a lack of interest and attention by the Secretariat and even the Secretary-General to the work of the OIOS. OIOS officials described Mr. Sevan's reaction to their requests to fund an investigation of the OFFP as "stalling"<sup>101</sup> and negligent.

OIOS officials consistently expressed the need for greater resources to investigate the OFFP but were denied the funds and the authority to investigate. "There was a problem with the UN seeing the magnitude of the problem," said one investigator. Eventually they stopped asking: "If you know you're not going to get resources . . . you've asked . . . you know not to ask."<sup>102</sup>

In May 2001, a request was submitted to the UN's Department of Peacekeeping Operations, for "investigators for the Iraq region, which would include UNOHCI, UNGCI [The UN Guard Contingent in Iraq], and the OIP [Office of the Iraq Program]."<sup>103</sup> On May 26, 2001, Benon Sevan denied this request saying, "Without prejudice to the merits of your proposal, we can ill afford at this time when

<sup>96</sup> Rehan Mullick, Testimony before the Committee on International Relations Subcommittee on Oversight and Investigations, March 17, 2005.

<sup>97</sup> HIRC Interview with a former Iraqi Transportation Ministry official, Rome, Italy, June 27, 2004.

<sup>98</sup> Ibid.

<sup>99</sup> Congressional discussion with OIOS officials, Washington, D.C., March 16, 2005.

<sup>100</sup> HIRC telephone interview with Rehan Mullick, March 8, 2005.

<sup>101</sup> Congressional discussion with OIOS officials, Washington, D.C., March 16, 2005.

<sup>102</sup> Remarks of unidentified UN source.

<sup>103</sup> Memorandum of [OIOS Official] to DKPO, "Request for Resident Investigators in . . ." May 14, 2001.

the Government of Iraq has been complaining over the increasing number of international staff members in the country.”<sup>104</sup>

An OIOS official told the IIC that Mr. Sevan did not want to see OIOS’ Investigations Division (ID) investigating cases involving the OFFP. The official told the IIC that they later tried to get ten more investigators but Mr. Sevan again refused.

As the IIC’s Record of Conversation with the official further explained,

*. . . resistance to OIOS in general and ID specifically is very prevalent through-out [sic] the United Nations system. [The official] stated that there is a complete lack of willingness to accept OIOS ID, its programmes or findings. This resistance goes to and included the Office of the Secretary-General and the General Assembly. Attempts to get resources or implement new programmes are met with strong resistance or silence.*<sup>105</sup>

The official explained that as investigators were denied resources, they were forced to borrow from other departments, curb plans for some audits, and simply drop plans for others. One investigator explained that whole functions of the program, such as diversions of goods, were not examined due to a lack of funding and resources. Moreover, he said, “we don’t look for fraud, we look for red flags . . .” said one investigator. The amount devoted to the audit function for Iraq was described as “miniscule.” The official explained that, “[w]ith scarce resources, you have to decide what to do.”<sup>106</sup>

#### RUSSIAN COMPANIES

According to the former Iraqi Oil Minister Amir Muhammad Rashid Tikriti Al Ubaydi, Russia was the most helpful government to Iraq. “Russia,” the Minister argued, “presented Iraq’s case for lifting the sanctions to the UN.”<sup>107</sup> In return, Russia received contracts and access to bidding information for Iraqi contracts.<sup>108</sup> Russian companies paid the standard oil surcharge or slightly lower, to the Iraqi Embassy in Moscow.<sup>109</sup> According to one Russian official, their job was to get as many contracts as possible for their companies.

*We in our Embassy in Baghdad were not satisfied with the work of our representatives on the ground. We fought to get contracts. He [They] [sic] did not do enough to push contracts.*<sup>110</sup>

In a statement to the International Relations Committee in May 2004, the Russian Embassy in Washington suggested that the OFFP “. . . is simply a question of corruption. Unfortunately such practices are quiet widespread in business . . .”<sup>111</sup>

<sup>104</sup> Letter of Benon Sevan to OIOS Official, “Note to [OIOS Official], Request for Resident. . .”, May 2001.

<sup>105</sup> Ibid, p. 5.

<sup>106</sup> Congressional discussion with OIOS officials, Washington, D.C. March 16, 2005.

<sup>107</sup> HIRC Written interview with former Iraqi Oil Minister Amir Muhammad Rashid Tikriti Al Ubaydi, October 27, 2004.

<sup>108</sup> HIRC Interview with Iraqi official, Amman, Jordan, July 25, 2004.

<sup>109</sup> IRS-CI Memorandum of Interview, November 29, 2003, p. 1.

<sup>110</sup> HIRC Interview with Russian officials, Washington, D.C., May 17, 2004.

<sup>111</sup> Non-Paper, Russian Embassy in the United States, May 20, 2004.

PROCUREMENT CORRUPTION OUTSIDE THE OFFP: YAKOVLEV, IHC SERVICES, AND EUREST SUPPORT SERVICES

The IIC found corruption within the UN procurement office relating to contracts within the OFFP. HIRC uncovered additional irregularities in the procurement department outside the OFFP.

Alexander Yakovlev was a line procurement officer in the UN. Yakovlev's son Dmitry was hired by IHC Services, Inc., a company that had done as much as \$12 million in procurement business with the UN on at least one contract in 1999.<sup>112</sup>

Dmitry served as an Administrative Assistant with IHC from May-August 2000 and from May-August 2001, and as an Assistant to the Vice President from December 2002 until the present.<sup>113</sup> According to IHC's CEO, Ezio Testa, "he [Dmitry] was never employed by us; only an internship."<sup>114</sup> When pressed for more details, however, Mr. Testa disclosed that Alexander Yakovlev asked him to "give direction" to his son Dmitry and "only later did I ask him if he was interested in a job."<sup>115</sup>

Telephone calls between Dmitry and IHC continued after Dmitry claimed to leave IHC's employment in December 2003. Dmitry's phone records show that his calls to IHC were closely followed by calls to his father in the UN procurement department.<sup>116</sup> Alexander Yakovlev denied any conflict of interest, but he resigned his position with the UN after the potential conflict was disclosed.

Alexander Yakovlev deposited \$950,000 in payments in the Antigua Overseas Bank under the name of Moxyco, Ltd., which helped obtain, according to the IIC, \$79 million in contracts with the UN.<sup>117</sup> Alexander Yakovlev used a Seychelles-based group, Maritime International, Ltd. to assist him in placing his illicit payments in Antigua. Maritime International advertises its services on the Internet and tells potential clients that, ". . . [w]e only open off-shore bank accounts for clients with whom we have an existing relationship, i.e. clients for whom we have or are incorporating companies, or for whom we have provided other services."<sup>118</sup>

This information was reinforced by the IIC's findings in its *Third Interim Report*, released on August 8, 2005. The IIC also tied Alexander Yakovlev to the solicitation of bribes from the Swiss inspection firm Société Générale de Surveillance (SGS).

Only hours after the release of the IIC's report on August 8, 2005, federal agents arrested Mr. Yakovlev and charged him with two counts of wire fraud and one count of money laundering. Mr. Yakovlev immediately plead guilty and, if convicted, faces up to 20 years imprisonment.<sup>119</sup> The Secretary-General waived Mr.

<sup>112</sup> Claudia Rosett and George Russell, "UN Family Ties: Is There a Replay of the Kofi and Kojo Annan Scandal?" *Fox News Channel*, June 20, 2005, available online at <http://www.foxnews.com/printer—story/0,3566,160081,00.html>.

<sup>113</sup> Resume of Dmitry Yakovlev, from IHC Services, Inc.

<sup>114</sup> HIRC Telephone discussion with Ezio Testa, June 22, 2005.

<sup>115</sup> *Ibid.*

<sup>116</sup> Claudia Rosett and George Russell, "UN Family Ties: Is There a Replay of the Kofi and Kojo Annan Scandal?" *Fox News Channel*, June 20, 2005, available online at <http://www.foxnews.com/printer—story/0,3566,160081,00.html>.

<sup>117</sup> IIC Interim Report, August 8, 2005, p. 65.

<sup>118</sup> Website of Maritime International, Ltd., available online at <http://www.milonline.com/off-shore-banking.html>, downloaded August 26, 2005.

<sup>119</sup> Nick Wadhams and Edith M. Lederer "Former UN procurement officer pleads guilty to taking bribes from UN contractors," *Associated Press*, August 8, 2005.

Yakovlev's UN immunity after a request from the U.S. Attorney for the Southern District of New York.<sup>120</sup>

On August 26, 2005, HIRC issued a subpoena to IHC Services for records relating to their contacts with Yakovlev and the UN. In response, HIRC received records demonstrating business connections between IHC and Eurest Support Services Worldwide (ESS) as well as other documents evidencing malfeasance in the UN procurement department.

Regarding IHC's work with ESS, IHC represented ESS as a vendor intermediary, or broker before the UN on as many as ten contracts.<sup>121</sup> ESS is owned by the Compass Group, the world's largest catering company and the provider of food to U.S. and UN peace-keeping forces.<sup>122</sup> Compass Group, the parent company of ESS, relied on IHC for advice on obtaining specific UN contracts.<sup>123</sup> Mr. Yakovlev was the procurement officer for a number of food service contracts that the UN awarded to ESS.

Moreover, ESS regularly updated IHC on its progress, copying them on correspondence they entered into with Yakovlev regarding their ongoing proposals. In one instance, a Field Logistics official with a branch of ESS's parent company, Compass Global Transit Centre in Holland (ESS Official), discussed in emails information given to him by a UN Rations Contracts Officer in Sudan. The ESS official wrote, "As stated, some limited information was given on what our competitors are doing." He went on to explain how the contract they were bidding on was going to be divided up with different companies getting different parts of the contract.<sup>124</sup>

In the same emails, the ESS official stated that he had heard that the country coordinator for the United Nations Office of Project Services (UNOPS) was in town and advised him on his bid. The ESS official wrote that "He [the UN country coordinator] stated that it would be received very well in the UN if we put an additional appendix to our bid stating that we wish to assist develop the country and can assist in such ways as training of local suppliers and farmers on food production."<sup>125</sup>

On other occasions, IHC may have provided more than simple advice.<sup>126</sup> Emails between IHC and ESS suggest that in November 2003, IHC obtained secret bidding information for a contract and provided this information to ESS to help ESS secure the contract.<sup>127</sup>

IHC documents also revealed a relationship between IHC and Giandomenico Picco, the UN official first assigned to negotiate an

<sup>120</sup> "Opening statement read by Mark Malloch Brown, Chef de Cabinet, at a press conference on the Oil-for-Food Programme," August 8, 2005.

<sup>121</sup> HIRC Interview with Charles Clayton, Compass Group, Washington, D.C., October 31, 2005.

<sup>122</sup> *Ibid*; ESS "Supply of Food Rations—United Nations Advance Mission in Sudan (UNAMIS), Request for Proposal (RFPS)," December 13, 2004, HIRC IHC documents # IHC0005230.

<sup>123</sup> HIRC Interview with Charles Clayton, Compass Group, Washington, D.C., October 31, 2005.

<sup>124</sup> Steve Bickerstaff, "Meeting With Terry Allan—UN Rations Contract Officer Sudan and General Points—by Steve Bickerstaff, November 25, 2004 memo attached to an email to Stephen Queen and forwarded first to Andy Siewert of ESS and on to Ezio Testa of IHC Services, Inc., November 28, 2004, HIRC IHC Services documents, #IHC006045-006052. See Appendix C.

<sup>125</sup> *Ibid*.

<sup>126</sup> George Russell and Claudia Rosett, "UN Procurement Scandal: Secret Information Was Leaked to a Bidder," *Foxnews* October 7, 2005.

<sup>127</sup> *Ibid*.

oil-for-food deal in 1992.<sup>128</sup> The documents state that Mr. Picco was IHC's Managing Director from 1998 until at least 2000.<sup>129</sup> During this same period, Picco was acting as Secretary-General Kofi Annan's personal representative to a UN project known as the "Dialogue Among Civilizations," originally sponsored by the Islamic Republic of Iran.<sup>130</sup> At the same time, Picco was also advising Bayoil's David Chalmers on oil price formulations with the 661 Committee—conduct that led the U.S. Attorney in the Southern District of New York to bring charges against Chalmers for price manipulation in the program.<sup>131</sup> Mr. Picco explained that in hindsight, he wished that he had not taken Chalmers on as a client.<sup>132</sup>

In the course of Mr. Picco's work with Chalmers, Mr. Picco worked to communicate Chalmers' concerns about the price of oil in the Oil-for-Food program, as well as his provision of information concerning oil pricing information from the 661 Committee, as well as US concerns and a UK proposal about the pricing mechanism and a possible change in its calculation to Mr. Chalmers.<sup>133</sup>

#### THE INDEPENDENT INQUIRY COMMITTEE

As a result of public accusations and concerns about corruption in the OFFP, the Secretary-General appointed an independent inquiry committee to investigate the administration and management of the OFFP. The Secretary-General appointed Paul Volcker, former Chairman of the United States Federal Reserve, to Chair the Committee. He appointed Mark Pieth of Switzerland and Justice Richard Goldstone of South Africa as Committee Members. Subsequently, on April 21, 2004, the United Nations Security Council unanimously adopted Resolution 1538, endorsing the inquiry and calling for cooperation from the UN and its member states. The inquiry, known as the Independent Inquiry Committee (IIC), was funded at a level exceeding \$30 million using funds from oil sales under the OFFP.

Over the course of its 18-month investigation, the IIC's reports exposed massive corruption within the OFFP and the UN in general. These reports revealed systemic structural problems that undermined the UN's ability to manage its organization and properly oversee its programs. But the IIC is not a permanent organization. The UN must develop modern organizational and personnel structures that prevent corruption and ensure organizational and individual accountability to obviate future corruption and subsequent multi-million dollar investigations.

Even the IIC investigation was not without criticism. Robert Parton was a senior investigator with the IIC who, among other responsibilities, headed the investigation of a possible conflict of in-

<sup>128</sup> HIRC Telephone Interview with Giandomenico Picco, June 10, 2005.

<sup>129</sup> Minutes of the Annual Meeting of the Directors of IHC Services, Inc. for the years 1998–2000, HIRC IHC records # IHC000024–000031. See Appendix D.

<sup>130</sup> As of the date of publication of this report, the "Dialogue Among Civilizations" project is coordinated by former UN chief of staff S. Iqbal Riza, who remains on the UN payroll as an Under-Secretary-General and who was found by the IIC to have shredded documents relating to the Oil-for-Food Program.

<sup>131</sup> See Appendix E.

<sup>132</sup> HIRC Telephone Interview with Giandomenico Picco, June 10, 2005.

<sup>133</sup> Facsimile of Giandomenico Picco of GDP Associates to David Chalmers, July 11, 2002, HIRC Bayoil documents #BAY04–01029 to 01034; Facsimile of Giandomenico Picco of GDP Associates to David Chalmers, July 11, 2002, HIRC Bayoil documents #BAY04–02263 to 01170. See Appendix F.

terest involving the Secretary-General.<sup>134</sup> Allegations of a conflict arose in January, 1999, when news services reported that the UN procurement department granted an inspection contract to Cotecna, a Swiss company that employed the Secretary-General's son.<sup>135</sup> While the Secretary-General acknowledged knowing of his son's employment with Cotecna, he denied that he had any knowledge of Cotecna's bid for the inspection contract.<sup>136</sup> In its *Second Interim Report*, the IIC found that there "was not reasonably sufficient evidence to show that the Secretary-General knew that Cotecna had submitted a bid on the humanitarian inspection contract in 1998."<sup>137</sup>

Mr. Parton disagreed with the IIC's proposed conclusions for its *Second Interim Report* regarding the Secretary-General's knowledge of a conflict of interest.<sup>138</sup> Because of this disagreement, Mr. Parton resigned from the IIC.

On April 29, 2005, the Committee subpoenaed IIC documents (hereinafter, the Parton Documents), which Mr. Parton had in his possession. Pursuant to the subpoena, Mr. Parton produced approximately 16,000 pages of documents and other materials. He was questioned in a bicameral, bipartisan Congressional interview about the IIC's Second Interim Report and his reasons for resigning from the IIC.<sup>139</sup>

Robert Parton alleged that the IIC was unwilling to reach any conclusion that would result in significant adverse consequences for the Secretary-General. Mr. Parton asserted that, "No matter what I show, the conclusions of this report are not going to change unless I have a smoking gun."<sup>140</sup> Mr. Parton argued that the IIC: (1) used a more stringent standard of proof to evaluate the evidence against the Secretary-General than it did for other subjects of its investigations, and (2) and provided evidence obtained in its investigations to the Secretary-General that it did not provide to other subjects of its investigation.<sup>141</sup>

According to Mr. Parton, the IIC failed to apply a consistent standard of proof to the subjects of its investigations. Robert Parton said that, early in the investigation, he asked what standard of proof the IIC would rely on to reach its findings.<sup>142</sup> The IIC's *Investigation Guidelines* state that the IIC must find "reasonably

<sup>134</sup> Interview of Robert H. Parton, 11 (Sept. 27, 2005) [Hereinafter *Parton Interview*].

<sup>135</sup> Independent Inquiry Committee, *Second Interim Report*, 81 (Mar. 29, 2005).

<sup>136</sup> *Ibid.*

<sup>137</sup> *Second Interim Report*, *supra* note 2, at 78.

<sup>138</sup> *Ibid.* at 16. On April 20, 2005, the Associated Press reported that Mr. Parton left the IIC because the IIC treated the Secretary General too "softly" in its March 29th report. Mark Pieth, an IIC Member, explained, "You follow a trail and you want to see people pick it up." Desmond O. Butler and Nick Wadhams, *Two on Oil-For-Food Probe Resign*, Associated Press (April 20, 2005). The next day, another IIC Member, Richard Goldstone, contradicted Mr. Pieth and claimed that Mr. Parton left because his contract had ended. *Id.* Mr. Parton responded that Justice Goldstone's remarks were absolutely wrong. *Ibid.*

<sup>139</sup> Majority and minority staff from the House International Relations Committee, the Senate Permanent Subcommittee on Investigations, and the House Subcommittee on National Security Emerging Threats and International Relations participated in the interview.

<sup>140</sup> *Parton Interview*, *supra* note 1 at 142.

<sup>141</sup> See Appendix J.

<sup>142</sup> *Parton Interview*, *supra* note 1, at 31-32 ("As early as September of 2004, I met with the committee and indicated that I felt that it was very important in order to do a fair and objective investigation and at the end have conclusions that were consistent with that objective and fair process to truly understand what the standard of proof was. . . . [U]ltimately the decision, in my view, was made at that time in September to apply the standard of proof "more likely than not . . .").

sufficient evidence.”<sup>143</sup> Mr. Parton argued that, as a standard, this was meaningless.<sup>144</sup> According to Mr. Parton, the IIC decided early in its investigations to rely on a standard of “more likely than not”<sup>145</sup>—a legal standard that requires that a finding be based on at least a 51% probability.<sup>146</sup> Ultimately, the IIC did not rely on this standard in reaching its findings against the Secretary-General. Instead, the IIC relied on the standard published in its *Investigation Guidelines* and concluded that there “was not reasonably sufficient evidence to show that the Secretary-General knew that Cotecna had submitted a bid on the humanitarian inspection contract in 1998.”<sup>147</sup> Mr. Parton stated: “I believe that there was a hesitancy to apply the standard of more likely than not because of the implications that it would have to the Secretary-General.”<sup>148</sup>

In a written response to Mr. Parton’s allegations, the IIC argued that it applied the same standard of proof against all subjects of its investigations. According to the IIC, the standard it used to evaluate each subject of its investigation was the standard published on its website of “reasonably sufficient evidence.”

The precise meaning of the IIC’s standard of “reasonably sufficient evidence” is unclear. Neither the IIC’s *Investigation Guidelines* nor the IIC’s website explains the standard. In a letter to the Committee, Paul Volcker noted that the standard was “clearly” lower than the United States criminal standard of “beyond a reasonable doubt” and “obviously” higher than the standard “more likely than not.” Beyond this explanation, however, the IIC did not define the term.

While the IIC informed the Committee that the standard of “reasonably sufficient evidence” is “common” in international investigations, it did not indicate any other investigations that relied on the standard.<sup>149</sup> The only international organization the Committee found that relied on the standard of “reasonably sufficient evidence” was the World Bank—which looked for “reasonably sufficient evidence” of wrongdoing before barring contractors from working with the bank.<sup>150</sup> Notably, in November, 2004, the Chief Counsel for the World Bank announced that the bank would change its standard of proof because the standard of “reasonably sufficient evidence” was unnecessarily vague. The new standard adopted by the World Bank was “more likely than not.”<sup>151</sup>

While the Committee is unaware of another UN investigation that used the standard “reasonably sufficient evidence,” the IIC standard does conform with the UN’s *Uniform Guidelines for Investigations*, which recommend that “the standard of proof should conform to the standards required by the organization and/or the na-

<sup>143</sup>The Independent Inquiry Committee, *Investigation Guidelines*, (E)(1).

<sup>144</sup>*Parton Interview*, *supra* note 1, at 31 (“I don’t understand what reasonably sufficient evidence is as it doesn’t refer to a standard. Reasonably sufficient evidence to show proof beyond a reasonable doubt that something happened? Or reasonably sufficient evidence to show that something is more likely than not that it occurred?”).

<sup>145</sup>*Ibid.*

<sup>146</sup>*Gao v. Gonzales*, 424 F.3d 122, 128–29 (2d Cir. 2005) (defining the standard “more likely than not”); *Lian v. Ashcroft*, 379 F.3d 457, 461 (7th Cir. 2004) (same).

<sup>147</sup>*Second Interim Report*, *supra* note 2, at 78.

<sup>148</sup>*Ibid.*

<sup>149</sup>See Appendix K.

<sup>150</sup>*Presentation by Mr. David R. Rivero, Chief Counsel, Corporate Administration, Legal Department, World Bank, at the Meeting of the Committee of Juridical and Political Affairs* (Nov. 18, 2004).

<sup>151</sup>*Id.*

tional jurisdiction for referrals, but should generally be reasonably sufficient evidence.”<sup>152</sup>

Mr. Parton also alleged that the IIC provided the Secretary-General with evidence from its investigations that it did not provide to other subjects. The IIC’s *Investigations Guidelines* state that, before the IIC makes an *adverse finding* against any person, the person should be “informed of the proposed finding and the information upon which it is based.”<sup>153</sup> According to Mr. Parton, this meant, in practice, that the IIC gave the subjects of its investigations notice of the adverse findings it planned to make against them.<sup>154</sup>

Mr. Parton alleged that in its investigation of the Secretary-General the IIC deviated from its standard procedure because the IIC provided the Secretary-General with the standard adverse finding letter, but attached an additional document titled “Annex A” that informed the Secretary-General of facts and evidence that were not adverse. Annex A advised the Secretary-General of its evidence of the Secretary General’s potential conflict of interest.<sup>155</sup>

Mr. Parton believed that the IIC’s provision of non-adverse information to the Secretary-General compromised the IIC’s investigation. One witness, Michael Wilson, told IIC investigators that he had discussions with the Secretary-General indicating that he knew of the conflict of interest and therefore should have taken actions to disclose it. Subsequent to his interview with the IIC, Mr. Wilson recanted his testimony. Mr. Parton believed that the provision of non-adverse evidence to the Secretary-General affected the testimonies of Michael Wilson and Pierre Mouselli who attested to having another meeting with the Secretary-General. Mr. Parton stated:

*[T]he Secretary-General received information from the committee that other witnesses did not receive, and the reason other witnesses did not receive it is because it’s in my professional judgment and I think in the judgment of others, not a good idea to provide your investigative work directly to the person whom you’re investigating. In this case, that material in some measure was provided to Greg Craig and to the Secretary-General, and I presume Mr. Craig did an effective job of advocating on behalf of his client by attempting to locate witnesses, talk to them, ask them what it was they said, and to test whether or not they really said what it was represented that they said.*<sup>156</sup>

The IIC argued that it did not favor the Secretary-General by providing him with evidence that it did not provide to other subjects. The IIC stated that, as a matter of course, it provided subjects of its investigation with evidence that was potentially adverse even if it was not prepared to make an adverse finding. According to the IIC, the adverse finding letters were a part of the process of the IIC’s investigation where subjects of the investigation were permitted to respond to adverse or potentially adverse findings.

<sup>152</sup>United Nations Office of Internal Oversight Services, *Uniform Guidelines for Investigations*, (April, 2003).

<sup>153</sup>The Independent Inquiry Committee, *Investigation Guidelines*, (C)(2)(g).

<sup>154</sup>*Parton Interview*, *supra* note 1, at 42.

<sup>155</sup>Paul Volcker, *Adverse Findings Letter to Secretary-General Kofi Annan and Greg Craig* (Mar. 21, 2005).

<sup>156</sup>*Parton Interview*, *supra* note 1, at 71.

The IIC unequivocally stated that Mr. Parton was mistaken in his claim that the IIC provided non-adverse findings solely to the Secretary-General. For instance, the IIC stated that such findings were also provided to Benon Sevan.

In preparing this report, the Committee relied on the Parton Documents, the transcript of Mr. Parton's interview, and the written responses from the IIC and Mr. Parton. Mr. Parton acknowledged that the IIC did not withhold evidence of the Secretary-General's knowledge of a conflict of interest—all evidence of a conflict of interest was included in the IIC's reports. The IIC's reports are public and the Committee encourages interested parties to carefully consider the evidence they document. The Committee makes no findings regarding the disagreement between Mr. Parton and the IIC.

Regardless of criticisms of the IIC, it was the inherent inability of the existing UN organization that necessitated the creation of a temporary investigatory body. But a subsequent review of corruption within a UN program is not an adequate substitute for effective contemporaneous oversight. The UN must be reformed to prevent the recurrence of the corruption documented within the OFFP.

#### CONCLUSION

In parallel with its investigatory work on the United Nations, the Committee has pursued a legislative agenda in support of UN reform. In this report, both efforts of the Committee converge, because after all, such corruption, malfeasance and mismanagement are only possible due to the poor state of management practices at the United Nations. The legislative effort of the Committee is the "Henry J. Hyde United Nations Reform Act of 2005" (Hyde bill), a bill which twice has passed the House of Representatives.

If problems associated with the OFFP were simply an aberration, then calls for systemic reform might be of passing interest. Sadly, management problems associated with the OFFP are not an aberration.

In the past decade, the UN has endured a series of scandals that have eroded the credibility of the world body. In March, 2005 reports surfaced about a \$3 million scam involving a little known UN affiliated agency, the World Meteorological Organization (WMO), which facilitates exchange of weather data and information worldwide.<sup>157</sup> A long-time WMO employee was accused of skimming accounts at the organization during a 3–4 year period. Charges of gross negligence were also leveled against numerous other employees. A senior legal advisor for the weather agency commented that, while bad, "the internal (accounting) procedures were not the worst seen in the UN family of organizations."<sup>158</sup>

The UN is mandated by the UN Security Council to conduct peacekeeping missions in areas plagued by extended conflict and/or government misrule. The UN has also weathered blistering criticism from human rights groups about its management of UN Peacekeeping operations, which presently number more than 50 separate missions worldwide.

<sup>157</sup> Judith Miller, "Theft and Mismanagement Charged at UN Weather Agency," *New York Times*, February 9, 2005.

<sup>158</sup> *Ibid.*

This year in the Democratic Republic of Congo, UN peacekeepers and civilian personnel were accused of widespread sexual exploitation of refugees. Also this year in Eritrea, UN peacekeeping staff rang up more than \$500,000 of unpaid international telephone calls. In 2004, two UN peacekeepers in Burundi were suspended following allegations of sexual misconduct. In Sierra Leone, UN peacekeepers were accused in 2001 by Human Rights Watch of systematic rape of women. In Bosnia, the UN police mission was accused of misconduct, corruption and sex trafficking in 2001. The UN quashed an investigation into involvement of UN police in the enslavement of Eastern European women in Bosnian brothels. In Angola, corruption and cronyism among UN purchasing officers from 1995 to '97 caused millions of dollars to be wasted and misspent. In Somalia, \$3.9 million vanished from UN HQ in Mogadishu in 1994.<sup>159</sup>

A review by a Swiss management consulting firm earlier this year found “a string of management abuses—including misuse of funds—in the UN Electoral Assistance Division which is responsible for managing election in nations recovering from conflict as it did earlier this year in Iraq.<sup>160</sup> In 2001 and 2002, a report prepared by Save the Children documented sexual exploitation of refugees in Liberia, Sierra Leone and Guinea by personnel from over 40 aid agencies, including United Nations High Commissioner for Refugees (UNHCR). In 2001, UN workers in Kenya were accused of extorting fees for the agency’s essential services, which are supposed to be free. “The fees are rumored to range from a few dollars for an appointment or to fill out a form, to up to \$5,000 for a new life in the US, Canada or Australia.”<sup>161</sup> Three UNHCR staff were also accused of conspiring to issue death threats against the U.S. Ambassador to Kenya.<sup>162</sup>

The United Nations Children’s Fund (UNICEF) provides assistance to impoverished children. In 1995, two dozen staffers at UNICEF’s Kenya office defrauded or squandered up to \$10 million in agency funds.<sup>163</sup> Scandal consumed more than 25 percent of \$37 million program budget, and involved 10 percent of the 237-person staff. In 1996, a senior UNCTA official (UN Conference on Trade & Development) was accused in an embezzlement scheme involving the theft of between \$200,000 and \$600,000. In 1997, 16 employees of the United Nations Development Programme (UNDP), which manages a diverse array of poverty eradication and employment projects, were investigated after more than \$6 million was siphoned off over an 8-year period. A 1999 audit of the United Nations Educational, Scientific and Cultural Organization (UNESCO), envisioned to promote international cooperation in the fields of education, science, culture and communication, unearthed widespread cronyism and nepotism. Allegations emerged that two French cabinet ministers intervened directly with the Paris-based UNESCO Secretariat to ensure senior positions for former presidential aides.

<sup>159</sup> UN Administrative Tribunal, Digest of Cases and Jurisprudence, <http://webfarmext.un.org/hrmtribunal/unat—review—landmark—number.asp?AJT—number=742>.

<sup>160</sup> Mallet S.a.r.l, “Report of a Management Review: Electoral Assistance Division (EAD), Department of Political Affairs,” February 16, 2005.

<sup>161</sup> News Summary, *New York Times*, February 19, 2001, p. 2.

<sup>162</sup> Global Policy Forum, “Managers Blamed Over UN Agency Crime Rising,” <http://www.globalpolicy.org/nations/corrupt/2002/0125unhcr.htm>.

<sup>163</sup> Christopher Wren, UNICEF Says Fraud Cost \$10 Million,” *New York Times*, May 26, 1995, p. 3.

The audit revealed that 40 percent of UNESCO appointments and promotions failed to meet UNESCO's own criteria for fair hiring.<sup>164</sup>

The UN's ability to manage its diverse portfolio of tasks will continue to degrade as long as the UN delays implementation of fundamental reforms. No observer of reform efforts, including the Hyde bill or the legislative alternative championed by Rep. Tom Lantos (D-CA), can pretend that the current structure and operations of the UN meet an acceptable standard. Even the UN itself has acknowledged the need for extensive remedial measures and, to its credit, has put forward a number of useful proposals for consideration. But no serious person could expect the UN to undertake fundamental reform on its own initiative.

In the United States, there is a widely-shared and bipartisan recognition of the need for change. Republican and Democratic administrations alike have long called for a more focused, transparent and responsible budget, one that reflects what should be the true priorities of the organization, shorn of duplicative, ineffective, and outdated programs, programs that should have been allowed to expire years ago. Aside from differences over an enforcement mechanism tying payment of U.S. dues to UN reform successes, the Hyde bill and the Lantos alternative are substantially similar. Members on both sides of the aisle in Congress agree that the time has indeed come for far-reaching and lasting reforms in the institution.

As a result of the Committee's investigation, and aware of evidence and findings presented by other separate investigations undertaken in the wake of corruption allegations, the Committee seeks to be constructive by setting forth a number of reforms necessary to restore credibility to UN management practices. Included among the committee's underlying principles in support of management reform are:

- Establishment of complete investigatory and budgetary independence for the Office of Independent Oversight Services in order to avoid political interference in its operations and duties;
- Creation of an Independent Oversight Board through which direct oversight over all issues related to the audit and investigatory functions of the UN can be observed, regulated, and carried out;
- Prompt establishment of an Ethics Office through which a proper Code of Conduct can be established for the operations of the UN, including a proper policy on financial disclosure for salaries, gift acceptance, travel allowances, and outside employment; the immediate establishment of a whistleblower policy that both protects and encourages employees of the UN to come forward when they see actions committed within the UN system that violate the rules of procedure.

Without a successful effort by the UN to create a culture of accountability and transparency, the ability of the organization to perform its core functions will be undermined. Among the obvious management and organizational weaknesses are a lack of appropriate and meaningful internal or external independent oversight

<sup>164</sup> "Not the Time for the United States to Rejoin UNESCO." The Heritage Foundation, <http://www.heritage.org/Research/InternationalOrganizations/BG/405.cfm>.

(including both audit and investigations); the near absence of adequate internal controls within the Secretariat allowing the proliferation of scandal; the almost total lack of accountability within the organization; and a lack of appropriate and modern accountability mechanisms. Also missing is: a functioning whistleblower protection policy; a code of ethics; an ethics training and certification regime; a financial disclosure process and policy; and a freedom of information policy.

In those cases in which wrongdoing has been identified, including unrelated corruption cases unearthed in the course of the Committee's work, too often the Secretariat has taken no action because of a lack of a functioning audit compliance mechanism. In particular, the Secretariat, headed by Secretary-General Annan, bears the added burden for ignoring evidence that senior managers repeatedly mislead investigators and fabricated evidence in order to punish low-level employees who had come forward with complaints or cooperated with internal UN inquiries.

The UN's capacity to punish wrongdoing within its ranks also suffers from a lack of a functioning independent administrative justice system, allowing crimes or malfeasance to go unpunished. When cases are brought up, they frequently are riddled with procedural errors such that many are overturned on appeal by the UN's own supreme tribunal. Each of the deficiencies detailed in this report has individually and collectively contributed to the culture of impropriety and the lack of accountability that under girded the oil-for-food era.

Both the Hyde bill and the Lantos alternative require a number of important reforms including:

- Creation of an Independent Oversight Board (IOB) with broad investigative authority through OIOS with an independent budget. The IOB will be responsible for overseeing the audit plans and recommending annual budgets of the Office of Internal Oversight Services (OIOS) and the Board of External Auditors.
- Establishment of whistleblower protection for all employees of the UN.
- Granting OIOS the authority to initiate investigations into mismanagement and wrongdoing, an authority which it does not currently have. In special circumstances, the IOB should be authorized to appoint a special investigator and staff to investigate matters involving senior UN officials.
- Creation of an Ethics Office which is tasked with, among other things, oversight of financial disclosure forms with the goal of thwarting abuses and conflicts of interest. The Office of Ethics (UNEO) should be responsible for creating and managing a Code of Ethics for all UN employees, including making policy, providing education and annual training, and overseeing and enforcing the implementation of the Code. The UNEO should receive all of its operating funds through appropriations from the General Assembly and should not be dependent on any other entity within the UN for such funding. The Director of the UNEO should be required to report on proposals for implementing a system for the filing and review of annual financial disclosure forms for all UN employ-

ees at the P-5 level and above, as well as all consultants compensated at any salary level. The Director should also include in his report proposals for making public: all salaries and other compensation for, and payments to, UN employees—including, but not limited to, pensions and buyouts, and annual payments to consultants; travel and per diem rates and payments for all UN employees.

- Creation of the position of Chief Operating Officer, a vital position for the proper and smoother operation of the UN. In its present form, the UN suffers from a lack of proper administration. The position of Chief Operating Officer (COO), who will report to the Secretary General, will be responsible for the daily administration, operation and supervision, and the direction and control of the business of the UN. As another check and balance in the UN system, the COO will serve as an administrator who can ensure the functioning of the UN, separate from the political functions of the institution. It was in this strata that the UN became bogged down in the daily competitive grind of international politics and individual national drive, which in the case of the OFFP proved so important in the dysfunctional nature of the operations of the Security Council. Under this plan, the COO would allow the Secretary-General a greater ability to pay attention to the details of such constituent parts of the UN, inevitably improving the governance and accountability of the UN.

The historical impact of the UN Oil for Food scandal will not be entirely understood until conclusions have been drawn by the numerous investigations now underway in countries whose citizens or officials are implicated in the scandal including India, France, the U.S. and others. To the extent that the U.S. citizens were implicated in the scandal, the U.S. Attorney for the Southern District of New York, the Office of the Manhattan District Attorney, and perhaps other offices as well, have already brought criminal cases against Americans who allegedly paid bribes in violation of the Foreign Corrupt Practices Act. Some national governments are moving forward only now with investigations. Because of this, serious consideration should be given to opening the files of the IIC to greater public scrutiny. Rather than simply transferring its files back to the UN, it is vital that the IIC place all of its work papers, documents and records in public custody. This work was paid for by the Iraqi people, with their oil revenues, not the UN. The Committee believes strongly that these records should be given to a public institution, perhaps a University or other similar entity, in order to allow for further research and review by academics, journalists, and human rights researchers as well as investigators from member governments. To the extent possible, the archives of the IIC should also be accessible via the internet. Appropriate steps should, of course, be taken to protect sensitive security information. Chairman Hyde has introduced legislation to encourage the establishment of this archive.

Some consideration should also be given to the creation of an outside commission to examine the full breadth and scope of records and actions of BNP in relation to its work for the UN OFFP. Additional work should also be undertaken to explain the

role of former UN Secretary-General Boutros Boutros-Ghali and his family, and his role in formulating the OFFP. Further work needs to be undertaken to explain the role of Cotecna executives Robert and Elie Massey, as well as Michael Wilson for their respective roles in obtaining the award of the UN contract for the humanitarian inspection of goods as part of the OFFP.

Like Congress, the Department of State should monitor whether the UN pursues disciplinary proceedings against other individuals cited in the IIC reports as having violated UN procurement procedures or staff regulations but who remain on the UN payroll, including Diana Mills-Ayree, Iqbal Riza, and to examine the role of Giandomenico Picco, formerly an Under-Secretary General of the UN. Likewise, Maurice Strong should be examined for his role in the OFFP.



## ADDITIONAL AND DISSENTING VIEWS

### INTRODUCTION

Although we agree with certain of its conclusions, the report by the majority on the Subcommittee is a flawed and incomplete product and we cannot sign on to it. We respectfully offer additional and dissenting views.

First, it is important to note that the report's basic conclusion—that the UN must undergo significant and meaningful reform—is one that we agree with completely. And we do not dispute that there were a number of serious problems with the Oil-for-Food Program (OFFP), which in turn revealed structural problems in the UN itself. As supporters of the Lantos alternative to the Hyde Act, we recognize the critical need for change at the UN if it is to meet the challenges it faces in the 21st century. We believe that any criminal activities in the OFFP should be investigated and punished by the appropriate authorities with the full cooperation of the UN and its member states. We applaud the willingness of the Secretary-General to remove the diplomatic immunity of officials for that purpose.

However, the report's basic flaw is that it provides a distorted picture of the UN and how it operates. It makes almost no mention of the power, role, or responsibility of UN member states, particularly the United States and members of the Security Council, in creating and overseeing the OFFP, enforcing the sanctions on Iraq, or managing the UN. As a result, the report does little to add to the constructive criticism that can help promote productive UN reform, improve future UN programs, and avoid repeating the failures of the OFFP.

Moreover, by failing to examine the role of the US in the OFFP and the UN, the majority has produced a report that represents an abdication of this Subcommittee's most basic obligation as an arm of the US Congress: to oversee the activities of the executive branch of the US government, particularly the State Department and its mission to the UN.

There have been a number of investigations into the OFFP, the most well-known and authoritative of which are the products of the Independent Inquiry Committee (IIC) and the Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction (the "Duelfer Report"). This Subcommittee had a unique opportunity to complement those reports' findings by examining a topic they did not adequately cover: the decisions and actions of the US in its role as a permanent member of the Security Council, with the responsibility of overseeing the activities of the OFFP as well as the larger sanctions regime on Iraq.

Such an inquiry would have provided key insights into the US rationale and decision-making process for its choices regarding the OFFP and the Iraq sanctions regime; would have determined what responsibility the US bears for the problems of the OFFP and violations of the sanctions; would have painted a clearer picture of the operations of the Security Council as well as the larger UN system; and would have provided a clear example of the activities of a member state in the UN vis-à-vis the Secretariat. In turn, this would have enabled the Congress to make any legislative and financial modifications to the agencies under our jurisdiction necessary to enhance the US capacity to engage in effective diplomacy, advocacy, and oversight at the UN. It would have demonstrated through action, not simply words, the American commitment to transparency and accountability. It would have informed and assisted efforts to promote positive changes at the UN. And it would have explained to the American people and the world why the US made the choices it did.

Unfortunately, the majority on this Subcommittee chose not to fulfill our constitutional responsibility to oversee and investigate the activities of the executive branch. The result is a flawed and incomplete report, and we cannot agree to it.

#### EXAMPLES OF FLAWS IN THE MAJORITY REPORT

There are numerous problems in (and questions raised by) the majority's report, but given the compressed schedule we faced after receiving the majority's draft, we have chosen to detail some of the most obvious shortcomings and to provide our own commentary.

##### *Misrepresentation of the Reality of the United Nations*

In discussing the UN it is critical to recognize that it is, first and foremost, a diplomatic institution, not a governing one. This is a key distinction for understanding many of the problems confronting the UN today. Unfortunately, the majority's report does not describe this reality. Thus, it gives a distorted picture of how the UN operates and where the real power and authority in the organization exists.

The UN was created after the Second World War as an organization for the peaceful resolution of disputes between its member states. To that end, the member states work through the General Assembly, the Security Council, and various other bodies in the institution. The Secretariat, which is the part of the UN headed by the Secretary-General, is tasked with supporting the activities of the member states and running the organization's day-to-day affairs. In addition, many independent international organizations, such as the Universal Postal Union and World Meteorological Organization, operate within the UN "system," although they remain largely autonomous, with their own funding sources and member state "boards of directors."

Over the years, the UN system has evolved into much more than a venue for conflict resolution. Some of its many activities now include providing relief services, fighting disease, conducting peace-keeping operations, promoting culture, and fostering economic growth. In particular, as the phenomenon of "failed states" has increased, the UN's role has expanded dramatically. Often, the UN

is expected to accept the kinds of responsibilities that are usually demanded of governments. As a result, the profile of the organization, particularly its most visible representative—the Secretary-General—has risen dramatically, as have the tasks of the Secretariat.

Yet the fact of the matter is that power in the UN remains primarily in the hands of the member states, not the Secretariat. Patrick Kennedy, then-US Ambassador to the UN for Management and Reform, explained this to our Subcommittee on March 2, 2005:

Ambassador KENNEDY. I think in summary, sir, you could say that when you say the word U.N., you are talking about essentially two things. You are talking about the Secretariat, meaning the staff who are hired to run the United Nations operations.

Mr. DELAHUNT. The hired help, if you will, with all due respect.

Ambassador KENNEDY. The hired help, with all due respect. So you have the Secretariat, and you have the staff, and the owners of the U.N., in effect, are the member states. And it is the member states that set in writing the policies of the United Nations, and pass resolutions, whether it is in the General Assembly, the Economic and Social Council, or the Security Council, that set down the rules and procedures under which operations take place of the United Nations, yes, sir.<sup>1</sup>

Failing to recognize the reality that power in the UN rests principally with the member states, not the Secretariat, is the fatal flaw in the majority's report. The Secretariat certainly shares responsibility for the problems with the OFFP, as described by the IIC, and particularly demonstrated by the malfeasance of Benon Sevan. However, the report fails to fully acknowledge that the member states of the Security Council—including the US—created, approved, and oversaw the OFFP. Furthermore, the imposition of quasi-governmental responsibilities on the UN without a similar reconfiguration of the lines of authority may have doomed the OFFP to problems from the start. Thus, the US and other members of the Security Council bear significant responsibility for the Program's failings.

This Subcommittee, as an authorized oversight body of a member state that has a permanent seat on the Security Council, had the opportunity to provide another dimension to the discussion of the OFFP and UN reform by investigating the actions of that member state in the context of the OFFP. Unfortunately we have not done so.

#### *Confusion of Iraq Sanctions With the OFFP*

The report also makes the fundamental mistake of confusing the OFFP and the UN sanctions on Iraq. The OFFP was not responsible for enforcing the sanctions, nor were its contractors. That responsibility belonged to the Security Council and other member

<sup>1</sup>*United Nations Operations: Integrity and Accountability: Hearing Before the Subcomm. on Oversight and Investigations of the House Comm. on Int'l Relations, 109th Cong. 16 (2005) (exchange between Amb. Kennedy and Rep. Delahunt).*

states of the UN, particularly Iraq's neighbors. The OFFP was meant to provide relief to the people of Iraq from the unforeseen consequences of sanctions and avert a humanitarian catastrophe, so that Saddam could not exploit their suffering in his bid to have the embargo dropped without meeting its conditions. In this effort, the OFFP was largely successful, and allowed the sanctions to be maintained on Iraq until 2003. And, as we know now, the sanctions were successful in preventing Saddam Hussein's regime from reconstituting his weapons of mass destruction.

Nevertheless, much of the public discussion of the OFFP tends to conflate all of Saddam's illicit income during the 1991–2003 sanctions under the term "Oil-for-Food Program," thus implying that the Program was somehow responsible for enforcing the embargo on Iraq. The report makes a similarly confusing statement:

*Of the estimated \$65 billion in oil sales during the life of the program (1996–2003) at least as much as \$10 billion was siphoned off by Saddam Hussein in the form of illicit revenue from oil smuggling and contract kickbacks, all on the backs of the Iraqi people for whom this program was intended to benefit.*<sup>2</sup>

The statement highlighted in bold is incorrect and misleading. According to the report by Charles Duelfer, the Central Intelligence Agency official charged by President Bush with investigating Saddam's weapons of mass destruction, Saddam skimmed approximately \$1.8 billion from the OFFP.<sup>3</sup> The IIC had similar findings.<sup>4</sup> As the chart below indicates, this means that only sixteen percent of all of Saddam's illegal revenue during sanctions came from corruption of the OFFP.<sup>5</sup>

Duelfer's report details how eleven percent of Iraq's illicit income, or \$1.2 billion, came from smuggling ("Border and Private Sector Cash Sales"), while the vast majority—seventy-three percent, or \$8 billion—came from trade protocols.<sup>6</sup> The protocols were signed, written agreements between the Iraqi regime and the governments of Jordan, Syria, Turkey, and Egypt. According to the Duelfer Report, through its trade protocol, "Jordan was the key to Iraq's financial survival from the imposition of UN sanctions in August 1990 until the implementation of the UN's [OFFP]."<sup>7</sup> Neither the smuggling nor the trade protocols had anything to do with the OFFP. Both were blatant violations of the UN sanctions on Iraq.

It was the responsibility of the member states of the UN—particularly those on the Security Council and those neighboring Iraq—to block the smuggling and the trade protocols. As a permanent, veto-wielding member of the Security Council—and a close

<sup>2</sup> SUBCOMM. ON OVERSIGHT AND INVESTIGATIONS, HOUSE COMM. ON INT'L RELATIONS, THE OIL-FOR-FOOD PROGRAM: THE SYSTEMIC FAILURE OF THE UNITED NATIONS 1, para. 4 (Dec. 2005) (draft) (emphasis added) [hereinafter O&I REPORT].

<sup>3</sup> 1 CENTRAL INTELLIGENCE AGENCY, COMPREHENSIVE REPORT OF THE SPECIAL ADVISOR TO THE DCI ON IRAQ'S WMD, Regime Finance and Procurement 19 (Sept. 30, 2004).

<sup>4</sup> 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, THE MANAGEMENT OF THE UNITED NATIONS OIL-FOR-FOOD PROGRAM 103 (Sept. 7, 2005).

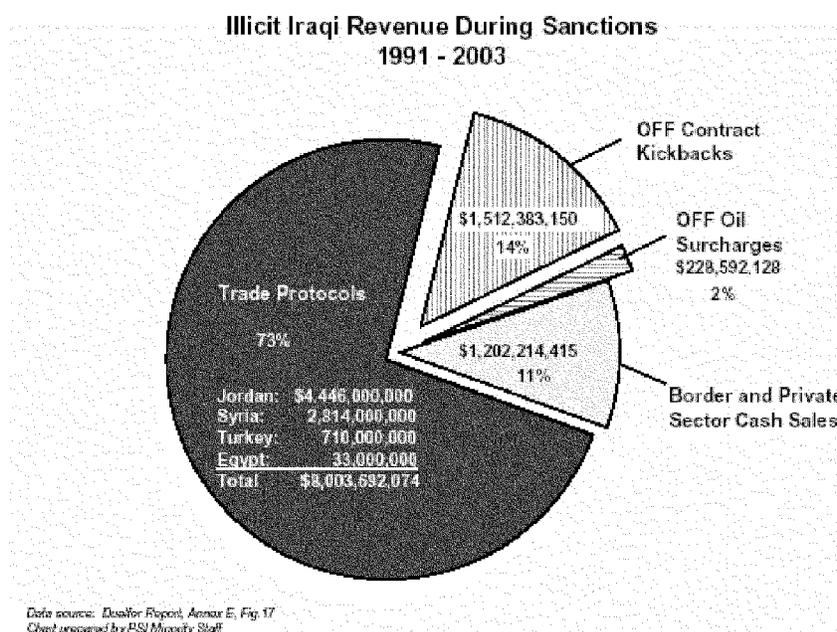
<sup>5</sup> 1 CENTRAL INTELLIGENCE AGENCY, *supra* note 3, at 23, Figure 9.

<sup>6</sup> *Id.* at 23, Figure 8. The IIC found that Iraq's illicit revenue from smuggling and the trade protocols was \$1 billion and just under \$10 billion, respectively. 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 4, at 103.

<sup>7</sup> 1 CENTRAL INTELLIGENCE AGENCY, *supra* note 3, at 24.

ally of Jordan, Turkey, and Egypt—the US was in a key position to take action in this matter. However, it appears not to have done so. In fact, it actually waived US sanctions on Jordan and Turkey for violating the UN sanctions on Iraq.<sup>8</sup>

This highlights one of the structural challenges facing the UN; the effectiveness of its operations, particularly sanctions, is often dependent on the political will of its member states, not the capacity or intentions of the Secretariat. This Subcommittee is in a unique position, with its direct oversight responsibility for the US mission to the UN, to determine why the US allowed the trade protocols and the smuggling to go forward and what steps were taken to stop them. We have not done so.



#### *Lack of Context for the Creation, Organization, and Oversight of the OFFP*

The report fails to put the genesis and supervision of the OFFP in the proper context—that is, as a program of the UN, where member states hold the power. Examples include:

*The initial and ultimately fatal weakness of this arrangement was the exclusive authority it granted to Saddam Hussein to choose buyers for Iraq's oil as well as the suppliers of humanitarian goods.<sup>9</sup>*

*Contracting, however, was to be done directly between the various Iraqi ministries and suppliers, giving Saddam Hussein*

<sup>8</sup>2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, THE MANAGEMENT OF THE UNITED NATIONS OIL-FOR-FOOD PROGRAM 190-97, 231-32 (Sept. 7, 2005).

<sup>9</sup>O&I REPORT, *supra* note 2, at 1, para. 3.

*and his regime the opportunity to corrupt the program in the absence of effective oversight from the U.N.*<sup>10</sup>

*In addition to the lack of personnel and expertise, the U.N.'s basic initial strategy was flawed. As a former 661 Committee diplomat explained, obtaining the cooperation of the Iraqi government was the problem but also the key to the program.*<sup>11</sup>

We agree that allowing Saddam to choose the buyers for Iraq's oil and suppliers of humanitarian goods was the basic flaw in the OFFP. However, the majority's report fails to explain the context in which this agreement was reached; does not inform the reader that the US not only accepted this flawed arrangement, but actually had a hand in proposing it; and leaves out the critical fact that the Security Council (of which the US is a permanent member) retained the exclusive power to review—and accept or reject—every single contract under the program.

The sanctions the UN Security Council placed on Iraq after its invasion of Kuwait in 1990 were some of the most comprehensive in history. Unfortunately, they gave Saddam the opportunity to exploit the suffering of the Iraqi people in his effort to end the sanctions without meeting their conditions. As the report indicates, an early version of the Oil-for-Food Program was proposed in 1991.<sup>12</sup> The idea was that providing humanitarian relief to Iraq's people would remove Saddam's ability to hold them hostage while allowing the sanctions to be maintained. But, since the UN is a diplomatic organization that treats its member states as sovereign entities—even when they are under sanctions—Iraq's acceptance was necessary in order for the program to go into effect.<sup>13</sup> Saddam rejected the proposal,<sup>14</sup> and the suffering of the Iraqi people increased horrifically.

By 1995, international pressure was growing—especially on the US and the United Kingdom, the strongest advocates of the embargo—for the sanctions to be dropped, even though Iraq had not met the conditions for their removal.<sup>15</sup> In an effort to preserve the sanctions, the US, along with other Security Council members, proposed a resolution creating an oil-for-food program that “was intended to be more palatable to the Iraqi leadership.”<sup>16</sup> It was adopted by the Security Council as Resolution 986, which Iraq initially rejected.<sup>17</sup>

However, the August 8, 1995 defection of Saddam's son-in-law, Hussein Kamel, revealed that Saddam was still working on weapons of mass destruction programs and hiding them from UN inspectors, causing the Security Council to put off any further consideration of weakening or removing sanctions.<sup>18</sup> Meanwhile, the hu-

<sup>10</sup> *Id.* at 10, para. 1.

<sup>11</sup> *Id.* at 10, para. 5.

<sup>12</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 43–44.

<sup>13</sup> *See* 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 4, at 14; INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, INTERIM REPORT 4 (Feb. 3, 2005) [hereinafter INTERIM REPORT].

<sup>14</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 45.

<sup>15</sup> *See Id.* at 50–52.

<sup>16</sup> *Id.* at 39–40.

<sup>17</sup> *Id.* at 51–55.

<sup>18</sup> *Id.* at 58–61.

manitarian situation in Iraq was becoming so bad that it was threatening the viability of the state itself—and thus Saddam’s hold on power.<sup>19</sup> It was in this context that the US and Saddam both found it advantageous to come to an agreement on creating an oil-for-food program. Then-UN Secretary-General Boutros Boutros-Ghali—under supervision by the Security Council, particularly the US—negotiated the details of the implementation of the program with the Iraqi government.<sup>20</sup> In May 1996 Iraq accepted Resolution 986, and the Oil-for-Food Program was born.<sup>21</sup>

The majority’s report is correct that the agreement allowed Iraq to negotiate oil and humanitarian contracts directly with proposed suppliers and buyers. However, the majority’s report fails to mention that explicitly enshrined in Resolution 986 was the exclusive right of the Security Council to review and accept or reject any of those contracts. As the IIC noted, “the 661 Committee [the panel mirroring the Security Council, which oversaw the OFFP and the sanctions on Iraq] retained the right to approve or reject all contracts submitted by prospective buyers of Iraqi oil or suppliers of humanitarian goods.”<sup>22</sup> This was a right that the US, as a permanent member of the Security Council and thus of the 661 Committee, utilized throughout the life of the OFFP to block humanitarian contracts with the potential for “dual use” (military and civilian application).<sup>23</sup> As the US Government Accountability Office’s chart below indicates, every export contract went through an extensive review by multiple US agencies.<sup>24</sup> Significantly, as we will discuss later, despite efforts by the UN Secretariat to raise concerns about corrupt contracts, it appears that only two contracts (out of approximately 30,000) were ever rejected because of pricing-related concerns.<sup>25</sup> And yet, there was concern that Saddam might try to manipulate the program for his own ends, as evidenced by the quote in the majority’s report from a 661 Committee diplomat: it was “. . . assumed from the beginning that Iraq would corrupt [the OFFP] from the start.”<sup>26</sup>

Leaving out the fact that the US essentially had a veto on every contract under the OFFP is an inexcusable lapse in the report that fundamentally undermines its value. It gives an incomplete and misleading impression of how the OFFP operated and where responsibility for its failings lie. The Subcommittee could have determined why the US proposed the OFFP in the first place and illuminated the challenges involved in creating the program. It could have investigated why the US did not reject contracts even when aware that they were being corrupted. But it did not.

<sup>19</sup> *Id.*

<sup>20</sup> *See Id.* at 66.

<sup>21</sup> *Id.* at 70–71.

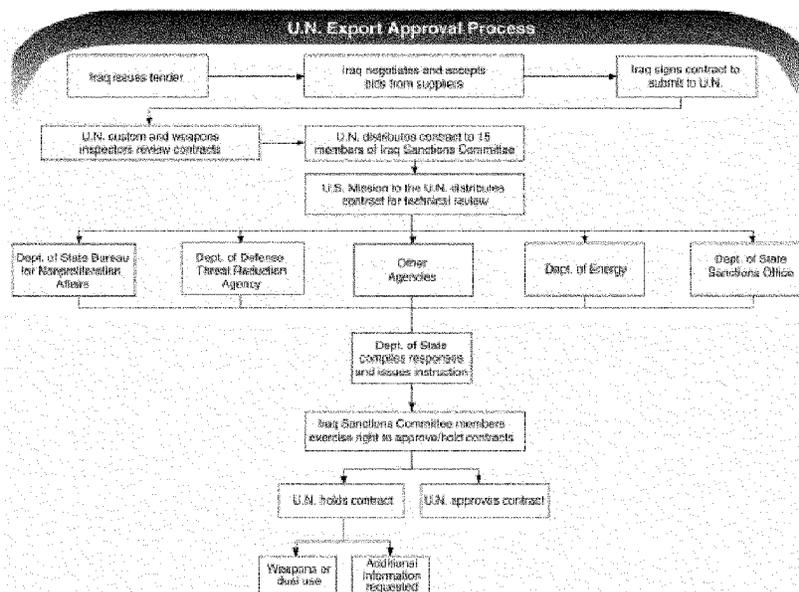
<sup>22</sup> *Id.* at 54.

<sup>23</sup> *Id.* at 154–55.

<sup>24</sup> GENERAL ACCOUNTING OFFICE, GAO-02-625, WEAPONS OF MASS DESTRUCTION: U.N. CONFRONTS SIGNIFICANT CHALLENGES IN IMPLEMENTING SANCTIONS AGAINST IRAQ 18, Figure 5 (May 2002).

<sup>25</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 119.

<sup>26</sup> O&I REPORT, *supra* note 2, at 10.



#### *Distortions Regarding the Selection of Banque National de Paris*

We recognize that there were several inexcusable failings in BNP's management of the escrow account for the OFFP; not only has that been confirmed by other reports, but BNP officials have testified to that fact before this Subcommittee.<sup>27</sup>

However, the majority's report presents an imprecise picture of the process by which BNP was selected:

*Saddam Hussein was allowed to choose the bank, BNP, which was awarded the escrow account into which the proceeds of the sale of Iraqi oil were deposited. Iraqi Central Bankers told the Committee that one reason the bank was chosen was that BNP was a major holder of Iraqi government accounts overseas. BNP maintains that it won the contract in a fair bid, a point that the IIC disputes. According to the IIC, former Secretary-General Boutros Boutros Ghali [sic] unfairly awarded the contract to BNP.<sup>28</sup>*

Significantly, this section fails to note that the US, as a member state directly involved in the establishment of the OFFP, played an active role in the process which resulted in the selection of BNP. Thus, the picture is painted of BNP as "Saddam's bank" which obtained the contract through underhanded means without any oversight or control from the US, potentially giving the further impression that BNP actively participated in and enabled Saddam's corruption of the OFFP.

<sup>27</sup> See *The Role of BNP-Paribas SA (Banque National de Paris) in the United Nations Oil-for-Food Program: Hearing Before the Subcomm. on Oversight and Investigations of the House Comm. on Int'l Relations*, 109th Cong. (2005) [hereinafter *BNP Hearing*].

<sup>28</sup> O&I REPORT, *supra* note 2, at 9, para. 5 (citations omitted).

The IIC's reports describe a more complex bidding and negotiation process surrounding the selection of BNP than the impression given by the simple statement, "Saddam Hussein was allowed to choose the bank." In fact, the IIC states that, in negotiating the Iraq-UN Memorandum of Understanding (MoU) that governed the establishment of the OFFP, "the parties agreed that the Secretary-General would choose the bank but only after consulting with Iraq."<sup>29</sup> According to the IIC, the US played a key role in crafting the MoU: "The United States and United Kingdom used their access to the draft agreement to tighten some of the provisions. For example, the two member states added language governing the selection of the bank holding the escrow account. . . ."<sup>30</sup>

Although the IIC confirms that BNP was one of several banks suggested by the Iraqi government, the UN considered several other banks that were not proposed by the Iraqis.<sup>31</sup> In the end, the final list came down to a US bank, two Swiss banks, and BNP. One of the Swiss banks, Credit Suisse, was the highest-ranked according to the criteria established by the UN Treasury.<sup>32</sup> However, according to the IIC, just four days before the contract was awarded, the US objected to a Swiss bank:

*The United States stated three problems it had with the selection of a Swiss bank: 1) lack of transparency in Swiss banking laws; 2) Switzerland was then a non-member of the United Nations, which would make it difficult to enforce a Security Council resolution; and 3) Saddam Hussein and his family maintained accounts in Switzerland, and a situation in which their personal assets and the escrow account could overlap should be avoided.*<sup>33</sup>

Because the Iraqis apparently also objected to an American bank, BNP became the "compromise" choice. Secretary-General Boutros Boutros-Ghali discussed the matter with the Iraqi government, who indicated a preference for BNP.<sup>34</sup> BNP was then awarded the contract.<sup>35</sup> Boutros-Ghali later defended the decision to the IIC, saying:

The choice of the bank, BNP, for the programme for the escrow account was done *in agreement with the American delegation and the Iraqi delegation*. It was a political decision to be able to implement the Memorandum of Understanding which was approved by the Security Council.<sup>36</sup>

The "political nature" of the decision and the involvement of the US, Iraqi and other delegations again demonstrates how the real power at the UN lies with the member states. This Subcommittee could have investigated why and how the US made the decisions it did regarding the process and selection of the bank. Unfortunately it did not.

<sup>29</sup> INTERIM REPORT, *supra* note 13, at 73.

<sup>30</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 67.

<sup>31</sup> INTERIM REPORT, *supra* note 13, at 74-77.

<sup>32</sup> *Id.* at 74-77.

<sup>33</sup> *Id.* at 11 (emphasis added).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 77.

<sup>36</sup> *Id.* at 83 (emphasis added).

*Misleading Statements Regarding the Operation of the OFFP*

The report also makes misleading statements regarding the operation of the OFFP. One such statement takes one incident and portrays it as a pervasive element of the Program:

*One episode of “illegal activities” that took place was the overfilling of the tanker, the “Essex,” in October 2001. At issue was the practice of “topping off,” or filling the vessel with more oil than contracted for. . . . Because of the poor oversight and management by the U.N., there is no way to confirm whether or not such practices were routine.*<sup>37</sup>

The report fails to acknowledge that this issue was addressed. At the March 17, 2005, Subcommittee hearing, Saybolt Group—the company contracted by the UN to inspect tanker loadings of Iraqi oil at the two UN-approved ports—responded to questions about the *Essex* and “topping off.” John Denson, the company’s General Counsel testified:

[U]pon learning of the [two *Essex*] incidents, Saybolt immediately investigated what happened and why it happened. Our investigation found no evidence to suggest that the company knew of the topping-off incidents.

The evidence indicated that the *Essex* loaded additional oil, approximately 230,000 barrels of oil each of the two times, after the Saybolt inspectors had already certified the loading amount correctly and had left the vessel to return to their living quarters.

To prevent any recurrence, however, Saybolt immediately instituted several additional safeguards. Under the new procedures, our inspectors stayed on board ships until their departure. If departure was delayed, we placed numbered sealed caps on the vessel loading valves, which we again inspected prior to departure to make sure they had not been removed. These additional measures were effective, and we are aware of no further incidents of topping off.<sup>38</sup>

The report also misrepresents who bore the responsibility for enforcing the sanctions imposed on Iraq.

*Large shipments of humanitarian goods were being moved across Iraq’s borders under the OFFP—borders that companies operating under U.N. contracts were supposed to monitor for evidence of smuggling illicit goods.*<sup>39</sup>

However, the ICC clearly refuted this statement.

By the Programme’s design, inspectors were charged only with the inspection of oils and goods that were financed under the Programme. They had no directions or mandate to inspect or

<sup>37</sup> O&I REPORT, *supra* note 2, at 13–14.

<sup>38</sup> *The United Nations Oil-for-Food Program: The Cotecna and Saybolt Inspection Firms: Hearing Before the Subcomm. on Oversight and Investigations of the House Comm. on Int’l Relations, 109th Cong. 9 (2005)* (statement of John Denson, General Counsel, Saybolt Group) [hereinafter *Cotecna and Saybolt Hearing*].

<sup>39</sup> O&I REPORT, *supra* note 2, at 18, para. 5.

report on cargo smuggled in violation of United Nations sanctions outside the Programme.<sup>40</sup>

Furthermore, the report's statement was also refuted by testimony before the Subcommittee.<sup>41</sup>

*Questionable use of Sources*

It must be noted that many of the interviewees relied upon as sources for this report are unidentified except by occupation, and several are former Saddam Hussein regime officials. The report fails to address the possibility that interviewees may lack credibility or direct knowledge of what they claim. It takes their representations as fact, neglecting the risk that statements relied upon without corroborating evidence from other sources often amount to little more than hearsay. It does not provide any justification for the grant of anonymity and does not clarify whether sources received any compensation or benefit for speaking with the Subcommittee. Given recent experience with anonymous sources of explosive allegations—such as the infamous “Curveball” who provided what turned out to be false information about Iraq’s WMD<sup>42</sup>—this is extremely disturbing.

An example is the majority’s justification for its conclusion that the Iraqi regime implemented a conspiracy to document phantom deliveries of humanitarian goods as legitimate deliveries under the program:

A purely paper transaction in which humanitarian goods were never delivered. *According to a CPA official, this type of transaction involved the active participation of the inspection team, who was bribed, and the Iraqi Ministry, who was ordered to sign for the receipt of non-existing goods. Proceeds of the sale were shared among regime officials.*<sup>43</sup>

Several issues arise with this reference to the Hussein regime’s OFFP corruption schemes. It makes serious allegations, one of several attributed to a “former CPA official.”<sup>44</sup> No minority Subcommittee staff were present at the interview—even though it took place nine months into the Subcommittee’s tenure—and no notes from it were furnished to minority Subcommittee staff. While a case could be made that Iraqi sources might face retaliation if named, one can discern no reason why an American official could not be identified so that the person’s claims and motivations could be verified.

<sup>40</sup> 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 4, at 31.

<sup>41</sup> *Cotecna and Saybolt Hearing, supra* note 38, at 16–17 (statement of Evelyn Suarez, Counsel, Cotecna S.A.) (“Most people misunderstand Cotecna’s role in Iraq. Their role did not involve policing the Iraqi border, enforcing sanctions or performing traditional Customs inspection functions. . . . Cotecna’s role was limited to authentication, a process unique to the U.N. Oil-for-Food Program. . . . Cotecna was not authorized to monitor outbound oil, inbound oil, weapons, contraband, smuggled goods, non-Oil-for-Food goods imported by the Government of Iraq and goods imported by private parties.”).

<sup>42</sup> See Bob Drogin and John Goetz, *The Curveball Saga*, L.A. TIMES, Nov. 20, 2005.

<sup>43</sup> O&I REPORT, *supra* note 2, at 11.

<sup>44</sup> *Id.* at 31 n.30.

## ADDITIONAL TOPICS MERITING INVESTIGATION

In the course of the Subcommittee's investigative efforts, issues emerged that were, at best, only tangentially related to the OFFP. The Subcommittee's focus on Alexander Yakovlev, IHC, and Eurest Support Services in the report is an example of such a peripheral issue. Yet, the Committee and Subcommittee did not seriously look into other issues that more appropriately bear on US government activities and fall under the Committee and Subcommittee's oversight responsibilities. What follow are examples of such important issues that, if examined, could add to the lessons learned from the problems revealed by the OFFP experience, and are certainly worthy of full investigation and public hearings by this Subcommittee.

*Trade Protocols*

Charles Duelfer, the Special Advisor to the Director of Central Intelligence on Iraq's WMD, reported that the vast majority of the illicit revenue the Saddam Hussein regime received during the period of UN sanctions came from trade and smuggling outside the OFFP. Nearly three-quarters of the regime's illegal revenue during the 1991–2003 sanctions—over \$8 billion—came from trade protocols negotiated with Jordan, Turkey, Syria, and Egypt.<sup>45</sup> The IIC estimated these protocols netted the Hussein regime nearly \$10 billion.<sup>46</sup> The protocols were formal, written agreements between these countries' governments and Saddam's regime whereby Iraq sold oil to its neighbors in exchange for cash, credit, and goods.<sup>47</sup> The Duelfer report indicated that Saddam used the funds derived from these protocols to slow the deterioration of his military and to obtain dual-use items which could be used for WMD programs.<sup>48</sup>

The US and the Security Council were aware of the ongoing trade in violation of UN sanctions from the beginning.<sup>49</sup> Jordan officially notified the UN Security Council in 1991 that it intended to resume trade with Iraq.<sup>50</sup> The Security Council merely "took note" of Jordan's notification.<sup>51</sup> The US even issued waivers required by US law so that Jordan and Turkey would be eligible for US foreign assistance because of their violation of UN sanctions on Iraq.<sup>52</sup>

Representative Delahunt raised the issue of trade protocols beginning with the Subcommittee's first hearing on February 9, 2005. Representative Schiff also raised the issue at the March 17, 2005, Subcommittee hearing. Chairman Rohrabacher responded:

In terms of the shipments of oil to Turkey and to Jordan which evaded, basically, the whole embargo that had been placed on Saddam Hussein, this Chairman does intend to call witnesses about that. We will especially call witnesses for those Government officials in the United States who initiated the policy.

<sup>45</sup> 1 CENTRAL INTELLIGENCE AGENCY, *supra* note 3, at 19–28.

<sup>46</sup> 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 4, at 103.

<sup>47</sup> 1 CENTRAL INTELLIGENCE AGENCY, *supra* note 3, at 19–28.

<sup>48</sup> *Id.* at 24.

<sup>49</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 190.

<sup>50</sup> *Id.* at 194.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 197, 231–32.

. . . The fact is that the United States obviously had a policy of permitting Turkey and Jordan, for whatever reason, to receive oil that was contradictory to the sanctions that had been laid down in the embargo.<sup>53</sup>

Representative Delahunt raised the issue again at the April 28, 2005, Subcommittee hearing. However, only one hearing has been held where the subject was a trade protocol with Iraq. Yet, that hearing was misleadingly entitled “Syria and the United Nations Oil-for-Food Program” when it was really about the Syrian trade protocol, a distinctly different subject. Representative Delahunt again raised the question of the trade protocols at that hearing, on July 27, 2005, and requested similar hearings for Jordan, Turkey, and Egypt—the other three countries known to have participated in illicit trade with Saddam. To date, no such hearings have been held.

#### *The “661 Committee”*

The 661 Committee was created by UN Security Resolution 661 to oversee the sanctions regime imposed on Iraq following its invasion of Kuwait in 1990.<sup>54</sup> The 661 Committee’s membership mirrored that of the Security Council; thus, the US was a permanent member of the 661 Committee.<sup>55</sup> The 661 Committee was tasked with oversight of the OFFP when the Program was established in 1995.<sup>56</sup> It has become clear that the 661 Committee, and therefore the US, failed in certain aspects of its oversight functions and bears some responsibility for the OFFP’s problems.

For example, the 661 Committee failed to address the several illicit trade protocols Iraq had with its neighbors discussed above. In May 1991, the 661 Committee “took note” of Jordan’s open and illicit trade with Iraq in violation of Resolution 661.<sup>57</sup> The 661 Committee also did not act in the case of Turkey and Syria.<sup>58</sup>

Another example: the UN Secretariat’s Office of the Iraq Program, responsible for forwarding OFFP contract applications to the 661 Committee for approval, notified the 661 Committee of seventy contracts that were potentially overpriced.<sup>59</sup> The US placed holds on thirty-three of these contracts, but only one was related to pricing concerns.<sup>60</sup> The Saddam Hussein regime levied kickbacks on at least forty-five of these contracts, totaling \$9.2 million.<sup>61</sup>

The 661 Committee also failed to address reports of the Khor al-Amaya smuggling incident discussed below. The issue was brought to the 661 Committee’s attention by a UN Oil Overseer and various media reports, including *The Wall Street Journal*.<sup>62</sup> Yet, the 661 Committee took no action.<sup>63</sup>

<sup>53</sup> *Cotecna and Saybolt Hearing*, *supra* note 38, at 6 (statement of Chairman Rohrabacher).

<sup>54</sup> S.C. Res. 661, U.N. SCOR, 45th Sess., 2933rd mtg., U.N. Doc. S/Res/661 (1990).

<sup>55</sup> *Id.*

<sup>56</sup> S.C. Res. 986, U.N. SCOR, 50th Sess., 3519th mtg., U.N. Doc. S/Res/986 (1995).

<sup>57</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 194.

<sup>58</sup> *Id.* at 227–36, 237–53.

<sup>59</sup> *Id.* at 170.

<sup>60</sup> *Id.* at 170 n.461.

<sup>61</sup> *Id.* at 170.

<sup>62</sup> *Id.* at 222.

<sup>63</sup> *Id.*

Representative Delahunt and other members of the Subcommittee have raised the issue of the 661 Committee's failures repeatedly at several Subcommittee hearings and at least one full committee hearing. At the November 10, 2005, Subcommittee hearing, Representative Delahunt specifically requested that Chairman Rohrabacher hold hearings on this issue. Chairman Rohrabacher did not address Representative Delahunt's request and claimed that, with respect to the OFFP, "[w]e covered it thoroughly."<sup>64</sup>

*The Khor al-Amaya Incident*

The US Senate Permanent Subcommittee on Investigations and the IIC released reports documenting how US officials tacitly allowed, and may have even assisted, seven vessels to smuggle oil out of Iraq on the eve of the 2003 US-led invasion of Iraq.<sup>65</sup> In the month leading up to the invasion, the tankers loaded more than 7.7 million barrels of Iraqi oil from an unauthorized Persian Gulf terminal at Khor al-Amaya, Iraq, in violation of UN sanctions.<sup>66</sup> The shipments, worth over \$200 million if sold at market prices, netted the Hussein regime over \$53 million in illicit revenue.<sup>67</sup>

A UN Oil Overseer alerted the US and United Kingdom representatives to the UN's 661 Committee about the loadings.<sup>68</sup> Further, a Saybolt inspector on the ground also warned the US-led Maritime Interdiction Force (MIF), the naval force charged with enforcing sanctions.<sup>69</sup> But when the vessels left port, the MIF did nothing to stop them.<sup>70</sup> In fact, the IIC learned that the tankers were assured that the MIF was aware of their mission and would not interdict their passage.<sup>71</sup> The IIC also notes that, after the Iraqi Oil Minister expressed concerns about the MIF's possible interference with the shipments, one of the individuals involved in brokering the operation "assured the Oil Minister not to worry—he claimed to have strong friendships in the United States at the Department of Defense and the CIA, and stated that he had taken some measures to ensure a smooth process."<sup>72</sup> This allegation of US involvement certainly merits investigation by our Subcommittee.

Representative Schiff raised the issue in a hearing of the Subcommittee on Oversight and Investigations held on March 17, 2005—the same hearing at which the issue of the *Essex's* oil smuggling ("topping off"), which the majority cites in the report, was addressed.<sup>73</sup> Representative Delahunt raised the issue again at the

<sup>64</sup> *Broadcasting Board of Governors and Alhurra Television: Hearing Before the Subcomm. on Oversight and Investigations of the House Comm. on Int'l Relations*, 109th Cong. (2005) (statement of Chairman Rohrabacher) (forthcoming).

<sup>65</sup> PERMANENT SUBCOMM. ON INVESTIGATIONS, SENATE COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, REPORT ON ILLEGAL SURCHARGES ON OIL-FOR-FOOD CONTRACTS AND ILLEGAL OIL SHIPMENTS FROM KHOR AL-AMAYA 65–105 (May 17, 2005); 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 214–26.

<sup>66</sup> PERMANENT SUBCOMM. ON INVESTIGATIONS, *supra* note 65, at 66–69.

<sup>67</sup> 2 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 8, at 226.

<sup>68</sup> *Id.* at 222.

<sup>69</sup> *Id.* at 220–21.

<sup>70</sup> *Id.* at 223.

<sup>71</sup> *Id.* at 216–20.

<sup>72</sup> *Id.* at 216.

<sup>73</sup> See O&I REPORT, *supra* note 2, at 13–14; *Cotecna and Saybolt Hearing*, *supra* note 38.

Subcommittee hearing on April 28, 2005, and pushed for an investigation. Chairman Rohrabacher responded:

[W]e will certainly be asking administration officials to come here and to explain the policies that we all should know about. . . . I certainly hope that the administration can explain to your satisfaction and my satisfaction why it permitted certain things to happen.<sup>74</sup>

Representative Delahunt sent a letter to Chairman Hyde and Chairman Rohrabacher on September 22, 2005, requesting an investigation into the Khor al-Amaya incident.<sup>75</sup> Representative Delahunt never received a response to this request and the Subcommittee has held no hearings on the subject.

#### *The Development Fund For Iraq*

The Development Fund for Iraq (DFI) was created by UN Security Council Resolution 1483 to meet the needs of the Iraqi people after the US-led invasion of Iraq in 2003.<sup>76</sup> Resolution 1483 also dissolved the OFFP and transferred its remaining funds—totaling \$8.1 billion—to the DFI.<sup>77</sup>

The Special Inspector General for Iraq Reconstruction (SIGIR) and the Defense Contract Audit Agency (DCAA) have detailed how DFI monies have been mismanaged, misspent, and lost.

The SIGIR released a report showing how the Coalition Provisional Authority (CPA) failed to account for \$8.8 billion in DFI funds used to support Iraqi ministries through the national budget process.<sup>78</sup> The SIGIR demonstrated in several reports how US officials mismanaged DFI funds in the Rapid Regional Response Program (R3P), which funded regional reconstruction projects.<sup>79</sup> The SIGIR also has shown how the CPA provided inadequate security for the vast sums of cash on hand in Iraq.<sup>80</sup>

DFI funds were also used to pay for the Army Corps of Engineers' Restore Iraqi Oil (RIO) contract with Kellogg Brown & Root (KBR). Of the over \$2.5 billion KBR charged, \$1.62 billion was paid from the DFI—making KBR the largest single recipient of DFI

<sup>74</sup> *BNP Hearing*, *supra* note 26, at 58 (statement of Chairman Rohrabacher).

<sup>75</sup> Letter from William D. Delahunt, U.S. Rep., to Henry J. Hyde, Chairman, House Comm. on Int'l Relations and Dana Rohrabacher, Chairman, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations (Sept. 22, 2005).

<sup>76</sup> S.C. Res. 1483, U.N. SCOR, 58th Sess., 4761st mtg., U.N. Doc. S/Res/1483 (2003) (“[T]he Development Fund for Iraq shall be used in a transparent manner to meet the humanitarian needs of the Iraqi people, for the economic reconstruction and repair of Iraq’s infrastructure, for the continued disarmament of Iraq, and for the costs of Iraqi civilian administration, and for other purposes benefiting the people of Iraq.”).

<sup>77</sup> OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION, REPORT NO. 05-004, OVERSIGHT OF FUNDS PROVIDED TO IRAQI MINISTRIES THROUGH THE NATIONAL BUDGET PROCESS 28 (Jan. 30, 2005) [hereinafter OVERSIGHT OF FUNDS PROVIDED TO IRAQI MINISTRIES THROUGH THE NATIONAL BUDGET PROCESS].

<sup>78</sup> OVERSIGHT OF FUNDS PROVIDED TO IRAQI MINISTRIES THROUGH THE NATIONAL BUDGET PROCESS, *supra* note 77.

<sup>79</sup> OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION, REPORT NO. 05-006, CONTROL OF CASH PROVIDED TO SOUTH-CENTRAL IRAQ (Apr. 30, 2005); OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION, REPORT NO. 05-015, MANAGEMENT OF RAPID REGIONAL RESPONSE PROGRAM GRANTS IN SOUTH-CENTRAL IRAQ (Oct. 25, 2005).

<sup>80</sup> OFFICE OF THE INSPECTOR GENERAL, COALITION PROVISIONAL AUTHORITY, REPORT NO. 04-009, COALITION PROVISIONAL AUTHORITY COMPTROLLER CASH MANAGEMENT CONTROLS OVER THE DEVELOPMENT FUND FOR IRAQ (July 28, 2004).

funds.<sup>81</sup> Of the ten task orders that made up the RIO contract, five were paid solely with DFI funds and a sixth was almost all DFI money.<sup>82</sup> Congressional analyses of the DCAA's audits of the various task orders have identified \$219 million in questioned costs and an additional \$60 million in unsupported charges.<sup>83</sup>

Representative Schiff raised the question of contracting irregularities related to Iraq reconstruction in the Subcommittee's March 17, 2005 hearing. Chairman Rohrabacher responded:

This Chairman does intend to hold hearings, number one, on the contracting irregularities and the total chaos of spending procedures that were part of the whole Iraqi liberation for far too long and may be perhaps still going on. We will find out. This Chairman does intend to hold hearings on that.<sup>84</sup>

At the April 28, 2005, Subcommittee hearing, Representative Delahunt again raised the need for hearings on issues of Iraqi reconstruction and the mishandling of OFFP funds for that purpose. Representative Delahunt sent a letter to Chairman Hyde and Chairman Rohrabacher on November 1, 2005, requesting an investigation into the mismanagement of DFI monies by the CPA, Army Corps of Engineers, and other US officials.<sup>85</sup> Representative Delahunt never received a response and the Subcommittee has held no hearings on the subject.

Additionally, Representative Betty McCollum of Minnesota, a Member of the full Committee, wrote Chairman Hyde and Chairman Rohrabacher calling for an investigation into allegations that \$1 billion was stolen from the Iraqi Defense Ministry, which most likely were DFI funds.<sup>86</sup> Representative Delahunt wrote to Chairman Hyde and Chairman Rohrabacher in support of Representative McCollum's request and reiterated the call for an investigation.<sup>87</sup> Neither Representative McCollum nor Representative Delahunt has received a response and the Subcommittee has held no hearings on the subject.

#### *Oil-for-Food Humanitarian Suppliers*

As noted above, Saddam Hussein's largest source of illicit revenues during the sanctions was derived outside the OFFP. But of that revenue derived from his manipulation of the OFFP, the largest source came from "kickbacks" paid by companies contracted to

<sup>81</sup> HOUSE COMM. ON GOV'T REFORM, REBUILDING IRAQ: U.S. MISMANAGEMENT OF IRAQI FUNDS 14 (June 2005).

<sup>82</sup> U.S. ARMY CORPS OF ENGINEERS, MARCH 2003 CONTRACT OBLIGATION STATUS: TASK ORDERS, at <http://www.hq.usace.army.mil/CEPA/Iraq/March03-table.htm> (last visited Nov. 2, 2005).

<sup>83</sup> HOUSE COMM. ON GOV'T REFORM AND SENATE DEMOCRATIC POLICY COMM., JOINT REPORT ON HALLIBURTON'S QUESTIONED AND UNSUPPORTED COSTS IN IRAQ EXCEED \$1.4 BILLION 10-14 (June 27, 2005).

<sup>84</sup> *Cotecna and Saybolt Hearing*, *supra* note 38, at 6 (statement of Chairman Rohrabacher).

<sup>85</sup> Letter from William D. Delahunt, U.S. Rep., to Henry J. Hyde, Chairman, House Comm. on Int'l Relations and Dana Rohrabacher, Chairman, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations (Nov. 1, 2005).

<sup>86</sup> Letter from Betty McCollum, U.S. Rep., to Henry Hyde, Chairman, House Comm. on Int'l Relations, Tom Lantos, Ranking Member, House Comm. on Int'l Relations, Dana Rohrabacher, Chairman, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations, and William Delahunt, Ranking Member, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations (Sept. 27, 2005).

<sup>87</sup> Letter from William D. Delahunt, U.S. Rep., to Henry J. Hyde, Chairman, House Comm. on Int'l Relations and Dana Rohrabacher, Chairman, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations (Oct. 3, 2005).

provide humanitarian supplies.<sup>88</sup> Those kickbacks totaled more than \$1.5 billion.<sup>89</sup>

Representative Delahunt sent a letter to Chairman Hyde and Chairman Rohrabacher on February 10, 2005, requesting that investigations into companies that purchased oil from Iraq during the OFFP be expanded to include companies that sold humanitarian goods to Iraq under the Program.<sup>90</sup> Representative Delahunt never received a response and the Subcommittee has held no hearings on the subject.

In October 2005, however, the IIC found that at least one of the companies Representative Delahunt suggested be investigated, Ingersoll Dresser, had paid kickbacks to the Hussein regime.<sup>91</sup>

#### CONCLUSION

We recognize the significant failings of the Oil-for-Food Program and agree with the critical need for United Nations reform. We appreciate the work that the majority on the Subcommittee has done on this topic. We wish to particularly commend the majority staff for their dedication and perseverance through what has often been a difficult process.

However, we believe that the majority's report presents such a distorted picture of how the UN operates that it does little to contribute to the work of this Congress on UN reform. Rather, this report represents a missed opportunity for this Subcommittee to investigate the operations of our own government in the context of the OFFP and the UN. Such a fulfillment of our constitutional oversight responsibility would have complemented other reports on the OFFP and would have allowed this Congress to take steps to ensure that such mistakes were not repeated by officials in the US government. Unfortunately, this Subcommittee has failed to fulfill its responsibility in this regard.

Therefore, we respectfully dissent from the Subcommittee's report.

WILLIAM D. DELAHUNT.  
HOWARD L. BERMAN.  
EARL BLUMENAUER.  
ADAM B. SCHIFF.

<sup>88</sup> INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, MANIPULATION OF THE OIL-FOR-FOOD PROGRAM 4 (Oct. 27, 2005) [hereinafter MANIPULATION OF THE OIL-FOR-FOOD PROGRAM].

<sup>89</sup> 1 INDEPENDENT INQUIRY COMM. INTO THE U.N. OIL-FOR-FOOD PROGRAM, *supra* note 4, at 103. The Duelfer Report's estimate did not differ substantially from the IIC's. *See* 1 CENTRAL INTELLIGENCE AGENCY, *supra* note 3, at 20.

<sup>90</sup> Letter from William D. Delahunt, U.S. Rep., to Henry J. Hyde, Chairman, House Comm. on Int'l Relations and Dana Rohrabacher, Chairman, Subcomm. on Oversight and Investigations, House Comm. on Int'l Relations (Feb. 10, 2005).

<sup>91</sup> MANIPULATION OF THE OIL-FOR-FOOD PROGRAM, *supra* note 88, Table 7, at 66, 83.

## Appendices

<b>Appendix A</b>	<b>The Committee Inquiry</b>
<b>Appendix B</b>	<b>BNP Report: Payments Under UN Oil-for-Food Program Letters of Credit to Persons Other Than Beneficiaries and Banks Providing Direct Loans to Beneficiaries</b>
<b>Appendix C</b>	<b>IHC-ESS Emails</b>
<b>Appendix D</b>	<b>IHC Minutes of Annual Meetings of Board of Directors</b>
<b>Appendix E</b>	<b>Giandomenico Picco - David Chalmers (Bayoil) faxes</b>
<b>Appendix F</b>	<b>Giandomenico Picco - David Chalmers (Bayoil) faxes</b>
<b>Appendix G</b>	<b>Augusto Giangrandi Affidavit</b>
<b>Appendix H</b>	<b>Ludmil Dionissiev Letter to Sergie Sharapov</b>
<b>Appendix I</b>	<b>Phases of the Oil-for-Food Program</b>
<b>Appendix J</b>	<b>March 8, 2005 Meeting Minutes of the IIC</b>
<b>Appendix K</b>	<b>IIC Staff Review of the Committee's Procedures and Consideration of the Secretary-General's Knowledge of the Cotecna Bid</b>
<b>Appendix L</b>	<b>Letter of Robert Bennett to Chairman Henry Hyde, Ranking Member Tom Lantos, Subcommittee Chairman Dana Rohrabacher, and Subcommittee Ranking Member William Delahunt, December 2, 2005</b>

# Appendix A

## Appendix A

*The Committee Inquiry*

The Committee on International Relations of the U.S. House of Representatives initiated its inquiry into the United Nations' Oil-for-Food program in March 2004. In April 2004, Committee staff interviewed senior officials at UN headquarters in New York including officials of the United States Mission to the United Nations (USUN), and the United Kingdom Mission to the UN (UKUN), UN officials from the Office of the Iraq Program (OIP) and the Office of Internal Oversight Services (OIOS).

In May 2004, Committee staff traveled to Amman and London. In Amman, staff met with numerous officials assigned to the U.S. Embassy, Coalition Provisional Authority (CPA) staff, members of an Iraqi Trade Ministry mission in Amman, and the acting president of the Iraqi Bureau of Supreme Audit. Staff also met with members of the Jordanian government including the Planning Minister, as well as two UN officials affiliated with Iraq and the OFF Program. In London, staff met with UK government officials and parliamentarians academics, and Iraqi exiles.

In June 2004, Committee staff traveled to Rome to meet a former Iraqi ministry official, a U.S. Agency for International Development official, and a World Food Program official. In Dubai, staff met with Iraqi banking officials and UAE government officials.

In July 2004, staff traveled again to Amman and Turkey. In Amman, investigators met with Jordanian banking officials and Iraqi ministry officials traveling from Baghdad. In Turkey, staff met with officials of the U.S. Embassy, as well as Turkish officials with knowledge of the OFF program.

In December 2004, staff traveled to interview witnesses in London and Munich, Germany. While in London, staff met with representatives of the Weir Company, a UK-based engineering firm which had admitted to paying kickbacks to Iraq in exchange for favorable treatment of a pending contract. In Munich, staff met with Paul Condon, a former UN sanctions official.

In October 2005, staff traveled to interview witnesses in Egypt and Cyprus. While in Egypt, staff met with Egyptian Foreign Minister Abdul Ahmed Gheit, representatives of the Egyptian Central Bank, and officials of the Egyptian General Petroleum Corporation. In Cyprus, they met with and interviewed officials of the Cypriot Central Bank, Cypriot Attorney General Petros Clerides, MOKAS, the Financial Intelligence Unit, and Benon Sevan, the former Executive Director of the UN's Office of Iraq Program.

In general, the inquiry and the subsequent search for information has proven to be challenging and at times, difficult to verify. Much of what has been discovered provides a fascinating look into the tyrannical rule of a corrupt leader and his regime. Using a

program intended to help feed the Iraqi people, the Hussein regime corrupted nearly every aspect of the Oil-for-Food program for its own self-interested purposes. It is the opinion of the Committee that the Oil-for-Food Program actually extended Saddam's rule, not restricted it, as was originally intended. Because the program was compromised from its inception, as several U.S. officials warned would be the case, it was doomed to devolve into abuse and corruption.

Committee staff has met and interviewed more than 180 witnesses with in-depth knowledge of the program and has pursued a number of lines of inquiry.

#### *Hearings Held*

The Committee and its Subcommittees held numerous hearings on United Nations issues including but not limited to the Oil-for-Food program.

In 2004, the Full Committee held two hearings on the Oil-for-Food Program. The first, on April 28, 2004, was titled "The United Nations Oil-for-Food Program: Issues of Accountability and Transparency," had six private witnesses giving testimony: Howar Zaid, United Nations Liaison Office; Danielle Pletka, American Enterprise Institute; Claudia Rosett, the Foundation for the Defense of Democracies; John G. Ruggie, Harvard University; Michael Soussan, former coordinator of the Oil-for-Food Program; and Joseph A. Christoff, Government Accountability Office. The other hearing was titled "The Oil-for-Food Program: Tracking the Funds," and was held on November 17, 2004. Testimony was received from two witnesses: Charles A. Duelfer, Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction, Central Intelligence Agency; and Everett Schenk, Chief Executive Officer, BNP-Paribas, North America.

The Full Committee held three hearings in 2005. The first was held on March 15, 2005, and was titled "U.N. Reform: Challenges and Prospects." Testimony was received from three witnesses: Richard C. Holbrooke, former U.S. Permanent Representative to the United Nations; Jeanne J. Kirkpatrick, former U.S. Permanent Representative to the United Nations; and Richard S. Williamson, former U.S. Alternate Representative for Special Political Affairs in the United Nations. The second hearing, titled "Reforming the United Nations: Budget and Management Perspectives," was held on May 19, 2005. Testimony was heard from three witnesses: Mark Lagon, Deputy Assistant Secretary, Bureau of International Organization Affairs, U.S. Department of State; Catherine Bertini, former Under-Secretary-General for Management, United Nations; and former Senator Tim Wirth, president of the United Nations Foundation. Finally, on Sept 28, 2005 the Committee held a hearing titled "United Nations Rhetoric or Reform: Outcome of the High Level Event." Testimony was received from U.S. Ambassador to the United Nations, John Bolton. Mark Malloch Brown, chief of staff to the Secretary General of the United Nations, also briefed the Committee.

The Subcommittee on Africa, Global Human Rights and International Operations held three hearings on issues related to the United Nations Reform Act. The first was held

on March 1, 2005, titled "United Nations Organization Mission in the Democratic Republic of Congo: A Case for Peacekeeping Reform." Testimony was received from Kim Holmes, Assistant Secretary, Bureau of International Organization Affairs, U.S. Department of State; Princeton N. Lyman, former Assistant Secretary of State for International Organization Affairs; Nile Gardiner, The Heritage Foundation; and Anneke Van Woudenberg, Human Rights Watch. On April 19, 2005, the Subcommittee held a hearing entitled "The United Nations Commission on Human Rights: Protector or Accomplice?" with Assistant Secretary-General Danilo Turk of the Department of Political Affairs at the United Nations testifying. On May 18, 2005, the Subcommittee held a hearing titled "U.N. Peacekeeping Reform: Seeking Greater Accountability and Integrity." Testimony was received from Philo L. Dibble, Principal Deputy Assistant Secretary, Bureau of Organization Affairs, U.S. Department of State; Eric Schwartz of the Council on Foreign Relations; and Victoria Holt of the Henry L. Stimson Center.

The Subcommittee on Oversight and Investigations held numerous hearings on United Nations-related issues. The first, on February 9, 2005, was titled "The Volcker Interim Report on United Nations Oil-for-Food Program." Testimony was heard from Nile Gardiner, Heritage Foundation; George A. Lopez, Senior Fellow, Joan Kroc Institute for International Peace; and Nimrod Raphaeli, MEMRI. The second hearing was titled "United Nations Operations: Integrity and Accountability," and was held on March 2, 2005. Testimony was heard from Patrick F. Kennedy, U.S. Ambassador to the United Nations for Management and Reform; and Joseph A. Christoff, Government Accountability Office. The Subcommittee held another U.N.-related hearing on March 17, 2005, titled "The United Nations Oil-for-Food Program: The Cotecna and Saybolt Inspection Firms." Testimony was received from three private witnesses: John Denson of the Saybolt Group, Houston Texas; Dr. Rehan Mullick, former research officer for the United Nations Office of the Humanitarian Coordinator in Iraq; and Evelyn Suarez, an attorney representing Cotecna S.A. The final U.N.-related hearing held by the Subcommittee, titled "The Role of BNP-Paribas SA in the United Nations Oil-for-Food Program," and was held on April 28, 2005. Testimony was heard from several officials of BNP-Paribas SA: Everett Schenck, Patricia Herbert, William Vassallo, and Harold Lehmann. On July 28, 2005, the Subcommittee held a hearing titled "Syria and the Oil-for-Food Program." Testimony was heard from Elizabeth Dibble, Deputy Assistant Secretary of State, Bureau of Near Eastern Affairs; Dwight Sparlin, Director of Operations, Policy and Support, Division for Criminal Investigations Internal Revenue Service, and Vic Comras, Minister Counselor, United States Department of State, retired.

The Subcommittee on International Terrorism and Nonproliferation held a hearing on March 17, 2005, titled "The United Nations and the Fight Against Terrorism," Testimony was heard from Vic Comras, former member of the United Nations al-Qaeda monitoring group; and Anne Bayefsky, The Hudson Institute. [Vic Did this person testify in his capacity as a retired State Dept official or a former UN expert? May want to clarify, because the preceding two paragraphs both mention Comras in different capacities]

*Subpoenas Issued by the Committee*

In order to obtain information important to the investigation, the Committee issued several subpoenas for documents and testimony. Subpoenas were necessary in order to obtain the requested information, especially regarding information directly about the Oil-for-Food program and UN contractors.

<b>August 9, 2004</b>	BNP for documents
<b>November 2, 2004</b>	BNP for witness testimony
<b>February 11, 2005</b>	BNP for documents
	Cotecna for documents
	Bayoil (David Chalmers) for documents
<b>February 15, 2005</b>	Bayoil Supply & Trading for documents
<b>April 15, 2005</b>	BNP for documents
	BNP for witness testimony
<b>April 29, 2005</b>	Robert H. Parton of the Independent Inquiry Committee into the United Nations Oil-for-Food Program for documents
<b>August 26, 2005</b>	IHC Services, Inc. for documents

# Appendix B

**PAYMENTS UNDER UN OIL-FOR-FOOD PROGRAM  
LETTERS OF CREDIT TO PERSONS OTHER THAN BENEFICIARIES  
AND BANKS PROVIDING DIRECT LOANS TO BENEFICIARIES**

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**INTERIM REPORT**

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Submitted to the House  
International Relations  
Committee by

BNP Paribas  
New York Branch  
787 Seventh Avenue  
New York, NY 10019

**April 25, 2005**

**INTERIM REPORT****PAYMENTS UNDER UN OIL-FOR-FOOD PROGRAM  
LETTERS OF CREDIT TO PERSONS OTHER THAN BENEFICIARIES  
AND BANKS PROVIDING DIRECT LOANS TO BENEFICIARIES****I. INTRODUCTION**

By way of background, the Oil-For-Food Program was created through a unanimous resolution of the Security Council of the United Nations (“UN”) with the principal objective of alleviating the suffering of the Iraqi people by providing humanitarian goods to Iraq under contracts approved by the so-called “661 Committee” or “Sanctions Committee” of the UN Security Council. To that end, the 661 Committee, of which the United States was an active member, authorized specified contractors to furnish approved goods to Iraq. Once a contract had been authorized by the 661 Committee, the UN directed its bank, the New York branch of Banque Nationale de Paris and later BNP Paribas (either or both sometimes referred to herein as “BNPPNY”), to issue a letter of credit naming the contractor as the beneficiary, thereby providing assurance that the beneficiary would receive payment under the contract upon delivery of the approved goods to Iraq and presentation of the required documents.

Because it was contemplated that letter of credit beneficiaries might well need financing in connection with the transactions (for example, to procure raw materials or to manufacture or procure finished goods in order to fulfill their contractual obligations), the beneficiaries were permitted under the Oil-For-Food Program to assign proceeds under their letters of credit to secure bank financing to obtain the required items. An assignment of proceeds is a traditional means of securing financing to enable the

beneficiary to obtain the goods covered by the letter of credit. As discussed more fully below, this means of financing ordinarily can take various forms, including an assignment to a bank to obtain a direct cash loan to the beneficiary from which the beneficiary can pay its supplier, an assignment to a bank making funds available to the supplier, or an assignment to the supplier providing financing to the beneficiary in the form of goods supplied on open account.

In response to questions that have been raised by the Staff of the House International Relations Committee (“HIRC”) regarding instances in which letter of credit proceeds may have been paid to persons other than beneficiaries or banks providing financing to beneficiaries in the form of a direct loan, BNPPNY is in the process of conducting a review, utilizing the methodology described in Section II below, to identify such payments. The results of that review to date – which is ongoing – are discussed in Section III below.

## **II. METHODOLOGY**

From the inception of the UN Oil-For-Food Program through November 18, 2004, when BNPPNY’s review commenced, BNPPNY had processed approximately 54,000 payments under humanitarian letters of credit issued at the direction of the UN. These payments fall within the following broad categories: approximately 23,000 U.S. dollar-denominated wire transfers; approximately 18,000 Euro-denominated wire transfers; approximately 2,000 wire transfers in foreign currencies other than the Euro; and approximately 11,000 direct dollar or other currency deposits into accounts maintained at BNPPNY, or at other branches or affiliates of BNPPNY. Because different

payment systems have been used by BNPPNY for processing transactions in each of these different categories, the methodology employed by BNPPNY for identifying payments to persons other than beneficiaries or banks making direct loans to beneficiaries has been tailored accordingly. BNPPNY's review of these payments to date has focused on the approximately 41,000 U.S. dollar- and Euro-denominated wire transfers. The review so far has consumed approximately 8,000 man-hours of labor on the part of BNPPNY employees detailed from audit functions with support from other personnel.

The account established for the U.N. Oil-For-Food Program was handled within BNPPNY's Trade Finance Department. As a first step, all payment data from the Trade Finance Department account was extracted from BNPPNY's money transfer system for U.S. dollar-denominated wire transfers (approximately 107,000 records, including but not limited to Oil-For-Food Program data). A similar process then was used to extract comparable data from approximately 32,000 records relating to Euro-denominated wire transfers. Based upon various internal coding conventions and matching programs, transactions known to be unrelated to the Oil-For-Food Program were removed from the extracted data. Various manual validation reviews of these transactions then were performed to ensure the accuracy of the identification process.

In order to review the universe of approximately 41,000 U.S. dollar- and Euro-denominated wire transfer payments, BNPPNY first identified those U.S. dollar- and Euro-denominated wire transfer payments which, in accordance with standard trade finance practices, were made to banks that were presenting documents for payment of humanitarian letters of credit, ostensibly on behalf of the letter of credit beneficiaries, with no "further credit to" reference in the electronic files. This step identified

approximately 19,000 US dollar-denominated payments and approximately 15,000 Euro-denominated payments, which were set aside for further analysis to determine whether the data in the electronic files fully reflected the transactions.

The payment instructions on BNPPNY's electronic systems for the approximately 4,000 U.S. dollar-denominated wire transfers and approximately 3,000 Euro-denominated wire transfers that remained then were compared electronically to the names of beneficiaries listed on humanitarian letter of credit spreadsheets maintained by BNPPNY, in order to identify those payment instructions that included a name other than that of the beneficiary. This process resulted in the identification of 2,079 U.S. dollar-denominated payments and 145 Euro-denominated payments that required further manual review. The results of that review in turn identified 98 U.S. dollar-denominated payments and 12 Euro-denominated payments that were made to a person other than the beneficiary or a bank providing it with a direct loan.

The complete files for each of the letters of credit under which these 110 payments had been made were then manually reviewed. That review led, among other things, to the identification of a financing facility maintained by East Star Trading Company Ltd. ("East Star") at Credit Agricole Indosuez Singapore (now Calyon Singapore) ("Credit Agricole") and a financing facility maintained by Al Douh Jordanian Establishment ("Al Douh") at HSBC Bank Middle East, Amman, Jordan ("HSBC"), discussed in Section III below.

Based upon this information, 100% of the files for letters of credit issued to each of the beneficiaries that had directed these 110 payments were targeted for review to determine whether they had made other payments of a similar nature. In addition,

further searches of the Oil-For-Food Program payment records were conducted, initially on a sample basis and then on a 100% basis, for any other payments to HSBC and Credit Agricole; and to Philadelphia Investment Bank and Egyptian Arab Land Bank, by reason of the frequency with which those two banks had appeared in the review to that point. These searches identified other beneficiaries who also had directed payments to those banks. This triggered an iterative process, pursuant to which a 100% review of all letter of credit files has been or will be performed for every beneficiary who is identified as having caused a payment to be made to any person other than a bank providing it with a direct loan. 293 payments in addition to the initial 110 were identified through these steps as having been made to persons other than beneficiaries or banks providing them with direct loans.<sup>1</sup>

As a further measure, BNPPNY elected to evaluate a random sample of 151 of the 582 U.S. dollar-denominated payments that were made to several banks identified in Figure 29 of Volume I of the Comprehensive Report of the Special Advisor to the Director of the Central Intelligence Agency on Iraq's Weapons of Mass Destruction, dated September 30, 2004 (the "Duelfer Report") and two banks that were

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<sup>1</sup> 169 other payments were identified through these steps for further review to determine whether they were made to persons other than beneficiaries or banks providing them with direct loans. In addition, ongoing reviews of the U.S. dollar- and Euro-denominated wire transfers, as well as planned reviews of payments to direct deposit accounts and payments in foreign currencies other than the Euro, which have not yet been examined, may identify other such beneficiaries. In such an event, 100% of the letter of credit files for those beneficiaries will be reviewed. Refinements in the methodology described herein and factors not presently anticipated also may expand the universe of payments to be reviewed.

referenced in the Duelfer Report and that recently had been designated as primary money laundering concerns by the U.S. Treasury Department. That review identified no payments to persons other than the letter of credit beneficiaries or banks providing them with direct loans.

As noted above, a number of payments to banks with no "further credit to" reference were identified and earmarked for further evaluation as part of the review process. This was accomplished by selecting for manual file review a statistically significant sample of these payments designed to achieve an error rate not to exceed 1%, sampling precision of .99% and a confidence interval of 95%. A U.S. Army computer program at <http://www.hqda.army.mil/aaaweb/audit.htm> was used to determine the requisite sample size of 381 U.S. dollar-denominated payments and 378 Euro-denominated payments needed to satisfy these parameters. A random number generator then was used to select these payments. The review to date of 358 of the dollar-denominated payments and 323 of the Euro-denominated payments thus selected has identified none with indicia that it was made to a person other than the beneficiary or a bank providing a direct loan to the beneficiary.

To summarize the interim results of the implementation of the foregoing review and certain follow-up efforts, BNPPNY's review so far has identified 403 payments that appear to have been made to persons other than beneficiaries or banks providing them with direct loans. As discussed more fully in Section III below, the composition of these 403 payments is as follows:

- 50 that appear to have been made at the direction of the beneficiaries of the letters of credit to their own affiliates and/or financing facilities maintained by those affiliates.

- 273 of the remaining 353, accounting for approximately 83% of their aggregate dollar value, that appear to have been made to bank financing facilities that were utilized by three exporters of various goods – which in their own right or through affiliates were UN-approved letter of credit beneficiaries in other humanitarian goods transactions – to finance goods that they were supplying other UN-approved beneficiaries.<sup>2</sup>
- 80 that are being reviewed to determine the role played by the recipients of those payments (*e.g.*, other bank financing facilities, etc.).

BNPPNY believes its review methodology is well-designed to identify any other such payments on a going-forward basis. This methodology is, however, being reevaluated continually and will be revised as indicated by the ongoing results of its application.

### III. DISCUSSION

As of April 1, 2005, BNPPNY has identified 353 instances, as detailed in Attachment 1 hereto, in which payments were made to persons other than humanitarian letter of credit beneficiaries or banks providing those beneficiaries with direct loans. BNPPNY so far has been able to obtain information sufficient to evaluate the roles of banks and other persons that were involved in transactions which accounted for approximately 83% of the value of the payments listed on Attachment 1, and is continuing its efforts to obtain information regarding the others. The information that has

<sup>2</sup> It is common for a supplier of goods to arrange a financing facility under which a bank extends a "revolving line of credit" to the supplier, whereby the bank makes loans up to a specified maximum for a specified period. As the borrower repays a portion of the loan, an amount equal to the repayment can be borrowed again under the terms of the agreement. See the definition of "revolving line of credit" in Barron's Dictionary of Finance and Investment Terms (5<sup>th</sup> ed.). An assignment to such a facility of some or all of the proceeds of a transaction being financed through that facility thus serves in the first instance to repay the bank for the loan.

been obtained is set forth in Attachment 2 hereto. Generally, letter of credit beneficiaries in those transactions appear to have assigned or otherwise directed letter of credit proceeds to repay banks that financed the UN-approved humanitarian goods transactions through financing facilities maintained by suppliers that provided the beneficiaries with goods covered by the letters of credit.

As of April 1, 2005, BNPPNY also had identified 50 payments that were made to persons who appear to be the beneficiaries' affiliates and/or financing facilities maintained by those affiliates, as detailed in Attachment 3. Information that has been gathered to date regarding these relationships is provided in Attachment 2 hereto.

The following points should be noted at the outset with respect to the transactions identified during the course of BNPPNY's review to date, as reflected in the above-referenced attachments:

- Assignments of proceeds by letter of credit beneficiaries to banks providing transaction financing through either the beneficiary or its supplier, or to the supplier financing the beneficiary by providing goods on open account, are commonplace in trade finance practice:

The seller as a beneficiary under a letter of credit could assign its right to the proceeds to its bank as security for a loan under [§ 5-114 of the UCC] . . . With the loan the seller [i.e., beneficiary] could then pay its own supplier, procure the necessary documents under the letter of credit, present the same to the issuer, and remit the amount owed to the lending bank. The foregoing arrangement can take other forms too. For example, the seller's bank might take an assignment of proceeds, but instead of disbursing the loan to the seller, it could notify the seller's supplier that the supplier may draw drafts on the bank for goods supplied. The seller might even assign the right to proceeds to its supplier as security for an extension of credit by the

supplier itself. (3 White & Summers, Uniform Commercial Code § 26-12 (4<sup>th</sup> Ed.))

- BNPPNY has identified no instance where a letter of credit and its corresponding obligations were transferred or assigned by a beneficiary to a third party.<sup>3</sup>
- The UN Iraq Account has not been subject to any loss in connection with any of the referenced transactions.
- The suppliers and beneficiary affiliates who were involved in the overwhelming majority of the transactions that are the subject of this Interim Report were UN-approved beneficiaries under other humanitarian letters of credit, or affiliates of the same.
- The source of goods and disposition of funds in a letter of credit transaction is not affected by whether financing for that transaction is obtained through an assignment of proceeds to a financing facility that is maintained by the beneficiary or one that is maintained by its supplier.
- Where the proceeds of a letter of credit are paid directly to a beneficiary, the beneficiary is free to use some or all of those proceeds to repay any bank that provided financing for the transaction, whether the funds were

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<sup>3</sup> As observed in paragraph 10.04[1] of the leading treatise, "The Law of Letters of Credit," by John F. Dolan, "[r]estrictions on transfer of the right to draw" on a letter of credit, in order to "protect the applicant's expectations concerning performance and facilitate document examination," "do not apply to assignments of letter of credit rights or of the letter of credit proceeds where there is no risk of substitute performance and no deviation from the strict compliance standard that permits document examiners to make payment decisions without looking beyond the face of the documents and the credit itself."

advanced to the beneficiary or its supplier; or to pay its supplier directly; or to pay third parties unrelated to the transaction.

- None of the non-beneficiaries identified in said attachments appears on the United States Department of Treasury Office of Foreign Asset Control's List of Specially Designated Nationals.
- BNPPNY has seen no indication that any assignment of proceeds or other payment instruction identified in said attachments is causally linked to any corruption that may have occurred in connection with the Oil-For-Food Program.

The transactions that involved two of the persons identified on Attachment 1 – Al Douh and East Star, an affiliate of Pacific Inter-Link SDN BHD ("Pacific Inter-Link") which, like Al Douh, is a large, well-established business organization – generally are illustrative. Together, those transactions represent approximately 82% of the dollar value of the payments listed in that Attachment. Al Douh and East Star, as well as a number of the latter's affiliates, supplied various Oil-For-Food Program letter of credit beneficiaries with the goods required under their UN-approved contracts. Indeed, Pacific Inter-Link and several of its affiliates as well as several affiliates of Al Douh also were UN-approved suppliers of hundreds of millions of dollars of goods under other humanitarian letters of credit.

In the case of Al Douh, in order to obtain financing for humanitarian goods transactions, letter of credit proceeds were assigned by various beneficiaries to an account at HSBC, which was maintained in respect of a financing facility made available by that bank to Al Douh. Similarly, in the case of East Star, in order to obtain financing

for humanitarian goods transactions, letter of credit proceeds were assigned by various beneficiaries to an account at Credit Agricole, which was maintained in respect of a financing facility made available by that bank to East Star. In accordance with BNPPNY's procedures, the beneficiaries typically represented in their requests to assign proceeds to these financing facilities that the assignments were for the purpose of repaying those facilities for financing provided to them to purchase the humanitarian supplies covered by the underlying letters of credit; and both HSBC and Credit Agricole provided confirmation that this was the case on various occasions during the course of the Oil-For-Food Program.<sup>4</sup>

Discussions with representatives of Al Douh, East Star and Pacific Inter-Link, as well as with certain beneficiaries of humanitarian letters of credit that obtained the required goods from them, together with other information gathered during the course of BNPPNY's review, have provided further assurances that Al Douh and East Star were the suppliers of goods to various Oil-For-Food Program beneficiaries, and that their supply activities were financed through their respective financing facilities.

In sum, the 403 payments at issue appear, in all of those cases in which BNPPNY so far has been able to obtain sufficient information to perform an evaluation, to have been made to banks which made financing facilities available to suppliers of goods to beneficiaries as a means of financing the underlying humanitarian goods

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<sup>4</sup> In the case of some of the payments listed on Attachments 1 and 3, and as noted therein, the beneficiaries did not assign letter of credit proceeds to, and create a legal entitlement to receive funds on the part of, any other person in advance of the time the letters of credit became payable. Rather, the beneficiaries simply instructed, in those instances, that BNPPNY pay certain sums to specified persons at the time the beneficiaries themselves became entitled to receive those funds under the letters of credit.

transactions, or else to the beneficiaries' own affiliates. These financing arrangements are in keeping with normal trade finance practice, as described above. It bears emphasis that, even today, none of the non-beneficiaries listed in the attachments hereto appears on the United States Treasury Department Office of Foreign Asset Control's List of Specially Designated Nationals. Nor has BNPPNY seen any indication that any of those payments was causally related to any corruption that may have occurred in connection with the Oil-For-Food Program.

BNPPNY is continuing its review, as described above. It intends to provide a final report to HIRC at the conclusion of that process.

ATTACHMENT 1

Al-Death	INESFOOD	F709072	3/1/2001	USD	1,241,885.00	Y
Al-Death	INESFOOD	F709072	3/14/2001	USD	94,355.00	Y
Al-Death	INESFOOD	F709072	4/7/2001	USD	1,330,147.50	Y
Al-Death	INESFOOD	F709072	4/29/2001	USD	1,339,981.25	Y
Al-Death	INESFOOD	F709072	5/22/2001	USD	665,565.00	Y
Al-Death	INESFOOD	F709072	6/7/2001	USD	665,476.25	Y
Al-Death	INESFOOD	G708469	7/6/2001	USD	532,650.00	N
Al-Death	INESFOOD	G708527	7/17/2001	USD	532,471.25	Y
Al-Death	INESFOOD	G708527	8/8/2001	USD	532,363.75	Y
Al-Death	INESFOOD	K710783	7/19/2001	USD	988,624.00	Y
Al-Death	INESFOOD	K710783	8/28/2001	USD	861,792.00	Y
Al-Death	INESFOOD	K711028	11/19/1998	USD	2,176,946.52	Y
Al-Death	INESFOOD	K711028	11/26/1998	USD	1,361,039.06	Y
Al-Death	INESFOOD	K711028	12/17/1998	USD	1,017,176.91	Y
Al-Death	INESFOOD	K711028	1/22/2001	USD	211,348.25	Y
Al-Death	INESFOOD	L731033	10/31/2002	EUR	796,836.18	Y
Al-Death	INESFOOD	L731033	12/5/2002	EUR	2,177,269.82	Y
Al-Death	INESFOOD	L731033	12/30/2002	EUR	2,974,207.99	Y
Al-Death	INESFOOD	L731033	12/30/2002	EUR	1,467,104.00	Y
Al-Death	INESFOOD	L731033	12/30/2002	EUR	1,467,104.00	Y
Al-Death	INESFOOD	Y712953	10/19/99	USD	3,281,538.75	Y
Al-Death	INESFOOD	Y712953	10/47/99	USD	1,551,752.24	Y
Al-Death	INESFOOD	Y712954	11/4/2000	USD	3,932,367.50	Y
Al-Death	INESFOOD	Y712954	2/10/2001	USD	322,546.25	Y
Al-Death	INESFOOD	Y712954	3/10/2001	USD	538,733.75	Y
Al-Death	INESFOOD	Y713465	2/25/2001	USD	1,312,778.36	N
Al-Death	INESFOOD	Z716343	4/12/2001	USD	1,131,262.75	N
Al-Death	INESFOOD	Z716343	4/29/2001	USD	1,193,957.75	N
Al-Death	SOPAD	C729226	6/26/2001	USD	626,800.00	Y
Al-Death	SOPAD	L727861	1/24/2001	EUR	650,481.59	Y
Al-Death	SOPAD	T731033	4/11/2002	EUR	633,328.94	Y
Al-Death	SOPAD	V735544	3/25/2003	EUR	620,461.94	Y

ATTACHMENT 1

Al-Douh	SOPAD	V73564	5/9/2003	EUR	115,181.84	Y
Al-Douh	SOPAD	V73564	5/9/2003	EUR	332,717.53	Y
Al-Douh	SOPAD	Z72684	5/9/2003	USD	68,410.00	Y
Al-Douh	SOPAD	Z72684	6/25/2001	USD	729,710.00	Y
Al-Douh	SOPAD	Z72684	8/21/2001	USD	560,710.00	Y
Al-Douh	TRANS ARAB WORLD	C72075	7/6/2001	USD	465,565.90	Y
Al-Douh	TRANS ARAB WORLD	C72075	9/7/2001	USD	1,074,500.60	Y
Al-Douh	TRANS ARAB WORLD	C72075	10/1/2001	USD	213,763.60	Y
Al-Douh	TRANS ARAB WORLD	C72075	5/9/2002	EUR	1,362,946.68	Y
Al-Douh	TRANS ARAB WORLD	U71865	7/17/2000	USD	1,565,791.16	Y
Al-Douh	TRANS ARAB WORLD	U71865	7/20/2000	USD	296,206.84	Y
Al-Douh	TRANS ARAB WORLD	V735361	11/6/2002	EUR	1,646,997.97	Y
Al-Douh	TRANS ARAB WORLD	Z716811	3/15/2000	USD	1,316,000.00	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	U716327	5/15/2001	USD	469,661.25	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	U716327	8/6/2001	USD	463,724.29	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	U716327	10/2/2001	USD	349,473.85	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	U716327	10/16/2001	USD	460,902.55	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	U716327	11/23/2001	USD	485,921.70	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	Y715486	12/21/99	USD	1,855,823.30	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	Z716697	3/17/2000	USD	2,365,140.47	Y
Al-Douh	INTERNATIONAL EGYPTIAN CO	Z716697	5/16/2000	USD	8,225.90	Y
Al-Douh	ARAB OIL CO	F709451	10/21/1999	USD	2,171,320.00	Y
Al-Douh	ARAB OIL CO	F709451	11/24/1999	USD	2,366,660.00	Y
Al-Douh	ARAB OIL CO	G709869	8/13/1999	USD	1,520,000.00	Y
Al-Douh	ARAB OIL CO	H07311	8/21/1999	USD	1,569,910.00	N
Al-Douh	ARAB OIL CO	H07311	9/17/1999	USD	1,569,910.00	N
Al-Douh	ARAB OIL CO	H07311	9/30/1999	USD	2,740,000.00	N
Al-Douh	ARAB OIL CO	Z716984	4/7/2000	USD	1,860,000.00	Y
Al-Douh	BOUCHRA	C727069	5/7/2001	USD	1,745,000.00	Y
Al-Douh	BOUCHRA	T72703	5/26/2002	EUR	1,072,866.37	Y
Al-Douh	BOUCHRA	U716915	8/6/2000	USD	1,818,178.00	Y
Al-Douh	BOUCHRA	V794888	12/27/2002	EUR	1,310,010.74	Y

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AL-Death	BOUCHRA	Z715784	4/17/2001	USD	51,056.08	Y
AL-Death	BOUCHRA	Z715784	4/18/2001	USD	1,127,581.12	Y
AL-Death	BOUCHRA	Z715784	4/28/2002	USD	752,328.00	Y
AL-Death	FALCON TRADING	L771958	4/19/2002	EUR	1,017,414.15	Y
AL-Death	FALCON TRADING	L771958	4/19/2002	EUR	1,722,866.33	Y
AL-Death	FALCON TRADING	L771958	4/19/2002	EUR	243,866.82	Y
AL-Death	FALCON TRADING	L771958	5/6/2002	EUR	2,322,478.86	Y
AL-Death	FALCON TRADING	L771958	5/6/2002	EUR	652,528.49	Y
AL-Death	FALCON TRADING	L771958	5/6/2002	EUR	2,948,773.91	Y
AL-Death	FALCON TRADING	P790667	8/1/2003	EUR	11,323,489.13	Y
AL-Death	SOUJANI	Z718075	2/6/2000	USD	2,629,763.75	Y
AL-Death	SOUJANI	Z718075	2/22/2000	USD	760,527.49	Y
AL-Death	SOUJANI	Z718075	3/27/2000	USD	6,203.46	Y
AL-Death	SOUJANI	Z718075	4/14/2000	USD	2,145,666.69	Y
AL-Death	SOUJANI	Z718075	5/3/2000	USD	1,243,644.06	Y
AL-Death	SOUJANI	Z718075	7/6/2000	USD	16,349.36	Y
AL-Death	SOUJANI	Z718354	3/7/2000	USD	41,975.00	N
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	5/15/2001	USD	115,177.56	N
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	6/4/2001	USD	119,184.80	N
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	7/5/2001	USD	468,621.25	Y
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	9/4/2001	USD	353,431.35	N
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	10/19/2001	USD	460,760.20	Y
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	1/6/2001	USD	589,892.15	N
AL-Death	UNITED CO FOR DAIRY AND FOOD PRODUCTS	U72280	3/17/2002	USD	216,471.50	N
AL-Death	AL MARSAQULYNE	C724182	11/20/2001	USD	1,778,080.69	N

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ALDhah	AL KARAOUIYNE	U72422	12/7/2000	USD	1,668,177.10	N
ALDhah	AL KARAOUIYNE	U72422	12/20/2000	USD	331,724.97	N
ALDhah	AL KARAOUIYNE	U72422	1/6/2001	USD	2,851,620.17	N
ALDhah	AL KARAOUIYNE	U72422	1/16/2001	USD	2,063,028.86	N
ALDhah	AL KARAOUIYNE	U72422	1/16/2001	USD	1,502,870.77	N
ALDhah	FIRST INTERNATIONAL TRADING	C723880	3/6/2001	USD	161,250.00	Y
ALDhah	FIRST INTERNATIONAL TRADING	C723821	5/22/2001	USD	564,129.36	Y
ALDhah	FIRST INTERNATIONAL TRADING	C723821	7/11/2001	USD	4,870.64	Y
ALDhah	FIRST INTERNATIONAL TRADING	C724083	4/6/2001	USD	318,500.00	Y
ALDhah	FIRST INTERNATIONAL TRADING	U731946	5/7/2002	EUR	312,864.85	Y
ALDhah	FIRST INTERNATIONAL TRADING	U731988	12/16/2002	EUR	343,524.40	Y
ALDhah	AL WASEL & BABEL GENERAL TRADING	C724783	8/16/2002	USD	987,198.60	Y
ALDhah	AL WASEL & BABEL GENERAL TRADING	C724783	8/16/2002	USD	918,173.32	Y
ALDhah	AL WASEL & BABEL GENERAL TRADING	C724783	8/16/2002	USD	1,751,540.08	Y
ALDhah	AL WASEL & BABEL GENERAL TRADING	U731635	4/18/2002	EUR	1,082,576.69	Y
ALDhah	AL WASEL & BABEL GENERAL TRADING	U731635	7/8/2002	EUR	25,618.95	Y
ALDhah	FOOD INDUSTRIES	U730172	5/6/2002	EUR	3,410,401.32	Y
ALDhah	FOOD INDUSTRIES	U730172	6/11/2002	EUR	3,439,887.24	Y
ALDhah	FOOD INDUSTRIES	U730172	6/11/2002	EUR	3,422,811.44	Y
ALDhah	FOOD INDUSTRIES	U730172	6/11/2002	EUR	3,440,223.27	Y
ALDhah	FOOD INDUSTRIES	U730172	7/8/2002	EUR	3,084,097.97	Y
ALDhah	SIAG	C724001	4/2/2001	USD	327,000.00	Y
ALDhah	SIAG	U728488	2/21/2002	EUR	361,682.50	Y
ALDhah	SIAG	U723342	10/25/2000	USD	62,380.44	Y
ALDhah	SIAG	U723342	5/61/2002	EUR	315,000.00	Y
ALDhah	SIAG	U725102	11/22/2002	EUR	352,948.94	Y
ALDhah	AL JAWAD AGENCIES	P736270	5/7/2003	EUR	878,318.68	Y
ALDhah	AL JAWAD AGENCIES	P736270	5/30/2003	EUR	53,541.36	Y
ALDhah	AL JAWAD AGENCIES	P736270	6/6/2003	EUR	151,462.90	Y
ALDhah	AL JAWAD AGENCIES	P736270	7/21/2003	EUR	105,178.15	Y
ALDhah	GROUP GALAXY	U727863	1/2/2002	EUR	563,220.38	Y
ALDhah	GROUP GALAXY	U728865	5/6/2002	EUR	319,020.60	Y

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Al-Doha	T711504	8/26/2002	EUR	319,020.90	Y
Al-Doha	T711536	5/27/2002	EUR	563,220.36	Y
Al-Doha	C72005	5/27/2001	USD	3,636,000.00	Y
Al-Doha	K717259	5/30/2001	USD	1,261,208.50	Y
Al-Doha	L720636	10/26/2000	USD	3,081,865.51	Y
Al-Doha	L720636	10/30/2000	USD	518,783.48	Y
Al-Doha	H706107	5/9/2001	USD	92,200.00	Y
Al-Doha	H706107	10/18/2001	USD	440,018.75	Y
Al-Doha	H723815	5/18/2001	USD	575,000.00	Y
Al-Doha	H723815	5/23/2001	USD	688,883.60	N
Al-Doha	Y714386	1/20/2004	EUR	2,194,038.21	Y
Al-Doha	P738862	1/20/2004	EUR	1,648,993.99	Y
Al-Doha	P738862	3/26/2004	EUR	1,352,892.73	Y
Al-Doha	U719622	1/9/2001	USD	601,308.36	Y
Al-Doha	Z716770	3/9/2000	USD	19,700.00	Y
Al-Doha	Z716770	7/17/2000	USD	1,183,872.67	Y
Al-Doha	Z716770	9/25/2002	USD	246,017.90	Y
Al-Doha	L726676	10/22/2002	USD	144,987.90	Y
Al-Doha	L726676	1/11/2003	USD	388,331.15	Y
Al-Doha	L726676	2/25/2001	USD	1,157,698.50	N
Al-Doha	C724284	3/30/2001	USD	696,188.75	N
Al-Doha	C724284	4/5/2001	USD	1,232,101.75	N
Al-Doha	U723142	5/16/2001	USD	494,973.75	Y
Al-Doha	U723142	9/10/2001	USD	821,000.00	Y
Al-Doha	U719182	8/17/2000	USD	1,138,944.73	Y
Al-Doha	U719182	9/22/2000	USD	1,416,167.94	Y
Al-Doha	V735371	12/16/2002	EUR	666,005.37	Y
Al-Doha	V735371	12/16/2002	EUR	16,822.90	Y
Al-Doha	L726819	3/21/2003	EUR	2,048,172.13	Y
Al-Doha	L726819	3/31/2003	EUR	668,726.56	Y



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East Star	AL RYADH INTERNATIONAL FLOWERS	K712Z47	61920002	USD	3,461,247.50	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	K712Z47	71920003	USD	2,136,566.00	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	P728916	21920003	EUR	971,920.25	N
East Star	AL RYADH INTERNATIONAL FLOWERS	P728916	22720003	EUR	1,246,061.44	N
East Star	AL RYADH INTERNATIONAL FLOWERS	P727031	262003	EUR	1,639,417.95	N
East Star	AL RYADH INTERNATIONAL FLOWERS	P727031	21920003	EUR	656,863.01	N
East Star	AL RYADH INTERNATIONAL FLOWERS	P727031	3172003	EUR	1,485,226.77	N
East Star	AL RYADH INTERNATIONAL FLOWERS	T721146	9122002	EUR	631,423.49	N
East Star	AL RYADH INTERNATIONAL FLOWERS	T721146	9242002	EUR	804,046.37	N
East Star	AL RYADH INTERNATIONAL FLOWERS	T721146	04172002	EUR	547,251.59	N
East Star	AL RYADH INTERNATIONAL FLOWERS	T721146	3302001	USD	1,960,000.00	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	3292001	USD	2,224,450.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	4192001	USD	3,659,486.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	522001	USD	3,065,364.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	7172001	USD	5,561,290.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	942001	USD	2,671,294.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	942001	USD	2,967,500.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	8212001	USD	743,895.80	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	7222002	USD	2,558,134.00	N
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	762001	USD	1,122,400.36	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	U718369	3622003	USD	872,469.37	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	Z168303	4112003	USD	2,293,718.10	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	Z168303	6292003	USD	1,648,313.19	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	Z168600	7192000	USD	3,769,663.32	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	Z168600	8212000	USD	3,122,912.35	Y
East Star	AL RYADH INTERNATIONAL FLOWERS	Z168600	7142003	EUR	3,669,352.28	Y
East Star	INESFOOD	B750462	1802003	EUR	2,402,423.07	Y
East Star	INESFOOD	B750462	1062003	EUR	616,469.98	Y
East Star	INESFOOD	B750462	10162003	EUR	1,625,621.01	Y
East Star	INESFOOD	B750462	11172003	EUR	1,121,079.39	Y
East Star	INESFOOD	C724207	262002	USD	6,102,610.00	N
East Star	INESFOOD	C724207	3162003	USD	526,010.00	N

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East Star	SOMEDIA	U722158	7/16/2003	USD	282,240.00	Y
East Star	SOMEDIA	U722158	8/9/2002	USD	275,166.00	Y
East Star	SOMEDIA	U722158	9/30/00	USD	282,214.80	Y
East Star	SOMEDIA	U722158	9/27/2002	USD	131,368.00	Y
East Star	SOMEDIA	U722158	11/6/2002	USD	547,668.40	Y
East Star	SOMEDIA	U722386	12/13/2002	USD	49,460.00	N
East Star	AL WASHREK	C723649	4/19/2001	USD	675,360.00	N
East Star	AL WASHREK	C724655	5/7/2001	USD	1,996,240.00	N
East Star	AL WASHREK	L727606	6/25/2002	EUR	214,709.52	N
East Star	AL WASHREK	L778707	9/19/2001	EUR	655,028.72	N
East Star	BAUER TATEB SHALLAH	P728350	6/25/2003	EUR	2,615,384.88	Y
East Star	BAUER TATEB SHALLAH	P728350	6/25/2003	EUR	671,666.43	Y
East Star	BAUER TATEB SHALLAH	P728350	8/12/2003	EUR	658,856.71	Y
East Star	BAUER TATEB SHALLAH	P728350	9/22/03	EUR	568,050.54	Y
East Star	AL AHAM TRADING	L728083	6/7/2002	EUR	3,271,169.66	N
East Star	AL AHAM TRADING	L728083	6/21/2002	EUR	3,968,331.57	N
East Star	AL AHAM TRADING	L728083	9/6/2002	EUR	4,642,269.75	N
East Star	AL AHAM TRADING	L728083	9/10/2004	EUR	795,961.18	Y
East Star	BATIMEX IMPORT CO.	L738181	8/10/2004	EUR	85,107.51	Y
East Star	BATIMEX IMPORT CO.	L738181	10/13/2004	EUR	461,746.85	Y
East Star	LANDMARK INTERNATIONAL	L752593	9/12/2002	EUR	4,078,172.08	N
East Star	LANDMARK INTERNATIONAL	L752593	9/22/2002	EUR	4,078,172.08	N
East Star	LANDMARK INTERNATIONAL	L752593	10/10/2002	EUR	3,404.07	N
East Star	NAHAS INTERTRADE	V726620	7/1/2003	EUR	260,674.27	Y
East Star	NAHAS INTERTRADE	V726620	8/2/2003	EUR	200,963.61	Y
East Star	NAHAS INTERTRADE	V726620	9/2/2003	EUR	281,317.75	Y
East Star	VOOSTRO	L715282	10/13/2000	USD	587,663.08	Y
East Star	VOOSTRO	L715282	12/22/2000	USD	611,417.20	Y
East Star	VOOSTRO	Z716579	4/1/2000	USD	1,575,336.00	N
East Star	VOOSTRO	P728521	9/22/2003	EUR	1,011,116.51	Y
East Star	DAMBOUL ECONOMIC GROUP	V726300	1/6/2003	EUR	737,632.71	Y
East Star	EL FARES EL ARABI	C724366	4/22/2002	USD	2,374,228.50	N

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East Star	EL FARES EL ARABI	U719006	5/2/2002	USD	665,110.00	N
East Star	FALCON TRADING	L726002	3/2/2002	EUR	1,032,501.00	Y
East Star	FALCON TRADING	L726002	5/20/2002	EUR	1,514,602.06	Y
East Star	FEDERALNY	Z718115	7/12/2003	USD	863,750.00	Y
East Star	FEDERALNY	Z718115	8/28/2003	USD	865,312.50	Y
East Star	SHASSAN B. SOUCCAR CO	P726351	10/6/2003	EUR	1,671,117.01	Y
East Star	SHASSAN B. SOUCCAR CO	P726351	10/6/2003	EUR	702,499.98	Y
East Star	MFPA ENTERPRISES LLC	T720246	10/15/2002	EUR	1,810,481.99	N
East Star	MFPA ENTERPRISES LLC	T720246	11/12/2002	EUR	852,675.66	N
East Star	REGIONAL ECONOMIC DEVELOPMENT	C724987	7/30/2001	USD	1,201,363.00	Y
East Star	REGIONAL ECONOMIC DEVELOPMENT	Z717021	4/28/2003	USD	1,260,000.00	Y
East Star	UNITED ARAB CO FOR INTERNATIONAL TRADE	L727969	5/23/2002	EUR	6,653,187.23	N
East Star	UNITED ARAB CO FOR INTERNATIONAL TRADE	V730033	10/21/2002	EUR	1,033,427.96	N
East Star	UNIVERSAL TRADING	U718780	8/25/2000	USD	679,948.43	Y
East Star	UNIVERSAL TRADING	U718780	9/6/2000	USD	1,185,503.07	Y
East Star	AL HODA INTERNATIONAL TRADING	C724505	9/20/2001	USD	808,029.68	Y
East Star	DEBS AND CO TRADING	P730702	7/17/2003	EUR	677,884.12	Y
East Star	FIRST INTERNATIONAL TRADING	V735333	10/18/2002	EUR	314,546.84	Y
East Star	KLOTTO	Z716967	4/10/2000	USD	306,204.00	Y
East Star	MACHINIMPORT	C724547	7/22/2002	USD	3,604,660.00	Y
East Star	RAYANA	C724006	7/30/2001	USD	279,753.60	Y
East Star	SELVAZ PROMEXPORT	V734298	8/13/2004	EUR	5,542,187.73	Y
Commodity Specialists	VOOSTROI	Y719000	6/24/1999	USD	532,634.40	Y
Commodity Specialists	VOOSTROI	Y719000	7/6/1999	USD	354,453.65	Y
Commodity Specialists	VOOSTROI	Y719000	7/14/1999	USD	353,660.42	Y
Commodity Specialists	VOOSTROI	Y719000	7/20/1999	USD	354,124.27	Y
Commodity Specialists	VOOSTROI	Y719000	7/20/1999	USD	354,378.44	Y
Commodity Specialists	VOOSTROI	Y719000	7/29/1999	USD	362,379.09	Y

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Commodity Specialists	W05TR01	Y71300	8/27/99	USD	363,990.73	Y
Commodity Specialists	W05TR01	Y71300	8/27/99	USD	264,818.71	Y
Commodity Specialists	W05TR01	Y71300	8/27/99	USD	264,734.52	Y
Commodity Specialists	W05TR01	Y71300	9/23/99	USD	263,985.22	Y
Commodity Specialists	W05TR01	Y71300	9/23/99	USD	283,477.26	Y
Commodity Specialists	W05TR01	Y71300	9/23/99	USD	350,851.51	Y
Commodity Specialists	W05TR01	Y71300	11/17/99	USD	351,040.44	Y
SPS Overseas	KLOTT0	C724938	11/14/2001	USD	24,546.76	Y
SPS Overseas	KLOTT0	C724938	11/14/2001	USD	69,388.52	Y
SPS Overseas	KLOTT0	C724938	11/14/2001	USD	69,400.32	Y
SPS Overseas	KLOTT0	C724938	18/2002	USD	101,462.03	Y
SPS Overseas	KLOTT0	U719442	9/14/2003	USD	36,382.50	Y
SPS Overseas	KLOTT0	U719442	10/6/2003	USD	72,765.00	Y
SPS Overseas	KLOTT0	U719442	10/6/2003	USD	60,637.50	Y
SPS Overseas	KLOTT0	U719442	12/22/2003	USD	24,255.00	Y
SPS Overseas	KLOTT0	U719442	12/22/2003	USD	24,255.00	Y
SPS Overseas	KLOTT0	U719442	12/22/2003	USD	24,255.00	Y
SPS Overseas	KLOTT0	U720073	3/6/2001	USD	16,404.37	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	3/4/2002	ELR	677,733.96	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	3/18/2002	ELR	877,332.10	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	3/18/2002	ELR	743,665.34	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	4/8/2002	ELR	1,212,758.19	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	4/8/2002	ELR	571,269.98	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	5/10/2002	ELR	1,477,906.26	Y
Arab Australian Dairy Goods	ONE NINE HOLDING CO	L728460	5/10/2002	ELR	284,785.54	Y
Tasket	RUSSTEMBER	U719173	9/19/2003	USD	174,000.00	Y

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Talbeel	RUSSTEAMER	Z178171	3/17/2000	USD	177,600.00	Y
Talbeel	STANDARD TRADING CO	G728350	25/2/00	USD	268,890.00	Y
Talbeel	FEDERALNY	U716358	11/02/00	USD	36,000.00	Y
Talbeel	RUSSIAN ENGINEERING CO	V724653	6/29/2004	EUR	376,365.32	Y
Talbeel	TYAZH PROM EXPORT	G724657	4/26/00	USD	41,375.00	Y
Talbeel	ZAO CO CONTACT TRADING	U719018	5/27/2000	USD	36,400.00	Y
AS Lacob	VODSTROI	Z176260	6/22/2000	USD	33,556.45	Y
AS Lacob	VODSTROI	Z176260	6/22/2000	USD	67,036.90	Y
AS Lacob	VODSTROI	Z176260	6/22/2000	USD	67,077.82	Y
AS Lacob	VODSTROI	Z176260	7/14/2000	USD	76,008.10	Y
AS Lacob	VODSTROI	Z176260	9/15/2000	USD	156,077.37	Y
AS Lacob	VODSTROI	Z176260	11/21/2000	USD	470,424.48	Y
Ambo Exports P.V.Ltd	AL RIYADH INTERNATIONAL FLOWERS	B751553	3/17/2004	EUR	212,982.05	Y
Ambo Exports P.V.Ltd	AL RIYADH INTERNATIONAL FLOWERS	B751553	3/30/2004	EUR	1,530,881.49	Y
Ambo Exports P.V.Ltd	AL RIYADH INTERNATIONAL FLOWERS	B751553	3/30/2004	EUR	531,743.91	Y
Ambo Exports P.V.Ltd	AL RIYADH INTERNATIONAL FLOWERS	B751553	3/30/2004	EUR	263,605.60	Y
Ambo Exports P.V.Ltd	AL RIYADH INTERNATIONAL FLOWERS	B751553	5/12/2004	EUR	187,567.75	Y
Ecoel	PHILAGRI PIRALUMONT	Y713822	3/2/2000	USD	2,033,281.40	N
Ecoel	PHILAGRI PIRALUMONT	Y713822	3/14/2000	USD	860,535.35	N
Ecoel	PHILAGRI PIRALUMONT	Y713822	3/30/2000	USD	742,532.12	N
Ecoel	PHILAGRI PIRALUMONT	Y713822	5/17/2000	USD	1,274,820.50	N
Egyptian International Company for Petroleum and Industrial Services	FEDERALNY	1714169	10/12/2000	USD	403,200.00	Y

ATTACHMENT 1

Egyptian International Company for Petroleum and Industrial Services	FEDERALNY	Y714189	2/2/2001	USD	614,400.00	Y
Egyptian International Company for Petroleum and Industrial Services	FEDERALNY	Y714189	3/25/2001	USD	355,200.00	Y
Egyptian International Company for Petroleum and Industrial Services	FEDERALNY	Y714189	5/10/2001	USD	403,200.00	Y
Sasatchewan Wheel Pool	ZAHIRAT AL RIYADH	Y713171	10/20/1999	USD	7,423,500.00	Y
Sasatchewan Wheel Pool	ZAHIRAT AL RIYADH	Y713171	2/29/2000	USD	7,882,976.80	Y
Sasatchewan Wheel Pool	ZAHIRAT AL RIYADH	Y713171	4/7/2000	USD	7510,225.70	Y
Sasatchewan Wheel Pool	ZAHIRAT AL RIYADH	Y713171	6/7/2000	USD	6,298,087.37	Y
Liangzi Cylinder Co.	FLEX ENGINEERING LTD PROJECT	L726237	4/25/2003	EUR	184,004.98	Y
Liangzi Cylinder Co.	FLEX ENGINEERING LTD PROJECT	L726237	6/7/2003	EUR	1,094,383.07	Y
Liangzi Cylinder Co.	FLEX ENGINEERING LTD PROJECT	L726237	8/7/2003	EUR	1,082,631.26	Y
Pacific Inter-Link	AL RIYADH INTERNATIONAL FLOWERS	Z716580	9/14/2000	USD	100,000.00	N
Pacific Inter-Link	REGIONAL ECONOMIC DEVELOPMENT	L720858	1/17/2001	USD	886,000.00	Y
Pacific Inter-Link	SOLMAN	C723213	6/11/2001	USD	580,000.00	Y
Société d'Etudes et de Commerce	VOOSTROI	Z716260	9/28/2001	USD	80,094.92	Y
Société d'Etudes et de Commerce	VOOSTROI	Z716260	1/7/2002	USD	158,282.08	Y

ATTACHMENT 1

Société d'Etudes et de Commerce	VOOSTROI	7/16/80	8/2/2000	USD	1,208,405.48	Y
Al-Kasbi Specialized Vehicles	RUSSIAN ENGINEERING CO	P736806	9/10/2004	EUR	1,695,024.22	Y
Al-Kasbi Specialized Vehicles	RUSSIAN ENGINEERING CO	V734443	12/11/2002	EUR	1,117,147.00	Y
Invefood	CEYLON COMMODITY	P736851	4/1/2003	EUR	85,263.28	N
Invefood	CEYLON COMMODITY	P736851	4/1/2003	EUR	2,413,146.80	Y
AMB Ltd	AL KARAOUJINE	U716651	7/10/2000	USD	5,496,663.22	N
BY Chemie Pharmacie	JUDCO IMPORT ATERA	K711792	11/01/1998	USD	64,980.00	N
Cargill International S.A. Antigua	ZAO SANKPROD.CO	Y714382	8/31/1993	USD	3,620,648.66	Y
Dany Green Trading	TRADE INTERNATIONAL	H708046	9/10/1997	USD	4,409,655.00	N
Ei-Hosan for Import & Export	AL-WASEL & BABEL GENERAL TRADING	U720563	1/11/2001	USD	1,341,849.50	Y
Glencore Cereals France S.A.	KLOTTO	Y713400	2/25/2000	USD	282,513.70	N
Halem Olavem	RUSSTEMBER	Y710840	8/20/1998	USD	262,312.50	N

ATTACHMENT 1

Heidrich & Hamoud	RUSSIAN ENGINEERING CO	1794835	4/4/2003	EUR	376,380.97	Y
Inteproject Italy SRL	ROSNIFTGAZEXPORT	U737300	9/20/2004	EUR	188,443.87	Y
Korea and Partners	JSC MOSENERGOMONTAGE	U722345	3/7/2001	USD	43,654.72	N
Lebanese General Trade Co	LETRA LEBANESE	U722979	4/2/2001	USD	314,372.50	N
SRI Daily Export	FROMAGE ETC	K718332	10/27/2003	USD	50,590.00	Y
Tata International Ltd	FEDERALNY	Y713871	10/4/1999	USD	525,000.00	Y

Total: 441,547,089.72

**Attachment 2  
to Interim Report****INFORMATION REGARDING CERTAIN SUPPLIER  
AND AFFILIATE RELATIONSHIPS REFLECTED IN  
ATTACHMENTS 1 AND 3 TO THE INTERIM REPORT****A. East Star Trading Company Ltd.****1. Supplier Relationships**

East Star, which was incorporated in the Cayman Islands on February 27, 1990, is affiliated with Pacific Inter-Link, a diversified business group engaged in various manufacturing and export activities. The ICP credit report for Pacific Inter-Link states that it was incorporated in Malaysia on June 22, 1988, and that its principal place of business is located at the Manara Dato Omn Putra World Trade Centre in Kuala Lumpur, Malaysia. According to its website, [www.pacificinter-link.com.my](http://www.pacificinter-link.com.my), Pacific Inter-Link is involved in the export of various goods and services from Malaysia and the Far East to the Middle East, Africa and Europe. The goods offered by Pacific Inter-Link for export include cosmetics and toiletries, detergents, paints, pharmaceuticals, soaps, plastics, rubber, polyurethane, paper, tin, building materials, cooking oils and foodstuffs, and other consumer products, according to its website.

The website further indicates that "Pacific Inter-Link ... is a member of the Hayel Saeed Anam Group, one of the oldest and most noted business conglomerates in the Arab world," founded in Aden, Yemen in 1938 by Hayel Saeed Anam.

Subsidiaries of Pacific Inter-Link include PT Pacific Indomas, PT Pacific Medan, PT Pacific Texindo, PT Pacific Palmindo, PT Pacific Agritama, PT Pacific Indo Dairy, PT

Oleochem & Soap, Pacific Oils & Fats and Asiatic Container. (*Id.*) Significantly, Pacific Inter-Link and seven of its affiliates – PT Pacific Indo Dairy, PT Pacific Indomas, PT Pacific Texindo, PT Pacific Medan, PT Pacific Agritania, PT Pacific Palmindo, and PT Oleochem & Soap – were awarded numerous UN-approved humanitarian supply contracts throughout the entire course of the Oil-For-Food Program, totaling approximately \$270 million in value.

BNPPNY's review to date has identified a number of payments, as set forth in Attachment 1 of the Interim Report, that were assigned by Al Riyadh International Flowers Co. for Investment Trading Industry & Medical Hygenic Services ("Al Riyadh") and various other beneficiaries of Oil-For-Food Program humanitarian letters of credit to a financing facility at Credit Agricole. As described below, funds were made available through that facility to East Star in order to finance the goods it supplied to those letter of credit beneficiaries, and thus the beneficiaries' performance of the underlying humanitarian goods transactions.

In recent discussions, Pacific Inter-Link has advised BNPPNY that East Star was the supplier to Al Riyadh and other beneficiaries of Oil-For-Food Program humanitarian letters of credit, and that these transactions were financed through a financing facility at Credit Agricole.<sup>1</sup> Credit Agricole, which on various occasions during the course of the Program had confirmed representations by humanitarian letter of

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<sup>1</sup> Representatives of four humanitarian letter of credit beneficiaries – Al Riyadh, Regional Economic Fund, PT Quarto Bina Upaya, and Al Hoda International Trading – recently have confirmed that their companies assigned proceeds from their letters of credit to the Credit Agricole financing facility in order to finance their purchases from East Star or Pacific Inter-Link of the goods required under their UN-approved contracts.

credit beneficiaries that they were assigning proceeds to that financing facility in order to obtain financing for the underlying transactions, recently reconfirmed this point.

2. Affiliate Relationships

As noted above, PT Pacific Indo Dairy, PT Pacific Indomas and PT Pacific Texindo are identified by Pacific Inter-Link as its subsidiaries on its website. As set forth on Attachment 3, all three of these entities were letter of credit beneficiaries and as such directed payments to the Credit Agricole financing facility maintained by East Star at Credit Agricole.

East Star and Pacific Inter-Link are both 100% owned by the same entity, Commodities House Investment Ltd. Discussions with representatives of Al Riyadh, Regional Economic Development Fund and PT Quarto Bina Upaya, all of which are beneficiaries of humanitarian letters of credit, have confirmed that East Star and Pacific Inter-Link are part of the same group, and that East Star provided Pacific Inter-Link with access to financing through its facilities.

**B. Al Douh Jordanian Establishment**

1. Supplier Relationships

Al Douh was organized in 1993 in Amman, Jordan as a general partnership. According to the ICP credit report on Al Douh, it was founded by members of the Al Farhood family, which previously had emigrated to Jordan from Iraq. It is part of a large group of companies engaged in the production and supply of foodstuffs and other merchandise throughout the Middle East, with its principal place of business located at the Aqarco Commercial Centre in Amman, Jordan. Its affiliates include Al Methalia Establishment for Dairy Products, Al Naba Al Safi Industrial Establishment, Al

Jawhara Foodstuff Co. Ltd., Al Riyadh Co. for Detergents Industry, and Al Riyadh Co. for Vegetable Oil Industry, all of which have facilities located in Jordan. All of these affiliates were UN-approved suppliers of humanitarian goods under various letters of credit issued during Phases 3 through 13 of the Oil-For-Food Program, aggregating approximately \$88 million in value.

BNPPNY's review to date has identified a number of payments, as set forth on Attachment 1 to the Interim Report, that were assigned by various beneficiaries of Oil-For-Food Program humanitarian letters of credit to an account at HSBC. That account was used to repay HSBC for the funding it made available to Al Douh, which enabled it to supply goods to those letter of credit beneficiaries, who in turn furnished the goods to Iraq pursuant to humanitarian contracts authorized by the UN. The beneficiaries provided representations that they were receiving transaction financing from the HSBC financing facilities at the times they requested that proceeds of their letters of credit be assigned thereto, and those representations were confirmed by HSBC on various occasions during the course of the Program.

Al Douh recently has confirmed to BNPPNY that it supplied a number of humanitarian letter of credit beneficiaries with goods – including, among other staples, baby milk powder, full cream milk powder, vegetable ghee, toilet soap and feed barley – that those beneficiaries had agreed to furnish to Iraq pursuant to contracts they had been awarded under the Oil-For-Food Program. Al Douh advised that the contractual relationship between Al Douh as a supplier, and the beneficiary of a letter of credit, as a buyer, typically was formed through the issuance of a purchase order by the beneficiary to Al Douh, followed by a return invoice from Al Douh to the beneficiary for the price of

the goods. Al Douh further indicated that letter of credit proceeds were assigned by the beneficiaries to credit facilities at HSBC to secure financing for the goods supplied to them by Al Douh. Al Douh explained that as HSBC received payments into these accounts, funds were used to repay that bank for financing the goods being supplied by Al Douh.

**C. Talfeet Trading Est.**

1. Supplier Relationships

Talfeet Trading Establishment ("Talfeet") is an import/export company that trades primarily in teas and foodstuffs. It was registered as a partnership in Amman, Jordan in 1996 and maintains its principal place of business at the Al Aqad Complex in Amman. Its sole proprietors are Saleh J. Ihmaid, its chief executive, and Kamal Ihmaid, its financial manager. Talfeet was itself a UN-approved beneficiary under various humanitarian letters of credit with an aggregate value of approximately \$18 million.

BNPPNY's review to date has identified a number of payments, listed on Attachment 1 to the Interim Report, that were assigned by several beneficiaries of Oil-For-Food Program humanitarian letters of credit to accounts at the Philadelphia Investment Bank and Jordan Islamic Bank, both located in Amman, Jordan. The beneficiaries represented that they were assigning those proceeds in order to obtain transaction financing, and both banks confirmed those representations on various occasions during the course of the Program.

Talfeet advised BNPPNY in a recent discussion that funding was made available for its trading activities through financing facilities at those banks. Talfeet further advised that it supplied a number of Oil-For-Food Program letter of credit

beneficiaries with the goods they were required to furnish pursuant to their underlying humanitarian goods contracts. Talfeet explained that the assignments of proceeds were provided by the beneficiaries in order to provide security for the repayment of the financing for those transactions by the banks.

2. Affiliate Relationships

Discussions with Talfeet confirmed that it was a part owner of Nivitigala Tea Factory (PVT) Ltd., Ranfer Teas (PVT) Ltd., A.S. Chatoor (Tea) Ltd., and AgriNad, all of which are letter of credit beneficiaries that assigned proceeds to the financing facilities maintained by Talfeet. Talfeet advised BNPPNY that its managing partner had signature authority for all of these entities as well as for Talfeet. Documents in the letter of credit files sent to BNPPNY by these companies all include the managing partner's signature.

**D. Inesfood Group – International Food Trading – Arab Oil Co.**

1. Affiliate Relationships

There are strong indications that International Food Trading and Arab Oil Co. are part of the Inesfood Group. The names of these companies variously appear together on the letterhead of correspondence to BNPPNY maintained in the letter of credit files. All three companies have their principal place of business at the same address: Inesfood Food Center, Rue de La Mosquée, La Mornagua, Tunis, Tunisia. Extracts from the commercial register in Tunisia recite that International Food Trading and Inesfood Group have given the same individual, Jalel Ben Aissa, the authority to sign on behalf of both companies. Al Douh, which was a supplier to Inesfood Group and Arab Oil Co., has indicated that the three are affiliated entities.

**E. Telwar International Inc. – Aegean Marble Inc.**

1. Affiliate Relationships

According to a report of Dun & Bradstreet, Aegean Marble Inc. ("Aegean") is a corporation organized under the laws of the state of Georgia, with its principal place of business located at 7104 Crossroads Boulevard, Suite 123, Brentwood, Tennessee 37207. The capital stock of Aegean is 100% owned by its senior personnel, Hasin Bayram, CEO, Alikan Telwar, President, and Lisa Telwar, CFO and Secretary.

Aegean shares offices with Telwar International Inc. ("Telwar"), an international exporter of commodities including wheat, vegetables, rice, beans and fertilizer to the Middle East organized in 1978 under the laws of the state of Tennessee. Fatima Telwar, the mother of Alikan Telwar, is the owner and president of Telwar. Both Telwar and Aegean have directors and officers who are members of the Telwar Family.

Telwar was the beneficiary of seven Oil-For-Food Program humanitarian letters of credit issued pursuant to UN-approved contracts to supply goods to Iraq. The review conducted by BNPPNY to date has identified five of these letters of credit under which Telwar assigned proceeds to the account of Aegean at First Tennessee Bank, as reflected on Attachment 3 to the Interim Report. Telwar has advised BNPPNY that the proceeds assigned to Aegean were to reimburse Aegean through its account at First Tennessee Bank for a loan that Aegean had extended to Telwar to finance Telwar's acquisition of goods that it had contracted to supply to Iraq under the Oil-For-Food Program.

**F. Limpex Trading – Letra Lebanese Trade Co.**

1. Affiliate Relationships

Both Limpex Trading and Letra are owned and operated by the Al Banna family, as evidenced by extracts from the Beirut Commercial Register with respect to Letra and incorporation documents in Canada with respect to Limpex, which is based in Montreal, Canada. These entities have confirmed in recent discussions that they are owned by members of the same family.

**G. Zahrat Al Riyadh – Prince Bandar Bin Mohammed Bin Abdulrahm Al Saud**

1. Affiliate Relationships

A representative of Prince Bandar, a member of the Saudi Royal family, has advised BNPPNY that the Prince is the owner of Zahrat Al Riyadh ("Zahrat"), a UN-approved humanitarian letter of credit beneficiary. A portion of the proceeds under one letter of credit issued to Zahrat were paid to the Prince, who also reportedly is the owner of Al Riyadh International Flowers Co.

ATTACHMENT 3

International Food Trading	INESF000	C72427	5/20/2001	USD	1,173,550.00	N
International Food Trading	INESF000	C72427	5/26/2001	USD	4,113,515.00	N
International Food Trading	INESF000	C72427	6/25/2001	USD	2,640,400.00	N
International Food Trading	INESF000	F76047	3/10/2000	USD	96,471.20	N
International Food Trading	INESF000	F76047	4/7/2000	USD	73,845.38	N
International Food Trading	INESF000	G70448	7/17/2000	USD	25,482.40	N
International Food Trading	INESF000	G70448	7/17/2000	USD	47,761.30	N
International Food Trading	INESF000	G70437	8/6/2000	USD	19,532.96	N
International Food Trading	INESF000	K11028	11/18/1999	USD	222,560.42	N
International Food Trading	INESF000	K11028	11/28/1999	USD	101,774.00	N
International Food Trading	INESF000	K11028	12/17/1999	USD	89,821.50	N
International Food Trading	INESF000	K711028	1/20/2000	USD	23,823.50	N
International Food Trading	INESF000	K711028	2/10/2000	USD	4,589.24	N
International Food Trading	INESF000	Y71284	7/14/2000	USD	444,438.50	N
International Food Trading	INESF000	Y71284	7/10/2000	USD	36,371.75	N
International Food Trading	INESF000	Y71284	3/10/2000	USD	60,655.25	N
International Food Trading	INESF000	Y713488	2/25/2000	USD	80,923.49	N
International Food Trading	ABAS OIL CO	F70451	11/24/1999	USD	125,840.00	N
International Food Trading	ABAS OIL CO	U118176	8/6/2000	USD	208,657.13	N
Tea	INVITIGALA TEA	U72882	10/19/2000	USD	530,850.00	Y
Tea	INVITIGALA TEA	V734653	10/17/2000	EUR	208,527.16	Y
Tea	INVITIGALA TEA	V734653	10/17/2000	EUR	281,075.20	Y
Tea	INVITIGALA TEA	V734653	12/20/2000	EUR	281,075.20	Y
Tea	INVITIGALA TEA	V734653	12/20/2000	EUR	228,332.72	Y
Tea	INVITIGALA TEA	V734653	12/20/2000	EUR	965,949.96	Y
Tea	INVITIGALA TEA	Y713556	7/8/1999	USD	178,910.00	Y
Tea	RANFER TEAS	C723821	2/6/2001	USD	251,890.00	Y
Tea	RANFER TEAS	C723821	2/6/2001	USD	251,890.00	Y
Tea	RANFER TEAS	C723821	5/2/2001	USD	251,890.00	Y
Tea	RANFER TEAS	Y713520	7/8/1999	USD	177,000.00	Y



# Appendix C

angelita.castro [REDACTED]

**From:** Ezio Testa [REDACTED]  
**Sent:** Sunday, November 28, 2004 8:05 AM  
**To:** angelita.castro [REDACTED]  
**Cc:** alex.quinteros [REDACTED]  
**Subject:** FW: Update on Sudan

*AD Nov 28, 2004*

Angelita ,  
 For your info and the file .  
 Thank you .

**Ezio Testa**  
 President & CEO  
 IHC Services, Inc.  
 132 Lexington Avenue, Ste. 600  
 New York, N.Y. 10016  
 Telephone: [REDACTED]  
 Fax: [REDACTED]  
 Mobile: [REDACTED]  
 GSM: [REDACTED]  
 e-mail: Ezio.Testa [REDACTED]

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**From:** Andy Selwert [REDACTED]  
**Sent:** Sunday, November 28, 2004 5:12 AM  
**To:** Ezio Testa  
**Subject:** FW: Update on Sudan

Dear Ezio  
 FYI  
 Best Regards  
 Andy

**From:** Stephen Queen  
**Sent:** Sunday, November 28, 2004 10:17 AM  
**To:** Andy Selwert  
**Subject:** FW: Update on Sudan

FYI  
 Regards,  
 Stephen Queen

12/2/2004

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Cost Manager  
Office [REDACTED]  
Fax [REDACTED]  
Mobile [REDACTED]  
Int Mobile [REDACTED]

From: Steve Bickerstaff [REDACTED]  
Sent: Saturday, November 27, 2004 1:48 PM  
To: ShaneStevenson GTC; Stephen Queen  
Cc: Mecteld GTC  
Subject: Update on Sudan

Gents,

good morning, please find attached a document detailing 1) my meeting with the UN and 2) my thoughts on the supply chain in country and, a spreadsheet detailing the latest data on UN troop deployments (unofficial)

I am getting updated quotes for trucking and flights at this time and will send through once I have them.

Can you pls peruse the document and get back to me with any points for clarification ASAP; my time in country is limited and am leaving Wed or Thurs at this stage.

Pls also note my comments regarding my meeting with the head of the UNOPS. From the people here, he is very well connected, fly's regularly to NY and seemed very interested in the ration contract.

Mecteld - can u pls place this on file and it is a copy for Steve K if he is in.

Stephen Bickerstaff  
Field Logistics  
Compass Global Transit Centre  
Dordrecht, Holland  
[REDACTED]  
[REDACTED]

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**Meeting With Terry Allen – UN Rations Contracts Officer Sudan and General Points – by Steve Bickerstaff**

I had a meeting with the above gentleman on Thursday 25 Nov 04 to discuss various issues with the forthcoming rations contract in Sudan. Pls find below a summary of this, with many points pertinent to the forthcoming bid.

**Past Performance ESS / Recent Bid on Sudan**

Terry commenced with raising various points regarding our other contracts where ESS had problems, from Liberia to the current Kosovo contract, and stated that many questions were being asked in NY as to our ability to mobilise another contract given our track record (I have no idea if he actually has access to this type of information and how/if involved he would be with NY as a contract manager?).

He also mentioned that for the laundry contract in Kosovo, we came in considerably cheaper than Esko.

For the recent Sudan bid, Terry stated that there were doubts expressed about ESS's logistic plan in country. When questioned further, he indicated that this was in relation to the actual in-land logistics and how we would actually effect the logistics (ie specific details). He also stated that as some companies had good plans for example the north and others the south. Due to this, he had campaigned for the contract to be divided into regions so that the best company could be selected for a different region. Also, it would give the UN a back-up to allow a company to overtake an area if one contractor was not performing well.

**Sudan Contract**

The contract is divided into 3 regions as you are aware; south, north and Darfur. Pls note the following points:

- We must have a W/H in each regions with the required stockholding, however our bid should include an option for savings if we are able to win two or more regions. ie one x central W/H for both regions, with a distribution centre in the other, with 7 days stockholding.
- He is concerned about bread. I indicated we were looking at mobile bakeries which he was very happy with and said one of our competitors is doing the same and had placed that in the original bid; which was well in their favour.
- He advised very strongly against using Khartoum as a logistic base due to the costs etc (see my summary for my feelings at this time of how we should operate).
- For Wau, he said it may be received favourably if we look at an air option for inflit, CLEARLY stating that the reason we are giving this option is to keep the integrity of the rations etc due to the poor road system and likelihood for delays etc (once again, pls see my thoughts for this in my summary).
- Importation:
  - o Stated ESS will have the same benefits as the UN in relation to this (as normal),
  - o Docs must be here 3 days before to effect pre-clearance (as we reported from previous visit),

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- Indicated that SDV agent in Port Sudan was the customs officer for the current director of customs and that they are very close,
  - UN will assist our importation for the first load. After that we are on our own,
  - UN wants us to consider using the same agent as them. ie 1 agent who is seen to be the UN contact.
- Indicated that rail is a very poor option initially. This confirms our assessment from our last Sudan visit; although it is something we should look at when we have a stockholding established.
  - The UN will eventually have the rail terminal rebuilt at al obeid (log base) and we can tap into this.
  - The UN WILL NOT accept ESS operating out of reefers. He stated we MUST include chiller and freezer rooms for our W/H's, except for the rapid mobilisation where we will be forced to use reefers until we can be established.
  - Back orders for fresh will not be entertained (I think this is standard in UN operations now).
  - The UN have no problem with ESS using local fresh rations if they meet the specs, however, there is a caveat; The UN will not allow ESS (or other company) to use local fresh and insist on import if it is found that we are depleting the local market and forcing local prices to rise.
  - Terry indicated from Khartoum to Abiye is a 7 day trip and it is possible to travel to here and Wau in the wet season (although I dispute this).
  - Terry indicated that there are no W/H's in El Obeid (UN distribution centre) and that we would be required to build our own. From speaking to contacts here, they have stated W/H is avail. I am trying to get prices for this.
  - Future operation of contract. Terry indicated the following for the future:
    - The UN would do away with BOP A and BOP B,
    - The current 19 groups in the ration scale would be reduced to 4 or 5,
    - Units will be able to order whatever they want up to the CMR (I raised this would give us forecast/stock-holding problems, and he stated that it would be 'eased in' - in the beginning it would be a push system. He indicated therefore that for eg chicken consumption will be higher(note 1 - need good price for chicken))),
    - Contingents will go direct to ESS for orders, not through the UN and it will be up to us to ensure that the unit does not go over CMR. For problems with units orders, we however would go back through the UN,
  - Other than the possible rapid mobilisation, Terry indicated the latest update is that the contract would commence 15 Jan with regional HQ in place then and with troops in locations by end Jan for 3 x major camps: Juba, Malakal and Kassala of 2000 to 3000 trps.
  - Terry gave the latest troop data. Each site will now only consist of two delivery points (note: for the bid we still have to work as per the RFP). I have included a table, which gives this latest data; noting it could change again.
  - We will be responsible for 8 x 20 ft containers of Military rations. These will be stored in various locations. They MUST have a cooling system to keep them below 26 degrees Celsius, or for eg be insulated sea containers.
  - Terry indicated that if we do not comply with mobilisation, then he will be taking action to either reduce or nullify our mobilisation fee.

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- An indication was given of the nationalities of troops. They will be mostly be comprised of Muslim nations. This is important for purchasing (ie most likely/volumous products used by Muslim nations and requirement for Halal),
- Bottled water is at 4 lt per man per day. The UN is happy for local companies to be used as long as we can produce certificate of WHO standards. I am trying to get this at the moment.

#### Indications on Competitors

As stated, some limited information was given on what our competitors are doing. Terry stated that the contract was divided into regions due to certain companies having 'very good' plans for some regions. He particularly indicated Esko here for the South. Their proposal was for a supply chain out of Entebbe using a chartered plane for supply to the Sth Sudan. This is a co-location of its supply base for its Congo contract.

He also indicated that one company had put mobile bakeries in the initial plan, which was received very well. Another company is purchasing its own trucks (10 to 12) to effect the distribution in the North ie from PS down.

#### My Thoughts on the Logistic Plan

The main entry point will be PS, with stock then being delivered south from there. I recommend that it is trucked direct to El Obeid, however, if we want to pursue the option of de-stuffing in a W/H in PS then that is an option. If we truck direct from PS, it is ESSENTIAL that we have clip-on gensets available for mobilisation. I recommend we pre-purchase these and position them as soon as contract is announced.

For trucking, we can look at operating our own fleet or using the in-country truck system. I should have the prices through for this by Tuesday, so that you will be able to compare against the cost of purchasing trucks. As a guide, you already have the prices given previously in September.

If we de-stuff into a PS W/H then we will be able to deliver direct to Sector W/H locations for:

- El Obeid,
- Ed Damizin,
- Malakal (dry season only)

However, I think we will still need a W/H in Khartoum or Obeid. We need to discuss the PS W/H v's El Obeid W/H options!! (ie advantages/disadvantages/relative costs ie requirement for additional W/H however saving on Demurrage etc)

As Sudan is established into 3 a regions, for a central W/H I would recommend that either Khartoum or El Obeid be used; with my initial leanings towards el Obeid. We can AF direct into here if required from overseas and there is a good road system from PS, our SPO, to this location. It can then link into all regions we may be required to

IHC006049  
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operate in. We look at establishing a HQ logistic base in El Obeid. This is for a number of reasons including the following:

- It will be the UN logistics base so we will 1) be co-located and 2) possibly be able to tap into their log support,
- The UN are going to establish a rail head there. Once it is operating (and we have sufficient stocks on ground) we can look at this as a cheaper means of re-supply from PS,
- From what I understand there is sufficient W/H or land to allow us to establish a dist centre,
- It has an international airport. We can fly into here from overseas and then to other locations ie Wau/Juba if required,
- It has a reasonable link into the Northern sites (noting except Malakal in the wet season),
- In the dry season we can deliver to Wau from there,
- It is likely to be cheaper than Khartoum,
- We can use this in our bid as the option for a central W/H to Service all regions,
- AF from here to Wau, Malakal etc in the wet season will be cheaper.

The disadvantages for El Obeid are:

- It is an additional 500 kms past Khartoum, and then we will need to deliver back along the same route for ie Ed Damazin.
- We will need some presence in Khartoum (UNHQ) or have to travel there weekly)

For the Southern region, I strongly recommend that we investigate supply out of Kenya into Juba. As the road is apparently mined, this initially could be supported either by air from El Obeid or from Lokichokio. We would need someone to look at the supply chain in Kenya and investigate the possibility of using Lokichokio as an airhead for supply into Juba (poss Wau depending on cost). Pat Kamal is apparently the most familiar with this region from SSI operations. I do not know if this is viable on a cost comparison basis.

#### Stock-Holding

I recommend more than the two weeks stockholding specified by the UN. Note that the supply chain in Sudan is extremely long and delays/complications will exuberate and already difficult operation. The wet season will also significantly affect our operation for the following areas:

- Sector HQ:
  - Wau,
  - Malakal,
  - Juba
- Site locations:
  - Rumbek,
  - Aweil,
  - Abye,
  - Bentui,
  - Waat,
  - Nasir,

o Kurmuk.

To counter this, I would recommend that we propose to place significant stock holdings of dry/frozen products in these locations (4 months) and fly in the fresh weekly. This will considerably cut down on our air hours. Negotiation will be required with the UN and units for storage space and permission to do this. It may be difficult for the frozen product but should be Ok for at least the dry. This was done in Eritrea.

For areas not affected by the wet season, I would suggest that we maintain a 3 week to 1 month stock holding in a central W/H and 7 days in the sector HQ locations. I can also see that we could argue the necessity to have a W/H in one of the sector HQ locations (Kagduli) if we have a central W/H at El Obeid. We could deliver from El Obeid all year round to:

- Dilling,
- Kagduli,
- Talodi.

Supply of Wau

Note I have not been there at this stage, however these are my thoughts:

Dry Season

- Wau be supplied direct from the El Obeid base by truck for dry and frozen,
- A W/H of 21 days stock frozen and dry is maintained (even in dry season, supply will not be easy and free-flowing),
- Fresh is Flown in weekly to Wau or direct to site if possible for goods unable to be purchased locally,

Wet Season

- Request to the UN to increase site stockholdings on site to 4 months for at least dry and hopefully frozen,
  - Increase the Wau W/H stockholding concurrently,
  - Fly in Fresh direct to sites by combo of Fixed Wing and helo.
- Additional on Fresh
- Possibility of our staff visiting site locations and determining what is available locally and the price. We give the site an 'amount of money' to purchase their CMR quantity themselves and ESS deliver the rest by means stated above.

Note the above will be applicable for Malakal as well.

Maintaining Cold Chain for AF

There is no facility for dry ice etc in-country. If we are to deliver by air chilled, we will require our own facility or machine.

Equipment

Selection of equipment is essential. The distances in Sudan are very very long and maintenance of equipment will be a difficult issue. We need to purchase equipment that is:

- Heavy duty and able to operate in both extreme heat and dust (northern/Western region) and extreme heat and humidity (southern region),
- Equipment that is already in-use in country to allow a more effective supply of repair parts and personnel able to service/maintain the equipment.

The local available equipment has already been specified in the reports from Sep (ie Caterpillar for forks and gensets, Toyota for vehicles).

#### Rapid Mobilisation

There are four international airports to airfreight into:

- Khartoum,
- PS,
- El Obeid,
- Juba.

We would need to de-stuff from there and deliver to locations or have the military pick up. I assume this will be a reduced ration scale. Clarification is needed on how this will operate and what the scale will be. I will try to get what info I can from the in-country UN rations manager.

#### Additional Information

The country co-ordinator for UNOPS, Mr Andrew Robertson, heard I was in town and came to the hotel to contact me. He stated that it would be received very well in the UN if we put an additional appendix to our bid stating that we wish to assist develop the country and can assist in such ways as training of local suppliers and farmers on food production, HSE standard, transport of goods etc.

As stated on my last e-mail I am trying to get to Wau and also Mahmoud to Juba. Pls let me know what you need clarified from the above as I have limited time in country.

IHC006052  
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# Appendix D



**MINUTES OF THE ANNUAL MEETING  
OF DIRECTORS  
OF  
IHC SERVICES, INC.**

The Annual Meeting of Directors of IHC SERVICES, INC. was held January 30, 1998 at Via Dei Piatti, 9, Milano, Italy. The following being all of the Directors of the Company were present:

Giandomenico PICCO	Chairman of the Board
Ezio TESTA	Managing Director
Dario FISCHER	Director
Alberto LODIGIANI	Director
Sandro ROBLIANNI	Director

The meeting was called to order by Mr. GIANDOMENICO PICCO, who ordered the Waiver of Notice of the Meeting which had been signed by all of the directors to be appended to the Minutes of the Meeting and made part thereof.

The first item of business was the election of officers of the company. Nominations were duly made and seconded and the following individuals were unanimously elected officers of the company for the ensuing year:

EZIO TESTA	Chief Executive Officer
EZIO TESTA	President
WILLIAM J. ETHERSON	Vice President Finance & Administration
WILLIAM J. ETHERSON	Secretary

The second item of business is the nomination and appointment of EZIO TESTA and WILLIAM J. ETHERSON as Co-Trustees of the pension plan.

IHC000030

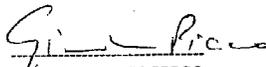


The Board reviewed and discussed the 1997 results of operation and current and future plans as outlined in the AGENDA which are appended to the Minutes of the Meeting and made part thereof.

There being no further business, the Meeting adjourned.

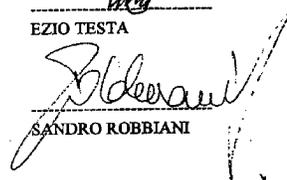
Dated: January 30, 1998

  
DARIO FISCHER

  
GIANDOMENICO PICCO

  
EZIO TESTA

  
ALBERTO LOBIGIANI

  
SANDRO ROBBIANI



**MINUTES OF THE ANNUAL MEETING  
OF SHAREHOLDERS  
OF  
IHC SERVICES, INC.**

The Annual Meeting of Shareholders of IHC SERVICES, INC. was held on February 16, 1999 at Via Dei Piatti, 9, Milano, Italy.

The meeting was called to order by MR. GIANDOMENICO PICCO, who ordered the Notice of the Meeting to be appended to Minutes of the Meeting and made part thereof.

The Chairman reported that the sole shareholder of IHC SERVICES, INC. was represented and he then presented his annual report.

The Chairman then proceeded to the election of a Board of Directors to serve for a period of one year and until successors are elected and qualified. Nominations were duly made and the following individuals were elected:

Giandomenico PICCO	Chairman of the Board
Ezio TESTA	Managing Director
Dario FISCHER	Director
Alberto LODIGIANI	Director
Sandro ROBBIANI	Director

CONSENTED TO THIS DAY, 16 FEBRUARY 1999.

TORNO S.A.H.

  
BY DR. DARIO FISCHER  
PRESIDENT

IHC000029



ACTION BY UNANIMOUS WRITTEN CONSENT  
OF THE BOARD OF DIRECTORS  
OF  
IHC SERVICES, INC.

The undersigned being all of the Directors of IHC SERVICES, INC., a New York corporation, do hereby consent to, and approve and adopt the following resolution pursuant of the Business Corporation Law of the State of New York.

RESOLVED that in order to enhance sales and marketing initiatives in South and Central America and other regions as designated by the CEO and President, the position of "Vice President - Marketing and International Sales" is established.

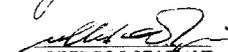
FURTHER RESOLVED that EDUARDO L. AMBROS be and hereby is appointed to the position of Vice President - Marketing and International Sales, effectively immediately.

IN WITNESS WHEREOF, the undersigned have executed this written consent on the date set forth below and direct that it be filed in the minute book of the corporation.

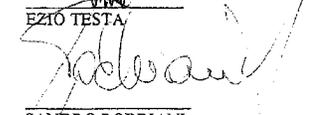
Dated: February 16, 1999

  
GIANDOMENICO PICCO

  
DARIO FISCHER

  
ALBERTO LODIGIANI

  
EZIO TESTA

  
SANDRO ROBBIANI

IHC000028



**MINUTES OF THE ANNUAL MEETING  
OF DIRECTORS  
OF  
IHC SERVICES, INC.**

The Annual Meeting of Directors of IHC SERVICES, INC. was held on February 16, 1999 at Via Dei Piatti, 9, Milano, Italy. The following being all of the Directors of the Company present:

Giandomenico PICCO	Chairman of the Board
Ezio TESTA	Managing Director
Dario FISCHER	Director
Alberto LODIGLIANI	Director
Sandro ROBBIANI	Director

The meeting was called to order by MR. GIANDOMENICO PICCO, who ordered the Waiver of Notice of the Meeting which had been signed by all of the Directors to be appended to the Minutes of the Meeting and made part thereof.

The first item of business was the election of officers of the company. Nominations were duly made and seconded and the following individuals were unanimously elected officers of the company for the ensuing year:

EZIO TESTA	Chief Executive Officer
EZIO TESTA	President
WILLIAM J. ETHERSON	Vice President Finance & Administration
WILLIAM J. ETHERSON	Secretary

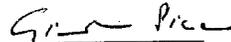
The second item of business is the nomination and appointment of EZIO TESTA and WILLIAM J. ETHERSON as co-Trustees of the pension plan.



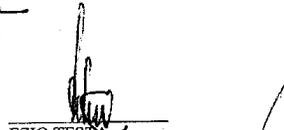
The Board reviewed and discussed the 1998 results of operation and current and future plans as outlined in the AGENDA which are appended to the Minutes of the Meeting and made part thereof.

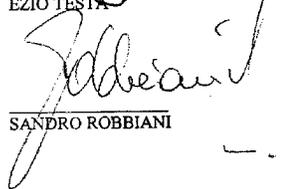
There being no further business, the Meeting adjourned.

Dated: February 16, 1999

  
GIANDOMENICO PICCO

  
DARIO FISCHER

  
EZIO TESTA

  
SANDRO ROBBIANI

  
ALBERTO LODIGIANI



**MINUTES OF THE ANNUAL MEETING  
OF DIRECTORS  
OF  
IHC SERVICES, INC.**

The Annual Meeting of Directors of IHC SERVICES, INC., was held on February 17, 2000 at 14-09 110<sup>th</sup> Street, College Point, NY 11356, USA. The following being all of the Directors of the Company present:

Giandomenico PICCO	Chairman of the Board
Ezio TESTA	Managing Director
Dario FISCHER	Director
Alberto LODIGIANI	Director

The meeting was called to order by MR. GIANDOMENICO PICCO, who ordered the Waiver of Notice of the Meeting which had been signed by all the Directors to be appended to the Minutes of the Meeting and made part thereof.

The first item of business was the election of officers of the company. Nominations were duly made and seconded and the following individuals were unanimously elected officers of the company for the ensuing year:

EZIO TESTA	Chief Executive Officer
EZIO TESTA	President
WILLIAM J. ETHERSON	Vice President Finance & Administration
WILLIAM J. ETHERSON	Secretary
EDUARDO AMBROS	Vice President
ERALDO DEL VITTO	Vice President

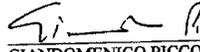
The second item of business is the nomination and appointment of EZIO TESTA and WILLIAM J. ETHERSON as co-trustees of the pension plan.

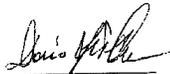


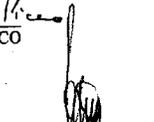
The Board reviewed and discussed the 1999 results of operation and current and future plans as outlined in the AGENDA which are appended to the Minutes of the Meeting and made part thereof.

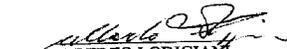
There being no further business, the Meeting adjourned.

Dated: February 17, 2000

  
GLANDOMENICO PICCO

  
DARIO FISCHER

  
EZIO TESTA

  
ALBERTO LODIGIANI

# **Appendix E**

TRANSMIT REPORT

1997.05-20 16:43

BAYOIL

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
291		05-20 16:42	00:48	02/02	OK		

7468210182



BAYOIL

# FAX FACTS

DATE: May 20, 1997

The enclosed material is intended for the recipient named below and, unless otherwise expressly indicated, is confidential and privileged information. Any dissemination, distribution, or copying of the enclosed material is prohibited. If you receive this transmission in error, please notify us immediately by telephone, at our expenses and destroy the enclosed material. Your cooperation is appreciated.

TO: Gianni Picco

COMPANY: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

FROM: Jean Johnston/David B. Chalmers

NUMBER OF PAGES (INCLUDING COVER) 2

COMMENTS: \_\_\_\_\_

Robin thought you should see the approach we were taking. Please find below David Chalmers contact numbers:

U.N. Plaza Hyatt Hotel

Portable

BAY04-00439

DRAFT

TO: Gianni Picco  
FAX: [REDACTED]  
FROM: David B. Chalmers, Jr.  
DATE: August 8, 2002

---

Dear Gianni:

The recently reported July price formula controversy is characterized by two key issues, whereby the current procedures for establishing price formulas have over time departed from the guidelines outlined under Resolution 986, and followed until this year, to today's practices for setting prices which is drawing criticism by the industry and detrimental to the future success of the program.

Firstly, the primary areas of concern relate to changes in methodologies applied by the U.N. Overseers for determining a "fair market" formula for particular periods, along with a change in the procedure for communications with S.O.M.O. and industry sources with respect to adhering to the strict guidelines under Resolution 966 pertaining to their responsibilities.

Secondly, as more widely reported, the procedure adopted over the past months by the 661 Committee, to hold formula prices submitted by S.O.M.O., with Overseer approval, has resulted in a broad base criticism by the industry for not adhering to Resolution guidelines as well as industry practice, which is potentially affecting the future success of the program.

With regard to the methodologies used by the Overseers for determining fair price formulas, it is evident from critical analysis of approved formulas over the history of the program, together with discussion with industry participants, that over time the Overseers have changed their methodology for calculating formulas and sourcing market information pertaining to the components of each formula in a manner that could be construed as more and more unpredictable, uncompetitive, or unfair over time. In fact, many industry participants hold a very cynical view that the Overseers will adopt whichever methodology that will yield the highest price for a respective period, in theory to reduce any potential financial gain for contract holders, which in turn, could result in the purported illegal payment of surcharges.

BAY04-01026

FROM :GDP

FFX NO. [REDACTED]

Jul. 11 2002 04:34PM P1



[REDACTED] • New York, NY 10155  
[REDACTED]

---

FACSIMILE TRANSMISSION

---

To: David Chalmers  
Fax #:

From: Giandomenico Picco  
Fax#: [REDACTED]

RE: FYI

Date: [REDACTED]

No. of pages (including this cover sheet): 6

---

BAY04-01029

OSP 2002**UK PROPOSAL FOR A PROACTIVE PRICING MECHANISM**

Since December 2000 the Iraq Sanctions Committee has continued to receive information from the Oil Overseers that substantial sums of money have been withheld from the UN/Iraq escrow account due to excessive levels of premia being charged by SOMO contract holders. The Committee continues to take note of the information supplied by the Oil Overseers that excessive premia could be realised as a result of extra-contractual arrangements, between SOMO and the contract-holders. The Iraq Sanctions Committee has never approved such arrangements. The Committee introduced retroactive price setting in October 2001 with the objective of combating these practices, which are detrimental to the OFF programme.

The Committee continues to work towards its objective of maximising the funding base of the OFF humanitarian programme in order to meet the basic humanitarian needs of the Iraqi population. In this context it sees it as its responsibility to facilitate the smooth flow of Iraqi oil into the markets at fair market value and in a manner consistent with Security Council resolutions.

To further this objective the Committee has decided to increase the attractiveness of Iraqi oil to end-users and established traders by allowing them, provided that certain conditions are satisfied, the choice between purchasing Iraqi oil on a proactive or a retroactive pricing basis. The Committee will also work towards its objective of minimising the risk of abusive practices that could lead to funds being withheld from the UN-Iraq account.

The Committee would therefore undertake the following:

**1. SOMO AND CONTRACT HOLDERS**

No change will be made to the existing system of registration of national oil purchasers by UN Member States and SOMO's discretion of awarding contracts to companies of its choice. The Oil Overseers are requested to allow for a *contract holder's commission of five cents per barrel* when submitting their price recommendations to the Iraq Sanctions Committee.

**2. THE "GREENLIST"**

Subject to the Sanctions Committee's approval by way of the no-objection procedure, a company will be allowed on the "Greenlist". The Committee will only allow on this list those companies that are either refiners of Iraqi crude oil or established crude oil traders that possess relevant commercial experience in lifting and shipping cargoes of crude oil. A request from a company to be put on the "Greenlist" should be submitted via the Oil Overseers and should be accompanied with a completed standardised questionnaire (attached). The questionnaire will contain relevant information about the company and its

BAY04-01030

activities. Many of the companies that are currently involved in the physical lifting of Iraq oil would be expected to qualify for inclusion on the "Greenlist". The Committee on a monthly basis would review the "Greenlist". The Committee will not allow the continued presence of any companies on the list that have caused damage to the OFF programme e.g. by failing to lift the oil they have committed themselves to lift during a particular pricing period. The Committee will not accept companies that are affiliated with companies that are already on the list or which were deleted from that list.

### 3. PRICING OF IRAQI CRUDE OIL

The Committee will allow two alternative pricing systems: proactive *and* retroactive.

The *proactive system* will only be allowed under the following conditions:

- SOMO will submit [proactive] prices before a certain date. Such prices will need to be approved by the Iraq Sanctions Committee. The timing of the SOMO submission of oil prices should be in line with existing oil industry practices. Prices would be fixed for a full month and the Committee will not accept any requests for subsequent revisions of these prices.
- The company lifting Iraq crude oil *must* be on the "Greenlist".
- The lifting company should open the Letter(s) of Credit for volumes and destinations of their choice within three New York banking days of the Committee's approval of the crude oil prices. The volume(s) and destination(s) cannot subsequently be changed and the Committee will, for the purpose of deciding whether that company will qualify to retention on the "Greenlist" in future, consider this as a lifting commitment.
- The Letter(s) of Credit should both include the name of the contract holder from which the lifting company has bought the oil and the name of the "Greenlist" - lifting - company that opened the Letter of Credit on the contract holder's behalf.
- The Letter(s) of Credit should explicitly state the price as previously approved by the Sanctions Committee.

The *retroactive system* will prevail under the following conditions:

- In all cases if SOMO has not submitted (proactive prices) before a certain date or if the Committee has not approved these prices.
- If the lifting company is no longer on the "Greenlist".

FROM : GDP

FAX NO. [REDACTED]

Jul. 11 2002 04:34PM P4

- If the lifting company is on the "Greenlist" but wants to lift an (incremental) volume of oil for which no valid Letter of Credit was opened in time for it to qualify for proactive pricing.
- Approval of Letters of Credit, and therefore UN authorisation to export the cargo, can only be given if the pricing clause in the Letter of Credit reads :

"The price shall be [proactive cases only – agreed price mentioned] / as will be agreed [retroactive cases only – no prices mentioned] upon between SOMO and the United Nations".

#### **4. MONTHLY REPORTING**

The Oil Overseers will report to the Sanctions Committee on a monthly basis recording any failure by a company on the "Greenlist" to comply with its lifting commitment(s). In order for the Committee to decide whether such company should remain on the "Greenlist" the Oil Overseers will submit their report to the Iraq Sanctions Committee as soon as possible after the end of each month. The Sanctions Committee will then, on the basis of the standard 48-hour no-objection procedure, decide whether the company should be retained on the "Greenlist".

#### **5. REVIEW**

The Sanctions Committee will review the effectiveness of this proposal after six months.

#### **6. IMPLEMENTATION**

The Oil Overseers will submit to the Iraq Sanctions Committee a detailed proposal for the implementation of a proactive/retroactive system no later than 1 August 2002.

BAY04-01032

FROM : GDP

FAX NO. [REDACTED]

Jul. 11 2002 04:35PM PS

**QUESTIONNAIRE FOR GREENLIST APPLICATION**

1) Full Company Name:

2) Registered Business address:

3) Name of contact person, telephone number and fax number:

4) How would you describe the activities of the Company?

- crude oil refining company;
- crude oil trading company;
- crude oil refining/trading company;
- other (please specify)

5) If the company\* is a crude oil refining or refining/trading company, has the company processed any crude oil of Iraqi origin during the past twelve months?

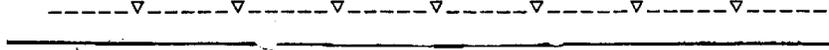
If so please supply the following information:

- the location(s) of the refinery which processed the Iraqi crude oil;
- whether the crude oil was purchased on an fob, C&F or delivered basis;
- The vessel name, bill of lading date, discharge date and discharge location of a recent delivery of Iraqi crude oil for processing in the company's refining system;

6) If the Company is a crude oil refining/trading company that has not refined any crude oil of Iraqi origin during the past twelve month or if the Company is a crude oil trading company, please supply the following information for three recent trades:

- Names(s) of vessels, equal or larger than LR2 size, which were chartered by or for account of the Company;
- Bill of Lading dates, load ports, types of crude oil and discharge ports for these three vessels;

BAY04-01033



7) Sign and date the duly filled in questionnaire and forward it to the United Nations Oil Overseers at the following fax number: [REDACTED]

\*In question 5) and 6) the word "Company" is meant to include all its affiliated companies.



### FAX FACTS

DATE: 4/11/03

TO: Mr. Picco

ATTN: \_\_\_\_\_

FAX NO: 212-832-4970

PAGES AFTER COVER: 31 pages

FROM: David B. Chalmer Jr.

**COMMENTS:**

re: Memo/documents sent to  
U.S. State Dept of State.

The information contained in this Facsimile is confidential and/or privileged. This Facsimile is intended to be reviewed initially by only the individual named above. If the reader of this Transmittal Page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying or copying of this Facsimile or the information contained herein is prohibited. If you have received this Facsimile in error, please immediately notify the sender by telephone and return this Facsimile to the sender at the above address. Thank you.

BAY04-00475



BAYOIL

31 PAGES

TO: U.S. Department of State  
 ATTN: Mr. Matthew T. McManus  
 Division Chief-Energy Producer Affairs  
 FAX: ~~XXXXXXXXXX~~  
 FROM: David B. Chalmers Jr.  
 Bayoil (USA) Inc.  
 DATE: April 10, 2003

---

As per your request from Mr. John Irving (Bayoil, London), we are pleased to provide you fax copies of the following correspondence:

- I.
- i. Correspondence from National Oilwell Co. (contractual supplier Bayoil) to the 661 Committee Chairman.
  - ii. National Oilwell vessel nomination (Kirkuk)
  - iii. National Oilwell contract U.N. approvals
- II.
- i. Correspondence from Machinoimport (contractual supplier Bayoil), to the 661 Committee Chairman
  - ii. Correspondence Machinoimport to S.O.M.O.
  - iii. Machinoimport U.N. approval letter
  - iv. Machinoimport vessel nomination (Kirkuk)
  - v. Machinoimport contract U.N. approvals
- III. Documentation vessel "Hellespont Grand" confirmed to load Mina Al Bakr March 26<sup>th</sup>.
- i. Vessel nomination Bayoil/Trans Nafta
  - ii. Vessel nominations Bayoil/KHRIZOLIT
  - iii. S.O.M.O. nomination acceptance Trans Nafta
  - iv. S.O.M.O. nomination acceptance KHRIZOLIT
  - v. U.N. approval contract Trans Nafta
  - vi. Letter of Credit authorizations Trans Nafta
  - vii. Letter of Credit application Trans Nafta
  - viii. Vessel instructions (Hold at Fujairah, outside war zone, for further instructions. )

Best regards,

David B. Chalmers Jr.

BAY04-00476

An example of such practices as reported by industry observers in connection with the July price controversy, whereby the Overseers have used a methodology for calculating the U.S. market component of the formula by calculating average published prices. For

other types of oil (i.e. Mars crude), which apparently reflects a very different quality and market delivery period, while simultaneously not considering reported market assessments for Iraqi grades applicable to the July lifting period.

Additionally, as referred to above, the process for communications with S.O.M.O. has apparently evolved to a situation whereby the Overseers' office has pre-advised S.O.M.O. prior to their submission of price formulas, the only price formula they will forward to the Committee with approval, or otherwise imposing on S.O.M.O. the methodology for calculating monthly prices. As such, there is little chance of the Overseers having to defend their methods of determining prices if they are simply approving prices S.O.M.O. has itself submitted.

The second issue causing concern over the future success of the program results from the practice this year, whereby the 661 Committee has put on hold formulas submitted by S.O.M.O. prior to each lifting period, and approved by the Overseers, until the end of each calendar month, resulting in the requirement for S.O.M.O. to re-submit an acceptable price formula at that time. This so called retroactive pricing procedure was reported to be recommended by certain Overseers in theory to reduce the potential for certain contract holders from paying surcharges to S.O.M.O., due to the fact that imposing re-submitted prices at the end of each month reflecting any increase in market value over that time would accomplish this goal.

The reasons for overall concern over the recent adoption of this price policy and continued imposition of such a policy are threefold:

Firstly, that such practice is in contradiction to the procedures outlined in Resolution 986 under the pricing procedure which could have a negative impact on the program integrity.

Secondly, that the practice is in sharp contrast to industry practice, resulting in a clear prejudice of the program by key industry players, which in turn could greatly affect the future participation and success of the program.

Lastly, the logic for establishing such a retroactive pricing practice, for the purpose described above, lacks certain \_\_\_\_\_.

For example, the policy does not recognize that in theory the U.N. Overseers have not, or cannot, submit approved price formulas to the Committee, which already are calculated with no financial allowance or incentive to pay a purported surcharge. Also, more critically, the concept of applying any increase in market value applied to the final re-submitted price formula implies that Contract Holders, or Lifters are capable of predicting the future of market prices, which will compensate for paying a surcharge.

It is in the spirit of concern over the longer terms success of the "Oil-for-Food Program" that the above points are raised with respect to the current situation whereby oil export levels have been reduced and are erratic, resulting from decreasing industry participation and critical examination of the adherence to U.N. Guidelines.

Sincerely,

David B. Chalmers, Jr.

# Appendix F



*Semo OSP*

██████████ New York, NY 10022  
██████████

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FACSIMILE TRANSMISSION

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To: Mr. David Chalmers, President, Bayoil Inc.

Fax #: ██████████

From: Glandomenico Picoo

RE:

Date: March 6, 2001

No. of pages (including this cover sheet): 10

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PERSONAL

BAY04-01163

SECURITY COUNCIL COMMITTEE ESTABLISHED  
BY RESOLUTION 661 (1990) CONCERNING THE  
SITUATION BETWEEN IRAQ AND KUWAIT

S/AC.25/2001/OIL/COMM.07  
20 February 2001  
ORIGINAL: ENGLISH

Letter dated 20 February 2001 from the Overseers addressed to the Chairman  
of the Security Council Committee established by resolution 661 (1990)  
concerning the situation between Iraq and Kuwait

S/AC.25/2001/OIL/1330/OC.12

20 February 2001

Sir,

The following report of the Oil Overseers was prepared pursuant to the request by the Chairman of the Security Council Committee established by resolution 661 concerning the situation between Iraq and Kuwait made at its informal meeting dated 13 February 2001, following the letter dated 6 February 2001 from the Chargé d'Affaires, A.L. of the Permanent Mission of the United States to the United Nations addressed to the Chairman (S/AC.24/2001/Comm.83 - attached). In this letter, *inter alia*, the Oil Overseers were requested to provide a clarification on "what their monitoring of the oil industry has indicated regarding payment of the surcharge; an explanation for Iraq's much lower than normal shipments of crude oil in January and December; the value of revenues lost to the Oil-for-Food program as a result of decreased oil exports; and whether or not there is room in the most recent pricing mechanism proposed by SOMO for imposition of a surcharge".

#### 1. Background

The questions raised have to some extent been addressed in the Oil Overseers' letter dated 13 February 2001 addressed to the Chairman of the 661 Committee (S/AC.25/2001/OIL/Comm.06 - attached). Some of the analysis contained in that letter is repeated here.

In order to gain an understanding of the events that have taken place in the past few months it is important to be aware of the recent trends in the structure of contractual relationships between the different parties involved in Iraqi crude oil exports.

Amongst the phase IX contract holders there are very few companies that can be classified as end-users of crude oil. Many of the current contract holders seem to be intermediaries who are not known in the petroleum industry. They are very small in size and seem to have limited credit facilities. This means that, due to the large sums of money involved, they often cannot open letters of credit and/or charter ships on their own account. In most cases the end-user (i.e. refining companies) will not purchase from these companies because of the limited possibility for compensation in the event of non-performance. As a consequence of this, these contract holders have to sell their oil to the (bigger) trading companies, which subsequently on-sell the oil to the end-user.

BAY04-01164

These trading companies normally have the (credit) facilities that allow them to perform the activities that cannot be executed by the intermediaries. The relationship between the trading companies and the intermediaries appears to vary from being distant to an extremely close alliance.

The current structure, as described above, has gradually evolved from a situation in which SOMO, by and large, were: a) directly selling to end-users, then b) were selling via traders to end-users and now c), are selling via intermediaries to traders who on-sell to end-users.

This means that there are often at least two companies in the contractual chain between SOMO and the end-user, both of which naturally want to make a profit.

### *2. Pricing mechanisms proposed by SOMO and OSP setting*

SOMO and the Oil Overseers agree from time to time on an Official Sales Price (OSP) that is fixed for a certain period. This period is normally a month but can be shorter depending on the volatility of the markets.

The Oil Overseers' objective is to set the OSP within a band which is determined by the following boundaries:

-The upper limit should be such that end-users (i.e. refiners) find the OSP levels attractive compared with alternative crudes. Due to volatility in the market this can only be evaluated over an extended period of time. (Say three to four months).

-The lower limit should be such that no structural trading profits exceeding some five cents per barrel can be made given the low risk nature of the task generally undertaken by the intermediaries.

The Oil Overseers are under the impression that SOMO's recent objective of the price setting is different in two aspects:

-SOMO seems to target a price (OSP) that allows at least \$0.20 per barrel profit for traders/intermediaries.

-SOMO seems to prefer to see these profits to be realized on a cargo-by-cargo basis rather than over an extended period. This explains the frequent requests for a (downward) price revision as we have lately experienced. This short term view is also confirmed by SOMO granting contracts with a validity of only between six and eight weeks, rather than for the full six month period which was customary.

It is important to bear in mind that the attractiveness of all crudes may fluctuate substantially due to changing market conditions. The OSP for a certain period can only reflect one set of market assumptions for that (future) period. This means that, even in the case of the OSP being set at exactly the "right" level, the markets will during that period sometimes value the crude higher than the OSP or sometimes lower than the OSP. For a freely tradable crude like Iraq's this can lead to prices in the market which are either above (premium) or below (discount) the OSP. These premia or discount represent normal oil industry commercial practice.

If the current mode of exports continues, some 100 million barrels will be exported and the estimated revenue generated during Phase IX would be around Euro 3.9 billion (\$ 3.5 billion). If export levels returns to more or less normal, then the revenue generated is estimated at around Euro 6.3 billion (\$ 5.7 billion).

#### 6. Summary and Conclusions

a) Iraqi crude oil, on a fob basis, has been consistently offered to end-users at substantial premia over the OSP's. Under certain market conditions these premia (but not necessarily surcharges to Iraq) could be economically justified and could have been paid by some end-users. Others have refused to purchase oil because of concerns related to the possibility of part of the premia being used for surcharges to be paid to Iraq outside of the United Nations Iraq account.

b) In cases where no substantial premia could be acquired deals have fallen apart, nominations have been cancelled and the oil was not exported. This also explains (at least partly) why Iraqi crude oil, on a fob basis, has not traded at small premia, or even discounts during the past few months.

c) At the same time some traders who have been involved in delivering Iraqi crude into the Gulf of Mexico might have incurred losses. This is due to taking an exposure to the US market for delivered oil, which has recently deteriorated substantially.

d) Due to the short term profit perspective of SOMO's direct customers it is almost impossible to set an OSP that guarantees them a realistic profit level on a cargo by cargo basis. The Oil Overseers have repeatedly resisted giving in to an OSP setting that leaves a substantial "profit cushion" in case the markets deteriorate. This has lead to some friction between SOMO and the Oil Overseers.

The Oil Overseers appreciate the confidence in their work and the support they receive from the Committee.

Accept, Sir, the assurance of our highest consideration.

The Overseers



Morten Buur-Jensen



Alexandre Kramer

This needs to be considered when addressing the specific question of whether the OSP recommended by the Overseers allows room for surcharges. Certainly, the intention in setting the OSP is to mitigate the possibility of excessive premia being paid. However, the natural fluctuation of the market will mean that regardless of how the OSP is set, under some market conditions there could be room for surcharges.

### 3. Payment of surcharges

It would appear that since December, end-users can consistently only buy Iraqi crude oil at a premium of 20 - 50 cents per barrel over the OSP on a free on board (fob) basis.

To what extent, if any, these premia are being used to pay illegal surcharges to Iraq is unknown to the Oil Overseers. When directly asked by the Oil Overseers about surcharges the State Oil Marketing Organization (SOMO) categorically denied the allegations.

However, direct contacts with traders and end-users in the oil industry confirm in broad terms what has been written in the professional press on this matter.

### 4. Lower than normal shipments of Iraqi crude oil in January and December

The Oil Overseers are of the opinion that export levels seem to have been negatively affected under those conditions in which, for legal or commercial reasons, end-users are not prepared to pay a substantial premium.

### 5. The value of revenues lost to the Oil for Food programme

During the month of December 2000 Iraq exported approximately 18 million barrels of crude oil, which is some 50 million barrels less than would have been expected. Assuming an average price of \$20 per barrel, the reduced export level reflects a loss in revenues of about \$1 billion for December.

During January 2001, Iraq has exported some 31 million barrels of oil. This export level was considerably lower than had been expected and, at an assumed export level of 2.2 million barrels a day and an oil price of \$20.80 per barrel, this represents a loss of income of some \$775 million for January.

Since the beginning of phase IX to 16 February 2001 about 65 million barrels of Iraqi crude oil were exported, including 51 million barrels from Mina-al-Bakr (78%) and 14 million barrels from Ceyhan (22%). The value of this export is estimated at Euro 1,481 million (\$ 1,346 million at the current rate of exchange).

Normally Iraqi crude oil exports per month are some 26-28 million barrels ex Ceyhan and 38-45 million barrels ex Mina-al-Bakr. On the assumption that the average level of Iraqi crude oil export per month is (conservatively) 65 million barrels, then at least 100 million barrels of export volume has been forgone up to 16 February. In terms of money, some Euro 2.4 billion (\$ 2.2 billion.) in revenue has been lost.

SECURITY COUNCIL COMMITTEE ESTABLISHED  
BY RESOLUTION 661 (1990) CONCERNING THE  
SITUATION BETWEEN IRAQ AND KUWAIT

S/AC.25/2001/OIL/COMM.D6  
13 February 2001  
ORIGINAL: ENGLISH

Letter dated 13 February 2001 from the Overseers addressed to the Chairman  
of the Security Council Committee established by resolution 661 (1990)  
concerning the situation between Iraq and Kuwait

\*\*\*\*\* S/AC.25/2001/OIL/1330/OC.10

13 February 2001

Sir,

With reference to the attached communication dated 13 February 2001 from the State Oil Marketing Organization (SOMO) of Iraq, submitting for the approval of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, the revised pricing mechanisms for loadings of crude oil during 13-28 February 2001 in accordance with paragraphs 5 and 6 of the Procedures to be employed by the Committee in the discharge of its responsibilities as required by paragraph 12 of Security Council resolution 986 (1995), the Overseers have the following assessment:

On 6 February the Committee endorsed the revised prices (OSP's) for February loading crude oil that is destined for the European and US markets. Since then the attractiveness of Iraqi crude oil in these markets has deteriorated further.

Notwithstanding this deterioration, end-users have been confronted with fob offers of Iraqi crude oil which reflect in general a substantial premium over OSP's: say between 20 and 70 cents a barrel. In an essentially risk-free environment these premia should be considered as excessive. Although many end-users have shied away from paying high premia for legal reasons, there have been temporary market conditions under which these could be justified economically. There have also been moments however, at which the economics should have dictated a smaller premium or even a discount, as could be expected at this moment. However, no such reduced premia or discounts have occurred for some months.

Export levels seem to have been negatively affected under those conditions in which, for legal or commercial reasons, end-users were not prepared to pay a substantial premium.

The current situation can be summarized as follows:

- By far the largest part of Iraqi crude oil is nowadays sold via middlemen and traders rather than directly to end-users (refiners). The former have a very short term profit perspective and often look at this issue on a cargo-by-cargo basis.

- The markets have moved in such a way that the OSP's for Europe and the US are currently too high to allow any sales to end-users to take place without the middlemen/traders accepting negative or zero premia.
- In absence of end-users paying premia of at least around 20-25 cents per barrel the oil is apparently not exported.

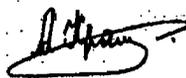
In the context of the foregoing, the Oil Overseers would like to make the following observations:

- The need for price revisions more than once a month is mostly a direct consequence of the nature of the contractual structures between SOMO and the end-users.
- SOMO's contract holders' requests for excessive premia in combination with the erratic nature of the exports has been damaging for the income into the UN-Iraq account.
- The Oil Overseers recommendation is motivated by their objective of maximizing oil exports and income into the UN Iraq account within the contractual structure as has been chosen by SOMO.
- This contractual structure asks for market responsive pricing and, as the Oil Overseers do not allow a substantial built-in "profit cushion", price revisions may occur more often if markets are volatile.
- The Oil Overseers are concerned that, under the current arrangement, price revisions can only go in one direction (i.e. downwards) since there is no mechanism, apart from SOMO's request, to increase prices.

Notwithstanding the observations above, given the current situation, the Oil Overseers would like to recommend to the Committee the proposed SOMO adjustments of the pricing mechanisms for US and European destinations for loadings during 13-28 February.

Accept, Sir, the assurances of our highest consideration.

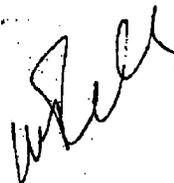
The Overseers



Alexandre Kramer



Morien Buz Jausci



Michel Tallings

جمهورية العراق  
وزارة النفط  
هيئة التسويق  
بغداد



REPUBLIC OF IRAQ  
MINISTRY OF OIL  
STATE OIL MARKETING  
S. O. M. O.

HK 47 MA S. O. M. O.

No: P/2491

Date: 2/2/01

TO: H.E. ULLFRIK KOLBY  
CHAIRMAN  
SECURITY COUNCIL COMMITTEE  
ESTABLISHED BY RESOLUTION 661 (1990)  
FAX: 212 963 1380

CC: THE ILM OVERSEERS  
FAX: 001212 963 1825 NEW YORK

FROM: SOMO - BAGHDAD - IRAQ  
FAX : 899641-983328

DEAR SIR,

FO FAX #1883 DATED 12/2001.  
DUE TO THE RECENT CHANGES IN THE OIL MARKETS, AND IN ACCORDANCE WITH  
PARAGRAPH (6) OF THE PROCEDURES ADOPTED BY YOUR COMMITTEE DURING ITS  
MEETING NO. 142 ON 26/1998, STATE OIL MARKETING ORGANIZATION (SOMO) HEREBY  
SUBMIT ITS REVISED PRICING MECHANISMS FOR LOADING DURING FEBRUARY 11-  
28 2001 AS FOLLOWS:

- 1. FOR THE CURRENT MARKET:
  - KIRKUK EX-CEYHAN - BRENT DATED - U.S.DLR 3.80/BSL 7.20
  - BASRAH LIGHT EX-ALBARK - BRENT DATED - U.S.DLR 4.75/BSL 8.20
- 2. FOR LINKED MARKET:
  - BASRAH LIGHT EX-ALBARK - WTI (SECOND MONTH) - U.S.DLR 9.20/BSL 9.20
  - KIRKUK EX-CEYHAN - WTI (FIRST MONTH) - U.S.DLR 8.35/BSL 8.35
- 3. SHOULD THE CURRENT DIFFERENTIALS BETWEEN SOUR AND SWEET CRUDE OILS  
CHANGE, SOMO SHALL CONSIDER REVISING ABOVE PRICING MECHANISMS  
ACCORDINGLY.

API ESCALATION/DE-ESCALATION AND OTHER TERMS AND CONDITIONS REMAIN THE  
SAME.

YOUR CONSIDERATION AND EXPEDITE APPROVAL OF THE ABOVE-MENTIONED PRICING  
MECHANISMS IS HIGHLY APPRECIATED.

PLEASE ACCEPT MY HIGHEST REGARDS.

**SADAM**  
SADAM Z. HASAN  
EXECUTIVE DIRECTOR GENERAL  
R. O. M. O.

P. O. Box : 5118 Baghdad - IRAQ

SECURITY COUNCIL COMMITTEE ESTABLISHED  
RESOLUTION 661 (1990) CONCERNING THE  
SITUATION BETWEEN IRAQ AND KUWAIT

S/AC.25/2001/COMM.83  
7 February 2001  
ORIGINAL: ENGLISH

LETTER DATED 6 FEBRUARY 2001 FROM THE CHARGE D'AFFAIRES A.E. OF  
THE PERMANENT MISSION OF THE UNITED STATES TO THE UNITED NATIONS  
ADDRESSED TO THE CHAIRMAN

The United States Mission to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to Resolution 661 (1990) concerning the situation between Iraq and Kuwait and would like to take this opportunity to share our concerns about the oil pricing mechanism. The United States has consistently supported the oil overseers' assessments regarding Iraqi oil prices. We recognize that it has been particularly difficult for the overseers to carry out their responsibilities over the last several weeks, and we are appreciative of their efforts and professionalism.

Our support for the overseers' assessments has been based on the assumption that a fair market value price offers the most effective protection against an oil purchaser being in the financial position to pay any unauthorized surcharge or kickback to the seller. We are very troubled, therefore, by continuing reports in the business press and communications we have received from companies that SOMO is demanding, and some oil buyers are paying, a surcharge of 10-30 cents a barrel, to be paid directly to Iraq. Although this is clearly a contravention of UNSC resolutions, as well as written instructions provided to all buyers by the overseers with the agreement of the 661 Committee on December 15, 2000, some reports indicate that many buyers are not still not aware of these facts or are simply ignoring them. A February 2 report from Reuters is typical, and it outlines a very sophisticated surcharge mechanism that has been changed in reaction to market:

"Iraq has meanwhile eased its oil surcharge demand considerably from an initial 30 cents per barrel over the official selling price, but the Iraqi government is by no means backing down from its policy. Indeed, industry sources said Iraq has softened its cash request in a bid to reflect market conditions. "Retroactive to December 1, lifters to Europe must pay 25 cents a barrel and lifters to the U.S. must pay 30 cents a barrel," said an official in the Iraqi capital. "Some customers have paid the 40 cents and they will be reimbursed the difference."

BAY04-01171

It is important that the overseers not recommend to the Committee a pricing mechanism that leaves room for a surcharge. We request that the oil overseers prepare a written report to the Committee on this issue to include what their monitoring of the oil industry has indicated regarding payment of the surcharge, an explanation for Iraq's much lower than normal shipments of crude in January and December, the value of revenues lost to the Oil-for-Food program as a result of decreased oil exports and whether or not there is room in the most recent pricing mechanism proposed by SOMO for imposition of a surcharge. We further request that when the report is completed, the overseers give a presentation on their findings and observations to the Committee in a formal meeting.

While we do not object to the pricing mechanism proposed in your note of 1 February, we hope that the overseers report and presentation will provide the Committee with a basis for improved evaluations of future pricing mechanisms and consideration of actions to address problems.

Finally, we request that this note be circulated to members of the Committee.

Accept, Sir, the assurances of my highest consideration.

Sincerely,

  
James A. Cunningham  
Charge d'Affaires, a.i.

BAY04-01172

# Appendix G



September 9, 1999

TO WHOM IT MAY CONCERN:

We herewith confirm never to have sold directly or indirectly to Israel and further confirm that this policy will remain permanently in force during the entire validity of our contract.

Signed:

Augusto Giangrandi, Chairman  
For and on behalf of  
Dayoil Supply & Trading Limited (BOTCO, Bahamas)



Sworn to and subscribed before me on this 9<sup>th</sup> day of September, 1999.

Notary Public



BAYOIL SUPPLY & TRADING LIMITED, BOX CB12018 NASSAU, BAHAMAS 242 362 4731 FAX: 242 362 4733 Tlx: 20644

45426  
Saybolt  
DOCS

# Appendix H

Houston,  
November 25, 1998

Urgent  
By Fax 011 [REDACTED]

To Mr. Sergei Sharapov

Dear Sirs:  
Please find our nomination for Basra Light Crude oil.  
Please note that the above vessel is fixed, no subjects, and herebelow please find the vessels particulars.

Quote:  
RE: "WORLD CHAMPION"/BAYOIL C/P dtd 11/25/98  
WE ARE PLEASED TO CONFIRM THE FOLLOWING FIXTURE WITH ALL SUBJECTS LIFTED AND FULLY FIXED.

CHARTERERS:	BAYOIL SUPPLY AND TRADING
OWNERS:	NECOMARK CO., LTD.
VESSEL:	WORLD CHAMPION EX ANDES MARU
BUILT:	1974
FLAG/CLASS:	LIBERIAN/NKK
SDWT/DRAFT:	273,150MT/21.033M SSW
LOA/BEAM:	337.085M/54.4M
KTM/BCM:	63.5M/153M
IGS/COW:	YES
CUBIC:	98PCT 328,757 CBM EXCL SLOP TANKS
GRT/NRT:	131,842/99,486

ALL DET ABT WOG  
LAST 3 CARGOES: OMAN CRUDE + ALC/AHC, ALC, ALC + AMC

FOR ONE VOYAGE, P/C MIN 265,000 MT 1/2 GRADES NO HEAT CRUDE  
WVNS ALWAYS CONSISTENT WITH 21M SWSD

LOAD: 1/2 SP AG EXCL IRAN/IRAQ BUT INCL AL BAKR

LAYCAN: 0001/2359 HRS NOVEMBER 30TH CHRTRS TO  
MAKE BEST EFFORTS TO LOAD EARLY.  
DEMURRAGE: 28,000 USD PDPR

ASBATANKVOY  
Unquote.  
Vessel had never traded in Israel.

Ludmil Dionissiev  
For and on behalf of Bayoil



SNT 004588

SNT 004588

# Appendix I

**Phases of the Oil-for-Food Program**

<b>Phase</b>	<b>From</b>	<b>To</b>	<b>Authorized by Security Council Resolution...</b>
I	10 December 1996	7 June 1997	<u>SCR 986 (1995)</u> 14 April 1995
II	8 June 1997	4 December 1997	<u>SCR 1111 (1997)</u> 4 June 1997
III	5 December 1997	29 May 1998	<u>SCR 1143 (1997)</u> 4 December 1997
IV	30 May 1998	25 November 1998	<u>SCR 1153 (1998)</u> 20 February 1998
V	26 November 1998	24 May 1999	<u>SCR 1210 (1998)</u> 24 November 1998
VI	25 May 1999	20 November 1999	<u>SCR 1242 (1999)</u> 21 May 1999
		Extends phase VI until 4 December 1999	<u>SCR 1275 (1999)</u> 19 November 1999
		Extends phase VI until 11 December 1999	<u>SCR 1280 (1999)</u> 3 December 1999
VII	12 December 1999	8 June 2000	<u>SCR 1281 (1999)</u> 10 December 1999
VIII	9 June 2000	5 December 2000	<u>SCR 1302 (2000)</u> 8 June 2000
IX	6 December 2000	3 June 2001	<u>SCR 1330 (2000)</u> 5 December 2000
		Extends phase IX until 3 July 2001	<u>SCR 1352 (2001)</u> 1 June 2001
X	4 July 2001	30 November 2001	<u>SCR 1360 (2001)</u> 3 July 2001
XI	1 December 2001	29 May 2002	<u>SCR 1382 (2001)</u> 29 November 2001
XII	30 May 2002	25 November 2002	<u>SCR 1409 (2002)</u> 14 May 2002
		Extends phase XII until 4 December 2002	<u>SCR 1443 (2002)</u> 25 November 2002
XIII	5 December 2002	3 June 2003	<u>SCR 1447 (2002)</u> 4 December 2002

# Appendix J

Meeting with the Committee  
March 8/05  
0930, 15<sup>th</sup> Floor conference room

Agenda

0930

Committee meets privately

1000

1. March xx, 2005 Interim Report
  - a) Cotecna/Kofi/Kojo draft chapter
  - b) Re-interview Kofi Annan?
  - c) Nair
2. Work going forward, especially mid-year report. See "Landscape" doc
3. Tracking work progress. See draft tracking table examples
4. Adverse Finding Process
5. US proposal re presence of SDNY investigators at State Dept interviews
6. Letters to witnesses warned away from talking to IIC by the FBI
7. Payment of Pierre Mouselli's legal fees
8. [REDACTED]

Meeting with the Committee, March 8, 2005

Richard Goldstone, Robert Parton, Paul Volcker (& Mark Pieth by phone).

PAV: Not read the latest – only bits and pieces. Going over fundamental points and then lots of questions about remaining work. Are there any open questions that have to be done in the next few days? May have some bearing on what can be said. General feeling – Richard has written some stuff, as did Mark, I am in agreement –

RG: Express my views which reflect the other views – at the outset we have a great deal of admiration for the inquiry. Hugely detailed and intense. Unique to the UN. Will go to the credit of the committee and we are very grateful. The investigation must all stay in, no question about not reporting everything we have found. My general comment is that many parts of the report – well, our problem is with the findings. They should stay at the end and not be at the beginning. My general comment is that they read more like a prosecution case than a judgment, which is understandable because it has been written by prosecutors.

There isn't nearly adequate reference to the version of the SG or his denials – need to start off on the assumption that he is innocent and go from there. The burden is on us and we need to start with his denials. Can't make an assumption without regard to his denial that he didn't remember his meeting with Massey. We have to make a positive finding that neither he nor Kojo was relevant to the choice of Cotecna. It is a crucial finding and we need to make it positively, not in the current fashion.

Next crucial issue relates to the knowledge of the SG – this is a debate that Reid and I have been having for weeks. I am really not able to find, even on a balance of probabilities that KA lied to us when he said he didn't remember or that his memory was refreshed. I did not get the impression in my two interviews with him that he was lying. He wasn't the most impressive witness, but I wouldn't reach the conclusion that he was being dishonest. Can't make a positive finding that he lied about Massey particularly given the fact of his schedule. Massey is clearly a crook and he would not likely have raised the Cotecna contract with the SG at that meeting. He would have been at least fearful that the SG would have blown the whistle. We know that prior to that there had been given to the SG a package of lies by Cotecna and his son. There was clearly concealment which is inconsistent with his being a party. This is the view at the moment of the three members of the committee that he did not have a conflict of interest in fact and we have to make a positive finding to that effect. Other people will come to other views and if we get flack, then so be it. No reason to shrink from making a positive finding. Clearly there was a potential conflict, and had he known – if he knew he should have done something about it. So my ultimate conclusion is that the adverse findings we can and should make against him relate to the investigation he did later.

I have other less serious problems with the wording of the findings. I think there is a fundamental difference in the findings against the SG and all the other people – Sevan, Stephanides – because we could only make this finding on the basis of circumstantial evidence and the testimony of witnesses who lie. We have no smoking guns. It is really a question of his denial on the one side and whether there is sufficient

evidence on the other side to disbelieve that. I don't think there is, but we need to discuss it and I am not suggesting that everyone needs to agree.

●: One part of the findings talks about the SG being in a position to know – should have known – what are your feelings about this?

RG: I don't know what that means and I don't see how it takes us any further.

●: I agree – I was troubled by that.

●: What about the recent information that has come to light for example on paragraph 6. There is lots of information out there that we have not yet found. We will continue to find things over the next few months whether we like it or not.

RG: That's fine if the investigation has to go on.

●: Just yesterday they produced documents that we had never seen.

PV: The question is are we missing something?

●: Email has to do with a fax that Kojo apparently sent to the SG and that paragraph 6 was based on this. Appears to place him in that chain.

PV: That is one of the areas I am confused about.

Mark: But it contains false information.

RG: But should he have known that.

●: This is the fax that they produced.

RG: But I am not sure this takes it any further.

●: It puts the SG ...

RG: But he said the info came from Kojo.

Mark: This is an example of where we need to talk to him again.

RG: But where does this come from?

●: From the SG's attorney.

RG: But this wasn't found in the UN.

Mark: what is odd is that we are getting info from the SG's counsel on other witnesses that we have talked to and they continue to produce things after they have said they produced everything.

RG: I don't see why this takes anything further?

●: I think it completes the picture. It shows that the source of the info is from Cotecna and it is sent from Wilson sent it to the SG.

RG: I don't see that this takes my analysis any further.

Mark: the thing that bothers me about this is that this information wasn't available when we questioned people. There may be a chance that this would have been helpful.

RG: What bothers me about this document is that it is exculpatory not inculpatory.

PAV: I want a brief description of the two letters. What happened?

●: It is unclear how the signed version evolves.

PAV: I don't get it. Kofi called Riza, right? Then what? Can someone write down a chronology of the Connor report for me?

●: When all this happens the SG is not in NY and it is not a report, it is just for internal information, not for the public.

PAV: What was done with the memorandum at that point?

RP: Press conference by Mills saying they had looked into the issues.

PAV: So it was an oral response to the question.

RP: In 2004, they make additional statements and refer to it as an investigation.

PAV: When they referred to it is 1999 did they have the longer version?

RP: They were using the longer version.

█: Aren't there three issues: one is was it appropriate for the SG to inject himself into the fact finding process.

RG: I don't know any father who wouldn't do exactly that.

█: That is one issue and the other is the questions we cant answer, and then the third issue is what did the UN do with the information?

RG: I find nothing wrong with the SG doing those initial inquiries as long as he referred it to Riza, which he did.

PAV: What bothers me is that no one in that organization has blown the wistle or hinted after all this time – explain that to me.

Mark: we don't have people like that.

█: Part of the reason is that almost everyone who works there can only stay in the US as long as they are in the UN.

PAV: Didn't seem to bother them when they were dealing with the issue of sexual harassment.

█: One possibility is that there is nothing wrong.

PAV: That is what I am wondering.

Mark: I would never rely on that.

RP: No one came forward in the 1996 process.

█: No one has even come forward on Sevan, even after our report.

RG: Well he was a small time player.

Mark: no – that's not true. There is more info.

RG: Well, I hope so!

Mark: also we are gone after the end of the year, so no one is going to trust us.

PAV: I'm not drawing sweeping conclusions, but I am afraid that we will do this report and then someone will leak something.

Mark: there may be a range of more sinister things, but it is a real problem that no one knows who wrote the note.

PAV: But it is not illogical that the guy who is dead wrote it.

RP: Either Mills or Riza.

█: I like Riza – and the SG says Riza gave him the unsigned version.

Mark: Eckhard and his assistants immediately send out feelers when something like this happens.

PAV: Let me ask the opposite question – you talk to a lot of people who deny that there was any influence in the process. Do you suspect that anyone is not being candid about influence.

RP: There is an open question about OIP and what happened there.

RG: Is there any evidence?

RP: There is a Cotecna employee who says "if you find the person within the UN who drove the cost increase agreement, then you will find the person who made the agreement with Elie Massey about the increase. Then we have the whole communication issue – there was a timeframe prior to the RFP when Lloyds submitted a proposal with all of the complicated technical info – this didn't get included in the RFP. The technical people say they don't know why Scheer or Sevan didn't include it. Scheer says they made a mistake.

■: What was her explanation?

RP: She doesn't have one.

■: What about Jeremy Owen?

RP: He is in London.

■: But weren't they still lower?

RP: Sure, but you can't look at that in isolation because of the continuing increases.

PAV: Are you suggesting collusion?

RP: We don't have evidence of it.

■: Are there similar amendments to Lloyds?

■: It almost doubles.

RG: But look, this is not Kofi, shouldn't we stay with that?

■: but we do discuss the fact of this amendment in the report, but it is left hanging.

PAV: Well my general feeling about the report is that if you accuse him of lying, he is gone and I don't know if we have the evidence to make that accusation – but, we have a lot of unexplained business. The facts will speak for themselves, but we can't conclude that he lied. But other people may conclude that.

■: Do you want the findings to say that the inconsistencies speak for themselves?

PAV: I don't think so.

RG: I would have to go further, I was at two interviews and I did not get the impression that he was lying.

RP: Well, I disagree – I thought he was not forthcoming. Do I have proof beyond a reasonable doubt? No.

RG: I didn't think he was impressive but I did not think he was consciously lying to us. It was more incoherent than a dishonest version. Someone who creates a dishonest version sticks to it.

RP: I disagree with you. Sometimes when someone creates a story they have a hard time sticking to it because it is not true.

■: I don't think he knowingly lied – I think he got himself badly conflicted over his duties as SG and father. Culturally there are very strong drivers in his own culture to look after family first. That is the maximum that I would say. He may have been incoherent or vaguely recalled these things – I don't think he was actively lying. In the kind of job that he has he sees hundreds of people every week.

RG: The big issue is whether we can find, on whatever test that we find to be appropriate, is whether he knew that Cotecna was competing.

RP: His testimony is conflicting, but when you put it in context of the whole, do you disbelieve everything that Wilson said about his meetings and then you combine and overlay that with the SG's confused testimony. And then you add additional facts to the whole picture. They may not stand on their own to string someone up for lying, but they are there. There is the September 18 meeting – of course he could have forgotten, but it is more unusual to forget a meeting with your son's boss than another person. You start adding up a collection of individual points – maybe no one of them is sufficient alone but when you add them together I don't believe him on our standard of proof.

■: What don't you believe?

RP: I believe that he knew of Cotecna's interest in the contract before Dec. 31 1998 and that he had discussions about the conflict of interest wrt his son before then as well. He may not remember that now, but it is a reasonable inference that he is lying.

RG: Assuming he knew of that conflict, why didn't he do anything about it either way?

█: He says his son would resign.

RG: But this is earlier –

RP: The conversation with Wilson takes place between Lloyd's fall out and December.

RG: But he could have blown the whistle without hurting his son, so why didn't he?

RP: I don't know why – I could speculate. There is a political cost to doing those things.

RG: I put into the weighing exercise the cost of his knowing about it and not doing something.

█: What would the cost be?

RP: Saying that his son worked there and they were competing.

PAV: But he met Massey earlier, right? What was known on September 18 when they met?

█: Explains.

PAV: So we don't know that they knew the contract would be coming up for bid?

RP: No specific info, no.

PAV: Suppose they did know and they mentioned it in the meeting, why wouldn't the SG have done something?

RG: This is what is not in the report. It is a one sided report and you must put these questions in the mix.

PAV: I would think that he would have said to get my son the hell out of there.

RP: Of course, but I have put a lot of people in jail and none of them had good explanations for what they did.

RG: This is some evidence that he didn't know.

RP: The SG tells us that he told his kids to stay away from the UN and then Kojo is attending the GA meetings.

PAV: There is a lot of evidence that Kojo is a problem.

RP: It goes to your question about why he did not extricate himself and his son from this situation – well, he wanted his son to stay away from the UN and then knows that he does not and doesn't do anything.

█: I have had problems with this from the start – there is no problem with the fact that he is at the meetings.

RP: But what about the series of memos saying machinery, etc.

█: Those could be innocent.

RP: Right – but we don't know either way.

█: You are making an assertion that I can't agree with.

RP: OK

Mark: one of the difficulties I have is that this comes down to the behavior of the particular official in question.

█: I don't think there is any question that Cotecna hired Kojo for his connections and Kojo was only too happy to trade on his name.

PAV: There is no question about that. Tell me about Kojo getting the oil allocation. I thought that was when Kofi told him again to stay away wrt Yamani.

█: Well Kojo asks to be put in contact with an oil overseer.

PAV: Well did they stay away after Kofi told them to or not?

RP: They resigned from the AHT board of directors.

PAV: So did they stay away or not?

RP: We don't know because we have no financial information. Explains about Hazy etc.

PAV: Was there any evidence that Kojo was involved in this allocation?

█: No - not for this company.

PAV: didn't they talk to the Iraqi ambassador?

RP: We have people interviewing him tomorrow.

█: and they then had lunch with the SG and told him about this.

█: So that is one areas where Kofi had knowledge and didn't do anything. That is the point that he is saying one thing and doing other things that conflict his policy.

RP: Mouselli is no angel but he is also not as bad as we thought. Explains. He is no doubt a shylock, but maybe not a criminal. Says that he signed a contract with Mouselli and Cotecna will produce that tomorrow.

█: When we have the statements in the report about the lunch with the SG - to my recollection it is the only time that we have included in the report the statements of an individual that is not corroborated

RP: That is not true.

Mark: we have used this elsewhere.

█: but the substance of the meeting is uncorroborated. It seems to me we have this issue looming out there of his attorneys fees - do we have to disclose in the report that we paid for his attorneys fees.

RG: I don't know about this.

█: explains that we can't use his testimony until we decide whether or not we pay for his attorney's fees.

█: I have concerns about Mouselli's testimony with respect to his visits to the Iraqi embassy because it could have been for a lot of reasons.

RG: If we are going to put those in the report, we have to ask the SG. There are two ways of dealing with it - put it in and don't attach credibility or put it to him. Speaking for myself I wouldn't put much credibility on what Mouselli says.

█: Why not?

RG: Because having regard to Mouselli's past, his connection to Kojo, his uncertainty with regard to the statement.

RP: He wasn't so much uncertain about it happening as about the specifics in his memory.

PAV: What are we talking about?

RP: The lunch meeting in Africa with the SG on September 4, 1998.

PAV: and remind me what they talked about?

RP: Cotecna's business in Nigeria and going to the Iraqi embassy and their interest in the oil business.

RM: The issue I am raising is that if you want to talk to the SG then it is logistically difficult.

PAV: Why can't we show him the report?

RM: We haven't done it with anyone else.

PAV: I don't care! Why can't we make an exception?

Mark: you will fight over everything with his lawyers.

RM: Much better to re-interview him.

Mark: if you want to lay out more facts in a letter, that's fine.

RM: I don't think we should give a special deal to the SG.

PAV: I have an open mind about it. You're not the one who will get criticized, I am!

RM: We have logistical problems with his being away and the timing.

PAV: I agree. May be impossible.

RM: We might just have to delay the report a week. We should follow the same procedures.

PAV: Either Kofi is gone or he is not gone. It is not dependent on his lawyers.

RM: I wouldn't walk him through the report. Do an interview, and then the same kind of adverse findings letters we did for everyone else.

RM: According to your plan the most damaging parts of the report will not be disclosed to the SG because they are not part of the findings.

RM: But he has been asked about all of these things already.

RG: There are findings against the others that I agree with, but they should be more bolstered by reasoning.

RM: Clearly we could go to wherever the SG is and interview him there.

PAV: Well the schedule isn't vital.

RM: I don't understand the point made about the findings?

RG: I am particularly talking about the findings on the Masseys. I think we need to give the reasons behind them.

PAV: Give me the rationale about why we are making findings on the people outside the UN?

RM: Because our terms of reference include the UN contractors.

RM: On the findings when we talk about improper influence ...

RG: But if we go along the lines that I think we should go, this is not going to be there.

RM: I do think we have to have a finding about the PD and how they fell down by not doing the inquiry.

RM: Is it against the department or the individual? We dealt with this last time.

RG: Can I just ask – should the lack of a proper inquiry be something that should have been dealt with by the auditors?

RM: I think so, yes.

RG: If so, we should say something.

RM: There is a fair argument that both the internal and external auditors missed it.

PAV: I am bothered by the fact that we make these findings and the guy gets fired for a mistake – he gets killed.

Mark: we can say the PD as a systemic failure.

●: I disagree -- the big thing is accountability and how can you make that argument against a department?

Mark: then I would distinguish it from the findings we make against others for illicit activities.

●: If in our read Cotecna shouldn't have been in the door and should have been disqualified, and no one picks that up -- he was under open indictment at the time.

●: I just think it is a hole that needs to be filled.

*RG out.*

●: Then we need to decide who is responsible -- the only info that comes into the UN about this at first comes to the SG. This was in the Times in January 1998 and the fact of the indictment was in June of 1998. It is clear in our current draft that they never should have gotten in the door under the rules. But if we are going to lay blame at someone's door and we only do so at the PD and not the SG's office, where the fax actually came ... The contract is continually re-upped despite the charges remaining pending.

RM: We only recently learned that this rule was in effect.

RP: Rule came in March 1998.

●: It was a part of the overall reform of the procurement office.

MC: So if we hit people we may have to hit the SG on this.

●: I just wonder if we need to discuss this in the findings.

●: I agree.

●: There is even more information I want to know about that initial process.

●: The questionnaire does not ask -

RP: Well we have not seen the new regs yet. Presumably there should have been a new questionnaire going to Cotecna but we have never seen it.

*RG back - 15 minutes later.*

●: I think that the committee has to decide where to cast responsibility for failure to act on knowledge that the Cotecna CEO was indicted.

RG: Well, who's responsibility was it? This was PD's responsibility wasn't it?

●: Well the information goes to the SG.

RG: But who knew at that time?

●: The SG from the press reports.

●: There was a press report in the summer of 1998.

●: We can't be certain that the UN would have looked at this at that time, but by January 1999 it is in the SG's office. It is part of the Connor report.

RG: I am confused. This is relevant to the renewal?

RP: It was relevant to both but by January 1999 it was relevant to the renewal.

●: Page 29 paragraph at the top of the page, I think we need to expand on this. It is ambiguous or confusing because it suggests an obligation to do more than run a D&B report.

RG: The responsibility must lie where it should be -- if the SG's office knew about it than they must take responsibility.

●: So is that how you want us to write up these findings?

RG: Write it on that basis and we will take a look.

PAV: The basic problem I have with this whole thing is that if we know that the procurement process was corrupted, that is a big deal, but if it was not then the rest of it is minor – it is not a hanging offense.

█: No, it is a big deal.

Mark: there is an entire section of the UN involved in fighting this already.

PAV: We don't even know if they knew this was happening until January 22.

RP: A procurement officer knew about it – friends with Kojo.

RG: Why didn't they do anything about it? Was there some motive?

PAV: That is my problem. How do you know?

RG: The big question hanging out there is why? If there is no evidence we can't speculate, but we need to talk about it and make a fairly strong finding.

█: May I come back to the third finding on improper influence? On page 70.

We need a stronger more affirmative finding other than no evidence. The third sentence – is that staying?

RG: To what time period is this referring?

█: Under the older version of the findings –

RG: As I understand the committee's view this should apply to the post January period.

RP: Has the committee taken their decision?

█: I agree that we should juxtapose the SG's account against all the other evidence.

RP: There is no account by the SG.

█: Well we are implicitly doing this but we are not marshaling everything together. I am not sure we have done that.

PAV: Lets go back to Cotecna – what did the PD do wrong. Forget about Kojo and Kofi.

█: Well the head of the company was under indictment.

PAV: Well I still think we should write it this way, what happened in PD and then what happened with Kofi and Kojo, etc. Look to see if this is illicitly corrupted.

RP: There is conflict of interest and then there is influence.

PAV: Whatever you say they opened themselves to an appearance of a conflict of interest. But no actual unless he knew. So suppose he did no, what did he do?

RG: It would still be a very serious finding against him.

PAV: There is plenty of stuff to criticize him about.

█: The problem is that once they are the low bidder, no one has to do anything. They are the low bidder by a ton so no one has to do anything, you just let it go.

PAV: But what should they have done?

█: That is the problem that we have as a group in addressing this influence problem.

Mark: and the low bidder issue is open – we are not able to say whether or not there was influence.

RG: That is exactly why conflict of interest is a serious issue.

█: Well, unless you get to the point about his knowledge.

█: You can take from the Wilson conversation that he knew of their interest.

RG: But what does Wilson say – he doesn't talk about the bid.

█: That is a pretty important conversation.

█: I see a need for the committee to decide what constitutes a conflict of interest. Michael is saying that it is enough to say that he knew they were interested.

RG: But we can't even say that.

█: But I think it is a reasonable factual conclusion to draw that since he knew of the 1992 interest that he knew. But the committee has to decide whether this is sufficient.

RG: I don't think that is sufficient.

█: That is a threshold issue that the committee has to decide.

PAV: The conflict doesn't arise until he does something.

RG: Should he have circulated something to the whole UN saying not to deal with Cotevna? I don't believe that is a conflict.

RP: But all this is assuming we are not crediting Michael Wilson, is that correct?

█: But first the committee has to decide what is a conflict.

PAV: IF you believe that conversation Kofi is in bad shape.

RP: Combined with the other facts.

█: We are looking at it in this backdrop – I know there is a difference of opinion.

Mark: you can't just ignore Wilson's account because it comes out of nowhere.

RP: It is also a statement against interest.

RG: Where is this? Was this in the earlier report?

PAV: When I read this I was very unclear about when this conversation took place – when did the press on Lloyds occur?

RP: █: Only when they pulled out.

RG: How do we decide which of the two versions to accept.

RP: He brought up Lloyds, I didn't.

Mark: this should be more explicit here.

RG: Isn't there some serious doubt about this man's credibility?

RP: that is true for a lot of people.

█: Why would he make a statement against the SG's interest?

█: In fact he thinks it is in their interest.

█: That could go to why it is not true because he could be making up things to support the SG.

RP: The central issue is did this conversation take place.

█: █: what do you think about Wilson's statement?

*Say my piece.*

RG: Assuming we go ahead with no adverse finding on his state of knowledge, is there any obligation on us to give him an opportunity to deal with what is very damaging evidence?

█: With this information in the report the committee is going to have to resolve this about whether or not we credit Wilson's statement.

RG: There is an alternative route here – tell him what the allegations are, point out the inconsistencies, and ask him to make submissions as to what we should make of it.

█: Does it raise concerns that the Committee is prepared to make findings without talking to him again?

RP: Are you suggesting doing a separate interrogatories for him?

█: We have the Mouselli info which we did not have before and it would be consistent with our prior practice to go back to him and then we could do the Wilson

questions as well. Then we don't get into the situation of writing him a letter and risking a leak and this is what we would do with any other witness.

RP: If we come to a decision that he did not know, then what is the purpose of asking him about this stuff?

●: Don't we want that information before making a finding?

●: This is consistent with what we have done in the past. As part of a Mouselli interview we could do Wilson.

RG: In response to Robert's question, we have to publish his response.

PAV: Absolutely.

RP: but at that point we are not conducting an investigation, so just send him the questions.

●: I'm saying don't make a finding until you do this.

RP: I think that it is fair to say that with the support of his counsel we know what he will say.

●: So the committee has not reached a decision on this?

RG: I am not done until I sign the report -- I am keeping an open mind and am willing to change it.

RP: But the facts that we have and the standard we are using do not convince you that he knew.

RG: No, I am not convinced.

RP: What you said at the beginning was that this is a question of credibility, but you also said that there is no smoking gun.

RG: You are mischaracterizing what I said --

RP: based on the standard we agreed on --

PAV: What is that standard?

RP: More likely than not.

PAV: I don't think we ever agreed to that, I am not prepared to hang Kofi Annan on that. I never dreamed that that was the standard -- we need to be pretty damn sure. It is not the standard that we will use in this report.

RG: I wouldn't make this finding against the SG on that standard, that would be irresponsible. I will not make a finding unless I am convinced.

●: But that is the standard we used on the others.

RM: I think it was beyond a reasonable doubt on those.

PAV: This is obviously more important.

●: Just a statement -- when you look at Wilson's statement and you look at the SG's testimony, he says that he does not recall it. You would have to put his recollection in there.

●: I am looking for the guidance of the Committee in how to draft this -- do we want to say what the committee credits when we deal with these discrepancies in the report?

RG: I think just put them in -- I don't think we have sufficient evidence to credit or not credit any of these.

●: But at the end of the day the committee has to say something about Wilson's evidence. If the committee is concluding that the SG did not know, then you are saying that you didn't believe Wilson.

RG: The finding is that there is not sufficient evidence to contradict the SG's denial. The presumption is one of innocence. That should be in the discussion at the end.

PAV: I think we say we are not convinced on either side. I can't say that he didn't know.

■ The question is did he know that the contract was being let. If you credit MW then it shows his knowledge. That is the importance of it.

RG: Are there other things we need to talk about?

RM: Goes into schedule.

# Appendix K

INDEPENDENT INQUIRY COMMITTEE  
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November 10, 2005

STAFF REVIEW OF THE COMMITTEE'S PROCEDURES AND CONSIDERATION OF THE  
SECRETARY-GENERAL'S KNOWLEDGE OF THE COTECNA BID

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In the light of questions about the Committee's findings in relation to the Secretary-General, as contained in its Second Interim Report, Mr. Volcker requested a full review of relevant Committee procedures and proceedings. This review takes into account the issues raised by the deposition testimony of Robert Parton before staff members of the respective Congressional Committees on September 27, 2005.

In summary, this review concludes that the Committee did not afford Secretary-General Kofi Annan any procedural preference in connection with its Second Interim Report. The Committee did not alter its findings or standard of proof to benefit the Secretary-General. With regard to the Committee's findings, Mr. Parton disagreed on a single point: whether the evidence was reasonably sufficient to conclude that the Secretary-General knew of his son's company's bid for an inspection contract under the Oil-for-Food Programme ("the Programme"). However, the Committee's conclusion took into consideration the highly circumstantial evidence, the absence of a proverbial "smoking gun," discrepant witness accounts, and well-founded concerns about the reliability and general credibility of certain witnesses. Moreover, the Committee's Report did not omit material facts concerning the Secretary-General's knowledge. In fact, neither Mr. Parton nor other commentators have presented any such facts bearing on the Secretary-General's knowledge that were not presented in the Second Interim Report.

This review proceeds in three parts:

- *Part A: Background* – a review of the general background of Mr. Parton's employment with the Committee and the scope of his investigation and drafting responsibilities leading up to the Committee's Second Interim Report.
- *Part B: The Committee's Report Included All Material Facts* – a discussion of Mr. Parton's initial acknowledgement in his deposition testimony that the Committee did not omit material facts from the Second Interim Report and a response to his subsequent efforts to modify his testimony to suggest that such material facts were omitted.
- *Part C: The Committee Afforded No Preferential Treatment to the Secretary-General* – a discussion of Mr. Parton's claims and the notes of the Committee's meeting of March 8 in order to show that the Committee did not afford preferential treatment to the Secretary-General, including with respect to: (1) consideration of the potential employment consequences to the Secretary-General of an adverse finding; (2) application of the standard of proof; and (3) provision of information adverse to the Secretary-General in advance of the Committee's report.

#### A. BACKGROUND

The Committee's first two interim reports addressed, among other things, the United Nations' selection of the Programme's escrow bank and its oil and humanitarian goods inspection companies. Mr. Parton was in charge of the "Procurement Team" of approximately six investigators. As such, he was integrally involved in the drafting and continued investigation relating to the Committee's Second Interim Report on the subject of Cotecna's selection. On March 29, 2005, the Committee issued its Second Interim Report.

With respect to the Secretary-General's specific role, the Committee reached three major conclusions in its Second Interim Report: (1) that there was no evidence that Cotecna's selection in 1998 was subject to any affirmative or improper influence of the Secretary-General; (2) that the evidence was not reasonably sufficient to show that the Secretary-General knew that Cotecna (which employed his son) had submitted a bid on the inspection contract in 1998; and (3) that, once the Secretary-General was apprised in January 1999 of Cotecna's involvement, he failed to undertake an adequate investigation of the matter and should have referred the matter to an appropriate United Nations department for a thorough

and independent investigation.<sup>1</sup> Mr. Parton's only dispute of substance with the Committee was whether the Secretary-General knew during the contract bidding process in 1998 that Coteena was bidding for the inspection contract and, relatedly, whether the Secretary-General lied to the Committee in claiming that he was unaware of Coteena's contract bid.

Mr. Parton left employment with the Committee on April 12, 2005, approximately two weeks after issuance of the Second Interim Report. He was soon replaced by a former federal prosecutor of the United States Department of Justice who conducted the ongoing investigation of Coteena's selection in light of additional information disclosed by Coteena and additional information obtained from Kojo Annan. The results of this investigation were disclosed by the Committee in September 2005 in its Report on the Management of the United Nations Oil-for-Food Programme. The Committee adhered to its view that weighing all of the evidence and the credibility of witnesses, the evidence was not reasonably sufficient to conclude that the Secretary-General knew that Coteena had submitted a bid on the humanitarian inspection contract in 1998.<sup>2</sup>

Much of the questioning at Mr. Parton's deposition concerned informal notes typed by one of his subordinates, whom he had invited to a March 8 meeting of senior staff members with two Committee members to review an early draft of the Second Interim Report. This meeting was the earliest and only one of several meetings among the Committee members in which they weighed the evidence and discussed what conclusions to draw in relation to the Coteena matter. These informal notes therefore present an incomplete picture of the true scope of the Committee's deliberations, and they are neither fully accurate nor complete. For example, they do not capture all comments by meeting participants, and they suggest the participation of Committee member Mark Pieth—even though he did not participate. Prof. Pieth earlier communicated his views to the other Committee members. (Prof. Pieth's views, independently arrived at, reflected the same concerns expressed by the Committee members present at the meeting.) In addition, the notes incorrectly suggest that Mr. Volcker was not fully familiar with the draft—when in fact he had read through the immediately preceding version.

**B. THE COMMITTEE'S SECOND INTERIM REPORT INCLUDED ALL MATERIAL FACTS CONCERNING THE ACTIVITIES AND KNOWLEDGE OF THE SECRETARY-GENERAL**

The Committee consistently took the view that its reports should include and evaluate all relevant investigatory facts, and no contrary evidence here appears. There has been little question of this. During conversations with both Committee staff and the Chairman, including an additional conversation with the Chairman after Mr. Parton's resignation, Mr. Parton himself confirmed that all relevant investigatory facts were included. Moreover, this is reflected in the informal notes of the March 8 meeting and in Mr. Parton's comments to Congressional staff. As indicated in the meeting notes of March 8, although Justice Goldstone disagreed with Mr. Parton's assessment of the evidence, he instructed that "[t]he investigation must all stay in, [and there is] no question about not reporting everything we have found."<sup>3</sup>

Mr. Parton was "always involved" in the drafting and revision process, such that he was positioned to insert or request insertion of any material facts that he believed should be in the body of the Report.<sup>4</sup> After Mr. Parton and Miranda Duncan (who worked under Mr. Parton's supervision) prepared an initial draft during January 2005, the draft was edited and revised during the first three weeks of February 2005 by Senior Counsel Jeffrey Meyer (who performed general editing of most of the

<sup>1</sup> Second Interim Report at 77-80.

<sup>2</sup> Programme Management Report, vol. III, at 195-242.

<sup>3</sup> March 8 meeting notes at 1.

<sup>4</sup> Robert Parton deposition transcript (hereinafter "Parton Deposition Tr.") at 145-46.

Committee's reports). On February 24, Mr. Meyer returned the draft to Ms. Duncan for further drafting and editing, with instructions that she should make sure to re-insert any information that they believed should not have been edited out. The draft remained within the control of Mr. Parton and Ms. Duncan until its submission to the Committee at some point prior to the meeting of March 8.<sup>5</sup> From March 8 until the Report's release on March 29, no facts of significance were removed from the Report. As Mr. Parton noted, "you'll see a sequence of drafts which would reflect essentially the same report is there [but] with changed findings," and except for "some additional facts that come in" as a result of continued investigation, "the report was the same report with somewhat different conclusions between the 8<sup>th</sup> of March and the 29<sup>th</sup> of March."<sup>6</sup>

Among the documents produced by Mr. Parton to Congress are diary entries that Mr. Parton apparently recorded between March 9 and March 21. Although Mr. Parton complains in these entries (as in his deposition testimony) about one weekend from March 18 to March 20, when he was not permitted access to the Report, this complaint reflects a lack of appreciation that it was the Committee's report and not his own personal statement. Mr. Parton's diary entry for March 19 asserts that there were "facts, mischara[ct]erizations, and wrong conclusions" that he needed to correct but could not because he was locked out of the draft. However, his diary entry—like his deposition testimony—did not specify what any of these were. In fact, Mr. Parton failed to identify any facts or evidence that were altered or removed during this "lock out" period when the Report was subject to further review by the Committee members. In any event, a new draft of the report was e-mailed by Mr. Meyer to staff members, including Mr. Parton, on the morning of March 22—one week before the Report's release and with plenty of time for Mr. Parton to propose the inclusion of any further facts or information. Mr. Meyer's e-mail summarized the changes to the draft from the last version and issued an invitation that stated in part that, "[w]ith the assistance of the Procurement Team," more records of conversation needed to be integrated, and, "if there is concern that any item has not been properly incorporated or omitted, please let me know."<sup>7</sup>

Mr. Parton was asked during his deposition whether "there was anything, any material fact, that would have pointed to a problem with Kofi Annan's activities that was left out, as far as you can remember?" He replied: "I think that for the most part, the evidence that was gathered was in one form or

<sup>5</sup> Jeffrey Meyer e-mail to Michael Cornacchia, Robert Parton, and Miranda Duncan (Feb. 24, 2005) (transmitting the draft and noting that "[i]t is plenty possible and likely that I have missed items that were in the last draft . . . just feel free to tell me what needs to go back in if that is the case"); Jeffrey Meyer e-mail to Michael Cornacchia, Robert Parton, and Miranda Duncan (Feb. 24, 2005) (re-transmitting the draft and stating that "Miranda now 'owns' the electronic version to make further changes" and inquiring whether "[o]ther info that Miranda suggested needs to find its way back in"); Jeffrey Meyer e-mail to Michael Cornacchia, Robert Parton, and Miranda Duncan (Mar. 7, 2005) (noting "further thoughts on the report and additional information I would recommend pursuing (with apologies in advance for items that you already have done or are in works but that I do not know about)").

<sup>6</sup> Parton Deposition Tr. at 135-36 (emphasis added).

<sup>7</sup> Robert Parton electronic diary (Mar. 9-21, 2005); Parton Deposition Tr. at 137-39, 146; Jeffrey Meyer e-mail to Reid Morden et al. (Mar. 22, 2005). Numerous e-mails with information were exchanged between Mr. Meyer and Mr. Parton (or other members of the Procurement Team) in the week prior to the Report's release on March 29. For example, on March 28 at 12:42 a.m., Mr. Meyer sent Mr. Parton and Mr. Cornacchia a draft of the text for Footnote 28 of the Second Interim Report in which the Committee stated that it would not credit Mr. Mouselli's assertion that Kofi Annan advised the Secretary-General of any visit that he made to the Iraq embassy in Nigeria or of any intent to engage in business under the Programme. Mr. Meyer prefaced this proposed draft text with the following: "In light of Mouselli's backpedal last Friday, I have revised the pertinent part of the report to state -- please advise if OK." Jeffrey Meyer e-mail to Committee staff (Mar. 28, 2005). No objection was received from Mr. Parton or any other member of the Procurement Team.

another in the report." He added: "Characterizations change[d] based upon how you're coming out, but the evidence is pretty much there."<sup>6</sup>

Mr. Parton then modified this testimony. He asserted that there could have been "a couple of things that were not in the report," but named only one item of evidence: "an E-mail regarding Diana Mills[-Aryee] and Kofi Annan, which wasn't in the Second Interim Report." Mr. Parton did not further describe this e-mail or what bearing it had on the Secretary-General's knowledge of Cotecna's contract bid. Although the Committee has e-mail communications between Ms. Mills-Aryee and Kofi Annan from May and June 1999 concerning Kofi Annan's various business interests, the Committee does not have any e-mail between Ms. Mills-Aryee and the Secretary-General. Most significantly, the Committee does not have any e-mail of Ms. Mills-Aryee that sheds light on whether the Secretary-General knew or had anything to do with Cotecna's contract bid. Furthermore, no Committee record indicates that Mr. Parton ever brought such an e-mail to the Committee's attention.<sup>7</sup>

Mr. Parton also asserted in his deposition that the Report did not spend enough time reviewing discrepancies among the statements made by the Secretary-General during the course of his four interviews. Mr. Parton did not identify those discrepancies or show that they were material, and he has neither suggested nor shown that any such discrepancies were suppressed intentionally from the Report.<sup>10</sup>

Mr. Parton also claimed that the "only specific description [in the Report] of earlier testimony [of the Secretary-General] was with respect to what [the Secretary-General] said about Elie Massey."<sup>11</sup> However, the Report described at length the Secretary-General's failure to recall when first interviewed that he had spoken with Michael Wilson about his son's alleged departure from employment with Cotecna.<sup>12</sup>

<sup>6</sup> Parton Deposition Tr. at 111-12.

<sup>7</sup> *Ibid.* at 112; see also Second Interim Report at 38-39 (describing at length the relationship between Ms. Mills-Aryee and the Annan family). In addition, the Committee later returned to review additional evidence concerning Ms. Mills-Aryee. After Mr. Parton's departure, his replacement reviewed Mr. Parton's records and learned that Mr. Parton had telephone records of Kofi Annan showing numerous telephone calls from Kofi Annan to Ms. Mills-Aryee and also to the United Nations procurement department. These telephone call records, along with additional correspondence disclosed by Kofi Annan to the Committee after Mr. Parton's departure, were the subject of extended review in the Committee's report in September 2005 on the United Nations' management of the Programme. Programme Management Report, vol. III, at 201-21.

<sup>10</sup> Parton Deposition Tr. at 113-14. Although Mr. Parton himself did not suggest that such omission was material or deliberate, one of his questioners referenced a portion of the Secretary-General's interview transcript of December 3, 2004, in which the Secretary-General spoke in the future tense with Michael Wilson about his son leaving Cotecna. This suggested by inference that use of the future tense could be evidence that the conversation with Michael Wilson occurred in November 1998—while Kofi Annan was still employed there—rather than in January 1999 after he allegedly had left Cotecna's employment. The Secretary-General, however, insisted during the interview that the conversation with Mr. Wilson took place in January 1999, as it was prompted by the first media story in a British newspaper about this issue. The fact that the Secretary-General used the future tense does not constitute significant evidence that the Secretary-General's conversation occurred in November 1998.

<sup>11</sup> *Ibid.*; see also Second Interim Report at 41-45 (describing the failure of the Secretary-General to recall meetings with Elie Massey until the Committee's electronic review of documents within the Executive Office of the Secretary-General).

<sup>12</sup> *Ibid.* at 52-53. Mr. Parton also pointed to the Secretary-General's statement when first interviewed that he did not know someone named "Pierre Mouselli." Parton Deposition Tr. at 76; Kofi Annan interview transcript at 83-85 (Nov. 9, 2004). However, it was never shown that the Secretary-General knew of Mr. Mouselli's full name. At a later interview, when specifically asked about lunch with Kofi Annan in South Africa, the Secretary-General recalled that his son had a friend named "Pierre" whom he met in South Africa, but he did not know the last name of "Pierre." Kofi Annan interview transcript at 52-58 (Mar. 17, 2005). The name "Pierre Mouselli" does not appear in

During his deposition testimony, Mr. Parton disputed the accuracy of the Report's statement that the Committee "has not encountered any documents that were given or sent to the Secretary-General to apprise him in 1998 that the Iraq inspection contract was put up for bid again, that Coteona had submitted a bid, or that Coteona had been awarded the contract."<sup>13</sup> When asked whether he agreed with the foregoing statement, Mr. Parton replied: "[T]here is a document which is an attachment or an exhibit to the Secretary-General's March 17<sup>th</sup> deposition or interview, and that document reflects that the Secretary-General was told both about Lloyds's pull-out and was aware, based [on] his testimony, of the need to have a new selection of a new inspection company."<sup>14</sup>

In fact, the Report discussed at length the temporary withdrawal of the Lloyd's inspectors from their duty stations in mid-November 1998 and specifically cited and quoted from the document at issue concerning the departure of the Lloyd's inspectors from their posts and the Government of Iraq's request to have a new inspection firm appointed.<sup>15</sup>

Mr. Parton's reliance on the evidence of the temporary Lloyd's withdrawal reflects a misunderstanding of the sequence of events involved in the procurement process. In early October 1998, well before the Lloyd's inspectors left their posts, the procurement department had put the inspection contract up for bid. This was because of the rising rates charged by Lloyd's over time. It was not because the inspectors temporarily had left their posts for a few days (and then returned) or that Iraq had requested the appointment of new inspectors. Accordingly, although the Secretary-General was apprised of the temporary departure of the Lloyd's inspectors, this event was of limited significance to understanding whether the Secretary-General was aware that the contract was subject to a new bidding process. In any event, the facts concerning the departure of the Lloyd's inspectors and the Secretary-General's statements were all included in the Report.<sup>16</sup>

When Mr. Parton was asked at his deposition to "summarize your belief as to why you believe that the Secretary-General did have the prior knowledge," he was unable to do so. Instead, he offered a lengthy explanation that he may have forgotten about events that occurred only several months ago and that were the primary focus of his intense investigation efforts: "[I]t's certainly more difficult for me, now having, you know, six months or four months past and not having looked at the documents substantially in the period, to recall the evidentiary record," and "I will attempt to do so, my best recollection of the reasons and, to the extent that I can, the evidential basis for those reasons."<sup>17</sup> In the final analysis, Mr. Parton's professed lack of memory about events that occurred only several months ago is more than ironic given his view that discrepancies in the Secretary-General's testimony about matters occurring as long as six or seven years ago—such as brief meetings with Elie Massey—meant that the Secretary-General was intentionally untruthful.

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the Secretary-General's schedule, and there was no evidence of any other meeting involving the Secretary-General and Mr. Mouselli. Accordingly, because there was no indication that the Secretary-General knew or should have known when first interviewed by Mr. Parton in November 2004 the name "Pierre Mouselli," it was well within proper bounds for the Second Interim Report not to delve into the fact that the Secretary-General did not recognize this name when he was first interviewed.

<sup>13</sup> Parton Deposition Tr. at 62-63 (quoting Programme Management Report, vol. III, at 226).

<sup>14</sup> *Ibid.* at 63.

<sup>15</sup> Second Interim Report at 21, 55.

<sup>16</sup> *Ibid.* at 16, 20, 55.

<sup>17</sup> Parton Deposition Tr. at 17. After professing his lack of memory, Mr. Parton then referenced without elaboration the Secretary-General's testimony on certain subjects, but without attempting to explain how any of this testimony in fact established the Secretary-General's knowledge. *Ibid.* at 18.

**C. THE COMMITTEE AFFORDED NO PREFERENTIAL TREATMENT TO THE SECRETARY-GENERAL**

Mr. Parton alleges that the Committee afforded preferential treatment to the Secretary-General in three ways: (1) the Committee softened its finding against the Secretary-General because of its concern about forcing the Secretary-General from office; (2) the Committee applied a different standard of proof for the Secretary-General than for other persons; and (3) the Committee sought to give the Secretary-General an advantage by giving him advance notice of the evidence upon which it would rely in its Report on the issue of the Secretary-General's knowledge of Cotecna's contract bid. These arguments are meritless for the reasons set forth below.

In addition, these allegations of preferential treatment should be viewed in the broader context discussed above, namely that the Committee always intended to and actually did include in its Report all material facts concerning whether the Secretary-General knew of Cotecna's bid. The Committee's detailed treatment of all material facts—including those directly supporting the Committee's conclusion and those that might support a contrary conclusion—further undercut any suggestion that the Committee granted the Secretary-General any preferential treatment.

**1. The Committee's Findings Were Not Affected by Concerns for Any Effect on the Secretary-General's Employment**

When asked his opinion "why there was not a finding made that the Secretary-General had prior knowledge of Cotecna's interest" in the United Nations inspection contract, Mr. Parton replied that "the [C]ommittee was hesitant to make a finding that would potentially cause the Secretary-General to lose his position as Secretary-General."<sup>18</sup> The questioning of Mr. Parton focused on the following statement attributed to Mr. Volcker in the notes of the Committee's March 8 meeting:

PAV: Well my general feeling about the report is that if you accuse him of lying, he is gone and I don't know if we have the evidence to make that accusation—but, we have a lot of unexplained business. The facts will speak for themselves, but we can't conclude that he lied. But other people may conclude that.<sup>19</sup>

This questioning, however, rested on a misinterpretation of Mr. Volcker's statement to mean that—no matter what the evidence showed—Mr. Volcker would refuse to find that the Secretary-General lied because it could cause the Secretary-General to lose his job.<sup>20</sup> In fact, Mr. Volcker stated his uncertainty about whether sufficient evidence justified a finding that the Secretary-General was lying—"I don't know if we have the evidence to make that accusation," and therefore "we can't conclude that he lied."<sup>21</sup>

The quoted passage properly suggests a concern on the part of Mr. Volcker for the momentous effect of a finding that the Secretary-General lied, but it certainly does not indicate any unwillingness to make such a finding if in fact the evidence so warranted. Even Mr. Parton himself conceded that "there is, I think, a difference between having a general concern about . . . the ultimate outcome of the investigation and some specific concern that you don't want to do something because of a predetermined

<sup>18</sup> *Ibid.*, at 29.

<sup>19</sup> March 8 meeting notes at 4.

<sup>20</sup> Parton Deposition Tr. at 39-40 ("Q. What is your reaction to Mr. Volcker's statement that regardless what evidence is found, the Secretary-General cannot be accused of lying?" "A. Well, Mr. Volcker says what he says, and certainly it was consistent with the notes that were taken.").

<sup>21</sup> March 8 meeting notes at 4 (emphasis added).

notion of what the outcome should be."<sup>22</sup> The meeting notes of March 8 do not establish that Mr. Volcker would alter his findings to favor the Secretary-General, but only that he would not make findings against the Secretary-General without sufficient evidence.

Equally significant, Mr. Volcker's concern for the impact of the Committee's findings was not limited to the Secretary-General. When the subject of discussion at the meeting of March 8 turned to the targets of adverse findings against lower-level employees within the United Nations procurement department, and specifically whether the Committee's report should render an adverse finding against "the [procurement] department [as a whole] or the individual," Mr. Volcker similarly expressed his concern that a mistake by the Committee could result in an individual getting fired.<sup>23</sup>

The Committee ultimately rendered findings in the Second Interim Report that the procurement department failed to follow its rules relating to the financial and background qualifications of prospective bidders. Although the body of the Report described the involvement by name of particular employees of the procurement department, the Committee's formal findings did not name lower-level employees of the procurement department. By contrast, the Report specifically named the Secretary-General and his son (among others), as well as another senior United Nations official, in the body of its Report and in the Report's formal adverse findings. With respect to whether the Secretary-General should share in the blame for the procurement department's failure to disqualify Cotecna from further bidding once its adverse history became known, the notes of the meeting of March 8 reflect Justice Goldstone's statement that "[t]he responsibility must lie where it should be—if the SG's office knew about it than they must take responsibility."<sup>24</sup>

The fact that the Committee specifically named higher-level United Nations officials, but did not always name lower-level United Nations employees negates Mr. Parton's unsupported opinion that "there was certainly, in my view, a hesitancy by the [C]ommittee to publicly name individuals of importance as having done something wrong with respect [to] the Oil-for-Food Programme."<sup>25</sup> Mr. Parton failed to identify any such "individuals of importance" that the Committee failed to "publicly name," and the Committee's record of findings is to the contrary.

The meeting notes elsewhere make clear the focus of concern on the absence of reliable evidence that the Secretary-General was lying to the Committee. Justice Goldstone stated his firmly held view that, based on having personally participated in two interviews of the Secretary-General, the Secretary-General was *not* lying even if his conduct were judged on a more-likely-than-not standard of proof.

I am really not able to find, *even on a balance of probabilities*, that KA [the Secretary-General] lied to us when he said he didn't remember or that his memory was refreshed. I did not get the impression in my two interviews with him that he was lying. He wasn't the most impressive witness, but I wouldn't reach the conclusion that he was being dishonest.<sup>26</sup>

<sup>22</sup> Parton Deposition Tr. at 133.

<sup>23</sup> March 8 meeting notes at 7.

<sup>24</sup> Compare Second Interim Report at 77 (Finding #1(b)), with *ibid.* at 78-80 (Findings #2-#3 (naming Kofi Annan, Kojo Annan, Cotecna, Elie Massey, Robert Massey, and Joseph Connor)), March 8 meeting notes at 8.

<sup>25</sup> Parton Deposition Tr. at 37.

<sup>26</sup> March 8 meeting notes at 1 (*emphasis added*); see also Jeffrey Toobin, "Annals of Law: Swing Shift," *The New Yorker*, Sept. 12, 2005, p. 48 (describing Justice Goldstone as "among the world's most widely admired judges").

Justice Goldstone later reiterated his view: "I was at two interviews [of the Secretary-General,] and I did not get the impression that [the Secretary-General] was lying."<sup>27</sup> In short, the Committee based its decision strictly on the evidence.

## 2. The Committee Did Not Alter the Standard of Proof to Favor the Secretary-General

Mr. Parton testified to his belief that the Committee had agreed to a "more likely than not" standard of proof, but departed from this agreement in order to favor the Secretary-General.<sup>28</sup> In fact, the Committee's Investigation Guidelines—which were distributed to all Committee investigators as early as August 2004 and shortly thereafter posted to the Committee's website—provide that the "[t]he standard for evaluating evidence that would result in a finding shall generally be 'reasonably sufficient evidence.'" This is not a standard created by the Committee for the convenience of the Secretary-General. To the contrary, the "reasonable sufficiency" standard is the well-established benchmark recommended and used by the World Bank as well as other leading international organizations for purposes of their international investigations.<sup>29</sup>

According to the notes of the meeting of March 8, when Mr. Parton suggested that the Committee had agreed to a more-likely-than-not standard of proof, Mr. Volcker immediately responded that he had not agreed to this standard. Mr. Volcker stated his view that he must be "pretty damn sure" in order to agree to a finding that Secretary-General lied, and Judge Goldstone stated that he must be "convinced."<sup>30</sup> These common sense formulations do not conflict with a requirement of reasonable sufficiency of evidence—the standard that the Committee expressly articulated in the findings of the Second Interim Report. Nor are they inconsistent with the standard previously applied by the Committee to persons other than the Secretary-General in its First Interim Report.<sup>31</sup>

At one point in his deposition testimony, Mr. Parton claimed without elaboration that "there was hesitancy to apply the standard of more likely than not because of the implications that it would have to the Secretary-General." The notes of the March 8 meeting, however, show that the evidence was considered to be insufficient even if judged under the more-likely-than-not standard. As noted above,

<sup>27</sup> March 8 meeting notes at 4.

<sup>28</sup> Parton Deposition Tr. at 32-34.

<sup>29</sup> Independent Inquiry Committee, Documents, "Investigations Guidelines," <http://www.iic-offp.org/documents.htm>; United Nations, Conference of International Investigators, "Uniform Guidelines for Investigations," Part IV-E(5) (noting that "[t]he standard of proof should conform to the standards required by the organization and/or the national jurisdiction for referrals, but should generally be reasonably sufficient evidence"); Susan Ringler e-mail to Committee staff (Aug. 19, 2004) (distributing the Investigations Guidelines); The World Bank Group, "Procurement – Sanctions Committee," sect. 13(b)(2) (identifying the standard of proof for debarment: "If the [debarment] Committee finds that the evidence is reasonably sufficient to support a finding that the Respondent engaged in a fraudulent or corrupt practice in connection with a Bank Project, the Committee shall determine an appropriate sanction . . .").

<sup>30</sup> March 8 meeting notes at 11.

<sup>31</sup> Although the Committee's First Interim Report did not elaborate on the evidentiary standard contained in the Committee's Investigations Guidelines, the wording of its findings suggested a standard in excess of the more-likely-than-not standard of proof. With respect to the contractor procurement selection issues that were the subject of Mr. Parton's investigation, the findings provided that "[t]he investigatory record reviewed herein [was] *replete with convincing and uncontested evidence*" of the violation of the United Nations rules and that "[t]he investigatory record *clearly and repeatedly demonstrate[d]* that in deviating from the established financial and procurement rules, the decision-making process in 1996 for the United Nations contractors did not meet reasonable standards of fairness and transparency." First Interim Report at 109-10 (emphasis added) (quoting from the first and second findings). As Mr. Morden noted without contradiction, the evidence "was beyond a reasonable doubt" for these prior cases. March 8 meeting notes at 11.

Justice Goldstone made clear that even on “the balance of probabilities” he could not conclude that the Secretary-General was lying, thus undermining any allegation that the Committee somehow was choosing a different standard of proof to favor the Secretary-General.<sup>32</sup>

The evidence on the issue of the Secretary-General’s knowledge was highly circumstantial and conflicting, in contrast to the more direct and probative evidence that the Committee had concerning others who were the subject of prior adverse findings. As Mr. Parton himself observed at the March 8 meeting, the Committee must “start adding up a collection of individual points” and “maybe no one of them is sufficient alone.”<sup>33</sup> Mr. Parton could not accept the possibility that reasonable people could disagree on what significance to attach to the many competing aspects of the evidence, including Mr. Wilson’s cryptic-but-recanted statements suggesting that he had talked to the Secretary-General in the fall of 1998.

Moreover, Mr. Parton’s conduct and testimony should be viewed in the light of his having pre-determined the issue of the Secretary-General’s knowledge before he had cognizable evidence to support his conclusion. After leaving the Committee, an internal confidential e-mail was discovered that Mr. Parton had sent to his team subordinates (sometime before December 8, 2004), which was prominently marked: “This Document is for Internal Use by the Procurement Team Only and is Not Intended for Distribution Outside the Team.” The e-mail cited “the need to establish that Kofi Annan knew of Cotecna’s involvement in the 1998 selection process” and to do so despite the fact that “we are missing the critical information” to reach such a conclusion:

Prepare a list of facts that we need to be able to establish, but currently are unable to establish because we are missing the critical information. A good example of this type of fact is the need to establish that Kofi Annan knew of Cotecna’s involvement in the 1998 selection process.<sup>34</sup>

As Mr. Parton acknowledged in this e-mail, he did not then have direct evidence to establish the Secretary-General’s knowledge of Cotecna’s contract bid. There were no witness statements or documents about which Mr. Parton knew to suggest that the Secretary-General had been advised of Cotecna’s contract bid. Indeed, Mr. Parton’s pre-judgment of the Secretary-General’s knowledge foreshadowed his later disagreement with the Second Interim Report.

Ultimately, Mr. Parton was free to state his views to the Committee and, as reflected in the meeting notes of March 8, he forcefully did so. Justice Goldstone made clear to Mr. Parton that his mind was not made up: “I am keeping an open mind and am willing to change it” if additional facts developed to establish the knowledge of the Secretary-General.<sup>35</sup> In the end, however, it was the members of the Committee—and not Mr. Parton—who were charged with the responsibility to interpret the evidence. Mr. Parton has done no more than show a difference of opinion with the Committee members in the interpretation of circumstantial evidence.

The record is clear that, over a period of two weeks or more, the Committee members debated the precise wording of any finding—a finding that recognized that the evidence raised questions, but in the last analysis was inconclusive and not “reasonably sufficient.”

<sup>32</sup> Parton Deposition Tr. at 36; March 8 meeting notes at 1-2, 11.

<sup>33</sup> *Ibid.* at 4.

<sup>34</sup> Robert Parton memorandum to Procurement Team members (undated) (disclosed to Congress by Mr. Parton).

<sup>35</sup> March 8 meeting notes at 11.

**3. The Committee Did Not Afford the Secretary-General any Preference by Identifying Evidence It Intended to Cite Concerning the Issue of His Knowledge**

Mr. Parton further claims that the Secretary-General was given preferential treatment because he received as an attachment ("Annex A") to his adverse notice letter from the Committee a listing of evidence that the Committee intended to refer to in its Report concerning the issue of the Secretary-General's knowledge. Even though the Committee was not prepared to make an adverse finding against the Secretary-General on the issue of his knowledge of Cotecna's contract bid, there was little doubt that the information it would describe could damage the Secretary-General and therefore was adverse to him. This was especially so because of the Committee's intent to include in the Report all material facts bearing both ways on the issue of the Secretary-General's knowledge.

The purpose of the Committee's adverse notice process was to ensure fairness by providing recipients of proposed adverse findings an opportunity to respond before the Committee finalized and publicly disclosed its reports and related findings. In numerous instances in which the Committee intended to include facts in a report's narrative that could be interpreted negatively, even though not amounting to an adverse finding, notice letters similarly were sent in advance of the report's publication, and individuals and entities were provided with an opportunity to respond. When requested, cooperating individuals who received adverse notice letters were provided with the opportunity to review underlying evidence that was not otherwise subject to restrictions or confidentiality agreements. In addition, recipients of adverse notice letters were provided with the opportunity to respond in person (with or without counsel) or in writing. In each and every case, the Committee reviewed the oral and written submissions and, where appropriate, modified its findings based upon its review.<sup>36</sup>

It was well within the Committee's interest in accuracy and the bounds of fairness to afford the Secretary-General a full opportunity to comment on information that the Committee soon would publish concerning whether the Secretary-General knew of Cotecna's contract bid. Moreover, the scope of information provided to the Secretary-General was consistent with—and in some cases far less than—that provided to others who received adverse notice letters from the Committee. In the case of Benon Sevan, prior to issuance of the First Interim Report, the Committee permitted Benon Sevan to review considerable information and records collected from the United Nations and other sources. Even before the Committee sent Mr. Sevan an adverse notice letter, it provided him with seventeen CD-ROMs of Programme-related documents—most of which was non-adverse. Subsequently, as part of the adverse finding process, the Committee provided Mr. Sevan access to additional records. These included documents of Iraq's State Oil Marketing Organization and the African Middle East Petroleum Co. Ltd. Inc., as well as various telephone records and data from Mr. Sevan's computer. Furthermore, Committee staff discussed with Mr. Sevan's attorney the substance of some relevant interviews.<sup>37</sup>

The Committee's issuance of Annex A to the Secretary-General did not afford the Secretary-General any kind of unfair advantage. Most significantly, the listing of items merely apprised the Secretary-General of information about which Mr. Parton already had questioned him. For example, Annex A referenced the "[s]tatement by Michael Wilson that in the autumn of 1998 he had a conversation with the Secretary-General in which there was a reference to Cotecna's interest in securing the Oil-for-Food inspection contract with the United Nations."<sup>38</sup> This came as no surprise to the Secretary-General.

<sup>36</sup> During its investigation, the Committee sent adverse notice letters to more than one hundred individuals and entities discussed in the reports' narratives.

<sup>37</sup> Committee letters to Benon Sevan and Eric L. Lewis (Jan. 4, 2005); Committee letter to Eric L. Lewis (Jan. 28, 2005); H. Bradford Glassman acknowledgement (Jan. 31, 2005). Mr. Lewis and Mr. Glassman both served as counsel to Mr. Sevan.

<sup>38</sup> Committee letter to Kofi Annan, Annex A, para. 8 (Mar. 21, 2005).

When Mr. Parton interviewed the Secretary-General four days *before* the Secretary-General was sent Annex A, Mr. Parton gave the Secretary-General a verbatim excerpt of the exact statement of Mr. Wilson as it appeared in Mr. Wilson's record of conversation (internal interview report) and that the Committee eventually published in its Second Interim Report.<sup>39</sup>

Equally meritless is Mr. Parton's complaint concerning the inclusion of Mr. Mouselli's name in Annex A.<sup>40</sup> When the Secretary-General had been interviewed four days before Annex A was sent, he was questioned at length about his dealings with Mr. Mouselli.<sup>41</sup> The fact that Annex A referenced a statement from Mr. Mouselli did not afford him any unfair advantage or preference.

Mr. Parton's complaint that the disclosure of Mr. Mouselli's name as a witness in Annex A amounted to a breach of the Committee's confidentiality agreement with Mr. Mouselli is irrelevant to the issue of whether such disclosure assisted the Secretary-General in some unfair way. In any event, it was Mr. Parton who was in charge of communications with Mr. Mouselli and who failed to obtain a timely waiver from Mr. Mouselli—despite knowing that Mr. Mouselli's information would be used within days in the Committee's Report. However, Mr. Parton already knew that Mr. Mouselli would not object to the use of his name. In an e-mail to other Committee staff members on March 19, 2005, Mr. Parton stated that he was awaiting Mr. Mouselli's formal approval, but that Mr. Mouselli's counsel previously had represented that Mr. Mouselli "will not object to our disclosure of his identity and use of the information."<sup>42</sup>

In short, the Committee acted in accordance with its procedures and did not afford a preference to the Secretary-General with respect to its provision of information in advance of the Second Interim Report. In addition, much of the information disclosed by the Committee to the Secretary-General in Annex A already had been furnished to the Secretary-General by Mr. Parton himself during the course of his prior interviews of the Secretary-General. Furthermore, because the information disclosed to the Secretary-General could be interpreted negatively, even though not amounting to an adverse finding, the interests of fairness and accuracy fully supported the Committee's decision to disclose Annex A to the Secretary-General.

#### D. CONCLUSION

For the reasons set forth above, a full review of relevant Committee procedures and proceedings demonstrates that the Committee included all material facts in its Second Interim Report, and it did not grant the Secretary-General preferential treatment. Neither Mr. Parton's testimony nor the related documents support Mr. Parton's claims.

<sup>39</sup> Kofi Annan interview transcript at 35-36 (Mar. 17, 2005). The item shown by Mr. Parton to the Secretary-General is an excerpt from the report of conversation of the Michael Wilson interview on January 20, 2005, as reproduced verbatim in the Second Interim Report at page 54 and footnote 159.

<sup>40</sup> Committee letter to Kofi Annan Annex A, para. 9 (Mar. 21, 2005) (noting a "[s]atement by Pierre Mouselli that he and Kofi Annan met with the Secretary-General in Durban, South Africa, when there was [a] reference to Kofi Annan's interest in 'Iraqi oil'").

<sup>41</sup> Kofi Annan interview transcript at 52-53 (Mar. 17, 2005).

<sup>42</sup> Robert Parton e-mail to Committee staff (Mar. 19, 2005). Very soon after Mr. Mouselli's name was disclosed in Annex A, Mr. Parton was instructed to contact Mr. Mouselli's counsel, and Mr. Mouselli in turn consented to the use of his name in the Second Interim Report. Reid Morden letter to Adrian Gonzalez (Mar. 24, 2005) (countersigned by Pierre Mouselli and Adrian Gonzalez).

# Appendix L

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December 2, 2005

BY HAND DELIVERY

Honorable Henry Hyde, Chairman  
Honorable Tom Lantos, Ranking Member  
House International Relations Committee  
The Rayburn House Office Building  
Room 2170  
Washington, D.C. 20515

Honorable Dana Rohrabacher, Chairman  
Honorable William Delahunt, Ranking Member  
Subcommittee on Oversight and Investigations  
The Rayburn House Office Building  
Room 2170  
Washington, D.C. 20515

RE: BNP Paribas

Dear Chairmen and Ranking Members:

Earlier this week, the Staff of the Subcommittee on Oversight and Investigations of the House International Relations Committee advised this firm that the Subcommittee was planning on issuing a report with respect to the Committee's investigation to date concerning the United Nations ("UN") Oil-For-Food Program (the "Program"). The Staff further advised that the report would address issues relating to the role of our client, BNP Paribas (the "Bank"), in the Program, including with respect to certain letter of credit payments that were the subject of a hearing before the Subcommittee on April 28, 2005. However, the Staff did not provide any indication of what the report might say about the Bank. Accordingly, this letter is intended to provide the Bank's perspective regarding its role in the Program, particularly with respect to the payments that were the subject of the April 28 hearing. The Bank respectfully requests that this perspective be reflected in any report that addresses those payments, in order to present a fair and balanced account with respect thereto. This is especially important in light of the fact that the payments at issue appear to have been consistent with normal trade finance practices, and the Bank is not aware of any evidence that any of those payments bore any causal relationship to any corruption that may have occurred in the Program.

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As you know, under the Program, at the direction of the UN, the Bank issued letters of credit to certain contractors that had been approved by the so-called 661 Committee of the UN Security Council to furnish specified goods to Iraq as part of the humanitarian relief effort that had been undertaken through the Program on behalf of the international community. Those letters of credit were the means by which each of their beneficiaries (i.e., the 661 Committee-approved contractors) was assured of payment of the contract price that had been approved by the 661 Committee, upon presentation by the beneficiary to the Bank of specified documentation demonstrating that the required goods had been delivered to Iraq.

From the inception of the Program, it was contemplated that such beneficiaries might well need to obtain financing in connection with their 661 Committee-approved transactions, and they therefore were permitted to assign proceeds under their letters of credit to secure bank financing. An assignment of proceeds is a traditional means of securing financing for transactions such as these, and commonly takes various forms -- for example, assignments to a bank providing financing directly to the beneficiary; or to a bank providing financing to the beneficiary's supplier; or to the beneficiary's supplier itself, where the supplier is financing the transaction by providing the goods to the beneficiary on open account.

The focus of the April 28 hearing involved situations where proceeds of humanitarian letters of credit issued under the Program were assigned by their beneficiaries to persons other than banks providing financing directly to those beneficiaries. You will recall that, in response to the Committee's inquiries, the Bank had undertaken a comprehensive review of the approximately 54,000 payments that had been made under humanitarian letters of credit issued under the Program to identify such payments, and had submitted an interim report to the Committee shortly before the April 28 hearing. The interim report enumerated all such payments that had then been identified, together with information that had been developed to that date regarding the nature and purpose of such payments and the profiles of the parties for whose accounts those payments had been credited.

As described in that interim report, the overwhelming majority of the letter of credit proceeds at issue appear to have been assigned by their beneficiaries to banks that were providing financing for the underlying humanitarian goods transactions through the extension of financing facilities -- essentially, credit lines -- to suppliers to the beneficiaries of the goods called for by their 661 Committee-approved contracts. Those proceeds evidently were credited for the accounts of those suppliers and applied to repay the banks for the financing they provided for the underlying transactions. The rest of those payments apparently had been made at the direction of the 661 Committee-approved beneficiaries either for the accounts of their own affiliates or, in some cases, for the accounts of suppliers that were financing the underlying humanitarian transactions by providing the beneficiaries with the requisite goods on open account. Notably, the bulk of the payments involved were made to banks providing financing to suppliers that were

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large, well-known exporters of the required goods, and that were 661 Committee-approved contractors in other Program transactions or were affiliates of such contractors.

As the Bank indicated at the April 28 hearing, although the payments of letter of credit proceeds at issue appear to have been consistent with standard trade finance practice, they did not conform to the more restrictive procedures the Bank had put in place for processing letters of credit under the Program. These procedures had sought to limit assignments of letter of credit proceeds under the Program solely to banks providing financing directly to the beneficiaries of those letters of credit. As the Bank acknowledged at the hearing, insofar as proceeds were assigned to banks providing financing to suppliers of beneficiaries, or to suppliers providing open-account financing to beneficiaries, those procedures were not followed. While such shortcomings may have been unavoidable in a program of this magnitude, duration and complexity, they nonetheless are regrettable.

Still, it must be emphasized that the payments at issue were the result of normal commercial arrangements between beneficiaries and their suppliers that facilitated the flow of humanitarian supplies under the Program, just as similar arrangements outside of the Program are integral to the free flow of goods in the global marketplace. Moreover, the assignments of letter of credit proceeds by beneficiaries to banks providing financing facilities to suppliers of those beneficiaries, or to suppliers providing open-account financing, did serve to finance the underlying humanitarian transactions, and thus yielded the same effect as direct bank financing to the beneficiaries would have produced.

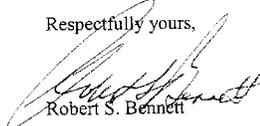
The Bank is not aware of any evidence that any of the payments in question bore any causal relationship to any corruption that may have occurred in the Program. In particular, none of the suppliers or affiliates of letter of credit beneficiaries that have been identified in the course of the Bank's review as having an interest in those payments has been listed, even today, as a Specially Designated National by the U.S. Treasury Department Office of Foreign Asset Control. This statement applies not only with respect to the payments enumerated in the Bank's interim report to the Committee, but also with respect to all additional similar payments that have since been identified in the course of the Bank's ensuing review of the enormous universe of humanitarian letter of credit payments under the Program.

As the Bank has advised the Staff, it recently completed its massive review of those payments, and is in the process of collating the results and preparing a final report of its findings. Those findings are entirely consistent with the findings set forth in the Bank's interim report, and with the Bank's statements at the April 28 hearing, regarding the ordinary commercial nature and purpose of the payments at issue, and the absence of any causal relationship between those payments on the one hand and any corruption of the Program on the other.

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As Chairman Rohrabacher observed at the April 28 hearing, the Bank has cooperated with the Committee's investigation; and it intends to continue to do so. The Bank hopes that its cooperation, as well as the contents of this letter, will be reflected in any report that addresses these matters. Please feel free to contact me if you have any questions in this regard.

Respectfully yours,



Robert S. Bennett