Iraq: Oil-For-Food Program, Illicit Trade, and Investigations

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Summary

The "oil-for-food" program (OFFP) 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 were 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.

The program was in operation from December 1996 until March 2003. Observers generally agree that the program 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. The United States and other members of the United Nations Security Council were aware of billions of dollars in oil sales by Iraq to its neighbors in violation of the U.N. sanctions regime and outside of the OFFP, but did not take action to punish states engaged in illicit oil trading with Saddam Hussein's regime. Successive Administrations issued annual waivers to Congress exempting Turkey and Jordan from unilateral U.S. sanctions for their violations of the U.N. oil embargo on Iraq. Until 2002, the United States argued that continued U.N. 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 eroding, and the Administration decided that the overthrow of that regime had become necessary.

The program terminated following the fall of Saddam Hussein's regime, the assumption of sovereignty by an interim Iraqi government on June 28, 2004, and the lifting of Saddam-era U.N. sanctions. However, after the fall of the regime, there were new allegations of mismanagement and abuse of the program, including allegations that Saddam Hussein's regime manipulated the program to influence U.N. officials, contractors, and politicians and businessmen in numerous countries. New attention also has been focused on Iraq's oil sales to neighboring countries outside the control or monitoring of the U.N. OFFP. Several investigations revealed evidence of corruption and mismanagement on the part of some U.N. officials and contractors involved with the OFFP, and called into question the lack of action on the part of U.N. Sanctions Committee members, including the United States, to halt Iraq's profitable oil sales outside of the program over a ten year period.

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

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Background and Structure of the Oil-For-Food Program

The establishment of the United Nations "oil-for-food" program (OFFP) 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 6, 1990, 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. During this period Iraq continued to sell its oil under the terms of trade protocols with some of its neighbors in violation of the U.N. sanctions regime. These sales were known to members of the U.N. Sanctions Committee, including the United States.

On April 15, 1995, the U.N. Security 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).[3] After several more months of negotiations on details, the first Iraqi oil exports under the OFFP 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. WMD inspections, the U.N. Security Council, in Resolution 1284 (December 17, 1999), abolished the export limit entirely.

[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.

[3] Memorandum of Understanding Between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986. Available at http://daccessdds.un.org/doc/UNDOC/GEN/N96/127/71/PDF/N9612771.pdf.

Oil-for-Food Program Operations Prior to the 2003 War

From inception in December 1996 until the U.S.-led war that began March 19, 2003, the OFFP 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. Moreover, the program did not—and was not intended to—monitor Iraq's compliance with the wider trade embargo governed by Resolution 661. The U.N. Sanctions Committee[4] administered the implementation of sanctions on Iraq and was responsible for ensuring that Iraq complied with all relevant U.N. sanctions, including the embargo on oil sales outside of the program, 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. For an outline of OFFP operations, see **Appendix**.

In order to ensure that only humanitarian objectives were served, the OFFP placed substantial controls on approved Iraqi oil exports and humanitarian imports under its jurisdiction. Under the terms of the memorandum of understanding drafted to implement Resolution 986, Iraq's state-owned oil marketing company (State Oil Marketing Organization, SOMO) was empowered to negotiate contracts with international oil companies to sell Iraqi oil. Once finalized, the oil purchase contracts were reviewed by a panel of oil contract overseers reporting to the UN Sanctions Committee. The oil overseers reviewed Iraq's pricing proposals monthly. Under the program, Iraq was allowed to export only oil, not any other products.

The oil sold under the OFFP's auspices was exported through an Iraq-Turkey pipeline and from Iraq's terminals in the Persian Gulf. According to Resolution 986, "the larger share" of these 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).[5] Iraq's approved 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. Under its contract, Saybolt was not asked or expected to ensure that Iraq was using only the approved export routes, or to police any other illicit exportation of oil, according to U.N. Secretary General reports on the program.[6]

In each six-month phase of the program, Iraq purchased 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

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

[5] 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.

[6] That was the task of the U.S.-led Multilateral Interdiction Force (MIF), a five ship naval unit that patrolled the Persian Gulf to prevent illicit Iraqi exportation. The MIF was commanded through "Navcent," the Bahrain-based U.S. Navy component of U.S. Central Command (Centcom), based at McDill AFB in Tampa, Florida.

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 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 did not contain 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[7] 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 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.

Cotecna and its predecessor, Lloyd's Register, did not inspect, monitor, or report on goods entering or leaving Iraq outside of the auspices of the OFFP and neither firm was empowered or expected to do so under the terms of Resolution 986 or the memorandum of understanding agreed to by the United Nations and the Iraqi government. Cotecna was not responsible for searching or authenticating other goods imported by Iraq through bilateral trade agreements with its neighbors or purchased with other Iraqi government funds, even if those goods entered Iraq through the approved OFFP border entry points mentioned above. Nor was Cotecna responsible for certifying what price was paid for the goods imported under the OFFP, although Cotecna says it offered that service to the Office of the Iraq Program but was turned down.[8]

In Baghdad-controlled Iraq, the Iraqi government distributed imports to the population through an extensive government rationing system that employed 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-

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

[8] Pruniaux testimony, op.cit.

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 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 OFFP 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 OFFP (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 OFFP 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 OFFP 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 the 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 the value of oil industry spare parts that Iraq could import per oil-for-food phase to $600 million, from $300 million. 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 OFFP 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 $64.2 billion in revenues, with oil sales of approximately 3.4 billion barrels of oil to 248 companies.[9] 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 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

[9] Independent Inquiry Committee into the United Nations Oil-For-Food Programme, *Briefing Paper*, October 21, 2004. Including interest and currency gains, the total funds available to the program were $69.5 billion.

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, a few months before the war to overthrow Saddam Hussein.

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 relied solely on the food ration under the program to meet all household needs. According to a November 19, 2003 U.N. fact sheet, 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 OFFP. The November 2002 U.N. report said the status of electricity provision 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 UNICEF survey team 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 had 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 OFFP 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 OFFP 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 in early 2001, to rebuild a consensus to contain Iraq. When the Bush Administration came into office, Administration officials 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 OFFP 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 were subject to review by UNMOVIC before they could be exported to Iraq.[10]

[10] 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. OFFP 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 were 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 OFFP. UNICEF, ECHO, and WFP focus their humanitarian aid on southern and central Iraq rather than on the economically better off Kurdish north.

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.[11] This did not include any funds provided by U.N. agencies but does include grants by the European Commission Humanitarian Aid department (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 OFFP 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 OFFP 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.

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

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

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 OFFP 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: oil revenues are no longer held in a U.N.-run escrow account, and the program's oil sales monitoring infrastructure is no longer in operation.

The CPA, with the help of U.N. agencies and the World Food Program, administered the same food distribution network utilized by the OFFP. 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).[12] Since 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

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

handover of sovereignty, gave formal responsibility for final OFFP closeout to the Iraqi interim government. The Iraqi government is also continuing to distribute civilian necessities, procured under the OFFP and outside the program, to needy Iraqis. For new purchases of civilian goods, the government is using funds generated by oil sales. The Office of the Iraq Program, which ran the OFFP, 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, approximately $9 billion was transferred to Iraq's Development Fund for Iraq (DFI), and $216 million remained in U.N. accounts as of February 2005.[13] 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 (the "1518" Committee), consisting of all members of the Council, to continue to locate financial assets held by members of the former regime.

Allegations and Investigations

According to investigations conducted by U.S., U.N., and Iraqi officials, the regime of Saddam Hussein used two distinct illicit methods to generate funds following the imposition of sanctions on Iraq by the United Nations Security Council. First, Iraq illicitly sold oil to some neighboring countries from 1990 to 2003 in violation of U.N. sanctions that predated and remained outside of the auspices or control of the U.N. OFFP. Second, Iraq allegedly exploited loopholes in U.N. OFFP regulations to impose surcharges on buyers purchasing OFFP-approved oil shipments and to solicit kickbacks from suppliers of humanitarian and other civilian goods purchased with funds from the U.N. OFFP escrow account. Some of those illicit funds were used to procure military supplies and commodities banned under the U.N. sanctions regime. The primary concern of U.S. officials prior to the fall of the Saddam Hussein regime was that Iraq reportedly was using illicit revenues to buy prohibited military and WMD technology.[14] Following the regime's fall in April 2003, allegations have emerged concerning the regime's purported use of its control over oil and humanitarian goods contracts to influence foreign officials, parties, and companies, and reward individuals and entities perceived to be supportive of Iraq's positions. The findings of subsequent investigations regarding these illicit fundraising and political activities are described in further detail below.

Post-Saddam Allegations

Allegations of illicit oil sales and misuse of the U.N. OFFP surfaced in late 2003, 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 oil vouchers granted by the former regime; the list was purportedly

[13] Comprehensive Report of the Special Advisor to the Director of Central Intelligence on Iraq's Weapons of Mass Destruction (the "Duelfer report"), September 2004. Report available at http://www.cia.gov/cia/reports/iraq_wmd_2004/.

[14] In February 2000, the Clinton Administration accused the Iraqi government of using illicit funds to build nine lavish palaces (valued at about $2 billion) and to import non-essential items such as cigarettes and liquor, rather than to alleviate economic hardships for the Iraqi people. Alcohol is classified as a food, so the imports were technically legal under the international sanctions regime in place since Iraq's August 2, 1990 invasion of Kuwait.

obtained from records kept by the state-run oil marketing organization (SOMO).[15] According to the Iraqi newspaper, those listed were given vouchers that could be exchanged for quantities of oil that could be sold legitimately through the OFFP (for fuller detail, see the section on oil vouchers, below). Some of the listed voucher recipients were alleged have sold the oil vouchers to third parties in exchange for profit. Others were considered to have supported the former Iraqi regime politically.

Of the 270 entities named, the most notable figure was Benon Sevan, the executive director of the U.N. OFFP. Several other alleged recipients were political parties mostly in the former East bloc states, and some were sitting high-ranking officials, or their relatives, in various countries. 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. In statements and letters to various news organizations, several of those named in the Iraqi article, including Sevan, have categorically denied the allegations. Some have 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.[16] 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.

Nevertheless, the voucher-related claims brought renewed scrutiny to the management of the U.N. OFFP and the efforts of Saddam Hussein's government to manipulate and undermine the program and the wider U.N. sanctions regime. Claims that the alleged voucher payments were granted in exchange for real or perceived favorable treatment of the Saddam Hussein regime by these entities or for political support for the lifting of sanctions on Iraq have attracted the most attention and were investigated by U.S. and U.N. appointed investigators, along with a range of other OFFP and non-program related issues.

Subsequent Investigations

Independent Inquiry Committee/"Volcker Committee"

In response to new allegations concerning abuse and mismanagement of the U.N. OFFP, U.N. Secretary General Kofi Annan announced an "independent high level inquiry" into the allegations on March 20, 2004, headed by former chairman of the U.S. federal reserve Paul Volcker. Since March 2004, Volcker's Independent Inquiry Committee (IIC) has issued several reports regarding the OFFP, focused on allegations of mismanagement of the program by U.N. officials, possible corruption, and the mechanisms used by Saddam Hussein's government to raise illicit proceeds from oil sales inside and outside of the OFFP.

The IIC's final reports estimate Iraq earned $12.8 billion in illicit revenue during 1990-2003 (See **Table 3**) of which $10.99 billion was earned from non-OFFP "trade protocols" with Jordan, Syria, Turkey, and Egypt (discussed below). The IIC reports estimate that $228.8 million was

[15] 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.

[16] Ibid.

earned from surcharges on OFFP-approved oil sales and that $1.58 billion was earned from kickbacks on OFFP humanitarian supply contracts. The findings of the Committee's investigations are detailed below.[17] Some critics of the IIC have argued that the Committee's investigations may have suffered because the IIC lacked legal subpoena power. Volcker reported varying degrees of cooperation from United Nations personnel, international companies, and governments, including the United States government, with his inquiry. The IIC closed on December 31, 2006. A staff has been appointed to assist with legal inquiries for a two-year period. Documents pertaining to the investigation have been transferred to the custody of the United Nations and are available to member states.

Table 3. Illicit Income Received by Iraq, 1990-2003

($ millions)

	Prior to OFFP	During OFFP
Trade Protocols:		
Jordan	2,599.8	3,376.6
Egypt		44.8
Turkey		806.7
Syria		3,132.1
Private Sales		1,030.4
Subtotal		**10,990.2**
OFFP Program Abuse Revenue		
Oil Surcharges		228.8
Humanitarian Good Kickbacks		1,583.4
Subtotal		**1,812.2**
Total Illicit Income		**12,802.4**

Source: Independent Inquiry Committee into the United Nations Oil-for-Food Programme, *The Management of United Nations Oil-for-Food Programme*, Volume 1, p. 36, September 7, 2005.

The "Duelfer Report"[18]

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), served 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. Because Iraq apparently used illicitly earned revenue to fund purchases of WMD-useful equipment, the Duelfer report contains a large section on Iraq's illicit oil sales and allegations of abuses of the OFFP. The

[17] For text of the IIC's reports, see http://www.iic-offp.org.

[18] Report available at http://www.cia.gov/cia/reports/iraq_wmd_2004/.

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 OFFP. The Duelfer report says much of its data is based on Iraqi documents and databases obtained from SOMO, the Iraqi Ministry of Oil, and interviews with some Iraqi officials in detention by U.S. forces. Some findings of the Duelfer report are described in detail below.

U.S. and Iraqi Investigations

In the Bush Administration, the Treasury Department and Customs Service are conducting investigations of these allegations, and several congressional committees (Permanent Subcommittee on Investigations of the Senate Committee on Homeland Security and Governmental Affairs, the House Government Reform Committee, the House International Relations Committee, and the Permanent Investigations Subcommittee of the House Appropriations Committee) have conducted inquiries and issued reports 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 OFFP.[19] A separate investigation is being conducted by Iraq's "Board of Supreme Audit," with the assistance of independent firm Ernst and Young. The Iraqi head of the Board was killed in a car bomb in Iraq on July 1, 2004.

Other International Investigations

In the wake of the IIC final report, authorities in several countries have begun looking into charges that their nationals participated in illicit financial arrangements with the regime of Saddam Hussein. The Australian government established a Royal Commission under the auspices of the Honorable Terrence Cole to investigate charges that an Australian grain distributor, AWB, made illegal payments to the Iraqi regime via a third party trucking company. The Cole Commission report concluded that AWB made such payments and attempted to disguise its transactions with the chosen Iraqi intermediary, a Jordanian company known as Alia.[20] In South Africa, a similar committee known as the Donen Commission (named for its chairman Michael Donen) investigated the alleged participation of senior members of the African National Congress (ANC) in illicit oil-for-food transactions. Some South African entities challenged the commission's authority to compel witnesses to testify and answer potentially incriminating questions. South African Prime Minister Thabo Mbeki received the commission's final report on November 6, 2006, but has not announced specific findings or proceeded with further inquiries or prosecutions. Indian, German, and French authorities have launched investigations of entities named in the IIC report. The United Kingdom's Serious Fraud Office has not announced any investigation plans.[21] Russian authorities reportedly have declined to investigate the specific claims made in the IIC report based on the documents provided by the Volcker committee.[22]

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[19] Michael Jordan, "UN Scandal Tests Investigators," *Christian Science Mon.*, July 15, 2004.

[20] The full findings of the Australian investigation are available at http://www.ag.gov.au/agd/WWW/unoilforfoodinquiry.nsf/Page/Report.

[21] Michael Peel, Haig Simonian, and Mark Turner, "Most Iraq oil-for-food scandal perpetrators go unpunished," *Financial Times* (UK), Dec. 9, 2006.

[22] Judith Ingram, "Russia will not open oil-for-food investigations for lack of evidence," Associated Press, Apr. 7, 2006.

Non-Oil-For-Food Program Illicit Trade: Trade Protocols, Illicit Oil Sales, and Oil Smuggling

According to the IIC report, Saddam Hussein's regime earned $11 billion from illicit oil sales that began before the OFFP started and remained outside of the scope or authority of the U.N. OFFP and in violation of U.N. sanctions on Iraq. The regime's illicit oil sales were conducted on the basis of "trade protocols" between Iraq and individual governments or on the basis of "private sector export" agreements between Iraqi authorities and private individuals and entities. The importation of civilian goods under Iraq's trade protocols with its neighbors was not necessarily prohibited by U.N. sanctions, and, under U.S. sanctions, Iraq was allowed to import additional goods, separate from the OFFP, using its own non-U.N. escrow account revenues.

All Iraqi oil sales outside of the auspices of the U.N. OFFP were prohibited by U.N. sanctions. Governments, individuals, and commercial entities engaged in buying and selling Iraqi oil outside the auspices of the OFFP did so in violation of the U.N. sanctions regime. The United States and other members of the U.N. Sanctions Committee took note of Iraq's illicit oil sales to some of its neighbors but, for a number of reasons, chose not to take direct action to halt the sales or punish states or entities engaged in them prior to the onset of Operation Iraqi Freedom in March 2003. The IIC's final report on the management of the OFFP links this inaction to what it describes as the "primacy of political preference over even handed enforcement of sanctions against Iraq and its neighboring countries." The IIC report describes many examples of this phenomenon and singles out two cases as particularly noteworthy: "the United States tolerance for trade with Jordan and Turkey (but not Syria)" and "Russia's and France's reluctance to redress smuggling activity between Iraq and Syria."

Jordan

After the 1991 Persian Gulf war, Jordan notified the U.N. Security Council that it was importing Iraqi oil at below-market prices under the terms of official trade protocols negotiated annually between Jordanian and Iraqi officials. According to Jordanian officials, Iraqi oil was imported in exchange for civilian goods and write-downs of Iraq's debt to Jordan. According to the IIC, Jordan made "repeated" but unsuccessful requests to gain approval for the trade through legitimate U.N. channels. The United States supported the Sanctions Committee decision to "take note of" the Jordanian purchases - neither approving them nor deeming them a violation. The United States and other Sanctions Committee members considered Jordan's economy to be dependent on discounted Iraqi oil and sought to preserve Jordan's support for the OFFP, the non-oil related U.N. sanctions regime, and the Middle East peace process. The Clinton and Bush Administrations annually waived unilateral U.S. sanctions on Jordan that could have been imposed because of Jordan's illicit trade with Iraq.[23]

According to the Duelfer report, Iraq's trade protocol with Jordan "ensured the [Saddam Hussein] regime's financial survival" until the creation of the U.N. OFFP in late 1996. The IIC's final report estimates that Iraq earned a total of $6 billion from the Jordanian trade protocol: $2.6 billion from 1990 to 1996, when the OFFP was created, and $3.4 billion during the program's

[23] 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.

duration until 2003. 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 OFFP; goods imported under the program continued to be monitored by Cotecna at all points of entry, including the Iraq-Jordanian border.

Syria

In late 2000, according to several press reports, Iraq began exporting oil through an Iraq-Syria pipeline, closed since 1982 but subsequently repaired. According to two GAO studies, 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.[24] The oil exports were based on a trade protocol, under which, Syria paid Iraq about half the world market price for oil; refined the imported Iraqi oil for domestic use; and exported previously-reserved Syrian oil at world market prices. According to the Duelfer report, the Iraq-Syrian trade protocol served as "Iraq's primary illicit income source" from early 2000 to March 2003. The IIC final report estimates the value of Iraq's oil sales to Syria at $3.1 billion. The United Nations did not formally approve this export route, and the United States argued that the trade was 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 its oil importation from Iraq 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. According to the IIC, Syria's membership on the U.N. Security Council in 2002 and its corresponding membership on the Iraq Sanctions Committee allowed Syria to "block any inquiry by the Committee" into the illegal imports because of the Committee's consensus voting rule. France and Russia also opposed tough Committee action against Syria.

Turkey

According to a 2002 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.[25] The exportation was in the form of possibly as many as 1000 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 taxed and regulated the illicit imports. As in the case of Jordan, the Clinton and Bush Administrations annually waived unilateral U.S. sanctions on Turkey that could be imposed because of this illicit trade.[26] Turkey and others unsuccessfully attempted to formalize the Turkish trade protocol through legitimate channels. The IIC final report estimates that Iraq earned $806.7 million through its trade protocol with Turkey. 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.

[24] GAO, "U.N. Confronts Significant Challenges in Implementing Sanctions against Iraq," GAO-02-625, May 2002; and GAO, "Observations on the Management and Oversight of the Oil for Food Program: Statement of Joseph A. Christoff before the House Committee on International Relations," GAO-04-730T, April 2004.

[25] GAO, "U.N. Confronts Significant Challenges in Implementing Sanctions against Iraq," GAO-02-625, May 2002.

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

Iran and the Persian Gulf

A 2002 GAO study estimates that Iraq was exporting illicitly about 30,000 - 40,000 barrels per day through the Persian Gulf in March 2002.[27] 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. The IIC final report credits U.S. naval presence in the Persian Gulf and Iran's cooperation with ultimately limiting smuggling via the Gulf route.

Oil-For-Food Program: Allegations of Mismanagement and Abuse

Current allegations regarding the mismanagement and abuse of the U.N. OFFP fit into two broad categories: (1) allegations of mismanagement of the contracts and administration of the OFFP by contractors and U.N. staff, and (2) abuse of the U.N. program through vouchers, surcharges, and kickbacks by the regime of Saddam Hussein. Linking the two categories are allegations that contractors and U.N. staff, including OIP executive director Benon Sevan, personally solicited and received, on behalf of themselves or associates, oil vouchers or bribes from Iraqi authorities while administering their official program duties.

With regard to the allegations of U.N. and contractor mismanagement, investigations of the OFFP's operations have revealed flaws and shortcomings in the awarding, management, and auditing of program contracts. With regard to the allegations of abuse of the U.N. program by the regime of Saddam Hussein, investigations have revealed evidence that Iraq raised illicit funds through surcharges on OFFP oil shipments and kickbacks on U.N. approved commercial and humanitarian good contracts. The IIC's final report estimates that Iraq earned $1.8 billion in illicit funds using these methods. Investigations also have uncovered evidence that the former Iraqi government created a secret oil voucher system to allocate oil that was approved for sale under the OFFP to politically sympathetic individuals and entities. According to former regime officials, Iraq used the oil voucher system to encourage foreign individuals and entities to support Iraq politically in international fora.

Oil-For-Food Program Contracts and Administration

Original Program Contracts

According to the IIC's February 2005 interim report, "the selection process for each of the three United Nations contractors selected in 1996 (namely Banque Nationale de Paris [BNP], Saybolt Eastern Hemisphere BV, and Lloyd's Register Inspection Ltd.) did not conform to established financial and competitive bidding rules." The report cites a number of administrative and political factors which combined to undermine the transparency and competitiveness of the contract

[27] Ibid.

bidding and awards process. The report states that in 1996 then-U.N. Secretary General Boutros Boutros-Ghali personally intervened in the selection of BNP, and a Steering Committee made up of "some of the United Nations' most senior managers" acquiesced in the frustration of competitive bidding in the case of Saybolt and "prejudiced and preempted the competitive process" in the case of Lloyd's Register.

Cotecna and Kojo Annan

The IIC investigation reviewed what role, if any, Kojo Annan, the son of U.N. Secretary General Kofi Annan, may have played in influencing the U.N.'s decision to award the OFFP goods authentication contract to Cotecna Inspection Services S.A. in late 1998. According to Cotecna executives, Kojo Annan worked as an employee and consultant focused on Cotecna's business in Nigeria and Ghana from late 1995 to the end of 1998. From the end of 1998 to February 2004, Cotecna paid Kojo Annan $2,500 monthly under the terms of a "non-competition" agreement that forbade Annan from working with Cotecna's competitors in West Africa. Cotecna executives deny that Kojo Annan played any role in influencing the awarding of the contract, and point out that Cotecna won an Iraq-related U.N. inspection contract in 1992 before Kojo Annan was a Cotecna employee and lost the original OFFP authentication contract to Lloyd's Register in 1996 when Kojo Annan worked for Cotecna. Kojo Annan also has denied the allegations publicly and has discussed them with IIC and U.S. Senate investigators. Annan released a statement in February 2005 denying that he was "involved with any negotiations or lobbying of the United Nations with regard to the oil-for-food program inspection contract."

The IIC final report found "no credible evidence" that U.N. Secretary General Kofi Annan "influenced or attempted to influence" the selection of Cotecna for the OFFP inspection contract. However, the IIC report found that Secretary General Annan did not conduct an adequate inquiry following reports of his son's continued employment by Cotecna and public allegations of prior wrongdoing by senior Cotecna executives. The report states that such an independent inquiry may have revealed information that could have resolved outstanding questions and conflict of interest concerns. In addition, according to the IIC, Kojo Annan "intentionally deceived" his father regarding his continuing financial relationship with Cotecna, and Kojo Annan "failed to cooperate fully" with the some aspects of the IIC's investigations. The IIC also has stated that Cotecna executives have made "false statements to the public, the United Nations, and the [Independent Inquiry] Committee." Cotecna executives and Kojo Annan have contested the IIC's findings through letters from their respective lawyers. The letters are included in the annex of the March 2005 IIC interim report.

In April 2005, two IIC investigators—Robert Parton and Miranda Duncan—resigned, reportedly in protest over the final content of the IIC report on Secretary General Annan's role in the OFFP scandal. Prior to his resignation, Parton reportedly wrote draft versions of the report that were more critical of the Secretary General than the final IIC report that was ultimately released. Parton was subpoenaed by the House Committee on International Relations, the Senate Permanent Subcommittee on Investigations, and the House Committee on Government Reform. Federal court rulings delayed Parton's compliance with the subpoenas while IIC representatives, Parton's lawyers, and congressional counsel negotiated a settlement. The House Committee on International Relations reviewed the documents and published some of them in a report issued in December 2005. The published excerpts include minutes from meetings of principal IIC figures

in which some members debate evidence and questions regarding Secretary General Annan and his role in the awarding of the Cotecna contract.[28]

Saybolt and Oil Inspections

In February 2005, the Senate Permanent Subcommittee on Investigations (Committee on Homeland Security and Governmental Affairs) released documents from Iraq's SOMO that appeared to indicate payments from Iraqi officials to a Saybolt employee who held responsibility for certifying oil shipments at Mina Al Bakr during the period when two alleged incidents of oil shipment "topping off" took place.[29] The employee, a Portuguese national named Armando Carlos Oliveira, reportedly received payments totaling $105,819 for the falsification of shipping documents that facilitated the loading of excess oil on board a vessel named *Essex* in May and August 2001.[30] Saybolt executives reportedly investigated the bribery allegation and informed the Senate subcommittee of their progress. At a February 15, 2005 hearing, a Saybolt representative assured the Senate subcommittee that the company would "closely examine" the new documents and, "take all appropriate action." According to Senator Norm Coleman, Saybolt was "very cooperative" with the Senate subcommittee.[31] The IIC's final report confirms the findings of the Senate Subcommittee that Mr. Oliveira accepted a bribe and allowed the illicit oil loading.

Program Audits and Administration

A GAO review of U.N. OFFP audits revealed "deficiencies in the management and internal controls of the OFFP." U.N. audit reports reviewed by GAO included findings that "suggested a lack of oversight and accountability by the offices and entities audited," including primary OFFP contractors Lloyd's Register, Saybolt, and Cotecna. The findings reportedly include instances of inadequate contract documentation, procurement problems, and contractor overcharging. According to the IIC's February 2005 interim report, the resources available to the Internal Audit Division (IAD) of the U.N.'s Office of Internal Oversight Services were "inadequate," and IAD was forced to solicit funds from the management staff of the OFFP to support some of its oversight activities. These funding and authority limitations prevented the staff of the IAD from examining "key elements of the oil and humanitarian contracts, including price and quality of goods" which the IIC argues may have "uncovered or confirmed the various kickback schemes" used by the regime of Saddam Hussein. Citing similar difficulties, a March 2005 GAO report concluded, "constraints on the internal auditors' scope and authority prevented the auditors from examining and reporting widely on problems in the OFFP."[32]

[28] See Colum Lynch, "Former U.N. Counsel Defends Disclosure," *Washington Post*, May 10, 2005.

[29] The final report of the Iraq Survey Group (the "Duelfer report"), included a list of SOMO oil voucher recipients that features the name "Saybolt," although the report indicates that Saybolt did not exercise its right to have Iraqi oil lifted and sold under that voucher, and therefore did not profit. Saybolt attorney John Denson testified in February 2005 that, "Saybolt did not request and did not receive an oil allocation. We have no idea how our name ended up on that list."

[30] Ibid.

[31] Ibid.

[32] Government Accountability Office, "United Nations: Sustained Oversight Is Needed for Reforms to Achieve Lasting Results," GAO-05-392T, March 2, 2005.

Iraqi Oil Surcharges and Contract Kickbacks

According to the IIC report, Iraq illicitly earned $1.8 billion through surcharges on OFFP-approved oil sales and kickbacks on OFFP humanitarian and commercial goods contracts from June 2000 until March 2003.[33] Iraqi officials reportedly demanded a 25-30 cent surcharge from buyers on each OFFP-approved barrel of oil beginning in the eighth phase of the OFFP (June 2000). SOMO records indicate that these surcharges were placed on 1.117 billion barrels of oil from June 2000 to March 2003, creating surcharge contracts valued at $265.3 million. However, Iraqi authorities were only able to collect $228.8 million in surcharges, and Iraq's SOMO reportedly terminated oil contracts with some buyers because of the buyers' unwillingness or inability to pay the demanded surcharges. A total of 248 companies purchased oil from Iraq under the OFFP; according to the IIC final report, 139 of them paid surcharges to Iraq on their oil contracts.

Iraqi authorities instituted a similar kickback scheme on humanitarian and commercial goods contracts approved by the OFFP. Iraq generally demanded a 10 percent kickback from suppliers on the value of OFFP goods contracts, earning an estimated $1.583 billion from late 2000 until March 2003. The kickback scheme was rooted in complex arrangements whereby Iraqi authorities would sign contracts with cooperative suppliers for first quality goods and accept delivery of poorer quality goods without notifying OFFP officials of the discrepancy. The resulting profits to the cooperating suppliers were returned to Iraqi authorities after the suppliers allegedly subtracted small fees for themselves. The Duelfer report characterizes the kickback scheme as "particularly nefarious" in that it meant that, in many cases, the Iraqi people were supplied with "second-quality, sometimes useless, humanitarian goods." Iraq (Baghdad-controlled) purchased goods from 3,614 companies under the OFFP; according to the IIC final report, 2,253 of them paid kickbacks to Iraq on their supply contracts or deliberately delivered second-quality humanitarian goods.

U.N. and International Response

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 buyers—the surcharges constituted 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 March 2001 press report 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.[34]

[33] The Duelfer Report based its estimates on interview with Iraqi officials and SOMO records recovered after the fall of the Saddam Hussein regime. The GAO testimony from July 2004 estimated that Iraq had earned over $4.4 billion during 1997-2002 from oil surcharges and kickbacks on humanitarian goods bought under the U.N. OFFP. The GAO estimate assumed that Iraq obtained a surcharge of 35 cents on each barrel of oil sold under the oil-for-food program. The GAO further estimated the "kickback" percentage for Iraq at 5 percent of the value of each purchase contract. *Government Accountability Office*, "Observations on the Oil for Food Program and Areas for Further Investigation," GAO-04-953T, July 8, 2004.

[34] *Reuters*, "Iraq's Oil Deal List Expands with Unfamiliar Firms," March 8, 2001. 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); (continued...)

U.S. major oil companies were said to have bought 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.[35]

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 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 OFFP oil sales for the month of April 2002 in protest against Israel's military incursion into the West Bank.

Oil Allocations or "Vouchers"

Under the terms of the memorandum of understanding between the United Nations and Iraq that implemented Security Council Resolution 986, the Iraqi government was granted the power to choose the entities to which it would sell OFFP-approved oil and from which it would purchase OFFP-approved commercial and humanitarian goods. According to the IIC's final report, Iraq took advantage of this power by creating a clandestine oil allocation or "voucher" system, through which the Iraqi government granted allocations of OFFP-approved Iraqi oil to individuals and entities it deemed "to be influential in their respective countries and who espoused pro-Iraq views or organized anti-sanctions activities."[36]

The Duelfer report and the IIC report state that Saddam Hussein personally involved himself in the selection of oil buyers and good providers participating in the U.N. OFFP.[37] The Duelfer and IIC reports address allegations similar to those contained in the *Al Mada* publication mentioned above. According to the IIC report, Iraq allocated oil vouchers based on a total of 4.53 billion barrels of oil, but only 3.43 billion barrels of oil were actually lifted.[38] The Duelfer report groups allocation recipients into three categories: (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. There is considerable overlap between those named in the *Al Mada* article and those named in the Duelfer and IIC reports, most notably OFFP executive director Benon Sevan. Some experts believe that some allocation recipients were able to arrange for the lifting of their oil allocations, and oil surcharges apparently served as their profit on the transaction. The IIC and

(...continued)

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).

[35] 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.

[36] IIC, Report on Programme Manipulation, October 27, 2005, p. 3.

[37] Saddam managed the oil voucher program in cooperation with a Command Council made up of former-Vice President Taha Yassin Ramadan, Deputy Prime Minister Tariq Aziz, Oil Minister Amer Muhammad Rashid, and other senior Iraqi officials.

[38] For the full IIC list of oil allocations, alleged recipients, and their responses, see IIC Table 1, "Oil Allocations and Sales Summary by Contracting Company," available online at http://www.iic-offp.org/documents/CommitteeTables27oct05/Table%201%20-%20Committee%20oil%20summary%20table.pdf.

Duelfer reports state that some oil contracts were never actually lifted and that those who were assigned allocations based on those oil contracts might never have received any funds.

Bayoil and Other Voucher Allegations

Reports issued by the Senate Permanent Subcommittee on Investigations in May 2005 allege that several prominent international political figures received and traded in oil vouchers from the Saddam Hussein regime.[39] The reports claim that Russian official Vladimir Zhirinovsky "was granted lucrative allocations of oil" by the Iraqi regime and that Houston-based U.S. firm "Bayoil knowingly acted as a conduit between Saddam Hussein and Vladimir Zhirinovsky" by purchasing the oil and paying surcharges to Iraqi authorities. An indictment filed against Bayoil executives in April 2004 alleges that the company "knowingly paid" surcharges to Iraq and manipulated oil market data provided to U.N. officials.[40] The Senate subcommittee reports also allege that members of the Russian Presidential Council, former French Minister of the Interior Charles Pasqua, and British Member of Parliament George Galloway participated in and profited from Iraq's oil voucher program. Each of the named parties has denied the allegations. Galloway vigorously denied receiving oil vouchers in testimony before the Senate Permanent Subcommittee on Investigations on May 17, 2005. Pasqua has denied the allegations and French authorities continue to investigate charges that he and other French nationals accepted and traded oil allocations from the Saddam Hussein regime.[41]

Benon Sevan

Benon Sevan served as the Executive Director of the Office of Iraq Program at the United Nations from 1997 to 2003, and was the senior official responsible for the administration of the U.N. OFFP. According to the IIC, Sevan participated in the Iraqi government's oil allocation scheme and profited from the sale of Iraqi oil via a third party: African Middle East Petroleum Co. Ltd [AMEP]. The IIC's February 2005 interim report stated that Sevan, "while employed as Executive Director of OIP, solicited and received on behalf of AMEP several million barrels of allocations of oil from 1998 to 2001."

The interim report concluded that "Mr. Sevan's solicitation on behalf of AMEP and AMEP's resulting purchases of oil presented a grave and continuing conflict of interest, were ethically improper, and seriously undermined the integrity of the United Nations." The IIC's final report echoes these conclusions, stating that "Mr. Sevan compromised his position by secretly soliciting and financially benefitting from Iraqi oil allocations." U.N. Secretary General Kofi Annan expressed "shock" at the IIC's findings and waived Sevan's diplomatic immunity. Sevan has denied the charges publicly through statements by his lawyers. He resigned his U.N. position in February 2005 and remains in Cyprus. In January 2007, Sevan was indicted in New York on bribery and conspiracy to commit wire fraud charges.

[39] Senate Permanent Subcommittee on Investigations - Report on Oil Allocations Granted to Vladimir Zhirinovsky, Report on Oil Allocations Granted to Charles Pasqua and George Galloway, and Report on Oil Allocations Granted to the Russian Presidential Council, May 17, 2005.

[40] James Norman, "Chalmers Charged in Iraq Trading Scheme," *Platts Oilgram News*, Vol. 83: No. 72, April 15, 2005.

[41] *UPI*, "France Opens Oil-for-Food Inquiry," June 2, 2005; Francis Harris and David Rennie, "I Took Saddam's Cash, Admits French Envoy," *Daily Telegraph* (London), November 18, 2005.

Issues for Congress

Presidential Waivers and Congressional Oversight

Following the passage of the Iraq Sanctions Act of 1990 [P.L. 101-513], U.S. law stipulated that any country violating U.N. sanctions against Iraq should be denied U.S. foreign assistance unless the President certified to the Congress that U.S. assistance was "in the national interest."[42] In spite of public evidence that Jordan and Turkey were purchasing Iraqi oil in violation of the U.N. sanctions regime, subsequent Administrations issued presidential waivers to Congress justifying the continued provision of U.S. foreign assistance to each country from FY1994 through FY2003. According to the IIC's final report, Iraq's illicit oil sales to Turkey and Jordan provided Saddam Hussein's regime with $6.74 billion in revenue.

Memoranda of justification issued by the State Department to the Senate Committee on Foreign Relations contain detailed explanations of the importance of U.S. foreign assistance to Jordan and Turkey, its utility as a means of supporting bilateral relationships with those countries, and the importance of those bilateral relationships to other U.S. foreign policy priorities. The memoranda did not contain estimates of the value of the illicit oil sales to Iraq or estimates of the possible uses of illicit revenue from the sales by Saddam Hussein's regime. Given contemporaneous U.S. concerns about Iraq's efforts to reconstitute its WMD programs and its alleged support for international terrorism, inclusion of estimates of the proceeds of Iraq's oil sales in the memoranda of justification may have provided Members with a more complete understanding of the possible costs of continuing to provide bilateral U.S. assistance to countries that were openly violating the U.N. sanctions regime.

In considering steps to reform congressional oversight of U.S. sanctions policy, Members may consider including more specific reporting requirements to accompany Presidential waiver authority provisions so that the possible costs of choosing to waive sanction provisions are described as completely as the possible benefits of continued U.S. foreign assistance to various recipients.

Legislation

Bills addressing allegations of oil-for-food program abuse and the IIC investigation were introduced in the 109th Congress:

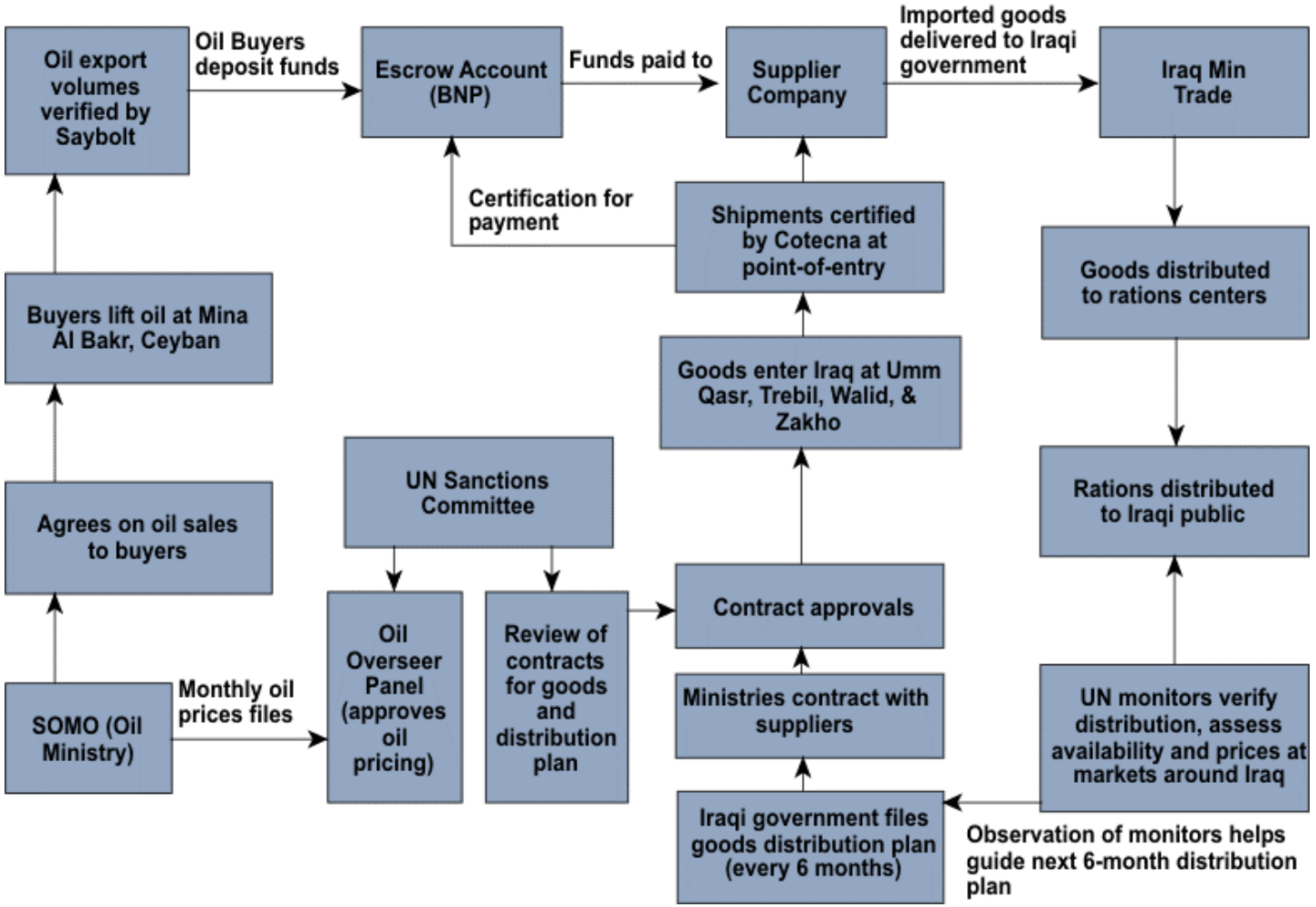
- S. 291, the United Nations Oil-for-Food Accountability Act of 2005, would have mandated percentage reductions (10% in FY2006 and 20% in FY2007) in U.S. contributions to the United Nations unless the President certified U.N. cooperation (providing requested documents, waiving immunity from U.S. prosecution for U.N. officials) with U.S. inquiries into the oil-for-food allegations. Companion legislation was introduced in the House (H.R. 1092).

[42] See section 586D of the Iraq Sanctions Act of 1990. The act also allowed a Presidential waiver for assistance meant to directly benefit Iraqi and Kuwaiti refugees or other "needy" recipients in target countries. In addition, the following subsequent foreign aid appropriations bills each contained a section that denied foreign aid to nations deemed in violation of U.N. sanctions against Iraq: P.L. 103-87, P.L. 103-306, P.L. 104-107, P.L. 104-108, P.L. 105-118, P.L. 105-277, P.L. 106-113, P.L. 106-429, P.L. 107-115.

- H.R. 4369 would have withheld $100 million in U.S. contributions to the United Nations for each fiscal year FY2007-FY2009 until the Secretary of State certified that the unedited and uncensored archives and files of the IIC were transferred to a non-UN entity and made accessible to the public (including U.S. authorities) for at least five years.
- The United Nations Reform Act of 2005 (H.R. 2745) would have linked future U.S. financial contributions to the United Nations to the creation of an Independent Oversight Board (IOB) at the United Nations. The bill subsequently would have directed the IOB to review the IIC's findings, determine the completeness of the IIC investigation, and, if necessary, identify areas for further investigation. The House passed H.R. 2745 on June 17, 2006 (Roll no. 282). Companion legislation was introduced in the Senate (S. 1394).

Appendix. Overview of Oil-For-Food Program

Figure A-1. Overview of Oil-for-Food Program



Source: Congressional Research Service.

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