

STATEMENT OF SENATOR CARL LEVIN (D-MICH)  
BEFORE THE  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
ON  
REACHING A CONSENSUS ON U.N. REFORM

October 31, 2005

For the past two years, a body of evidence has been building about what went right and what went wrong with the United Nations Oil-for-Food Program, one of the most ambitious undertakings in recent years by the international community.

The Oil-for-Food program collected over \$64 billion in Iraqi oil proceeds, spent \$34 billion on the Iraqi people's humanitarian needs, and spent another \$18 billion on Kuwaiti reparations. The program was also the victim of kickback schemes that generated \$229 million in illegal surcharges on contracts to buy Iraqi oil and \$1.5 billion in payoffs on contracts selling humanitarian goods.

While \$1.8 billion in kickback money is a serious matter, as this chart shows, the illicit income generated from Oil-for-Food contracts was dwarfed by the \$10 billion in illicit income that Saddam Hussein obtained from making sales of oil outside of the Oil-for-Food program. These oil sales took place in broad daylight, mostly to Turkey, Jordan, and Syria, with the open acknowledgment of the world community, including the United States.

To date, this Subcommittee has held 4 oversight hearings and issued 6 reports which, among other matters, present case histories examining the payment to Saddam Hussein of illegal surcharges on Iraqi oil sales and of illegal kickbacks on Iraqi humanitarian contracts, the manipulation of Iraqi oil allocations to funnel money to political groups and individuals who supported Saddam Hussein, and Iraq's illegal sale of 7 million barrels of oil to Jordan at an unauthorized port called Khor al Amaya while the United States and other U.N. member nations looked the other way. To compile this information, the Subcommittee staff reviewed thousands of documents and conducted scores of interviews, including sending a team to Baghdad to interview former Iraqi officials.

At the same time, the Volcker Committee, whose Chairman Paul Volcker will testify here today, has conducted its own intensive review, issuing 5 reports with massive information about how the Oil-for-Food program operated and how it was abused by Saddam's illicit schemes. Before that, the U.S. Iraqi Survey Group headed by Charles Duelfer issued the first report that detailed key aspects of the OFF program.

The end result is that the Subcommittee has amassed a wealth of detailed information to help us analyze what went right, what went wrong, and what lessons should be learned.

First, what went right. The facts and analysis show that the Oil-for-Food program achieved its two core objectives. It stopped Saddam Hussein from rearming and acquiring

weapons of mass destruction, and it alleviated the starvation and massive health crisis that was overwhelming the Iraqi people. It is important to realize that international sanctions can work and did work here.

That has been the conclusion of both the U.S. State Department and the Volcker Independent Inquiry Committee. Last year, for example, former U.S. Ambassador to the U.N. and Iraq, and current Director of National Intelligence John Negroponte testified:

“The U.S. Government supported the program’s general objective of creating a system to address the humanitarian needs of the Iraqi civilian population, while maintaining strict sanctions enforcement of items that Saddam Hussein could use to rearm or reconstitute his WMD program. We believe the system the Security Council devised by and large met those objectives.”

In a report released in September, the Volcker Committee concluded:

“The food supplies provided through the [Oil-for-Food program] reversed a serious and deteriorating food crisis, preventing widespread hunger and probably reducing deaths to which malnutrition was contributing. ... In terms of numbers, it can be estimated, for example, that there were some 360,000 fewer malnourished children in 2000 than there would otherwise have been.”

The Oil-for-Food program’s achievements have become largely overshadowed, however, by the corrupt actions taken by Saddam Hussein to undermine and profit from the program. His corrupt acts included requiring companies that bought Iraqi oil to pay an illegal surcharge of 30 cents per barrel to Iraq instead of to the U.N. escrow account, which netted his regime about \$229 million. (See chart) Also, companies selling Iraq humanitarian goods purchased with the oil sale proceeds paid Saddam a 10% kickback disguised as a so-called “after sale service charge” or “inland transportation fee.” Those kickbacks produced more than \$1.5 billion for the Hussein regime. The Volcker report released last week indicates that over 2200 companies, or about half of the 4500 companies active in the OFF program, ended up making payoffs to the Hussein regime.

The biggest source of illicit revenue to Saddam Hussein throughout the sanctions period was from oil that Iraq sold to its neighbors, mostly Jordan, Turkey, and Syria, and demanded that they pay Iraq directly for the oil instead of paying the U.N. escrow account. These oil sales produced for Iraq illicit income totaling nearly \$10 billion. Although these oil sales were blatant violations of the U.N. sanctions on Iraq, for more than a decade the United States and other U.N. countries looked the other way and allowed them to continue.

Saddam Hussein was intent on lifting the U.N. sanctions that were frustrating his efforts to rearm Iraq. Over the years, he succeeded in generating billions of dollars in illicit revenues outside of the Oil-for-Food program. He also corrupted thousands of companies and damaged

the reputation of the United Nations.

While the United Nations was a target and a victim of Saddam Hussein's corruption, it also deserves a measure of blame for some of the problems that existed with the Oil-for-Food program and the illicit oil sales that circumvented it. The head of the Oil-for-Food program appears to have accepted bribes, and management weaknesses, including weak auditing, procurement, and personnel functions left the U.N. open to abuse by a determined and corrupt foe. At the same time, there is little evidence that Saddam was actually able to influence the foreign policy of any country – let alone the Security Council of the United Nations – through any of the schemes he devised for that purpose.

One lesson to be learned from the Oil-for-Food investigations is that the United Nations needs to strengthen its oversight efforts. It needs a strong, independent, and adequately funded auditor of U.N. programs. It needs a stronger, more transparent procurement system and contract bidding process. It needs stronger conflicts of interest prohibitions for U.N. personnel. And it needs specific anti-corruption measures designed to protect programs, detect problems, and refer suspicious conduct to member countries for further action.

Another lesson that ought to be learned is that the United Nations is not a law enforcement agency. It cannot prosecute anyone. It is completely dependent upon its member countries to police their nationals. Right now, there are no effective mechanisms for the United Nations to compel individual member countries to do what they should, and I will be interested to hear from today's witnesses about how to tackle that problem.

Another lesson is one learned from evaluating the conduct of our own government. In some cases, the United States was a leader in battling Saddam's attempted corruption of the OFF program, for example, by helping to devise a way to stop Iraq from manipulating the official selling price of Iraqi oil to facilitate the payment of illegal surcharges. In other cases, however, the United States fell down on the job.

For example, the United States failed to do much of anything to ensure that U.S. persons were not paying illegal surcharges to the Hussein regime. The Minority Staff report I have just released describes the case of Bayoil, an American company that was the largest importer of Iraqi oil into the United States during the Oil-for-Food program. The United States was the principal consumer of Iraqi oil during the program, importing over 50% of all oil that left that country. The Bayoil case provides a stark history of inaction, inattention, and abdication of responsibility by U.S. authorities charged with enforcing sanctions against Iraq.

In early 2001, the U.N. Oil Overseers – the oil industry experts employed by the United Nations to help oversee Iraqi oil sales – became concerned over reports that purchasers of Iraqi oil were delivering and selling that oil in unapproved markets. This issue was important, because the price of Iraqi oil was set, in part, according to where the oil was supposed to be delivered. Oil sent to North America, for example, was priced lower than oil sent to Europe, in part to

compensate for the cost of transporting the oil across the Atlantic Ocean. U.N. contracts required oil purchasers to actually deliver the oil to the specified destination. Absent those requirements, Iraqi oil purchasers could, for example, sell lower-priced oil that was supposed to be sent to North America in the higher-priced European market, making not only unintended profits, but also cheating the U.N. escrow account out of money that should have been paid for the higher-priced oil sold in Europe – money that would have been spent on the humanitarian needs of the Iraqi people.

In early 2001, the U.N. Oil Overseers were especially concerned about destination switching, because Saddam Hussein had just imposed illegal surcharges of twenty-five or thirty cents per barrel of Iraqi oil, and the Oil Overseers were worried that destination switching was being used to obtain the illicit revenues needed to pay the illegal surcharges.

The Oil Overseers asked Bayoil, among others, for documentation proving that the oil they bought had actually been delivered to the destinations specified in their contracts. After Bayoil repeatedly refused to cooperate, the U.N. Oil Overseers asked the U.S. State Department for help.

On August 17, 2001, the State Department, in turn, asked the U.S. Department of Treasury's Office of Foreign Assets Control or "OFAC" – the agency charged with enforcing U.S. sanctions regimes – to require Bayoil to give the United Nations the information it wanted about specific oil shipments. Five months later, after no information was forthcoming, the U.N. Oil Overseers again asked the U.S. State Department for help, and the State Department again simply passed the request on to OFAC with no follow through.

Finally, eight months after the U.N. Oil Overseers first asked for help, OFAC wrote to Bayoil in April 2002, and made a general request that the company provide a report on its licensed activities in Iraq. OFAC failed to ask Bayoil for the information requested by the United Nations about specific oil shipments and failed to instruct Bayoil to cooperate with the U.N. Oil Overseers. In May, Bayoil responded that had no licensed activities in Iraq, because it had no direct oil sales contracts with Iraq, and assumed OFAC was not asking about its other, indirect purchases of Iraqi oil. OFAC never followed up, except to ask Bayoil's permission to forward its non-responsive letter to the United Nations. Bayoil wrote that its letter could be given to the State Department, but not to anyone else, including the United Nations. In the end, OFAC never even provided Bayoil's letter to the State Department, much less to the United Nations.

As today's Minority Staff report demonstrates, the Bayoil information that had been sought by the United Nations from the United States in 2001 and 2002, was significant. Records later obtained by the Subcommittee indicate that, in 2001, Bayoil switched destinations on at least two shipments carrying over 4 million barrels of Iraqi oil and obtained at least \$7.5 million in illicit income from this transatlantic shell game. Bayoil obtained those millions at the expense of the U.N. escrow account for the humanitarian needs of the Iraqi people, and improperly paid millions of dollars in higher fees to the companies that provided that oil. Those companies, in

turn, paid millions of dollars in illegal surcharges demanded by Saddam Hussein.

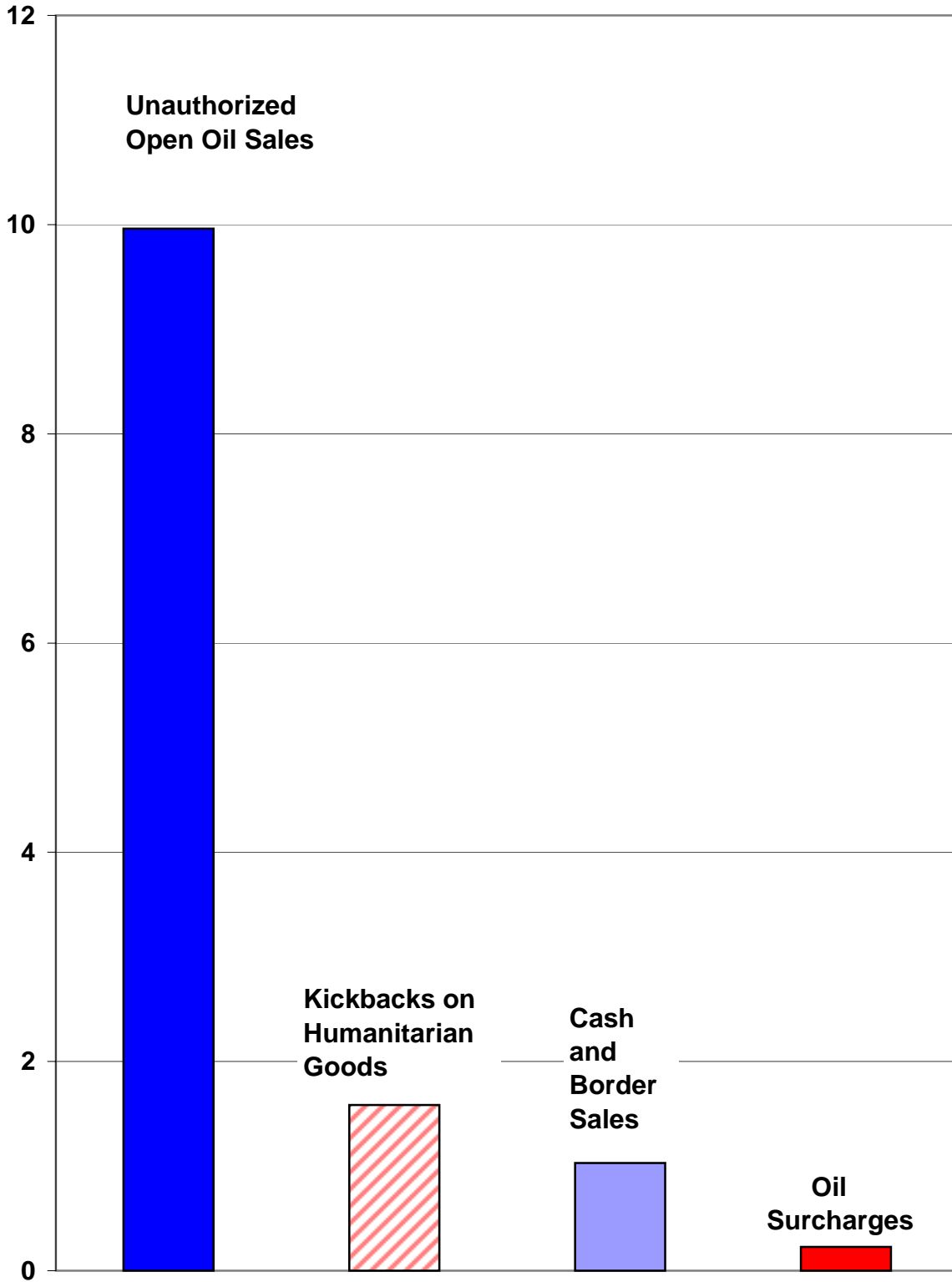
By failing to respond to the United Nations' repeated requests for assistance in monitoring and enforcing the Oil-for-Food program requirements, U.S. authorities impaired the oversight of the OFF program and efforts to deter the payment of illegal surcharges to Saddam Hussein.

OFAC was not merely negligent in failing to assist the U.N. Oil Overseers, it also abdicated its responsibility to enforce its own regulations.

The Oil for Food program shows that international sanctions can work. It also shows how a determined country can damage the United Nations by tainting its programs with fraud. And it shows how important it is that all U.N.-member nations vigilantly enforce the sanctions regime. I commend Chairman Coleman for his tenacity in examining this program, and I also share his goal of strengthening the United Nations through needed management reforms.

# Illicit Iraqi Income 1991-2003

Billions of  
Dollars



Data source: IIC Report, 9/05

Chart prepared by: Senate Permanent Subcommittee on Investigations,  
Minority Staff

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# OFAC CHRONOLOGY

- 6/7/01** U.N. letter to Bayoil asks for information about specific shipments.
- 6/25/01** Bayoil refuses to provide shipping information, because it is “completely outside [the U.N. Oil Overseer’s] authority and mandate under the [OFF] program.”
- 7/14/01** Bayoil supplies incomplete information.
- U.N. Office of Iraq Programme asks U.S. Mission to the U.N. for assistance.
- 8/17/01** U.S. State Department writes to U.S. Treasury Department’s Office of Foreign Assets Control (OFAC) asking it to “contact Bayoil and urge the company respond quickly and completely to the Office of the Iraq Program’s request for information.”
- 11/28/01** U.N. again asks Bayoil for information.
- 1/10/02** U.N. again asks Bayoil for information.
- 1/24/02** Bayoil writes to U.N. but still does not provide the requested information, claiming prejudice against the company.
- 1/02** U.N. again asks the State Department for assistance and the State Department again contacts OFAC.
- 4/23/02** Eight months after the initial request for assistance, OFAC writes to Bayoil and requests a report on its transactions in Iraq; letter does not request specific information sought by U.N. or direct Bayoil to answer the U.N.’s questions. OFAC told the Subcommittee that its investigator recalled that the request had to do with “surcharges.”
- 5/22/02** Bayoil writes to OFAC saying that because Iraq will not issue contracts directly to U.S. companies, it is not doing work under its OFAC license.
- OFAC telephones Bayoil and asks to send Bayoil’s letter to the State Department.
- 7/2/02** Bayoil writes back that OFAC can share its letter with the State Department and U.S. Mission to the U.N. but with no one else, which means it cannot be shared with the U.N.
- OFAC never forwards Bayoil’s letter to anyone.  
The U.N. never obtained the information it sought about Bayoil.