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Iraq: Oil-For-Food Program, International Sanctions, and Illicit Trade

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Kenneth Katzman
Specialist in Middle East Affairs
Foreign Affairs, Defense, and Trade Division

Iraq: Oil-For-Food Program, International Sanctions, and Illicit Trade

Summary

The "oil-for-food" program was the centerpiece of a long-standing U.N. Security Council effort to alleviate human suffering in Iraq while maintaining key elements of the 1991 Gulf war-related sanctions regime. In order to ensure that Iraq remained contained and that only humanitarian needs are served by the program, the program imposed controls on Iraqi oil exports and humanitarian imports. All Iraqi oil revenues legally earned under the program were held in a U.N.-controlled escrow account and were not accessible to the regime of Saddam Hussein.

There is a consensus among observers that the program, in operation after December 1996, substantially eased, but did not eliminate, human suffering in Iraq. Concerns about the program's early difficulties prompted criticism of the United States; critics asserted that the U.S. strategy was to maintain sanctions on Iraq indefinitely as a means of weakening Saddam Hussein's grip on power. At the same time, growing regional and international sympathy for the Iraqi people resulted in a pronounced relaxation of regional enforcement — or even open defiance — of the Iraq sanctions. Until 2002, the United States argued that continued sanctions were critical to preventing Iraq from acquiring equipment that could be used to reconstitute banned weapons of mass destruction (WMD) programs. In 2002, the Bush Administration asserted that sanctions were not sufficient to contain a mounting threat from Saddam Hussein's regime and the Administration decided that the military overthrow of that regime had become necessary.

The program has terminated now that Saddam Hussein's regime has fallen, an Iraqi government assumed sovereignty on June 28, 2004, and Saddam-era United Nations sanctions have been lifted. However, since the fall of the regime, there have been new allegations of misuses of the program, including allegations that politicians and businessmen in numerous countries received illicit proceeds from the program. Several investigations, including one by the United Nations, have been spawned by these allegations.

This product will be updated as warranted by major developments. See also CRS Report RL31339, *Iraq: U.S. Regime Change Efforts and Post-Saddam Governance.*

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Iraq: Oil-For-Food Program, International Sanctions, and Illicit Trade

Background and Structure of the Oil-For-Food Program

The establishment of the "oil-for-food" program reflected a longstanding U.N. Security Council effort to alleviate human suffering in Iraq while pressing Iraq to comply with all relevant U.N. Security Council resolutions.[1] The program was a temporary and limited exception to the international trade embargo imposed on Iraq by U.N. Security Council Resolution 661, adopted on August 9, 1990, one week after Iraq's invasion of Kuwait on August 2, 1990. U.N. Security Council Resolution 687 (April 3, 1991) provided for the international embargo on Iraq's exportation of oil[2] to end once Iraq had fully complied with U.N. efforts to end its weapons of mass destruction (WMD) programs. The WMD inspections began in April 1991 but proceeded more slowly than expected, and an end to sanctions did not appear to be in sight by the mid-1990s. Without oil export revenues, Iraq was unable to import sufficient quantities of food and medical supplies, and, according to virtually all accepted indicators (infant and child mortality, caloric intake, and other indicators), living conditions deteriorated sharply during 1991-1995.

The first version of an oil-for-food plan would have allowed Iraq to export $1.6 billion in oil every six months. It was adopted by the Council in 1991 in Resolutions 706 (August 15, 1991) and 712 (an implementing plan adopted September 19, 1991), but Iraq rejected it as too limited in scope and an infringement on Iraq's sovereignty. There was little movement on the issue during 1991-95, despite dramatic declines in Iraq's living standards. On April 15, 1995, the Council adopted Resolution 986, which took into account one of Iraq's concerns by allowing the export of $2 billion in oil every six months. Pressured by fears of unrest caused by the drop in living standards, Iraq accepted this proposal, and it and the United Nations signed a memorandum of understanding on the program on May 20, 1996 (document number S/1996/356). After several more months of negotiations on details, the first Iraqi oil exports began on December 10, 1996. After the first year of the program, the Secretary General determined that the program was not meeting the food and medical needs of the Iraqi people, and Resolution 1153 (February 20, 1998) raised the oil export ceiling to $5.256 billion per six-month phase. In an effort to provide Iraq an incentive to cooperate with a new program of U.N. weapons of mass destruction

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[1] For a further discussion of Security Council resolutions and requirements on Iraq, see CRS Report RL32379, *Iraq: Former Regime Weapons Programs, Human Rights Violations, and U.S. Policy*.

[2] That embargo was imposed by U.N. Security Council Resolution 661 of August 6, 1990.

(WMD) inspections, the U.N. Security Council, in Resolution 1284 (December 17, 1999), abolished the export limit entirely.

Program Operations Prior to the 2003 War

From inception in December 1996 until the U.S.-led war that began March 19, 2003, the oil-for-food program was progressively modified to try to remove obstacles to the delivery of civilian goods to Iraq. However, the program did not — and was not intended to — restore normal economic activity to Iraq or completely blunt the effect of international sanctions on Iraq during the rule of Saddam Hussein. After the fall of the regime at the hands of U.S. forces on April 9, 2003, the United States achieved U.N. support for its proposal to phase the program out entirely and to allow Iraq to resume normal commercial interactions.

In order to ensure that only humanitarian objectives were served, the oil-for-food program placed substantial controls on Iraqi oil exports and humanitarian imports. Iraq's state-owned oil marketing company (State Oil Marketing Organization, SOMO) negotiated with international oil companies to sell Iraqi oil. Oil purchase contracts were reviewed by a panel of oil contract overseers reporting to the U.N. Sanctions Committee,[3] which administered the implementation of sanctions on Iraq. The oil overseers reviewed Iraq's pricing proposals monthly. Iraq was only allowed to export oil under the program, not any other products.

The oil sold was exported through an Iraq-Turkey pipeline and from Iraq's terminals in the Persian Gulf. According to Resolution 986, "the larger share" of oil exports ran through the Turkish route. The proceeds from these sales were deposited directly, by the oil purchasers, into a U.N.-monitored escrow account held at the New York branch of France's Banque Nationale de Paris (BNP, now BNP-Paribas).[4] Iraq's oil exports were monitored at the point of exportation by personnel from Saybolt Nederland BV, an energy services firm working under contract to the program.

In each six-month phase of the program, Iraq purchases goods and services directly from supplier firms, in accordance with an agreed distribution plan allocating anticipated revenues among categories of goods to be purchased in that phase. Prior to the major amendment to the program approved in May 2002, which is discussed below, the Sanctions Committee reviewed and had authority to approve contracts for the export of goods to Iraq. The Committee operated by consensus. Any Sanctions Committee member could place a "hold" on a contract for goods to be imported by Iraq, and the United States often placed holds on exports of dual use items (civilian items that could have military applications). In deciding whether to place a hold on a contract, the U.S. representative on the Sanctions Committee consulted with

[3] The Sanctions Committee, set up by Resolution 661, consists of representatives of the member states on the U.N. Security Council.

[4] In response to U.N. 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.

agencies of the U.S. government to determine whether Iraq could use the requested items for military purposes.

Under the procedures adopted in Security Council Resolution 1409 (May 14, 2002) and placed into effect in July 2002, the U.N. weapons inspection unit (UNMOVIC, U.N. Monitoring, Verification, and Inspection Commission) reviewed export contracts to ensure that they contain no items on a designated list of dual use items known as the Goods Review List (GRL). If so, the Sanctions Committee then decided whether to approve that portion of the contract containing the GRL items in question.

Under U.S. regulations written for the program, U.S. firms could buy Iraqi oil and sell goods to Iraq, including oil industry spare parts and equipment. Over the last few years, purchases of Iraqi oil by U.S. firms ranged between one-third to one-half of Iraq's pre-2003 war export volume of about 2.1 million barrels per day. In February 2003, just prior to the start of the war, U.S. imports of Iraqi oil tended toward the high end of that range, about 1 million barrels per day. The U.S. imports came primarily by purchases from intermediate energy trading firms rather than direct buys from Iraq.

Once a contract was approved, funds from the escrow account were used to pay letters of credit for the purchased goods. The arriving supplies were monitored at their point of entry into Iraq by about 50 personnel from the Swiss firm Cotecna[5] at four approved border crossings — Umm Qasr on the Persian Gulf; Trebil on the Iraqi-Jordanian border; Walid on the Iraqi-Syrian border; and Zakho on the Iraqi-Turkish border. In late November 2002, a fifth border point, at Arar on the Saudi-Iraq border, was established, a few years after Saudi Arabia decided to re-open its border with Iraq. In Baghdad-controlled Iraq, the Iraqi government distributed imports to the population through an extensive government rationing system that employs about 40,000 Iraqis. Distribution was monitored by about 158 U.N. workers from the World Food Program, the Food and Agriculture Organization, the World Health Organization, and UNICEF. The U.N. personnel visited ration centers, marketplaces, warehouses, and other installations to ensure that distribution was equitable and accorded with the targeted allocation plans submitted by Iraq for each six month phase. In Kurdish-controlled Iraq, about 65 U.N. workers, accompanied by about 130 U.N. security guards, performed the distribution function. Some goods bound for the Kurdish-controlled areas were combined with Baghdad's purchases in order to obtain more favorable prices in bulk.

Under Security Council Resolution 1051 (March 27, 1996), exports to Iraq of dual use items were supposed to be monitored by U.N. weapons inspectors at their point of entry and site of end use in Iraq. This import monitoring mechanism was altered during 1998-2002 when the U.N. weapons inspection regime was not in operation inside Iraq. Security Council Resolution 1284 (December 17, 1999) replaced UNSCOM with UNMOVIC, which was to perform that end-use monitoring function after reentering Iraq in November 2002, although UNMOVIC withdrew

[5] Cotecna replaced Lloyd's Register as point-of-entry monitoring contractor on February 1, 1999.

from Iraq on the eve of Operation Iraqi Freedom before beginning those monitoring activities. During the 1998-2002 hiatus in weapons inspections, end use monitoring in Iraq was performed by some of the 158 U.N. employees who monitored the distribution of civilian goods coming into Iraq. However, these monitors were not trained weapons inspectors, and this caused the United States and Britain to closely scrutinize, and to place many holds on, exports of dual use items to Iraq.

The oil-for-food program attempted to help Iraq meet its international obligations and ensure equitable distribution of imports to the Iraqi people. The revenues from Iraq's oil sales were distributed as follows:

- 25% was transferred to a U.N. Compensation Commission (UNCC) to pay reparations to victims of Iraq's invasion of Kuwait. Resolution 1284 (December 17, 1999) reduced the deduction percentage to the 25% level, as of December 2000, from the previous level of 30%.

- 59% was used to purchase humanitarian items for Baghdad-controlled Iraq. This account was increased from its previous level of 53% when the reparations deduction was reduced in December 2000. 13% was used to purchase supplies in the three Kurdish-inhabited provinces of northern Iraq.

- 3% paid for U.N. costs to administer the oil-for-food program (2.2%), as well as UNMOVIC's operating costs (0.8%).

- 1% was allocated to reimburse U.N. member states that had previously provided funds to an escrow account set up by U.N. Security Council Resolution 778 (October 2, 1992). During the period before the oil-for-food program began operating, that escrow account had received donations and the proceeds of unfrozen Iraqi assets, which were used to fund U.N. operations in Iraq, some humanitarian relief activities, and compensation to the victims of Iraq's invasion of Kuwait.

Changes Outlined in Resolution 1284. U.N. Security Council Resolution 1284 was intended in part to improve the provision of relief for the Iraqi people and to offer Iraq an incentive to readmit U.N. weapons inspectors. The following highlights key provisions of it and related decisions:

- As noted previously, Resolution 1284 eliminated the limit on the amount of oil Iraq could export.

- The Resolution began the process, continued in subsequent oil-for-food program rollover resolutions, of easing restrictions on the flow of civilian goods to Iraq. It directed the Sanctions Committee to draw up lists of items, in several categories, that would no longer be subject to Sanctions Committee review, and therefore would not be vulnerable to "holds." The accelerated approval procedures for foodstuffs and educational goods began in March 2000, and continued with pharmaceuticals, medical supplies, medical equipment, and agricultural equipment (March 2000); water treatment and sanitation supplies (August 2000) goods for the housing sector (February 2001) and electricity supplies (May 2001).

- The resolution laid the groundwork for foreign investment to explore for and produce oil in Iraq, although the resolution made this investment contingent on full Iraqi cooperation with UNMOVIC. In 2000 and 2001, the Sanctions Committee approved drilling in existing fields by two Russian firms (Tatneft and Slavneft) and a Turkish firm (Turkish Petroleum Company), but exploration of new fields was still not permitted.

- Resolution 1284 created incentives for Iraq to cooperate with UNMOVIC by "express[ing] the intention," if Iraq is deemed to have "cooperated in all respects" with UNMOVIC, to suspend export and import sanctions for 120 days, renewable by Security Council. The resolution implied that the Security Council would have to vote to implement the sanctions suspension.

- Resolution 1284 made some oil industry spare parts eligible for a streamlined approval process — contracts for such equipment were scrutinized by the same Sanctions Committee panel of oil overseers that reviewed Iraq's oil sales contracts, without requiring full Sanctions Committee review. U.N. Security Council Resolution 1293 (March 31, 2000) increased to $600 million, from $300 million, the value of oil industry spare parts that Iraq could import per oil-for-food phase. This decision was taken in response to recommendations by the U.N. Secretary General that improving the humanitarian situation was contingent on the rehabilitation of Iraq's ability to export its oil.

Accomplishments of the Program

There is a consensus among U.N. officials and outside observers that the oil for food program eased substantially, but did not eliminate, severe economic hardship in Iraq. The program, as well as some economic liberalization measures and illicit activity outside the program (discussed below), enabled Iraq to achieve 15% economic growth during 2000, according to the CIA's "World Factbook: 2001."

In total, the program generated about $64 billion in revenues[6], with oil sales to 248 companies. Of that amount, according to the U.N. Office of the Iraq Programme (the administering office for the program, headed by Benon Sevan), about $39 billion worth of humanitarian supplies and equipment were delivered to Iraq — both Baghdad controlled and Kurdish-controlled under the program (up to the November 21, 2003 the termination date). Of that amount, $6.1 billion was for the Kurdish

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[6] Including interest and currency gains, the total funds available to the program were $69.5 billion.

areas; that amounted to 8.8% of total funds available, somewhat less than the 13% intended to be used for the Kurdish areas. (Iraq's oil exports were shut down during the U.S.-led war that began March 19, 2003, and did not resume again until well into the period of U.S. occupation.) Included in the import amounts were $1.6 billion worth of oil industry spare parts and equipment.

Table 1. Revenue Generated by Oil-For-Food Program

(Until the eve of the 2003 war)

Phase Number (each phase is six months)	**Volume Sold** (millions of barrels)	**Value of Export** ($billion)	**Average Price per Barrel** ($)
One December 10, 1996 - June 7, 1997 ($2 billion export ceiling)[a]	120	2.15	17.92
Two June 8, 1997 - December 4, 1997	127	2.125	16.73
Three December 5, 1997 - May 29, 1998	182	2.085	11.46
Four May 30, 1998 - November 25, 1998 (Export ceiling raised to $5.2 billion by Resolution 1153)	308	3.027	9.83
Five November 26, 1998 - May 24, 1999	360.8	3.947	10.94
Six May 26, 1999 - December 11, 1999	389.6	7.402	19.00
Seven December 12, 1999 - June 8, 2000 (Export ceiling lifted permanently by Resolution 1284)	343.4	8.302	24.13
Eight June 9, 2000 - December 5, 2000	375.7	9.564	25.50
Nine December 6, 2000 - July 3, 2001	293	5.638	19.24
Ten July 4, 2001 - November 30, 2001	300.2	5.35	17.82
Eleven December 1, 2001 - May 29, 2002	225.9	4.589	20.31
Twelve May 30, 2002 - December 4, 2002	232.7	5.639	24.3
Thirteen (as of February 21, 2003) December 5, 2002 - June 3, 2003	130.5	3.618	27.7
Totals	3,117.3	63.436	

Source: U.N. Office of the Iraq Programme. [http://www.un.org/Depts/oip/].

a. Applicable U.N. Security Council resolutions allow Iraq to generate revenue, over and above the ceilings, to pay the costs of transit fees for exporting oil through Turkey, which explains why some figures might exceed stated ceilings.

The following represent the major accomplishments of the program in improving the living standards of the Iraqi people, taken mostly from a report by the U.N. Secretary General to the U.N. Security Council, dated November 12, 2002.

Food. According to the U.N. report, in Baghdad-controlled Iraq, Iraqis were receiving about 2,200 kilocalories of food per person per day - about 90% of the U.N. target caloric intake of 2,463 kilocalories per person per day. The full ration was achieved only during December 2000. The report noted that 60% of Iraq's families rely solely on the food ration under the program to meet all household needs. According to a U.N. fact sheet posted on November 19, 2003, the eve of the program's handover to U.S. occupation authorities, "Malnutrition rates in 2002 in centre/south were half those of pre-program Iraq, among children under the age of five."

Health, Sanitation, and Electricity. The U.N. report said that there were "notable" achievements in the health sector, including an increase in major surgeries performed and a reduction in communicable diseases. This and previous U.N. reports on the program noted improvement in the diagnostic and other equipment in use in Iraq's hospitals. In the related area of water and sanitation, the U.N. fact sheet of November 19, 2003, said that the "deterioration of water facilities was halted" by the oil for food program. The November 2002 U.N. report said the situation in the electricity had been "improving gradually," noting a more reliable supply of electricity to Iraqis than was the case previously.

In mid-1999, UNICEF released its first country wide survey of infant and maternal mortality in Iraq since 1991. The survey took a number of precautions to ensure that the survey results would not be altered or modified and UNICEF is confident that the survey information is accurate. It showed that infant mortality in the southern and central sections of Iraq (under the control of the Iraqi government) rose from 47.1 deaths per thousand live births during 1984-1989 to 107.9 deaths per thousand during 1994-1999. The under five-year-old mortality rate rose from 56 to 130.6 per thousand live births in the same time period. According to the report, this increase in mortality resulted in about 500,000 more deaths among children under five than would have been the case if child mortality trends noted prior to 1990 (imposition of sanctions) had continued. In northern Iraq, the mortality rate has declined over the same period: infant mortality dropped from 63.9 per thousand live births in 1984-1989 to 58.7 in 1994-1999 and under five-year-old mortality dropped from 80.2 per thousand live births to 71.8 per thousand.

Education. The U.N. report identified significant shortages of materials and equipment throughout the education sector, particularly school overcrowding. The report says that the distribution of 1.2 million school desks has met 60% of the need at primary and secondary schools whereas, prior to the inception of the program, students sat on bare floors. According to an earlier report (September 8, 2000), Iraq's literacy rate (53.7% of adults and 70.7% of the youth) "has remained fixed for a number of years."

Pre-War Debates Over Sanctions

The accomplishments of the program did not end debate over how strictly to enforce some of the program's restrictions. The United States and Britain tended to place most of the blame for the program's shortcomings on Iraq, alleging that the Iraqi regime disregarded the needs of its people. U.N. administrators of the program criticized Iraq on similar grounds, but they also attributed program deficiencies to U.S. and British policy, which they said slowed or halted the flow of infrastructure equipment that was required to realize the program's benefits.

The issue of contract "holds" on infrastructure equipment was one of the most contentious that the United Nations has faced. Past U.N. reports on the program claimed that infrastructure equipment, such as trucks, communications gear, forklifts, electricity, and water treatment equipment, were crucial to the timely distribution and proper storage and functioning of foodstuffs and medical products. At the time of the adoption in May 2002 of aspects of the "smart sanctions" plan discussed below, the United States had placed almost $5 billion of goods on hold. In response to criticism of the holds, the United States asserted that 90% of all contracts were approved and that the holds had minimal impact. The United States maintained that all contracts needed to be scrutinized to ensure that no equipment would be used to rebuild WMD programs, especially during the time U.N. weapons inspectors were not in Iraq (December 1998 - November 2002) to monitor dual use exports that were shipped there. U.N. reports did not accuse Iraq of purposely diverting imports from the program to the military or regime supporters, although some U.S. reports, such as a February 28, 1998 State Department fact sheet, made such allegations.

The "Smart Sanctions" Plan. At the start of the George W. Bush Administration, with no permanent end to international sanctions in sight due to the lack of U.N. weapons inspections, the debate over further modifications to the oil-for-food program was the centerpiece of a broader debate over Iraq policy and sanctions. The debate intensified in May 2001 when the five permanent members of the U.N. Security Council began discussing the U.S. plan to adopt "smart sanctions" on Iraq. The smart sanctions plan represented an effort, articulated primarily by Secretary of State Colin Powell at the beginning of the Administration, to rebuild a consensus to contain Iraq. When it came into office, the Bush Administration asserted that international sanctions enforcement was collapsing and that Iraq was using the relaxation to acquire prohibited goods and raise illicit revenue. The U.S. smart sanctions proposal centered on a trade-off in which restrictions on the flow of civilian goods to Iraq would be greatly eased and, in return, Iraq's illicit trade with its neighbors would be brought under the oil-for-food program and its monitoring and control mechanisms. The net effect, according to the concept, would be to target sanctions only on limiting Iraq's strategic capabilities, and not on its civilian economy.

The smart sanctions plan was intended to defuse criticism by several governments, including permanent members of the U.N. Security Council France, Russia, and China, that the United States was using international sanctions to promote the overthrow of the Iraqi government or to punish Iraq indefinitely for the invasion of Kuwait. However, differences between the permanent members over how to implement these measures prevented immediate agreement on the U.S. plan.

The September 11, 2001 attacks and the war in Afghanistan brought the United States politically closer to Russia and, to a lesser extent, China, and the Security Council reached agreement to adopt some elements of the U.S. plan, as provided for in Security Council Resolution 1409 (May 14, 2002). The resolution created the Goods Review List (GRL), mentioned above, a list of dual use items that are subject to review by UNMOVIC before they can be exported to Iraq. The Goods Review List is contained in U.N. document S/2002/515 of May 3, 2002; it can be found online at the U.N. oil-for-food program website [http://www.un.org/depts/oip].

Resolution 1447 (December 4, 2002) contained a pledge to add, within 30 days, certain items to the GRL, items that the United States said could be used by Iraq to counter a U.S. military offensive. The Security Council added 36 U.S.-suggested items to the GRL on December 30, 2002 (Resolution 1454).

Enhanced border control provisions, a central element of the original U.S. smart sanctions plan, were not included in Resolution 1409, largely because of strong opposition by Iraq's neighbors to controls on illicit trade with Iraq. Iraq's neighbors maintained that enhanced border controls would harm their economies. The resolution did not contain U.S. proposals that would have restricted civilian flights to Iraq. It did not permit new foreign investment in Iraq's energy sector, a provision that had been sought by Russia, France, and China, whose energy companies had signed deals to explore for oil and gas in Iraq once sanctions are lifted.

Other Sources of Pre-War Humanitarian Aid

UNICEF, the World Food Program (WFP) the U.N. Development Program (UNDP), the European Community (ECHO), the International Committee of the Red Cross (ICRC), governments, and private relief organizations such as Catholic Relief Services and Save the Children provided additional relief to supplement the oil-for-food program. UNICEF, ECHO, and WFP focus their humanitarian aid on the South and Central part of the country rather than on the economically better off Kurdish north.

It is difficult to determine precisely the total amounts of bilateral and multilateral aid by all donors. However, these aid sources declined as donors perceived that the oil-for-food program was largely satisfying Iraq's needs. Secretary General Annan called for increased international assistance to Iraq, and Resolution 1284 "encourage[d]" countries and international organizations to provide supplementary humanitarian aid and educational materials to Iraq. After Baghdad's incursion into the Kurdish north in late August 1996, the United States virtually ended its assistance program for northern Iraq, which had been about $45 million per year. The incursion caused all American-based humanitarian relief organizations in northern Iraq to leave in fear of Iraqi reprisals against them.

There is no single source for information on pre-war humanitarian assistance to Iraq. A report of the Organization for Economic Cooperation and Development (OECD), which provides donor information for the years 1994 through 1998, indicated that Iraq received a total of $76.36 million in bilateral assistance in 1998.[7] This did not include any funds provided by U.N. agencies but does include grants by the European Commission (ECHO). A Washington-based official of the European Commission said in June 2001 that the European Union gave over $200 million in aid to Iraq during 1991-2003.

Pre-War Exportation to Iraq

Although the oil-for-food program did not open Iraq to free and unfettered international trade, firms of many countries participated in the program by buying Iraqi oil and selling civilian goods. **Table 2** provides a list of countries whose firms exported more than $25 million worth of goods to Iraq in 1998, the latest full year for which international statistics were available. It is probable that almost all of the exports in these statistics represented oil-for-food related transactions, although it is possible that some transactions were conducted separately from the program, under pre-existing U.N. regulations that allowed Iraq to import certain civilian items using its own funds. The statistics did not cover illicit trade that, by nature, generally went unreported to statistics-keeping organizations.

Table 2. Major Exporters of Goods to Iraq (1998)

(in millions of dollars)

Country	Value of Goods Exported
Australia	196
Belgium/Luxembourg	66
China	105
France	256
Germany	86
India	36
Indonesia	45
Iran	30
Italy	37
Jordan	150
Malaysia	31
Russia	43
Switzerland	28
United Kingdom	42
United States	106

[7] Geographical Distribution of Financial Flows to Aid Recipients. Disbursements, Commitments, Country Indicators. 1994-1998. OECD. 2000.

Allegations of Program Abuses/Illicit Trade

Almost at the inception of the program, there were allegations that the regime of Saddam Hussein was exploiting loopholes in program restrictions to generate additional funds for illicit uses and to buy political support. The regime allegedly conducted illicit oil dealings with its neighbors and other countries and entities, imposed surcharges on oil buyers, and solicited kickbacks from suppliers of humanitarian and other civilian goods. It purportedly gave some illicit proceeds to foreign officials, parties, and companies who were supportive of Iraq's positions.

The primary concern of U.S. officials was that Iraq was reportedly using these revenues to buy prohibited military and WMD technology. In February 2000, the Clinton Administration accused the Iraqi government of using such resources to build nine lavish palaces (valued at about $2 billion) and to import non-essential items such as cigarettes and liquor,[8] rather than to alleviate economic hardships for the Iraqi people.

The most widely cited estimates of the value of the illicit trade came from studies released by the General Accounting Office (GAO).[9] According to a May 2002 GAO study, Iraq earned $6.6 billion in illicit revenue from oil smuggling and surcharges during 1997-2001. Of that total, GAO estimates $4.3 billion was from illicit oil sales and $2.3 was from surcharges on oil and commissions from its contracts to buy civilian goods (kickbacks). The study estimated that during 2001, Iraq earned $1.5 billion from illicit oil sales through Jordan, Syria, Turkey, and the Persian Gulf; and about $700 million from surcharges and contract kickbacks. On March 18, 2004, GAO investigators updated those estimates. In testimony, the GAO said it had increased its estimates of illicit revenues earned by the former regime to $10.1 billion during 1997-2002. Of that amount, GAO estimated $5.7 billion was earned from "oil smuggling" — or illicit oil sales — and $4.4 billion from surcharges and kickbacks. That represented a substantial increase from the earlier estimate. The GAO attributed the higher estimate to its inclusion of data from all of 2002 as well as newer estimates of illicit commissions from commodity suppliers.[10]

Trade Protocols/Illicit Oil Sales/Oil Smuggling

Additional details on the Baath regime's illicit oil sales — ("oil smuggling," according to the GAO) — which primarily took the form of "trade protocols" between Iraq and individual governments, are discussed below. These trade protocols involved oil sales that were, for the most part, outside the scope or authority of the oil-for-food program, although the importation of goods under these trade protocols was not necessarily prohibited. Under U.S. sanctions, Iraq was

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[8] Alcohol is classified as a food, so the imports are technically legal under the international sanctions regime in place since Iraq's August 2, 1990 invasion of Kuwait.

[9] U.S. General Accounting Office Weapons of Mass Destruction: U.N. Confronts Significant Challenges in Implementing Sanctions Against Iraq, May 2002. GAO-02-625.

[10] GAO Testimony before the House Financial Services Committee. March 18, 2004.

allowed to import additional goods, separate from the oil-for-food program, with its own revenues not in the U.N. escrow account.

Jordan. After the Gulf war, Jordan notified the Security Council that it was importing Iraqi oil (between 70,000 - 100,000 barrels per day as of March 2002, according to the GAO study) at below-market prices. According to Jordanian officials, the oil was in exchange for civilian goods and write-downs of Iraq's debt to Jordan under official trade protocols negotiated annually. The United States supported the Sanctions Committee decision to "take note of" the Jordanian purchases - neither approving them nor deeming them a violation. The Administration routinely waived unilateral sanctions on Jordan that could be imposed because of this trade.[11] In October 2000, Jordan cancelled an agreement with Lloyd's Registry, in force since 1993, for the firm to inspect Iraq-bound cargo in Jordan's port of Aqaba. This inspection agreement covered goods other than those imported under the oil-for-food program; goods imported under the program are monitored at all points of entry, including the Iraq-Jordanian border.

Iran/Persian Gulf. The GAO study estimates that Iraq was exporting illicitly about 30,000 - 40,000 barrels per day through the Persian Gulf in March 2002. This exportation was apparently conducted with cooperation from Iran. Of the funds generated through this export channel, about one-half went to Iraq, one-quarter to smugglers and middlemen, and one-quarter to Iran's Revolutionary Guard for "protection fees" to allow the shipments to hug its coast and avoid capture. Many believe that exports through the Gulf were higher during 1998-2000, but they fell because Iraq was diverting oil to the Syrian route, where there were fewer middlemen to pay.

Syria/Military Technology Exports to Iraq. In late 2000, according to several press reports, Iraq began exporting oil through an Iraq-Syria pipeline, closed since 1982 but now repaired. According to the GAO study, Iraq exported 180,000 - 250,000 barrels per day through this route in March 2002 and exports through Syria were at similar levels as of the start of the 2003 war. This exportation was reputedly under a under a "trade protocol," under which Syria refined the Iraqi oil for domestic use, and paid Iraq about half the world market price for oil, freeing up extra Syrian oil for export. The United Nations did not formally approved this export route and the U.S. position was that it is illegitimate and contrary to pledges made to the Bush Administration in early 2001. Many experts believe the United States did not forcefully press Syria to cease this importation in order to enlist Syria's support in the global war on terrorism and the U.S. effort to build international support for confronting Iraq.

Before the war, there was growing U.S. concern that Syria was becoming a major transit point for prohibited imports by Iraq of military equipment and technology that could be used for WMD. In July 2002, a respected Israeli military expert reported that Syria had served as a transit point for Iraq's importation of Russian-made engines for combat aircraft (sold by Ukraine) and tanks (sold by

[11] Every fiscal year since 1994, Congress has included a provision in foreign aid appropriations cutting U.S. aid to countries that violated the Iraq embargo.

Bulgaria and Belarus), and Czech-made anti-aircraft cannons (sold by the Czech Republic).[12] According to the same article, Syria also passed on prohibited equipment to Iraq sold by Hungary and Serbia. In late September 2002, the Bush Administration initiated what it called a "temporary pause" in U.S. assistance to Ukraine (about $55 million held up) because of allegations that Ukraine had provided the "Kolchuga" early warning radar system to Iraq. If the system was shipped to Iraq, it is not known whether it was transported through Syria. In February 2001, the United States struck an air defense network that was being upgraded with the help of a Chinese firm, according to press accounts, although it is not known how the fiber optic equipment reached Iraq.

Syria opposed U.S. efforts to obtain specific U.N. Security Council authorization for war against Iraq, and it publicly sided with "the Iraqi people" during the war. After the start of the U.S.-led war against Iraq, Defense Secretary Rumsfeld accused Syria of allowing transshipment of military goods to Iraq, including night vision equipment, and warned Syria to cease allowing such transit. Administration officials have accused Syria of allowing former members of Saddam's regime to flee there as the regime fell, although Syria has expelled some former regime members to Iraq where they were subsequently captured by U.S. forces. On April 15, 2003, about a week after the Baath regime fled Baghdad, U.S. military officials announced that they had shut the flow of Iraqi oil through Syria. In September 2004, Syria pledged to police its border more extensively to prevent the flow of volunteers for Iraq's insurgency into Iraq; Syria has enhanced border security since but it is not known whether or not this flow of individuals into Iraq has ceased or slowed.

Turkey. According to the GAO study, Iraq exported the equivalent of 40,000 - 80,000 barrels per day of oil through Turkey in March 2002 in another "trade protocol" negotiated at regular intervals. The exportation was in the form of 450 Turkish trucks per day carrying Iraqi oil products (not crude oil) through the Iraqi Kurdish areas into Turkey in spare fuel tanks. The Turkish government taxes and regulates the illicit imports. As in the case of Jordan, the U.S. Administration had routinely waived the imposition of U.S. sanctions on Turkey for permitting this illicit trade. Some reports suggest that commerce between Iraq and Turkey slowed to a crawl, if not halted entirely, in February 2003 in anticipation of the U.S.-led war against Iraq.

Oil Exploration Contracts

There are no public allegations that any international oil companies began new oil exploration investments in contravention of existing U.N. resolutions. However, a number of companies signed exploration deals that would have gone into effect when the ban on oil exploration was lifted. Much of the focus of U.S. officials has been on oil exploration deals by Russian firms. In general, Russia seeks to obtain repayment of Iraq's $7.6 billion in debt to Moscow and possibly to earn funds selling arms to Iraq if such sanctions were eventually lifted.

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[12] Schiff, Ze'ev. Syria Buys Arms for Iraq. *Ha'aretz,* July 15, 2002.

In August 2002, it was reported that Russia and Iraq had agreed to a $40 billion economic cooperation agreement, although it is not clear that any of the planned cooperation would have violated oil-for-food or other sanctions guidelines. Russian-Iraqi commercial relations were set back somewhat in December 2002 when Iraq overturned a presumptive contract with Russia's Lukoil to develop the West Qurna field (see below). Iraq acted reportedly on the grounds that Lukoil had held discussions with Iraq's opposition about Lukoil's possible role in developing the energy sector of a post-war Iraq.

Some of the presumptive contracts for oil exploration in Iraq, signed with the government of Saddam Hussein, include the following:[13]

- Al Ahdab field — China National Oil Company (China)
- Nassiriya field — Agip (Italy) and Repsol (Spain)
- West Qurna — Lukoil (Russia)
- Majnoon — Total Fina Elf (France)
- Nahr Umar — Total Fina Elf (France)
- Tuba — ONGC (India) and Sonatrach (Algeria)
- Ratawi — Royal Dutch Shell (Britain and the Netherlands)
- Block 8 — ONGC (India)

The interim Iraqi government does not consider these contracts valid in post-Saddam Iraq. Since the fall of Saddam Hussein's regime, no decisions on contract awards for development of any of these or any other fields have been announced.

Flights to Iraq

After September 2000, the former regime may have conducted an unknown amount of additional illicit trade aid from flights to and from Iraq. These flights began as relief flights carrying humanitarian aid, intended to challenge the U.S. and British interpretation of U.N. Security Council Resolution 670 (September 25, 1990). Resolution 670 required the banning of flights to or from Iraq that are carrying any "cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Council ..." or the Sanctions Committee. Prior to September 2000, the U.S. interpretation prevailed that all flights to Iraq require Sanctions Committee authorization prior to takeoff. France, Russia, and other governments, although not opposed in principle to inspecting cargo bound for Iraq, argued that passengers are not "cargo" and that the U.S. interpretation that Resolution 670 restricted all flights to Iraq was not correct.

The cargo on these flights was not subjected to any U.N. monitoring to ensure that the cargo comported with oil-for-food guidelines. After September 2000, regular charter flights took place between Iraq and Syria and Iraq and Jordan. The United States criticized those governments that allowed the flights to proceed without approval, but no U.S. or U.N. measures were taken against the flights or against Jordan or Syria.

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[13] Morgan, Dan and David Ottaway. In Iraqi War Scenario, Oil Is Key Issue. *Washington Post*, September 15, 2002.

One donation to Iraq in November 2000 drew strong U.S. criticism and a sanction. A member of the royal family of Qatar presented Saddam Hussein with a Boeing 747 jumbo jet as a "gift." The Qatari, Hamad bin Ali bin Jabr Al Thani, heads the Gulf Falcon air services company, which gave him access to the aircraft. On November 24, 2000, the Clinton Administration announced that exports and reexports of many U.S. goods would need specific Commerce Department approval for sale to Mr. Al Thani or his businesses. U.S. officials said that these sanctions were imposed to ensure that U.S. goods would not be improperly diverted to Iraq.

Oil Surcharges and Contract Kickbacks

As noted above, the GAO study, as updated, estimated that Iraq earned over $4.4 billion during 1997-2002 from oil sales surcharges and kickbacks on purchases of goods. The GAO study obtained that estimate by assuming that Iraq obtained a surcharge of 35 cents on each barrel of oil sold under the oil-for-food program. The GAO estimated the "kickback" percentage for Iraq at 5 percent of the value of each purchase contract. A total of over 3,500 sold goods to Iraq (Baghdad-controlled) under the program; it is not known how many of them might have paid kickbacks to Iraq on their supply contracts.

The oil sales surcharge issue was widely reported during 2001 and 2002, and the Security Council was aware of the allegations and moved to address them. Some members of the Sanctions Committee sought to complicate Iraq's ability to impose surcharges on its oil buyer — such surcharges of about 30 to 50 cents per barrel constitute illicit revenue and were prohibited. For example, the Sanctions Committee had evaluated but not adopted another idea: to limit Iraq's oil buyers to major international oil firms, rather than smaller oil traders that were willing to pay Iraq the surcharge. A press report in March 2001 (Reuters, March 8, 2001) listed companies that were purchasing Iraqi oil; many were small companies from countries that sought to do business with Iraq or were sympathetic to easing sanctions on Iraq.[14] U.S. major oil companies are said to buy Iraqi oil shipments from these small traders. However, according to U.S. officials, some U.N. member states — reputed to be the same countries seeking to ease sanctions on Iraq — did not immediately agree to these proposed mechanisms.[15] In September 2001, the Security Council reached agreement to move to a pricing formula called "retroactive pricing," in which the oil was priced after sale. This significantly reduced Iraq's oil sales by about 25%, although the United Nations noted a rebound to previous levels (about 2 million

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[14] The list included Italtech (Italy); Mastek, and Quantum Holdings (Malaysia); Zarubezhneftegas, Mashinoimport, Slavneft, Sidanco, and Rosneftimpex (Russia); Fenar (Lichtenstein); Emir Oil, Coastal Oil Derivatives, and Benzol (United Arab Emirates); Nafta Petroleum, and KTG Kentford Globe (Cyprus); Glencore, and Lakia Sari (Switzerland); Al Hoda (Jordan); Belmetalenergo (Belarus); Samasu (Sudan); Erdem (Turkey); African Petroleum (Namibia); Shaher Trading (Yemen); Aredio (France); Commercial Home (Ukraine); Awad Ammora (Syria); Montega (South Africa); Afro Eastern (Ireland); and Bulf Drilling (Romania).

[15] Testimony of State Department official Patrick Kennedy before the House Government Reform Committee, Subcommittee on National Security, Emerging Threats, and International Relations. October 5, 2004.

barrels per day) as of September 2002. Iraq sometimes unilaterally interrupted the sale of oil to protest Security Council policy or to challenge the United States and its allies. For example, Iraq suspended its oil sales for the month of April 2002 in protest against Israel's military incursion into the West Bank.

Post-Saddam Allegations and Investigations/Oil Vouchers

The issue of misuses of the oil-for-food program flared anew in late 2003, when new allegations surfaced, reportedly based on documents found after the April 2003 fall of the former regime. On January 25, 2004, an independent Iraqi newspaper, *Al Mada*, published a list of 270 individuals and entities who allegedly benefitted from illicit payments by the former regime; the list was purportedly obtained from records kept by the state-run oil marketing organization (SOMO).[16] According to the Iraqi newspaper, those listed were given vouchers that could be exchanged for a corresponding share of the proceeds from the surcharges on Iraq's oil sales (see the section on the surcharges, above). Of the 270 entities named, several were political parties mostly in the former East bloc states, and some were sitting high-ranking officials, or their relatives, in various countries. Among those named was Benon Sevan, the U.N. administrator of the program. Forty-six Russia-based entities were named, far more than from any other country, and the list included most of Russia's major energy firms. The implication is that the alleged voucher payments were in exchange for favorable treatment of the Saddam regime by these entities or for political support such as for the lifting of sanctions on Iraq.

In statements and letters to various news organizations, several of those named in the Iraqi article, including Sevan, categorically denied the allegations. Some confirmed the allegations but claimed that the payments were legitimate commissions for oil deals brokered or donations for humanitarian work. Others said they were improperly named in the Iraqi newspaper because the paper sought to expose politicians that had been somewhat supportive of Saddam Hussein's regime.[17] Some observers say that some of the allegations appear intended to highlight U.N. flaws and perhaps question the United Nations' advisory role in post-Saddam governance.

In early February 2004, the United Nations said it had written to the CPA and the Iraqi Governing Council to provide documents to substantiate the allegations. According to the United Nations, the oil-for-food program had been subjected to nearly 100 different external and internal audits during its term of operations.[18] The U.N. position is that, even if some of the allegations are true, the United Nations would not necessarily have known about any side transactions between Iraq and

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[16] The list of entities and individuals and their countries of origin was translated and published by the Middle East Media Research Institute (MEMRI). The Saddam Oil Vouchers Affair, by Nimrod Raphaeli. MEMRI report no. 164, February 20, 2004. See [http://memri.org/bin/opener.cgi?Page=archives&ID=IA16404].

[17] Ibid.

[18] U.N.'s Statement on Iraq Oil-for-Food Funds. *Wall Street Journal*, February 18, 2004.

various suppliers. U.N. officials add that they did, through adoption of retroactive pricing and other measures, seek to make it difficult for Iraq to surcharge.

Nonetheless, the allegations have persisted, and on March 20, 2004, Secretary General Annan announced an "independent high level inquiry" into the allegations, headed by former chairman of the U.S. federal reserve Paul Volcker. Volcker's committee issued an interim report on October 21, 2004, listing over 4,700 companies that traded with Saddam Hussein's regime, although the report did not allege that any of the trade was necessarily illicit.[19] Volcker has reported varying degrees of cooperation from international companies with his inquiry.

A separate investigation is being conducted by Iraq's "Board of Supreme Audit," with the assistance of independent firm Ernst and Young. The head of this organization was killed in a car bomb in Iraq on July 1, 2004. In the Bush Administration, the Treasury Department and Customs Service are conducting investigations of these allegations as well, and several congressional committees (House Government Reform, House International Relations Committee, and the non-partisan Permanent Investigations Subcommittee of the House Appropriations Committee) are conducting inquiries as well. Some committees have used subpoena powers to try to obtain records from BNP Paribas, and some of the other investigations have demanded records from several U.S. energy companies and other companies that participated in the oil-for-food program.[20]

The "Duelfer Report"[21]

On September 30, 2004, the special advisor to the Director of Central Intelligence issued a final report on the post-Saddam inspections and research of Iraq's WMD by the Iraq Survey Group (ISG). The special advisor, Charles Duelfer, who took over that assignment in early 2004 (replacing David Kay), serves as chief WMD investigator within the ISG. The 1000+ page report, entitled the "Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction," (commonly referred to as the "Duelfer report") contains major sections on how Iraq attempted to procure WMD-related equipment despite international sanctions, and the funding mechanisms the regime attempted to develop. The Duelfer report names numerous entities and individuals that had business dealings with Iraq, but notes that it was not the ISG's mandate to investigate allegations of illicit financial dealings and that some entities named were involved in legal trade with Iraq both within and outside the scope of the oil-for-food program. The Duelfer report says much of its data is based on Iraqi government

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[19] For text of the Volcker committee's preliminary report, see; [http://iic-offp.org]

[20] Jordan, Michael. "U.N. Scandal Tests Investigators." *Christian Science Monitor*, July 15, 2004.

[21] For text of the report, see [http://news.findlaw.com/hdocs/docs/iraq/cia93004wmdrpt.html]

documents and databases obtained from SOMO, the Iraqi Ministry of Oil, and interviews with some Iraqi officials in detention by U.S. forces.

Because Iraq apparently used illicitly earned revenue to fund WMD-useful equipment, the Duelfer report contains a large section on the allegations of the abuses of the oil-for-food program. The Duelfer report findings are largely consistent with the broad outlines of the early GAO study on the issue, although dollar estimates differ somewhat. The Duelfer report estimates Iraq earned $10.9 billion in illicit revenue during 1990-2003, of which: $8 billion was earned from the "trade protocols"/illicit oil sales/oil smuggling (discussed above) with Jordan, Syria, Turkey, and Egypt. The Duelfer report estimates that $228 million was earned from oil surcharging; $1.5 billion was earned from kickbacks on supply contracts; and $1.2 billion from trade with private-sector businessmen. The report says the latter category — private-sector businessmen — is referred to by Iraqi interviewees as "border trade" or "smuggling."

Oil Voucher Issue. The Duelfer report discussed allegations similar to those contained in the *Al Mada* publication mentioned above. According to the Duelfer report, the voucher program was personally overseen by Saddam, with the intention of assigning illicit oil profits to individuals and political parties Iraq thought would support it. According to the report, Iraq allocated oil vouchers based on a total of 4.4 billion barrels of oil, but only 3.4 billion barrels of oil were actually lifted. According to the report, the vouchers were offered primarily to three categories of entities: (1) traditional oil companies that owned refineries; (2) personalities and parties, including "Benon Sevan...and numerous individuals including Russian, Yugoslav, Ukrainian, and French citizens;" and (3) "The Russian state," with specific recipients identified.

The Duelfer report contains an appendix of about 1,100 vouchers — broken down by each of the 13 six-month phases of the program — issued to several hundred different entities and personalities. There is considerable overlap between those named in the *Al Mada* article and those named in the Duelfer report, most notably Benon Sevan. The Duelfer report adds that some oil contracts were never actually lifted, and that those who were assigned vouchers based on those oil contracts might never have received any funds.

Legislative Developments. Bills addressing the recent allegations have been introduced in the 108th Congress. H.R. 4284 and S. 2389 are both titled "United Nations Oil-for-Food Accountability Act of 2004; both were introduced May 5, 2004. The bills would mandate percentage reductions (10% in FY2005 and 20% in FY2006) in U.S. contributions to the United Nations unless the President certifies U.N. cooperation (providing requested documents, waiving immunity from U.S. prosecution for U.N. officials) with U.S. inquiries into the oil-for-food allegations.

Termination of the Program

The program was suspended just before Operation Iraqi Freedom began on March 19, 2003; U.N. staff in Iraq departed. On March 28, 2003, as U.S. forces moved north toward Baghdad, the U.N. Security Council adopted Resolution 1472, restarting the program's operations, empowering the United Nations to take direct control of all aspects of the program and directing the United Nations to set priorities on the delivery of already contracted supplies. The enhanced U.N. authority was later extended to June 3, 2003. On May 22, 2003, Resolution 1483 was adopted, lifting sanctions on Iraq and providing for the phasing out of the oil-for-food program within six months. In accordance with the resolution, the program (new contract agreements) terminated on November 21, 2003, and was taken over by the U.S. occupation authority, the Coalition Provisional Authority (CPA). Since then, Iraq has sold its oil unfettered, the revenues are no longer held in a U.N.-run escrow account, and the program's oil sales monitoring operations are no longer operating.

The CPA, with the help of U.N. agencies and the World Food Program, administered the same food distribution network utilized by the oil-for-food program. The CPA also continued to receive and distribute goods from the 3,000 contracts signed under the program (but not delivered by the time of the November 21, 2003 termination).[22] After the handover of sovereignty to an Iraqi interim government on June 28, 2004, Iraq's Ministry of Trade has managed the receipt and distribution of residual contracts. U.N. Security Council Resolution 1546 (June 8, 2004), which endorsed the handover of sovereignty, gave formal responsibility for final oil-for-food program closeout to the Iraqi interim government. The Iraqi government is also continuing to distribute civilian necessities — procured under the oil-for-food program and outside the program — to needy Iraqis. The Office of the Iraq Program, which ran the oil-for-food program, has now closed.

As of the start of the war in March 2003, the program's escrow account had over $10 billion remaining. The funds remained because Iraq's oil revenues grew faster than import contracts were signed. Of that, $8.6 billion was transferred to Iraq's Development Fund for Iraq (DFI), and $1.1 billion remain in U.N. accounts as of late October 2004. Resolution 1483, referenced above, abolished the Iraq Sanctions Committee as of November 21, 2003. However, a subsequent Security Council resolution, 1518, set up a new Security Council committee, consisting of all members of the Council, to continue to locate financial assets held by members of the former regime.

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[22] U.S. Department of State Washington File. "CPA Takes Over Oil-for-Food Program From U.N." November 21, 2003.