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CONTRACT PD/CON/324/98  
between  
THE UNITED NATIONS  
and  
COTECNA INSPECTION S.A.  
FOR THE PROVISION OF INDEPENDENT INSPECTION AGENTS

*[Faint, illegible text, possibly a stamp or signature]*

*[Handwritten signature]*

This Contract is entered into by and between the **UNITED NATIONS**, an international inter-governmental organization, with its headquarters in New York, N.Y. 10017, U.S.A. (hereinafter referred to as the "United Nations" or "UN"), and **COTECNA INSPECTION S.A.**, a corporation organized under the laws of Switzerland, having its headquarters at 58, Rue de la Terrassière, Geneva, Switzerland (hereinafter referred to as the "Contractor"). The United Nations and the Contractor are collectively hereinafter referred to as the "Parties".

W I T N E S S E T H

**WHEREAS** the UN, in furtherance of the mandate of certain United Nations Security Council resolutions, wishes to engage the Contractor to provide services of individuals employed by the Contractor with particular experience and qualifications to assist in monitoring (i) the import into Iraq of humanitarian supplies and of parts and equipment for the petroleum industry and (ii) the performance of services ancillary to the import of such goods, all on the terms and conditions set forth in this Contract;

**WHEREAS**, the Contractor represents that it is qualified, ready, able and willing to provide these services on the terms and conditions set forth in this Contract;

**NOW, THEREFORE**, the Parties hereto mutually agree as follows:

**A. GENERAL**

**Article 1. Contract Documents**

1.1 This document and all annexes hereto, together with the following named documents, which are incorporated herein by reference, constitute the entire Contract (herein referred to as the "Contract" or this "Contract") between the UN and the Contractor:

- (a) The Request for Proposal issued by the UN and dated 9 October 1998, under reference "Request for Proposal for Provision of Independent Agents in International Authentication of Goods/AY", as modified or supplemented by

the answers to queries dated 20 October 1998, (hereinafter referred to as the "RFP"); and

(b) The Contractor's Proposal dated 2 November 1998, as modified or supplemented by the undated document titled "Questions Related to Personnel/Procedures - Cotecna's Position" (consisting of eleven (11) pages numbered 1 through 11), (hereinafter referred to as the "Proposal").

1.2 The following Annexes shall form an integral part of this Contract:

- Annex I: UN General Conditions of Contract;
- Annex II: Security Council Resolutions 986 (1995), 1111 (1997), 1143 (1997), 1153 (1998), and 1175 (1998) (as such Resolutions may be modified or supplemented after the date hereof, hereinafter referred to as the "Resolutions");
- Annex III: Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995) (hereinafter referred to as the "MOU");
- Annex IV: The Procedures to be Employed by the Security Council Committee Established by Resolution 661 (1990) Concerning the Situation between Iraq and Kuwait in the Discharge of its Responsibilities as Required by Paragraph 12 of Security Council Resolution 986 (1995) (as such Procedures may be modified or supplemented after the date hereof, hereinafter referred to as the "Procedures");
- Annex V: Transportation Release Form;
- Annex VI: Medical Release Form;
- Annex VII: Form of Performance Bond/Guarantee.

1.3 In the case of any inconsistency among the documents constituting this Contract, the following order of priority shall apply:

- (a) this document and Annexes I - VII hereto;



Security Council

Distr.  
GENERAL

S/1996/636\*  
12 August 1996

ORIGINAL: ENGLISH

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LETTER DATED 8 AUGUST 1996 FROM THE CHAIRMAN OF THE SECURITY  
COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990)  
CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT ADDRESSED  
TO THE PRESIDENT OF THE SECURITY COUNCIL

On behalf of the Security Council Committee established by resolution  
661 (1990) concerning the situation between Iraq and Kuwait, I have the honour  
to communicate to you the following:

Pursuant to paragraph 12 of Security Council resolution 986 (1995), the  
Committee was requested to develop, in close coordination with the Secretary-  
General, expedited procedures as necessary to implement the arrangements in  
paragraphs 1, 2, 6, 8, 9 and 10 of that resolution. I am pleased to inform you  
that after several weeks of intensive deliberations the Committee, at its  
142nd meeting held on 8 August 1996, adopted the procedures to be employed by it  
in the discharge of its responsibilities as required by paragraph 12 of  
resolution 986 (1995). A copy of the procedures is attached herewith for the  
information of the members of the Council.

(Signed) Tono EITEL  
Chairman

Security Council Committee established  
by resolution 661 (1990) concerning the  
situation between Iraq and Kuwait

\* Reissued for technical reasons.

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PROCEDURES TO BE EMPLOYED BY THE SECURITY COUNCIL COMMITTEE  
ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE  
SITUATION BETWEEN IRAQ AND KUWAIT IN THE DISCHARGE OF ITS  
RESPONSIBILITIES AS REQUIRED BY PARAGRAPH 12 OF SECURITY  
COUNCIL RESOLUTION 986 (1995)

SECTION I

Sale of petroleum and petroleum products originating in Iraq

1. The Committee will select, upon recommendation by the Secretariat of the Committee, at least four independent experts in international oil trade, to be appointed by the Secretary-General as "overseers" at the United Nations Headquarters. The number of the overseers will be reviewed depending on the volume of transactions to be processed. The overseers will have the authority and responsibilities set forth in this section.
2. Notwithstanding the obligations of States under the relevant Security Council resolutions, States may, if they so wish, forward to the Committee a list of national oil purchasers (private companies, State-owned companies, State agencies, ministries, etc.) authorized to communicate with the overseers. States may present changes to the list at any time. Once the Committee has taken note of these lists or the changes thereto and passed them on to the overseers, these purchasers are entitled to communicate directly with the overseers. If States do not submit such a list, or if a certain purchaser is not included in the list, the communication with the overseers shall be submitted through the Permanent Mission of the State of purchase.
3. A contract for the purchase of petroleum and petroleum products will only be considered for approval if it has been endorsed by the Government of Iraq, or the Iraqi State Oil Marketing Organization (hereinafter SOMO) on behalf of the Government. The submission by the Government of Iraq or SOMO of a copy of a contract is acceptable as an endorsement.
4. SOMO's contracts with purchasers will include all the details specified in paragraph 1 (a) of resolution 986 (1995). In particular, the contract shall indicate the export route, the payment by way of a confirmed letter of credit consistent with paragraph 9 below, quantity and quality of petroleum or petroleum products purchased, duration of contract, credit and payment terms and pricing mechanism. The pricing mechanism for petroleum should include the marker crude oil and type of quotations to be used, adjustments for transportation and quality, and pricing dates.
5. The Government of Iraq or SOMO may submit at any time pricing mechanisms for sales of petroleum for review by the Committee. The overseers will assess these pricing mechanisms, in particular whether they reflect fair market value and will provide analysis and recommendations to the Committee. The Committee will then review the pricing mechanism according to its no-objection procedure within two business days. The pricing mechanism should include the elements listed in paragraph 4 above. In

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order to facilitate this process, regular consultations between the overseers and representatives of SOMO will take place consistent with paragraph 6 of annex II of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995) dated 20 May 1996 (hereinafter Memorandum of Understanding).

6. When market conditions so require, and in particular during the first month of the implementation of resolution 986 (1995) adjustments to pricing mechanisms may be submitted by the Government of Iraq or SOMO for review by the Committee in accordance with paragraph 5 above. The pricing mechanisms will in any case be reviewed in accordance with paragraph 5 above whenever the Government of Iraq or SOMO submits a revision. Current approved price mechanisms will remain in effect until new ones are approved by the Committee.
7. The Secretariat of the Committee will set up a new fax line to be used exclusively for correspondence with regard to the petroleum and petroleum products transactions. The national oil purchaser or the Permanent Mission of the State of purchase shall forward by fax to the overseers an application for approval, together with a copy of the contract and, if necessary, other supporting documents. States and national oil purchasers shall use only the Standard Application Form annexed to the present procedures. Other correspondence with the Committee shall go through the already existing channels.
8. A contract for the sale of petroleum which employs a pricing mechanism approved by the Committee under paragraph 5 above, will be reviewed by two overseers on behalf of the Committee to determine whether the contract meets the criteria set forth in paragraph 9 below. Such review should be completed within 24 hours. No overseer shall review a contract submitted by or on behalf of an oil purchaser with the same nationality as the overseer or which employed him or her within the last two years.
9. To ensure that all contracts comply with the provisions of resolution 986 (1995) and do not contain any attempt at fraud or deception, the overseers on duty review the contracts and supporting documents to determine that:
  - the contract and the documents comply with the requirements provided for in resolution 986 (1995) and in the present procedures, including details of a confirmed irrevocable letter of credit to be opened, with the irrevocable undertaking that the proceeds of the letter of credit will be paid directly to the escrow account established by the Secretary-General under paragraph 7 of resolution 986 (1995) (hereinafter Iraq account). The letter of credit should contain the information as set out in Annex II to this document.
  - the conditions of payment envisaged in the letters of credit are in conformity with the existing market practices;

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- the contract price is fair in view of all relevant circumstances, in particular that it is consistent with a currently approved pricing mechanism, and competitive given world prices and market trends and taking into consideration the provisions of paragraph 6 of annex II of the Memorandum of Understanding;
  - the transaction does not exceed the limits established by resolution 986 (1995), including the requirements set out in paragraph 6 of the resolution.
10. If the contract and supporting documents reviewed under paragraph 9 above are found to be in order, the overseers, on behalf of the Committee, shall immediately approve the contract and inform by fax the national oil purchaser or the Permanent Mission concerned, as well as SOMO and the bank holding the Iraq account. The Committee and the parties concerned shall be informed immediately upon rejection of any contract by an overseer. In circumstances other than rejection for technical reasons the overseers will make a full report to the Committee for appropriate action.
  11. Contracts for the sale of petroleum or petroleum products which do not employ a pricing mechanism approved by the Committee under paragraph 5 above will be reviewed by the overseers who will provide their analysis and recommendations to the Committee. In addition to the factors in paragraph 9 above, the overseers shall consider whether the contract's pricing mechanism reflects fair market value. Such review should be completed within 24 hours. Upon receipt of the analysis and recommendations from the overseers, the Committee will consider the contracts under its expedited no-objection procedure within two business days.
  12. Once a contract is approved pursuant to these procedures, the national oil purchaser shall cause a letter of credit consistent with paragraph 9 above to be opened and transmitted to the bank holding the Iraq account. The bank transmits the letter of credit to the overseers. The overseers immediately review the opened letter of credit in order to determine whether it complies with the information given in the application.
  13. If the opened letter of credit complies with the information given in the application the overseers inform the bank holding the Iraq account which adds its confirmation to the letter of credit and, for information purposes only, forwards the letter of credit to the Central Bank of Iraq for the purpose of advising SOMO. Furthermore, the overseers send notification of sales approval, together with a copy of the contract and, if necessary, supporting documents to the inspectors at Ceyhan and at the metering station at the Iraq-Turkey border, or at Mina-al-Bakr. If the opened letter of credit does not comply with the information given in the application the overseers shall immediately inform the Committee.
  14. The overseers will submit a substantive report to the Committee, in a standardized format, at least once a week on the contracts considered by them, including the cumulative quantity and approximate value of petroleum authorized for export, and inform the Secretary-General accordingly. In

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the light of this report, any document submitted as part of an application to the Committee will be available for consultation by Committee members in the Secretariat.

15. The export of petroleum and petroleum products will be monitored by United Nations independent inspection agents, appointed by the Secretary-General, who will be stationed at the loading facilities at Ceyhan and Mina-al-Bakr and at the metering station at the Iraq-Turkey border. Such on-site monitoring will make use of the documents received from the overseers, direct observation, as well as quality and quantity verification. The independent inspection agents will authorize the loading, after they receive the information from the overseers that the relevant contract has been approved, and inform the overseers accordingly. The independent inspection agents will also have the authority to stop the loading of petroleum if there is any evidence of irregularity. They will immediately report any irregularity to the Committee and the Secretary-General.
16. In accordance with paragraph 3 of resolution 661 (1990) and the provisions of resolution 665 (1990) shipments of Iraqi oil must not be performed by Iraqi vessels. In order to facilitate the efficient maritime export of oil under resolution 986 (1995) oil purchasers will communicate to the Secretariat information when available concerning vessels contracted for shipping approved oil exports.
17. The Committee will be informed of the appointments of the independent inspection agents made by the Secretary-General under paragraph 6 of resolution 986 (1995).
18. The independent inspection agents shall report weekly to the Committee, through the overseers, on their assessment of the export operations. When the loading of oil under a contract is completed, they shall inform the overseers on the details for comparison with the original approved contract.
19. Payment of the full amount of each purchase of petroleum and petroleum products shall be made into the Iraq account as provided for in paragraph 1 (b) of resolution 986 (1995).
20. Once a week, the Secretary-General forwards to the Committee and to the Government of Iraq statements of the Iraq account, including outlines of anticipated future payments to and from that account.
21. The regime for the sale of petroleum products will be broadly similar to that described above, and the precise arrangements, consistent with paragraph 6 of resolution 986 (1995), can be elaborated at a later stage, as and when the need arises.
22. The overseers will receive monthly reports from SOMO on the actual volume and type of petroleum and petroleum products exported under the relevant sales contracts.

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23. At a meeting, the Committee may provide additional guidance to be followed by the overseers.
24. If any Committee member judges the circumstances to be serious enough, that member may call for a review by the Committee of the system for approving oil contracts established in this section. At an urgent meeting, the Committee will decide, according to its normal procedures, whether to continue or revise the system. In the meantime, decisions on oil contracts can only be made in accordance with paragraph 11 above.

#### SECTION II

##### Import by Turkey of petroleum and petroleum products originating in Iraq pursuant to paragraph 2 of resolution 986 (1995)

25. The import by Turkey of petroleum and petroleum products originating in Iraq will be undertaken in accordance with the requirements of paragraphs 2 and 6 of resolution 986 (1995), so as to meet the pipeline tariff charges, verified as reasonable by the independent inspection agents, after the deduction of the percentage referred to in paragraph 2 of resolution 705 (1991) for the Compensation Fund. The import of petroleum and petroleum products will be authorized and monitored in accordance with the relevant provisions of section I of the present procedures.

#### SECTION III

##### Export to Iraq of humanitarian supplies

26. The Government of Iraq will prepare a categorized list of humanitarian supplies which it intends to purchase and import pursuant to resolution 986 (1995). This list will be submitted to the Secretary-General together with the distribution plan referred to in paragraph 8 (a) (ii) of the resolution.
27. After approving the distribution plan, the Secretary-General will forward the list, which constitutes a part of the plan, to the Committee, and will make it known to all States.
28. The Government of Iraq or the United Nations Inter-Agency Humanitarian Programme will contract directly with suppliers to arrange the purchase of humanitarian supplies, and will conclude the appropriate contractual arrangements.
29. Export to Iraq of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs (hereinafter humanitarian supplies) financed from the Iraq account shall be undertaken in accordance with the following provisions.
30. Applications for each export of humanitarian supplies, to be financed from the Iraq account consistent with paragraph 22 of the Memorandum of Understanding, shall be submitted to the Committee at the request of the Government of Iraq by the exporting States with all relevant documentation,

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including the concluded contractual arrangements. Payment from the Iraq account can take place only for items included in the categorized list, unless the Committee exceptionally decides otherwise on a case-by-case basis.

31. The Committee will take action on such applications in accordance with paragraph 20 of resolution 687 (1991), its existing procedures and the provisions of this section. The Committee will inform the Government of Iraq, the requesting States, the Secretary-General and, if appropriate, the independent inspection agents at the intended point(s) of entry into Iraq of the actions taken on the applications submitted.

32. Such applications shall be submitted as follows:

(a) Medicines and Health Supplies

The exporting State informs the Committee that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to this communication.

(b) Foodstuffs

The exporting State notifies the Committee. The notification must indicate that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to the notification.

(c) Other Materials and Supplies for Essential Civilian Needs

The exporting State submits an application for approval by the Committee under its no-objection procedure. The application must indicate that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to the application.

33. Experts in the Secretariat examine each contract, in particular the details of price and value, and whether the items to be exported are on the categorized list referred to above. They will also take into consideration the reports of the Secretary-General provided for in paragraph 20 above, in order to check availability of funds in the Iraq account for the contract. They will inform the Committee of their findings.

34. The Committee acts upon the findings of the experts as set forth below:

(a) Medicines and Health Supplies

If the Committee finds, under its expedited no-objection procedure within two business days from the circulation of the application, that the contract is in order, it immediately informs the parties concerned that the exporter is eligible for payment from the Iraq account. If the contract is

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not found in order, the Committee informs the parties concerned that payment cannot be made from the Iraq account, but the medicines and health supplies can be shipped anyway if the exporter so desires.

(b) Foodstuffs

If the Committee finds, under its expedited no-objection procedure within two business days from the circulation of the application, that the contract is in order, it immediately informs the parties concerned that the exporter is eligible for payment from the Iraq account. If the contract is not found in order, the Committee informs the parties concerned that payment cannot be made from the Iraq account, but the foodstuffs can be shipped anyway if the exporter so desires.

(c) Other Materials and Supplies for Essential Civilian Needs

If the Committee approves the supplies, under its no-objection procedure within seven days, and if the contract is found in order, the Committee informs the parties concerned of the approval and that the exporter is eligible for payment from the Iraq account. If the contract is not found in order, but the Committee approves the supplies under its no-objection procedure, it informs the parties concerned that payment cannot be made from the Iraq account, but that the supplies are approved and can be shipped anyway if the exporter so desires. If the Committee cannot approve the supplies, whether or not the contract is found in order, it informs the parties concerned that the supplies cannot be shipped.

35. When the Committee has informed the parties concerned that the exporter is eligible for payment from the Iraq account, the Central Bank of Iraq will request the bank holding the Iraq account to open an irrevocable, non-transferable, non-assignable (except to the supplier's bank for the repayment of financing for the purchase of the humanitarian supplies) letter of credit for the account of the Iraqi purchaser in favour of the supplier, which will be available only at the bank holding the Iraq account, and provide for payment from the Iraq account. Such requests shall be submitted by the bank holding the Iraq account to the Secretary-General for expeditious approval, so that payment from the Iraq account can be made without delay. The letter of credit will require as condition of payment the submission to the bank holding the Iraq account of the usual commercial documentation, and of the following documents: a copy of the Committee's letter stating that the exporter is eligible for payment from the Iraq account, and a standardized confirmation by the Secretary-General of the arrival of the humanitarian supplies in Iraq.
36. The arrival of the humanitarian supplies in Iraq will be confirmed by independent inspection agents appointed by the Secretary-General pursuant to resolution 986 (1995) and stationed at relevant entry points and other locations in Iraq as referred to in paragraph 26 of the Memorandum of Understanding. The independent inspection agents will add their authenticated confirmation of arrival to a copy of the Committee's letter stating that the exporter is eligible for payment from the Iraq account and to a copy of the invoice, and will inform the Secretary-General in

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- accordance with paragraph 8 (a) (iii) of Security Council resolution 986 (1995). This information should be given without delay and in any case within 24 hours. The inspection agents will report all irregularities to the Secretary-General and to the Committee. If the problem is related to normal commercial practice, the Committee and the Government of Iraq will be informed but normal commercial resolution practices will go forth. Performance bonds may not be opened. Payments in favour of the purchaser resulting from normal commercial resolution practices should be made to the Iraq account. If the matter is of serious concern, the independent inspection agents will hold the shipment in question, pending guidance from the Committee. The Committee will make every effort to provide such guidance in the most expeditious manner.
37. The bank holding the Iraq account shall effect payment under any letter of credit only if all documents (listed in para. 35 above) stipulated in the letter of credit are presented to it and the terms and conditions of any such letter of credit are complied with. When specified in the contract and the supporting documents, payment can be made in several instalments corresponding to actual deliveries to Iraq. Documentary discrepancies can only be waived by the Secretary-General.
38. The provisions of this section are without prejudice to the application of the existing procedures of the Committee for goods which are not supplied pursuant to resolution 986 (1995).

SECTION IV

Export to Iraq of parts and equipment, and financial transactions related thereto, pursuant to paragraphs 9 and 10 of resolution 986 (1995)

39. The export to Iraq of the parts and equipment which are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq will be undertaken in accordance with the procedures set out in section III of the present procedures. Requests for such exports to Iraq will be approved by the Committee on a case-by-case basis under its no-objection procedure. The Committee may request relevant United Nations personnel in Iraq to verify that the equipment exported to Iraq pursuant to paragraph 9 of resolution 986 (1995) is used only for the purposes permitted.
40. In accordance with paragraph 10 of resolution 986 (1995), until proceeds from the sale of petroleum and petroleum products are deposited into the Iraq account, the Committee may approve, on a case-by-case basis, the exceptional financing of the export of parts and equipment by letters of credit drawn against future oil sales. The Committee will seek, if necessary, the advice of the overseers in considering such requests. In this case the provisions of paragraph 35 above shall apply.

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SECTION V

Approval of reasonable expenses other than expenses payable in Iraq

41. Pursuant to paragraph 8 (f) of resolution 986 (1995), the Committee can approve, under its no-objection procedure, the financing from the Iraq account of reasonable expenses, other than expenses payable in Iraq, which are determined by it to be directly related to the export by Iraq of petroleum and petroleum products permitted under paragraph 1 of resolution 986 (1995) or to the export to Iraq of the parts and equipment referred to in paragraph 9 of resolution 986 (1995), and of activities directly necessary therefor.
42. Requests for meeting the expenses referred to in the previous paragraph will be submitted by the Government of Iraq together with all necessary documentation, and will be approved on a case-by-case basis by the Committee under its no-objection procedure. The Committee will seek, if necessary, the advice of the overseers or the independent inspection agents in reaching a decision.

SECTION VI

General provisions

43. The Secretariat will arrange for the establishment of the appropriate communication links to permit immediate communication among the overseers, the independent inspection agents, the bank holding the Iraq account and the coordinator of the Multinational Interception Forces operating in the area under resolution 665 (1990), as well as with the Central Bank of Iraq and SOMO.
44. The Secretary-General reports regularly to the Committee on the details of the disbursements made pursuant to paragraph 8 of resolution 986 (1995).
45. Letters of credit mentioned in these procedures should conform with the Uniform Customs and Practice for Documentary Credit.
46. The Committee will amend or revise the present procedures, if necessary, in the light of future developments.

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Annex I

Standard application form to request approval of contracts  
for sale of Iraqi petroleum and/or petroleum products

The attached contract with the Iraqi State Oil Marketing Organization (SOMO) for the purchase of petroleum and/or petroleum products is submitted for approval in accordance with paragraph 1 (a) of Security Council resolution 986 (1995) and the procedures of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, adopted at its ... meeting held on ... (S/....).

Information about the purchaser

Name of purchasing entity:

Place of registration:

Address:

Contact person:

Telephone:

Telefax:

Telex:

Summary of contract terms

Quantity of crude petroleum and/or petroleum products:

Quality of crude petroleum and/or petroleum products:

Pricing formula and/or price per U.S. barrel:

Date(s) of loading at Ceyhan:

Date(s) of loading at Mina al-Bakr:

Name of vessel and destination (if available):

Payment details (draft irrevocable letter of credit, etc.)

Please find attached a copy of the contract, draft irrevocable letter of credit to be opened and all supporting documents.

Signature  
Name of signatory  
Title

/...

Annex II

Information to be included in the letter of credit

1. As provided for in paragraph 2 of Annex II of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council resolution 986 (1995), signed on 20 May 1996, the following clauses will have to be inserted in each letter of credit:

- "- Provided all terms and conditions of this letter of credit are complied with, proceeds of this letter of credit will be irrevocably paid into the 'Iraq Account' with .... Bank."
- "- All charges within Iraq are for the beneficiary's account, whereas all charges outside Iraq are to be borne by the purchaser."

2. Other information to be included:

- nature of the petroleum or petroleum product
- forecast quantity of petroleum or petroleum product
- date of loading
- unit price
- forecast amount of the transaction

SP/EE

ANNEX V

GENERAL RELEASE FROM LIABILITY ON ACCOUNT OF  
USE OF UN-PROVIDED TRANSPORT

I, the undersigned, hereby recognize that all my travel on the UN-provided transport, pursuant to Contract No. PD/CON/324/98 between the United Nations and Cotecna Inspection S.A., is solely for my own convenience and benefit and may take place in areas or under conditions of special risk. In consideration of being permitted to travel on such means of transport, I hereby:

- (a) Assume all risks and liabilities during such travel;
- (b) Recognize that neither the United Nations nor any of its officials, employees or agents are liable for any loss, damage, injury or death that may be sustained by me during such travel;
- (c) Agree, for myself as well as for my dependents, heirs and estate, to hold harmless the United Nations and all its officials, employees and agents from any claim or action on account of any such loss, damage, injury or death.

Nothing in or relating to this Release shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

\_\_\_\_\_  
Passenger

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

HA006498



ANNEX VI

GENERAL RELEASE FROM LIABILITY ON ACCOUNT OF  
PROVISION BY UN OF EMERGENCY MEDICAL CARE

I, the undersigned, hereby recognize that all emergency medical care provided to me at UN medical facilities, pursuant to Contract No. PD/CON/324/98 between the United Nations and Cotecna Inspection S.A., is solely for my own convenience and benefit and may take place in areas or under conditions of special risk. In consideration of receiving such medical care, I hereby:

- (a) Assume all risks and liabilities in connection with the provision of such medical care;
- (b) Recognize that neither the United Nations nor any of its officials, employees or agents are liable for any loss, damage, injury or death that may be sustained by me during the provision of such medical care;
- (c) Agree, for myself as well as for my dependents, heirs and estate, to hold harmless the United Nations and all its officials, employees and agents from any claim or action on account of any such loss, damage, injury or death.

Nothing in or relating to this Release shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

HA006499

37/42

### FORM OF PERFORMANCE BOND

Know all men by these presents, that we, ..... a company incorporated in and under the laws of ....., the principal shareholders of which are ..... as Principal (hereinafter called "the Supplier") and the ..... a corporation organized under the laws of ..... and duly organized to transact business in ..... as Surety (hereinafter called "the Surety") are held and firmly bound unto the United Nations, an international intergovernmental organization with its headquarters at New York, New York, USA, as Obligor (hereinafter called "the Employer") in the amount of ..... (USD), for the payment whereof which sum, well and truly to be made, the Supplier and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Whereas the Supplier has entered into a written contract with the Employer dated the ..... day of ....., 19.... for the ..... said Contract being by reference made part hereof and hereinafter referred to as "the Contract".

Now, therefore, for valuable consideration, the receipt whereof is hereby acknowledged by the Surety, the Surety hereby irrevocably undertakes to, whenever Supplier shall be declared by Employer to be in default under the Contract, without any objection, opposition or recourse, promptly pay the Employer the amount required by Employer to remedy the default and complete the Contract in accordance with its terms and conditions, any amount up to a total not exceeding the amount of the Bond, or remedy the default and complete the Contract in accordance with its terms and conditions.

The Surety shall not be liable for a greater sum than the specified amount of the Bond.

The Condition of this obligation is such that If the Employer shall notify the Surety in writing that the Supplier has promptly and faithfully performed the said Contract (including any amendment thereto) then this obligation shall be null and void, otherwise it shall remain in full force and effect until the Employer shall by written instrument declare the obligation discharged, except that the obligation shall continue for at least three months following termination of the Contract.

This Bond shall be enforceable without the need to have recourse to any judicial or arbitral proceedings.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators or successors of the Employer.

ANNEX D (cont)

38/42

Nothing herein or related hereto shall be deemed a waiver or an agreement to waive any of the privileges or immunities of the United Nations.

Signed on

Signed on

on behalf of

on behalf of

by

by

in the capacity of

in the presence of

in the capacity of

in the presence of

SPECIMEN



COTECNA INSPECTION S.A.

TEL: (41-22) 849 69 00  
FAX: (41-22) 849 69 89  
TELEX: 413 107 COT CH  
CABLES: COTECNA GENEVA

CORRESPONDENCE:  
P. O. BOX 6155 - 1211 GENEVA 6  
SWITZERLAND

YOUR REF.

OUR REF.

officer in charge  
Procurement Division  
O.C.S.S./D.M.  
United Nations

New York (N.Y.)  
New York, December 30<sup>th</sup> 1998.  
GENEVA, 59, RUE DE LA TERRASSIERE

Power of Attorney

I, the undersigned E. G. MASSEY, in my capacity of chairman of COTECNA INSPECTION S.A. Geneva, hereby gives full and complete Power of Attorney to Mr. Andre E PRUNIAUX to sign on behalf of our Company a contract under Reference PD/CON/324/98 with the United Nations, New York (U.S.A.) relating to work & services to be made in IRAQ within the Programme of "OIL FOR FOOD".

Made in one original this 30<sup>th</sup> day of December 1998.

E. G. MASSEY  
Chairman of

COTECNA INSPECTION S.A.

- (b) the RFP; and
- (c) the Proposal.

1.4 It is expressly agreed that this Contract embodies the entire agreement of the Parties with regard to the subject matter hereof, and that no promises, understandings, obligations or agreements, verbal or otherwise, exist between the Parties except as herein expressly set forth.

### Article 2. Term of Contract

This Contract shall be in force for an initial term of six (6) months, from 1 February 1999 through 31 July 1999, unless earlier terminated in accordance with the terms of this Contract. The UN shall have the right, at its sole option, to extend this Contract on the same terms and conditions (including price) for additional periods of six (6) months each, or of such shorter duration as the UN may in its sole discretion determine, by giving the Contractor written notice of its intention to do so not less than fifteen (15) days prior to the expiration of the then current term of the Contract; provided, however, that any extension of this Contract after the first such extension shall be subject to mutual agreement by the UN and the Contractor to a reasonable adjustment to the contract price to reflect any increase or decrease in the Contractor's costs.

### Article 3. Objective of Contract

The Resolutions direct the Security Council Committee established by UN Security Council Resolution 661 (1990) (hereinafter referred to as the "Committee"), inter alia, to monitor the import into Iraq of certain humanitarian supplies and parts and equipment for the petroleum industry (such supplies, parts, and equipment hereinafter referred to as "Supplies"). Under this Contract, the Contractor will provide all services, equipment and materials to verify and confirm (i) that the description, value, quantity, and quality of Supplies arriving in Iraq (including those imported in connection with the United Nations Inter-Agency Humanitarian Programme) are in accordance with the requirements established by the Committee and (ii) that services ancillary to the import of Supplies (hereinafter referred to as "Ancillary Services") are performed in accordance with the requirements established by the Committee. The activities referred to in clauses (i) and (ii) above are hereinafter together referred to as the "Services".

**B. RESPONSIBILITIES OF THE CONTRACTOR**

**Article 4. Scope of Work; Representations**

4.1 The Contractor undertakes to provide independent inspection agents and related personnel (hereinafter referred to as the "Agents") as required to perform the Services. The Contractor shall perform the Services on a 24-hour, 7-day per week basis and in accordance with the specifications and procedures set forth in the RFP and the Proposal.

4.2 The Contractor shall provide a total of sixty-three (63) Agents, to be comprised of fifty-four (54) inspection agents and, at no additional cost to the UN, six (6) alternate inspection agents, one (1) field manager, one (1) senior liaison officer, and one (1) chemist, all of whom shall be posted as specified in the Proposal. At the request of the UN, the Contractor shall also provide a Coordinator acceptable to the UN, who will be posted at UN Headquarters in New York, in accordance with the Proposal and at no additional cost to the UN. The Agents assigned to perform the Services (other than the Coordinator referred to above) shall be selected by the UN from among individuals identified by the Contractor as experienced and qualified to perform their duties. There shall be no substitution of the Contractor's personnel without the UN's prior written consent in each instance. The UN reserves the right, in its sole discretion, to increase or reduce the number of Agents at any time, in which event the contract price set forth in Article 7.1 hereof shall be proportionately adjusted based on the labour cost per man/day differentials set forth in Section 1.2 of the Proposal. Notwithstanding anything in the Proposal to the contrary, any adjustment in the contract price arising from an increase in the number of Agents shall be based on the actual number of days worked by such additional Agents.

4.3 The Agents shall confirm imports of Supplies into Iraq in accordance with Article 4.8 hereof, the RFP, and the Proposal, including without limitation the verification, inspection, and testing procedures set forth in the Proposal. In particular, the Agents will compare the appropriate documentation, such as bills of lading, other shipping documents or cargo manifests, and the documents issued by the Committee against Supplies actually arriving in Iraq. They shall, among other matters, conduct quantity inspection by weight or count, quality inspection including visual inspection, sampling, and, when necessary, laboratory testing. The Contractor shall (i) deliver any samples to its laboratory facilities within forty-eight (48) hours of taking such samples, (ii) retain all samples for at least three (3)

months after the last shipment under the purchase contract to which the sample relates arrives in Iraq, and (iii) complete all testing within the timeframes set forth in the Proposal. In the case of shipments other than those in connection with the United Nations Inter-Agency Humanitarian Programme, if the shipment is in order, the Agents will add their authenticated confirmation of arrival to a copy of the Committee's letter stating that the exporter of the goods is eligible for payment from the escrow account referred to in the Resolutions and to a copy of the invoice, and will inform the UN Secretary-General within twenty-four (24) hours of such confirmation by electronic transmission and by signed facsimile in accordance with paragraph 8(a)(iii) of Security Council Resolution 986 (1995). In the case of shipments in connection with the United Nations Inter-Agency Humanitarian Programme, if the shipment is in order, the Agents will inform the UN Secretary-General of their confirmation of arrival within twenty-four (24) hours of such confirmation by electronic transmission and by signed facsimile.

4.4 (a) On a case-by-case basis, the Agents shall confirm the performance of Ancillary Services at sites away from their designated duty stations in accordance with Article 4.8 hereof and with the instructions of the UN relating to each such inspection. If the UN determines in its sole discretion that none of the Agents then appointed under this Contract has the necessary qualifications to conduct any such inspection of Ancillary Services or that any such inspection cannot be conducted by an Agent then appointed under this Contract without disrupting performance of the Services, then, within one (1) week of the UN's request, the Contractor shall identify at least three (3) candidates experienced and qualified to perform the inspection and the UN shall designate one (1) or more of such candidates to serve as temporary additional Agents for purposes of the inspection as contemplated in Article 4.2 hereof. Such additional Agents shall perform the inspection in accordance with a schedule to be determined by the UN.

(b) The terms of the RFP and the Proposal relating to confirmation of imports of Supplies shall also apply, mutatis mutandis, to the confirmation of the performance of Ancillary Services. If the Ancillary Services have been duly performed, the Agents will add their authenticated confirmation of performance to a copy of the Committee's letter stating that the provider of the services is eligible for payment from the escrow account referred to in the Resolutions and to a copy of the invoice, and will inform the UN Secretary-General within twenty-four (24) hours of such confirmation by electronic transmission and by signed facsimile in accordance with paragraph 8(a)(iii) of Security Council Resolution 986 (1995).

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4.5 The Agents will immediately report all irregularities to the UN Secretary-General and the Committee. In the case of shipments other than those in connection with the United Nations Inter-Agency Humanitarian Programme, if the problem is related to normal commercial practice (e.g., some shortlanded goods), the Committee and the Government of Iraq shall be informed, but normal commercial resolution practices (e.g., claims) shall go forth. If the Agents determine that the matter is of serious concern, they will hold the shipment in question pending guidance from the Committee. The Contractor shall have no liability in respect of any disputes arising between the buyer and seller of the Supplies and Ancillary Services for which the Contractor is not responsible; provided, however, that the Contractor shall cooperate with any requests by the UN to provide assistance in connection with the resolution of any such disputes.

4.6 The Contractor shall also be responsible for operating the convoy control system at the Zakho/Faida border crossing, including without limitation, preparing convoy lists, collecting passports, and providing such documents to the relevant authorities.

4.7 The Contractor shall be responsible for making all necessary arrangements to ensure the fulfilment of its obligations under this Contract. The Contractor shall perform its obligations under this Contract in accordance with the highest professional standards.

4.8 In performing their obligations under this Contract, the Contractor and its personnel shall comply with all relevant aspects of applicable UN documents and procedures, including without limitation, the Resolutions, the MOU, the Procedures, any other procedures and decisions approved by the Committee, and instructions and applicable reports of the UN Secretary-General.

4.9 The Contractor acknowledges that (i) the UN shall have no obligation to provide any assistance to the Contractor in performing the Services other than as expressly set forth herein and (ii) the UN makes no representations as to the availability of any facilities or equipment in Iraq or the conduct of Iraqi authorities. The Contractor represents and warrants that all information in the Proposal is true and correct.

4.10 The UN reserves the right at any time, including during the term of this Contract or any extension thereof, to enter into any agreements or arrangements with any other entities or persons for performance of all or any part of the Services. The UN shall incur no liability to the Contractor by virtue of its entry into such agreements or arrangements. The UN may at any time expand or reduce the Services to be performed by the Contractor under this



Contract, including without limitation the establishment of new duty stations, in which event the number of Agents shall be increased or decreased, as may be reasonably necessary in the UN's sole discretion, in accordance with Article 4.2 hereof. In the event such a modification in the Contractor's responsibilities shall reasonably cause the Contractor's expenses (other than those included in the cost per man/day set forth in the Proposal) to increase or decrease, the Parties shall mutually agree on a corresponding change to the contract price payable to the Contractor.

4.11 The Contractor shall supply all equipment, materials, and facilities necessary to perform the Services, including without limitation all equipment for taking and storing samples, all vehicles for transporting the Agents, all equipment for transmitting authenticated confirmations and other reports required under this Contract, and all other equipment, materials, and facilities set forth in the Proposal. The communications and electronic data processing equipment and software supplied and utilized by the Contractor in performing its obligations under this Contract shall be of the highest quality and be fully compatible with the equipment and software utilized by the UN in connection with this Contract. In particular, the Contractor shall supply the following equipment and software to perform the Services:

(a) Each duty station shall be equipped with at least three (3) desktop PC's (with additional PC's as work volume may require); one (1) server with minimum Pentium II, with 128 MB RAM running at 333 Mhz, with three (3) 9.1 GB hard disk drives and one (1) DAT 12/24 GB SCSI DDS3; and Routers to facilitate data transmissions. Each server and PC will run Lotus Notes 4.6 or higher and be Y2K compliant. The Contractor shall create a Lotus Notes-based application to record authentications and transmit them directly to the UN Notes server in New York. The Contractor shall be responsible for ensuring that the integrity of all authentication data is maintained.

(b) Each duty station shall be equipped with UPS (uninterrupted power supply) back-up capable of sustaining operations for a minimum of twelve (12) hours. Each duty station utilizing local power shall also be equipped with a back-up generator with adequate capacity to power the entire station.

(c) Subject to the Parties' mutual agreement to an appropriate adjustment to the contract price and an amendment of this Contract to effect such price adjustment, each duty

station shall be equipped with either a V-SAT terminal (earth station) or INMARSAT B capable of transmitting at a minimum of 64 Kbps; at least one (1) MINI M (Inmarsat) or better equipment with a separate fax machine capable of transmitting data as a back-up to the V-SAT or INMARSAT B.

4.12 The Contractor shall safeguard the security of all documents, equipment, materials, and facilities used in connection with the performance of this Contract, including without limitation through the measures set forth in the Proposal.

#### Article 5. Contractor's Personnel

5.1 No person shall be assigned by the Contractor to perform the Services under this Contract unless the United Nations has approved in advance the selection of such person in writing. Without limiting the UN's rights of approval under Articles 4.2 and 5.2 hereof, in addition to the sixty-three (63) Agents selected by the United Nations under Article 4.2 hereof, the United Nations shall designate ten (10) additional persons from among the candidates identified by the Contractor who are acceptable to serve as replacement Agents under this Contract.

5.2 The United Nations may request at any time the withdrawal or replacement of any personnel of the Contractor assigned to perform the Services under this Contract. The Contractor shall, at its own cost and expense, withdraw or replace such personnel forthwith. The assignment by the Contractor of any replacement personnel shall be subject to the UN's prior written approval. A request by the United Nations for withdrawal or replacement of the Contractor's personnel shall not be deemed a termination of this Contract.

5.3 The Contractor shall be fully responsible for all work and services performed by its employees, agents, servants, and sub-contractors. The Contractor shall take all reasonable measures to ensure that they conform to the highest standards of moral and ethical conduct and respect the local customs which are not otherwise inconsistent with the provisions of this Contract, including without limitation the Resolutions, the MOU and the Procedures.

5.4 The Contractor shall ensure that all personnel used to perform the Services under this Contract are (i) medically fit to perform the Services and (ii) adequately covered by insurance for any service-related illness, injury, death or disability. The Contractor shall submit proof of such medical fitness and such insurance satisfactory to the UN before commencing any work under

this Contract.

5.5 The UN shall not be liable for any action, omission, negligence, or misconduct of the Contractor's employees, agents, servants, or sub-contractors, nor for any insurance coverage which may be necessary or desirable for the purpose of this Contract, nor for any costs, expenses, or claims associated with any illness, injury, death, or disability of the Contractor's employees, agents, servants, or sub-contractors performing Services in connection with this Contract.

5.6 The Contractor shall ensure that the Agents are at their stations and ready to commence performance of the Services, in accordance with the RFP and the Proposal, on 1 February 1999. The duty stations shall be staffed as specified in the RFP and the Proposal, and the Agents shall carry out their work in accordance with a shift structure acceptable to the UN. The Contractor shall employ the management structure set forth in the Proposal. The UN reserves the right at any time to alter the shift structure or the duty stations to which the Agents are assigned, including the number of Agents assigned to each duty station, at no additional cost to the UN. The Agents assigned to each duty station shall at all times include at least one (1) information technologist capable of undertaking routine support tasks on hardware and software, one (1) food technologist, and one (1) person fluent in Arabic.

5.7 It is understood and agreed that the Agents performing the Services, whose names will be communicated to the Government of Iraq pursuant to Section VIII of the MOU, shall be deemed "experts" within the meaning of Article VI of the Convention on the Privileges and Immunities of the United Nations, and shall enjoy all of the privileges and immunities accorded to "experts" therein.

#### Article 6. Reporting Requirements

The Contractor shall submit to the Committee, the UN Secretary-General, and the United Nations Office of the Humanitarian Coordinator for Iraq daily and weekly reports in writing describing in detail the Services performed under this Contract. Such reports shall be transmitted via satellite facsimile and, if available, electronic mail. These reports shall be in such format and provide such information as the UN shall specify.

#### C. CONTRACT PRICE AND PAYMENT

**Article 7. Contract Price**

7.1 In full payment for the complete and satisfactory performance by the Contractor of all its obligations under this Contract, the UN will pay the Contractor a price not to exceed a total of U.S. Dollars Four Million Eight Hundred Seventy-Seven Thousand Two Hundred Twenty-Six (US\$4,877,226.00), subject to any adjustment in such price pursuant to Articles 4.2 or 12.1 hereof. This price includes all costs relating to the Services to be provided under this Contract, including without limitation, all salaries, benefits, insurance, board, lodging, security, transportation, and communications, electronic data processing and other equipment. This price also includes all taxes, duties, levies, and other charges of any nature imposed by any authority, whether inside Iraq or in other countries. Such amount shall be payable to the Contractor monthly in arrears in six equal instalments of U.S. Dollars Eight Hundred Twelve Thousand Eight Hundred Seventy-One (US\$ 812,871.00) each, subject to any adjustment in the total price as provided in Articles 4.2 and 12.1 hereof.

7.2 Payments under this Contract shall be made only against receipt of the Contractor's written invoices and certification by the UN that the Services represented by the invoice have been satisfactorily completed. The Contractor shall submit its invoices, together with such supporting documentation as the UN may require to enable payment, to the Office of the Iraq Programme, United Nations, New York, NY 10017, Attn: Senior Customs Officer, with a copy to the Procurement Division, United Nations, 304 East 45th Street, New York, NY 10017, Attn: Chief. All invoices shall make reference to the number of this Contract (PD/CON/324/98) and shall be payable net thirty (30) days from the date of the UN's receipt of the invoice and all required supporting documentation; provided that the UN shall be entitled to a two percent (2%) discount on any invoice amounts paid within fifteen (15) days of its receipt of such invoice and documentation.

7.3 The UN may offset any amounts which are due to it from the Contractor against any payments due from the UN to the Contractor.

**D. RESPONSIBILITIES OF THE UN**

**Article 8. Identification Cards**

The UN shall provide the Contractor's personnel with appropriate identification cards.

Article 9. Access to Transport and Medical Facilities

9.1 Without limiting the Contractor's obligation under this Contract to provide all transportation, the United Nations agrees to allow the Contractor's personnel, on an exceptional basis and to the extent practicable, to travel on UN-provided transport to, in, and from Iraq strictly for the following purposes:

(a) evacuation due to security developments, on the understanding that such evacuation shall be to the nearest safe area; and

(b) medical evacuation due to serious medical conditions, provided that emergency medical evacuation of the Contractor's personnel will be from in-country sites to an in-country medical facility or transportation out of Iraq to an out-of-country medical facility in an appropriate neighbouring country.

9.2 In consideration of the Contractor's personnel being permitted to travel on UN-provided transport, each of such personnel shall sign a release from liability in the form attached hereto as Annex V, prior to their transport on any UN-provided transportation. The Contractor undertakes to obtain the signed release from each such person and to deliver the signed original to the UN prior to such person's initial use of any UN-provided transportation.

9.3 Without limiting the Contractor's obligation under this Contract to provide all medical services, in the event that the Contractor's personnel require emergency medical treatment, the UN agrees, on an exceptional basis and to the extent practicable, to allow such personnel access to available UN medical facilities. In consideration of the Contractor's personnel being permitted to utilize such UN medical facilities, and prior to their using any such UN medical facilities, each of such personnel shall complete and sign the release from liability in the form attached hereto as Annex VI. The Contractor undertakes to obtain the signed release from each such person and to deliver the signed original to the UN prior to such person's initial use of any UN medical facility.

9.4 The Contractor hereby releases the UN and its officials, employees, and agents from any and all liability of any nature arising in connection with the provision of any services to the Contractor's personnel under this Article 9 and waives any claims the Contractor may have against the UN, its officials, employees, or agents arising in connection with the provision of such services. The Contractor agrees to reimburse the UN for any costs incurred by it in connection with this Article 9 and to indemnify

and hold harmless the UN and its officials, employees, and agents for any claim or liability of any nature arising in connection with this Article 9.

**E. MISCELLANEOUS MATTERS**

**Article 10. Contractor's Obligations Upon Expiration or Termination**

Upon expiration or termination of this Contract, the Contractor shall take immediate steps to terminate its operations in a prompt and orderly manner and shall provide such information and take such actions as may be reasonably requested by the UN for the preservation and protection of (i) the work and services already performed by the Contractor and the results thereof and (ii) all property of the UN provided to the Contractor.

**Article 11. Liaison and Inspection**

11.1 The UN reserves the right to inspect and test all Services performed by the Contractor under this Contract, to the extent practicable, at all reasonable places and times during the term of this Contract. The UN shall perform inspections and tests in a manner that will not unduly hinder the performance of the Services by the Contractor. The Contractor shall cooperate with all inspections and tests.

11.2 If any work or services performed by the Contractor do not conform with the requirements of this Contract, the UN shall have the following options:

(a) If the UN determines that the improper performance can be remedied by way of re-performance or other corrective measures by the Contractor, the UN may request the Contractor in writing to take, and the Contractor shall take, at no expense to the UN, the measures necessary to re-perform or take other appropriate actions to remedy the improperly performed work or services within fourteen (14) days of receipt of the written request from the UN or within such shorter period as the UN may have specified in the written request if emergency conditions so require, as determined by the UN.

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(b) If the Contractor does not promptly take corrective measures or if the UN reasonably determines that the Contractor is unable to remedy the improper performance in a timely manner, the UN may obtain the assistance of other  
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entities or persons and have corrective measures taken at the expense of the Contractor.

(c) If the UN determines that the improper performance cannot be remedied by re-performance or other corrective measures by the Contractor, the UN may terminate the Contract in accordance with Article 15 of the UN General Conditions of Contract (Annex I) without prejudice to any of its other rights and remedies under this Contract.

**Article 12. Termination at Will; Force Majeure and Other Special Circumstances**

12.1 In addition to the termination rights provided in Article 15 of the UN General Conditions of Contract (Annex I), the UN may terminate this Contract without cause, in whole or in part, upon thirty (30) days written notice to the Contractor. In the event of termination pursuant to this clause, the UN shall only be responsible for payment to the Contractor for Services satisfactorily performed in accordance with this Contract prior to the effective date of termination and any reimbursement to which the Contractor shall be entitled pursuant to Article 12.2 hereof. In the event of partial termination, the contract price shall be proportionately reduced as set forth in Article 4.2 hereof.

12.2 In the event the UN terminates this Contract pursuant to Article 12.1 hereof prior to the expiration of the initial six (6)-month term of this Contract, the UN shall reimburse the Contractor for a portion of its costs for dwellings, furniture, vehicles, and other equipment in accordance with the following schedule:

<u>Month Termination Takes Effect</u>	<u>Reimbursement Amount</u>
March 1999	US\$ 727,542.00
April 1999	US\$ 582,033.60
May 1999	US\$ 436,525.20
June 1999	US\$ 291,016.80
July 1999	US\$ 145,508.40

12.3 Notwithstanding the provisions of Article 14 of the UN General Conditions of Contract (Annex I), in the event of any circumstance constituting or potentially constituting force majeure, the Contractor shall not withdraw any of its personnel from their duty stations except with the prior written approval of the UN, which approval shall not be unreasonably withheld. The Parties agree that it shall not be unreasonable for the UN to withhold its consent so long as UN personnel remain similarly situated in Iraq.

12.4 Without limiting any of the UN's other rights under this Contract, in the event that circumstances, whether or not constituting force majeure, shall render it impossible for the Contractor to perform the Services as contemplated in this Contract, the Contractor shall comply with any contingency plans designated by the UN to ensure continued performance of the Services.

**Article 13. Customs Clearance, Licenses, Etc.**

The Contractor shall be responsible for customs clearance and obtaining all licenses, permits, and authorizations from governmental or other authorities necessary for the performance of this Contract. The UN shall provide reasonable assistance to the Contractor, by liaising as appropriate with relevant authorities, in obtaining visas for the Contractor's personnel and permits for clearing through customs any equipment, material, and supplies in connection with this Contract. Notwithstanding the foregoing, the UN's sole obligation with respect to customs clearance shall be to provide the Contractor with a documentary certificate identifying the items concerned and stating that such items are for the sole consumption or use of the Agents. If any further documentation is required in the future by Government authorities in Iraq or elsewhere, the Contractor will advise the UN, and the UN will provide reasonable assistance to the Contractor in obtaining such documents.

**Article 14. Performance Bond.**

Within fifteen (15) days of signature of this Contract by the Parties, the Contractor shall provide the UN with a performance bond in the form set forth in Annex VII hereof, or a similar guarantee acceptable to the UN, in the amount of U.S. Dollars Two Hundred Forty-Three Thousand Eight Hundred Sixty-One (US\$243,861.00) (i.e., five percent (5%) of the maximum amount payable specified in Article 7.1 above), which bond or guarantee shall remain in force until at least two (2) months after the expiration of the Contract. The UN shall be entitled to claim the performance bond/guarantee upon the first written demand of the UN, without having to prove the liability of the Contractor and in accordance with the terms and conditions set forth in Annex VII.

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**Article 15. Notices**

Except as otherwise specified in this Contract or instructed by the UN, all notices and other communications required or

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contemplated under this Contract shall be in writing and shall be delivered either by: (i) personal delivery; (ii) recognized overnight delivery service; (iii) postage prepaid, return receipt requested, certified mail; (iv) confirmed facsimile transmission; or (v) telegram, addressed to the Party for whom intended at the address shown below or such other address as the intended recipient previously shall have designated by written notice given pursuant to this Contract.

If to the Contractor:

Cotecna Inspection S.A.  
58, Rue de la Terrassière  
1211 Geneva 6  
Switzerland  
Attn: Chairman  
Fax No.: 41-22-849-69-89

If to the UN (communications/notices of a contractual nature):

Procurement Division  
United Nations  
304 East 45th Street  
New York, NY 10017  
U.S.A.  
Attn: Chief  
Fax No.: 212-963-6315

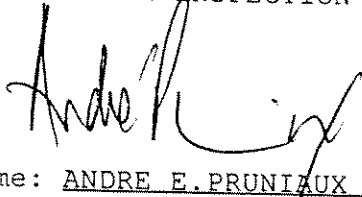
If to the UN (communications/notices of an operational nature):

Office of the Iraq Programme  
United Nations  
New York, NY 10017  
Attn: Senior Customs Officer  
Fax No.: 212-963-8083

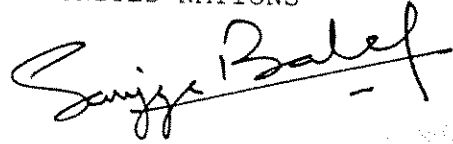
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Notice by overnight mail or recognized overnight delivery service shall be effective on the date it is officially recorded as delivered to (or refused by) the intended recipient by return receipt or equivalent. All notices and other communications required or contemplated by this Contract delivered in person, by facsimile, or by telegram shall be deemed to have been delivered to and received by the addressee and shall be effective on the date of actual receipt.

IN WITNESS WHEREOF, the Parties have executed this Contract. AC

FOR COTECNA INSPECTION S.A.


Name: ANDRE E. PRUNIAUXTitle: SENIOR VICE-PRESIDENTDate: 31 DECEMBER 1998

FOR THE UNITED NATIONS


Name: SANJAYA BAHELTitle: OFFICER-IN- CHARGE PROCUREMENT  
DIVISIONDate: 31 DECEMBER 1998

## ANNEXES

- Annex I - UN General Conditions of Contract
- Annex II - Security Council Resolutions
- Annex III - Memorandum of Understanding
- Annex IV - Procedures of the 661 Committee
- Annex V - Transportation Release Form
- Annex VI - Medical Release Form
- Annex VII - Form of Performance Bond/Guarantee

ANNEX I

[UN GENERAL CONDITIONS FOR GENERAL CONTRACTS]

SPECIAL

**UNITED NATIONS GENERAL CONDITIONS  
OF CONTRACT**

- 1.0 **LEGAL STATUS:** The Contractor shall be considered as having the legal status of an independent contractor vis-a-vis the United Nations. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of the United Nations.
  
- 2.0 **SOURCE OF INSTRUCTIONS:** The Contractor shall neither seek nor accept instructions from any authority external to the United Nations in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect the United Nations and shall fulfil its commitments with the fullest regard to the interests of the United Nations.
  
- 3.0 **CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:** The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.
  
- 4.0 **ASSIGNMENT:** The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of the United Nations.
  
- 5.0 **SUB-CONTRACTING:** In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and

clearance of the United Nations for all sub-contractors. The approval of the United Nations of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform with the provisions of this Contract.

6.0 **OFFICIALS NOT TO BENEFIT:** The Contractor warrants that no official of the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 **INDEMNIFICATION:** The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, the United Nations, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, *inter alia*, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8.0 **INSURANCE AND LIABILITIES TO THIRD PARTIES**

8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury,

or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

- 8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:
- (i) Name the United Nations as additional insured;
  - (ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the United Nations;
  - (iii) Provide that the United Nations shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5 The Contractor shall, upon request, provide the United Nations with satisfactory evidence of the insurance required under this Article.
- 9.0 **ENCUMBRANCES/LIENS:** The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the United Nations against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.
- 10.0 **TITLE TO EQUIPMENT:** Title to any equipment and supplies that may be furnished by the United Nations shall rest with the United Nations and any such equipment shall be returned to the United Nations at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to the United Nations, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate the United Nations for equipment determined to be damaged or degraded beyond normal wear and tear.
- 11.0 **COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:** The United Nations shall be entitled to all intellectual property and other

proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At the United Nations's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to the United Nations in compliance with the requirements of the applicable law.

**12.0. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED**

**NATION:** The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with the United Nations, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of the United Nations, or any abbreviation of the name of the United Nations in connection with its business or otherwise.

**13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION**

13.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of the United Nations, shall be treated as confidential and shall be delivered only to United Nations authorized officials on completion of work under this Contract.

13.2 The Contractor may not communicate at any time to any other person, Government or authority external to the United Nations, any information known to it by reason of its association with the United Nations which has not been made public except with the authorization of the United Nations; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

**14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS**

- 14.1 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the United Nations, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the United Nations of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the United Nations shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- 14.2 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the United Nations shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.
- 14.3 Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- 14.4 **Notwithstanding anything to the contrary in this Contract, the Contractor recognizes that the work and services will be performed under harsh or hostile conditions caused by civil unrest. Consequently, delays or failure to perform caused by events arising out of, or in connection with, such civil unrest shall not, in and of itself, constitute force majeure under this Contract.**
- 15.0 **TERMINATION**
- 15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16 "Arbitration" below shall not be deemed a termination of this Contract.



- 15.2 The United Nations may terminate forthwith this Contract at any time should the mandate or the funding of the Mission/Agency be curtailed or terminated, in which case the Contractor shall be reimbursed by the United Nations for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3 In the event of any termination by the United Nations under this Article, no payment shall be due from the United Nations to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.
- 15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the United Nations may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UN of the occurrence of any of the above events.

#### 16.0 SETTLEMENT OF DISPUTES

##### 16.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

**16.2 Arbitration**

Any dispute, controversy or claim between the Parties arising out of this Contract or the breach, termination or invalidity thereof, unless settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in this Contract, the arbitral tribunal shall have no authority to award interest in excess of six percent (6%), and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

**17.0 PRIVILEGES AND IMMUNITIES:** Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

**18.0 TAX EXEMPTION**

**18.1** Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the United Nations to determine a mutually acceptable procedure.

**18.2** Accordingly, the Contractor authorizes the United Nations to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the United Nations before the payment thereof and the United Nations has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the United Nations with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 **OBSERVANCE OF THE LAW:** The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

20.0 **AUTHORITY TO MODIFY:** Pursuant to the Financial Regulations and Rules of the United Nations, only the Procurement Division at New York possesses the authority to agree on behalf of the United Nations to any modification of or change in this Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against the United Nations unless provided by an amendment to this Contract signed by the Contractor and the Chief or Deputy Chief of the Procurement Division.

**SPECIMEN**

ANNEX II

[SECURITY COUNCIL RESOLUTION 986 (1995)]

SPECIAL COMMISSION



Security Council

Distr.  
GENERAL

S/1996/636\*  
12 August 1996

ORIGINAL: ENGLISH

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LETTER DATED 8 AUGUST 1996 FROM THE CHAIRMAN OF THE SECURITY  
COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990)  
CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT ADDRESSED  
TO THE PRESIDENT OF THE SECURITY COUNCIL

On behalf of the Security Council Committee established by resolution  
661 (1990) concerning the situation between Iraq and Kuwait, I have the honour  
to communicate to you the following:

Pursuant to paragraph 12 of Security Council resolution 986 (1995), the  
Committee was requested to develop, in close coordination with the Secretary-  
General, expedited procedures as necessary to implement the arrangements in  
paragraphs 1, 2, 6, 8, 9 and 10 of that resolution. I am pleased to inform you  
that after several weeks of intensive deliberations the Committee, at its  
142nd meeting held on 8 August 1996, adopted the procedures to be employed by it  
in the discharge of its responsibilities as required by paragraph 12 of  
resolution 986 (1995). A copy of the procedures is attached herewith for the  
information of the members of the Council.

(Signed) Tono EITEL  
Chairman

Security Council Committee established  
by resolution 661 (1990) concerning the  
situation between Iraq and Kuwait

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\* Reissued for technical reasons.

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PROCEDURES TO BE EMPLOYED BY THE SECURITY COUNCIL COMMITTEE  
ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE  
SITUATION BETWEEN IRAQ AND KUWAIT IN THE DISCHARGE OF ITS  
RESPONSIBILITIES AS REQUIRED BY PARAGRAPH 12 OF SECURITY  
COUNCIL RESOLUTION 986 (1995)

SECTION I

Sale of petroleum and petroleum products originating in Iraq

1. The Committee will select, upon recommendation by the Secretariat of the Committee, at least four independent experts in international oil trade, to be appointed by the Secretary-General as "overseers" at the United Nations Headquarters. The number of the overseers will be reviewed depending on the volume of transactions to be processed. The overseers will have the authority and responsibilities set forth in this section.
2. Notwithstanding the obligations of States under the relevant Security Council resolutions, States may, if they so wish, forward to the Committee a list of national oil purchasers (private companies, State-owned companies, State agencies, ministries, etc.) authorized to communicate with the overseers. States may present changes to the list at any time. Once the Committee has taken note of these lists or the changes thereto and passed them on to the overseers, these purchasers are entitled to communicate directly with the overseers. If States do not submit such a list, or if a certain purchaser is not included in the list, the communication with the overseers shall be submitted through the Permanent Mission of the State of purchase.
3. A contract for the purchase of petroleum and petroleum products will only be considered for approval if it has been endorsed by the Government of Iraq, or the Iraqi State Oil Marketing Organization (hereinafter SOMO) on behalf of the Government. The submission by the Government of Iraq or SOMO of a copy of a contract is acceptable as an endorsement.
4. SOMO's contracts with purchasers will include all the details specified in paragraph 1 (a) of resolution 986 (1995). In particular, the contract shall indicate the export route, the payment by way of a confirmed letter of credit consistent with paragraph 9 below, quantity and quality of petroleum or petroleum products purchased, duration of contract, credit and payment terms and pricing mechanism. The pricing mechanism for petroleum should include the marker crude oil and type of quotations to be used, adjustments for transportation and quality, and pricing dates.
5. The Government of Iraq or SOMO may submit at any time pricing mechanisms for sales of petroleum for review by the Committee. The overseers will assess these pricing mechanisms, in particular whether they reflect fair market value and will provide analysis and recommendations to the Committee. The Committee will then review the pricing mechanism according to its no-objection procedure within two business days. The pricing mechanism should include the elements listed in paragraph 4 above. In

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order to facilitate this process, regular consultations between the overseers and representatives of SOMO will take place consistent with paragraph 6 of annex II of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995) dated 20 May 1996 (hereinafter Memorandum of Understanding).

6. When market conditions so require, and in particular during the first month of the implementation of resolution 986 (1995) adjustments to pricing mechanisms may be submitted by the Government of Iraq or SOMO for review by the Committee in accordance with paragraph 5 above. The pricing mechanisms will in any case be reviewed in accordance with paragraph 5 above whenever the Government of Iraq or SOMO submits a revision. Current approved price mechanisms will remain in effect until new ones are approved by the Committee.
7. The Secretariat of the Committee will set up a new fax line to be used exclusively for correspondence with regard to the petroleum and petroleum products transactions. The national oil purchaser or the Permanent Mission of the State of purchase shall forward by fax to the overseers an application for approval, together with a copy of the contract and, if necessary, other supporting documents. States and national oil purchasers shall use only the Standard Application Form annexed to the present procedures. Other correspondence with the Committee shall go through the already existing channels.
8. A contract for the sale of petroleum which employs a pricing mechanism approved by the Committee under paragraph 5 above, will be reviewed by two overseers on behalf of the Committee to determine whether the contract meets the criteria set forth in paragraph 9 below. Such review should be completed within 24 hours. No overseer shall review a contract submitted by or on behalf of an oil purchaser with the same nationality as the overseer or which employed him or her within the last two years.
9. To ensure that all contracts comply with the provisions of resolution 986 (1995) and do not contain any attempt at fraud or deception, the overseers on duty review the contracts and supporting documents to determine that:
  - the contract and the documents comply with the requirements provided for in resolution 986 (1995) and in the present procedures, including details of a confirmed irrevocable letter of credit to be opened, with the irrevocable undertaking that the proceeds of the letter of credit will be paid directly to the escrow account established by the Secretary-General under paragraph 7 of resolution 986 (1995) (hereinafter Iraq account). The letter of credit should contain the information as set out in Annex II to this document.
  - the conditions of payment envisaged in the letters of credit are in conformity with the existing market practices;

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- the contract price is fair in view of all relevant circumstances, in particular that it is consistent with a currently approved pricing mechanism, and competitive given world prices and market trends and taking into consideration the provisions of paragraph 6 of annex II of the Memorandum of Understanding;
  - the transaction does not exceed the limits established by resolution 986 (1995), including the requirements set out in paragraph 6 of the resolution.
10. If the contract and supporting documents reviewed under paragraph 9 above are found to be in order, the overseers, on behalf of the Committee, shall immediately approve the contract and inform by fax the national oil purchaser or the Permanent Mission concerned, as well as SOMO and the bank holding the Iraq account. The Committee and the parties concerned shall be informed immediately upon rejection of any contract by an overseer. In circumstances other than rejection for technical reasons the overseers will make a full report to the Committee for appropriate action.
  11. Contracts for the sale of petroleum or petroleum products which do not employ a pricing mechanism approved by the Committee under paragraph 5 above will be reviewed by the overseers who will provide their analysis and recommendations to the Committee. In addition to the factors in paragraph 9 above, the overseers shall consider whether the contract's pricing mechanism reflects fair market value. Such review should be completed within 24 hours. Upon receipt of the analysis and recommendations from the overseers, the Committee will consider the contracts under its expedited no-objection procedure within two business days.
  12. Once a contract is approved pursuant to these procedures, the national oil purchaser shall cause a letter of credit consistent with paragraph 9 above to be opened and transmitted to the bank holding the Iraq account. The bank transmits the letter of credit to the overseers. The overseers immediately review the opened letter of credit in order to determine whether it complies with the information given in the application.
  13. If the opened letter of credit complies with the information given in the application the overseers inform the bank holding the Iraq account which adds its confirmation to the letter of credit and, for information purposes only, forwards the letter of credit to the Central Bank of Iraq for the purpose of advising SOMO. Furthermore, the overseers send notification of sales approval, together with a copy of the contract and, if necessary, supporting documents to the inspectors at Ceyhan and at the metering station at the Iraq-Turkey border, or at Mina-al-Bakr. If the opened letter of credit does not comply with the information given in the application the overseers shall immediately inform the Committee.
  14. The overseers will submit a substantive report to the Committee, in a standardized format, at least once a week on the contracts considered by them, including the cumulative quantity and approximate value of petroleum authorized for export, and inform the Secretary-General accordingly. In

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the light of this report, any document submitted as part of an application to the Committee will be available for consultation by Committee members in the Secretariat.

15. The export of petroleum and petroleum products will be monitored by United Nations independent inspection agents, appointed by the Secretary-General, who will be stationed at the loading facilities at Ceyhan and Mina-al-Bakr and at the metering station at the Iraq-Turkey border. Such on-site monitoring will make use of the documents received from the overseers, direct observation, as well as quality and quantity verification. The independent inspection agents will authorize the loading, after they receive the information from the overseers that the relevant contract has been approved, and inform the overseers accordingly. The independent inspection agents will also have the authority to stop the loading of petroleum if there is any evidence of irregularity. They will immediately report any irregularity to the Committee and the Secretary-General.
16. In accordance with paragraph 3 of resolution 661 (1990) and the provisions of resolution 665 (1990) shipments of Iraqi oil must not be performed by Iraqi vessels. In order to facilitate the efficient maritime export of oil under resolution 986 (1995) oil purchasers will communicate to the Secretariat information when available concerning vessels contracted for shipping approved oil exports.
17. The Committee will be informed of the appointments of the independent inspection agents made by the Secretary-General under paragraph 6 of resolution 986 (1995).
18. The independent inspection agents shall report weekly to the Committee, through the overseers, on their assessment of the export operations. When the loading of oil under a contract is completed, they shall inform the overseers on the details for comparison with the original approved contract.
19. Payment of the full amount of each purchase of petroleum and petroleum products shall be made into the Iraq account as provided for in paragraph 1 (b) of resolution 986 (1995).
20. Once a week, the Secretary-General forwards to the Committee and to the Government of Iraq statements of the Iraq account, including outlines of anticipated future payments to and from that account.
21. The regime for the sale of petroleum products will be broadly similar to that described above, and the precise arrangements, consistent with paragraph 6 of resolution 986 (1995), can be elaborated at a later stage, as and when the need arises.
22. The overseers will receive monthly reports from SOMO on the actual volume and type of petroleum and petroleum products exported under the relevant sales contracts.

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23. At a meeting, the Committee may provide additional guidance to be followed by the overseers.
24. If any Committee member judges the circumstances to be serious enough, that member may call for a review by the Committee of the system for approving oil contracts established in this section. At an urgent meeting, the Committee will decide, according to its normal procedures, whether to continue or revise the system. In the meantime, decisions on oil contracts can only be made in accordance with paragraph 11 above.

#### SECTION II

##### Import by Turkey of petroleum and petroleum products originating in Iraq pursuant to paragraph 2 of resolution 986 (1995)

25. The import by Turkey of petroleum and petroleum products originating in Iraq will be undertaken in accordance with the requirements of paragraphs 2 and 6 of resolution 986 (1995), so as to meet the pipeline tariff charges, verified as reasonable by the independent inspection agents, after the deduction of the percentage referred to in paragraph 2 of resolution 705 (1991) for the Compensation Fund. The import of petroleum and petroleum products will be authorized and monitored in accordance with the relevant provisions of section I of the present procedures.

#### SECTION III

##### Export to Iraq of humanitarian supplies

26. The Government of Iraq will prepare a categorized list of humanitarian supplies which it intends to purchase and import pursuant to resolution 986 (1995). This list will be submitted to the Secretary-General together with the distribution plan referred to in paragraph 8 (a) (ii) of the resolution.
27. After approving the distribution plan, the Secretary-General will forward the list, which constitutes a part of the plan, to the Committee, and will make it known to all States.
28. The Government of Iraq or the United Nations Inter-Agency Humanitarian Programme will contract directly with suppliers to arrange the purchase of humanitarian supplies, and will conclude the appropriate contractual arrangements.
29. Export to Iraq of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs (hereinafter humanitarian supplies) financed from the Iraq account shall be undertaken in accordance with the following provisions.
30. Applications for each export of humanitarian supplies, to be financed from the Iraq account consistent with paragraph 22 of the Memorandum of Understanding, shall be submitted to the Committee at the request of the Government of Iraq by the exporting States with all relevant documentation,

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including the concluded contractual arrangements. Payment from the Iraq account can take place only for items included in the categorized list, unless the Committee exceptionally decides otherwise on a case-by-case basis.

31. The Committee will take action on such applications in accordance with paragraph 20 of resolution 687 (1991), its existing procedures and the provisions of this section. The Committee will inform the Government of Iraq, the requesting States, the Secretary-General and, if appropriate, the independent inspection agents at the intended point(s) of entry into Iraq of the actions taken on the applications submitted.

32. Such applications shall be submitted as follows:

(a) Medicines and Health Supplies

The exporting State informs the Committee that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to this communication.

(b) Foodstuffs

The exporting State notifies the Committee. The notification must indicate that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to the notification.

(c) Other Materials and Supplies for Essential Civilian Needs

The exporting State submits an application for approval by the Committee under its no-objection procedure. The application must indicate that the exporter requests payment from the Iraq account. A copy of the relevant documentation, including the concluded contractual arrangements and intended point(s) of entry into Iraq, must be attached to the application.

33. Experts in the Secretariat examine each contract, in particular the details of price and value, and whether the items to be exported are on the categorized list referred to above. They will also take into consideration the reports of the Secretary-General provided for in paragraph 20 above, in order to check availability of funds in the Iraq account for the contract. They will inform the Committee of their findings.

34. The Committee acts upon the findings of the experts as set forth below:

(a) Medicines and Health Supplies

If the Committee finds, under its expedited no-objection procedure within two business days from the circulation of the application, that the contract is in order, it immediately informs the parties concerned that the exporter is eligible for payment from the Iraq account. If the contract is

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not found in order, the Committee informs the parties concerned that payment cannot be made from the Iraq account, but the medicines and health supplies can be shipped anyway if the exporter so desires.

(b) Foodstuffs

If the Committee finds, under its expedited no-objection procedure within two business days from the circulation of the application, that the contract is in order, it immediately informs the parties concerned that the exporter is eligible for payment from the Iraq account. If the contract is not found in order, the Committee informs the parties concerned that payment cannot be made from the Iraq account, but the foodstuffs can be shipped anyway if the exporter so desires.

(c) Other Materials and Supplies for Essential Civilian Needs

If the Committee approves the supplies, under its no-objection procedure within seven days, and if the contract is found in order, the Committee informs the parties concerned of the approval and that the exporter is eligible for payment from the Iraq account. If the contract is not found in order, but the Committee approves the supplies under its no-objection procedure, it informs the parties concerned that payment cannot be made from the Iraq account, but that the supplies are approved and can be shipped anyway if the exporter so desires. If the Committee cannot approve the supplies, whether or not the contract is found in order, it informs the parties concerned that the supplies cannot be shipped.

35. When the Committee has informed the parties concerned that the exporter is eligible for payment from the Iraq account, the Central Bank of Iraq will request the bank holding the Iraq account to open an irrevocable, non-transferable, non-assignable (except to the supplier's bank for the repayment of financing for the purchase of the humanitarian supplies) letter of credit for the account of the Iraqi purchaser in favour of the supplier, which will be available only at the bank holding the Iraq account, and provide for payment from the Iraq account. Such requests shall be submitted by the bank holding the Iraq account to the Secretary-General for expeditious approval, so that payment from the Iraq account can be made without delay. The letter of credit will require as condition of payment the submission to the bank holding the Iraq account of the usual commercial documentation, and of the following documents: a copy of the Committee's letter stating that the exporter is eligible for payment from the Iraq account, and a standardized confirmation by the Secretary-General of the arrival of the humanitarian supplies in Iraq.
36. The arrival of the humanitarian supplies in Iraq will be confirmed by independent inspection agents appointed by the Secretary-General pursuant to resolution 986 (1995) and stationed at relevant entry points and other locations in Iraq as referred to in paragraph 26 of the Memorandum of Understanding. The independent inspection agents will add their authenticated confirmation of arrival to a copy of the Committee's letter stating that the exporter is eligible for payment from the Iraq account and to a copy of the invoice, and will inform the Secretary-General in

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accordance with paragraph 8 (a) (iii) of Security Council resolution 986 (1995). This information should be given without delay and in any case within 24 hours. The inspection agents will report all irregularities to the Secretary-General and to the Committee. If the problem is related to normal commercial practice, the Committee and the Government of Iraq will be informed but normal commercial resolution practices will go forth. Performance bonds may not be opened. Payments in favour of the purchaser resulting from normal commercial resolution practices should be made to the Iraq account. If the matter is of serious concern, the independent inspection agents will hold the shipment in question, pending guidance from the Committee. The Committee will make every effort to provide such guidance in the most expeditious manner.

37. The bank holding the Iraq account shall effect payment under any letter of credit only if all documents (listed in para. 35 above) stipulated in the letter of credit are presented to it and the terms and conditions of any such letter of credit are complied with. When specified in the contract and the supporting documents, payment can be made in several instalments corresponding to actual deliveries to Iraq. Documentary discrepancies can only be waived by the Secretary-General.
38. The provisions of this section are without prejudice to the application of the existing procedures of the Committee for goods which are not supplied pursuant to resolution 986 (1995).

#### SECTION IV

#### Export to Iraq of parts and equipment, and financial transactions related thereto, pursuant to paragraphs 9 and 10 of resolution 986 (1995)

39. The export to Iraq of the parts and equipment which are essential for the safe operation of the Kirkuk-Yumurtalik pipeline system in Iraq will be undertaken in accordance with the procedures set out in section III of the present procedures. Requests for such exports to Iraq will be approved by the Committee on a case-by-case basis under its no-objection procedure. The Committee may request relevant United Nations personnel in Iraq to verify that the equipment exported to Iraq pursuant to paragraph 9 of resolution 986 (1995) is used only for the purposes permitted.
40. In accordance with paragraph 10 of resolution 986 (1995), until proceeds from the sale of petroleum and petroleum products are deposited into the Iraq account, the Committee may approve, on a case-by-case basis, the exceptional financing of the export of parts and equipment by letters of credit drawn against future oil sales. The Committee will seek, if necessary, the advice of the overseers in considering such requests. In this case the provisions of paragraph 35 above shall apply.

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SECTION V

Approval of reasonable expenses other than expenses payable in Iraq

41. Pursuant to paragraph 8 (f) of resolution 986 (1995), the Committee can approve, under its no-objection procedure, the financing from the Iraq account of reasonable expenses, other than expenses payable in Iraq, which are determined by it to be directly related to the export by Iraq of petroleum and petroleum products permitted under paragraph 1 of resolution 986 (1995) or to the export to Iraq of the parts and equipment referred to in paragraph 9 of resolution 986 (1995), and of activities directly necessary therefor.
42. Requests for meeting the expenses referred to in the previous paragraph will be submitted by the Government of Iraq together with all necessary documentation, and will be approved on a case-by-case basis by the Committee under its no-objection procedure. The Committee will seek, if necessary, the advice of the overseers or the independent inspection agents in reaching a decision.

SECTION VI

General provisions

43. The Secretariat will arrange for the establishment of the appropriate communication links to permit immediate communication among the overseers, the independent inspection agents, the bank holding the Iraq account and the coordinator of the Multinational Interception Forces operating in the area under resolution 665 (1990), as well as with the Central Bank of Iraq and SOMO.
44. The Secretary-General reports regularly to the Committee on the details of the disbursements made pursuant to paragraph 8 of resolution 986 (1995).
45. Letters of credit mentioned in these procedures should conform with the Uniform Customs and Practice for Documentary Credit.
46. The Committee will amend or revise the present procedures, if necessary, in the light of future developments.

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Annex I

Standard application form to request approval of contracts  
for sale of Iraqi petroleum and/or petroleum products

The attached contract with the Iraqi State Oil Marketing Organization (SOMO) for the purchase of petroleum and/or petroleum products is submitted for approval in accordance with paragraph 1 (a) of Security Council resolution 986 (1995) and the procedures of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, adopted at its ... meeting held on ... (S/....).

Information about the purchaser

Name of purchasing entity:

Place of registration:

Address:

Contact person:

Telephone:

Telefax:

Telex:

Summary of contract terms

Quantity of crude petroleum and/or petroleum products:

Quality of crude petroleum and/or petroleum products:

Pricing formula and/or price per U.S. barrel:

Date(s) of loading at Ceyhan:

Date(s) of loading at Mina al-Bakr:

Name of vessel and destination (if available):

Payment details (draft irrevocable letter of credit, etc.)

Please find attached a copy of the contract, draft irrevocable letter of credit to be opened and all supporting documents.

Signature  
Name of signatory  
Title

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Annex II

Information to be included in the letter of credit

1. As provided for in paragraph 2 of Annex II of the Memorandum of Understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of Security Council resolution 986 (1995), signed on 20 May 1996, the following clauses will have to be inserted in each letter of credit:

- "- Provided all terms and conditions of this letter of credit are complied with, proceeds of this letter of credit will be irrevocably paid into the 'Iraq Account' with .... Bank."
- "- All charges within Iraq are for the beneficiary's account, whereas all charges outside Iraq are to be borne by the purchaser."

2. Other information to be included:

- nature of the petroleum or petroleum product
- forecast quantity of petroleum or petroleum product
- date of loading
- unit price
- forecast amount of the transaction

S/P/E



ANNEX V

GENERAL RELEASE FROM LIABILITY ON ACCOUNT OF  
USE OF UN-PROVIDED TRANSPORT

I, the undersigned, hereby recognize that all my travel on the UN-provided transport, pursuant to Contract No. PD/CON/324/98 between the United Nations and Cotecna Inspection S.A., is solely for my own convenience and benefit and may take place in areas or under conditions of special risk. In consideration of being permitted to travel on such means of transport, I hereby:

- (a) Assume all risks and liabilities during such travel;
- (b) Recognize that neither the United Nations nor any of its officials, employees or agents are liable for any loss, damage, injury or death that may be sustained by me during such travel;
- (c) Agree, for myself as well as for my dependents, heirs and estate, to hold harmless the United Nations and all its officials, employees and agents from any claim or action on account of any such loss, damage, injury or death.

Nothing in or relating to this Release shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

\_\_\_\_\_  
Passenger

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

HA006544

ANNEX VI

GENERAL RELEASE FROM LIABILITY ON ACCOUNT OF  
PROVISION BY UN OF EMERGENCY MEDICAL CARE

I, the undersigned, hereby recognize that all emergency medical care provided to me at UN medical facilities, pursuant to Contract No. PD/CON/324/98 between the United Nations and Cotecna Inspection S.A., is solely for my own convenience and benefit and may take place in areas or under conditions of special risk. In consideration of receiving such medical care, I hereby:

(a) Assume all risks and liabilities in connection with the provision of such medical care;

(b) Recognize that neither the United Nations nor any of its officials, employees or agents are liable for any loss, damage, injury or death that may be sustained by me during the provision of such medical care;

(c) Agree, for myself as well as for my dependents, heirs and estate, to hold harmless the United Nations and all its officials, employees and agents from any claim or action on account of any such loss, damage, injury or death.

Nothing in or relating to this Release shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

HA006545

37/42

### FORM OF PERFORMANCE BOND

Know all men by these presents, that we, ..... a company incorporated in and under the laws of ....., the principal shareholders of which are ..... as Principal (hereinafter called "the Supplier") and the ..... a corporation organized under the laws of ..... and duly organized to transact business in ..... as Surety (hereinafter called "the Surety") are held and firmly bound unto the United Nations, an international intergovernmental organization with its headquarters at New York, New York, USA, as Obligor (hereinafter called "the Employer") in the amount of ..... (USD), for the payment whereof which sum, well and truly to be made, the Supplier and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

Whereas the Supplier has entered into a written contract with the Employer dated the ..... day of ....., 19..... for the ..... said Contract being by reference made part hereof and hereinafter referred to as "the Contract".

Now, therefore, for valuable consideration, the receipt whereof is hereby acknowledged by the Surety, the Surety hereby irrevocably undertakes to, whenever Supplier shall be declared by Employer to be in default under the Contract, without any objection, opposition or recourse, promptly pay the Employer the amount required by Employer to remedy the default and complete the Contract in accordance with its terms and conditions, any amount up to a total not exceeding the amount of the Bond, or remedy the default and complete the Contract in accordance with its terms and conditions.

The Surety shall not be liable for a greater sum than the specified amount of the Bond.

The Condition of this obligation is such that if the Employer shall notify the Surety in writing that the Supplier has promptly and faithfully performed the said Contract (including any amendment thereto) then this obligation shall be null and void, otherwise it shall remain in full force and effect until the Employer shall by written instrument declare the obligation discharged, except that the obligation shall continue for at least three months following termination of the Contract.

This Bond shall be enforceable without the need to have recourse to any judicial or arbitral proceedings.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators or successors of the Employer.

ANNEX D (cont)

38/42

Nothing herein or related hereto shall be deemed a waiver or an agreement to waive any of the privileges or Immunities of the United Nations.

Signed on

Signed on

on behalf of

on behalf of

by

by

in the capacity of

in the presence of

in the capacity of

in the presence of

SPECIMEN



COTECNA INSPECTION S.A.

TEL: (41-22) 849 69 00  
FAX: (41-22) 849 69 89  
TELEX: 413 107 COT CH  
CABLES: COTECNA GENEVA  
  
CORRESPONDENCE:  
P.O. BOX 6155-1211 GENEVA 6  
SWITZERLAND

officer in charge  
Procurement Division  
O.C.S.S./D.M.  
United Nations

New York (N-Y)  
New York, December 30<sup>th</sup> 1998.  
GENEVA, New York  
58, RUE DE LA TERRASSIERE

YOUR REF. OUR REF.

Power of Attorney

I, the undersigned E. G. MASSEY, in my capacity of chairman of COTECNA INSPECTION S.A. Geneva, hereby gives full and complete Power of Attorney to Mr. Andre E PRUNIUX to sign on behalf of our Company a contract under Reference PD/CON/324/98, with the United Nations, New York (U.S.A.) relating to work & Services to be made in IRAQ within the Programme of "OIL FOR FOOD".

Made in one Original this 30<sup>th</sup> Day of December 1998.

E. G. MASSEY  
Chairman of  
COTECNA INSPECTION S.A.