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Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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MEMORANDUM

To: Members of the Subcommittee on National Security, Emerging Threats, and International Relations

From: Christopher Shays
Chairman

Date: October 1, 2004

Subject: Briefing memo for October 5th Subcommittee hearing

Attached find the briefing memo required by Committee rules for the hearing on Tuesday, October 5, 2004 entitled, *The UN Oil-for-Food Program: Cash Cow Meets Paper Tiger*. The hearing will convene at 11:00 a.m. in room 2154 Rayburn House Office Building.

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October 1, 2004

MEMORANDUM

To: Members of the Subcommittee on National Security, Emerging Threats, and International Relations

From: Thomas Costa, Professional Staff

Re: Briefing memo for the hearing *The UN Oil-for-Food Program: Cash Cow Meets Paper Tiger* scheduled for Tuesday, October 5, 2004 at 11:00 a.m. in room 2154 Rayburn House Office Building.

PURPOSE OF THE HEARING

To examine the UN-run Iraq Oil-for-Food Program and processes to ensure program integrity.

HEARING ISSUES

1. **What structural weaknesses made the Oil-for-Food Program vulnerable to diversion and exploitation?**

2. **What did Oil-for-Food Program managers and contractors do to prevent abuse of the program?**

BACKGROUND

As a result of Iraq's August 1990 invasion of Kuwait, and the United Nations (UN) imposed sanctions against Iraq. **(Web Resource 17 and Attachment 1)** Security Council Resolution 661 prohibited all nations from buying and selling Iraqi commodities, except for food and medicine. Resolution 661 also prohibited all nations from exporting weapons or military equipment to Iraq and established a sanctions committee to monitor compliance and progress in implementing the sanctions. The members of the sanctions committee, known as the "661 Committee," were members of the Security Council, which includes the United States. Subsequent Security Council resolutions specifically prohibited nations from exporting to Iraq items that could be used to build chemical, biological, or nuclear weapons. **(Web Resources 1 and 18)**

THE OIL-FOR-FOOD PROGRAM (OFFP)

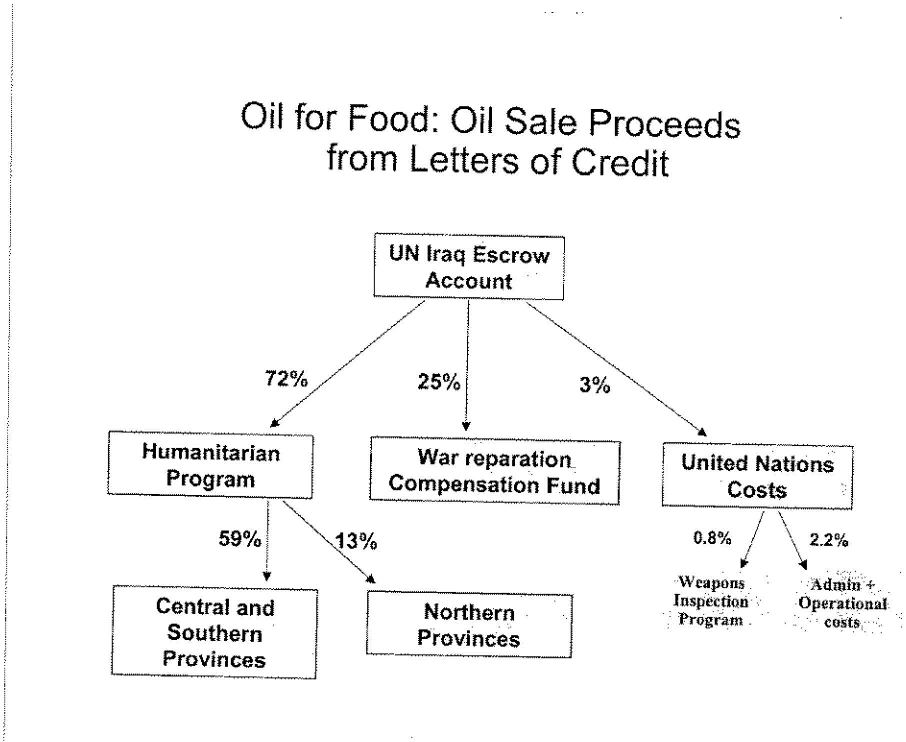
In 1991, the Security Council made several offers to let Iraq sell oil under UN supervision in order to meet basic human needs. The Iraqi government rejected the offer, and over the next 5 years, the UN reported food shortages and a general deterioration in social services. **(Web Resource 1)** These shortages led to increased media attention and public pressure to avert a pending humanitarian crisis.

In April 1995, the UN Oil-for-Food Program (OFFP) was authorized by Security Council Resolution 986. **(Web Resource 2)** Over the next several months, despite continued Iraqi intransigence, the UN conceded major aspects of control over the program to Iraq in deference to Iraqi demands to respect its sovereignty. In December 1996, OFFP commenced. The program permitted Iraq to sell up to $1 billion worth of oil every 90 days to pay for food, medicine, and humanitarian goods. This level of control and sovereignty granted the Hussein regime the power to determine, with certain exclusions, both to whom to sell oil and from whom to buy needed goods. The 661 Committee, however, had veto authority over all contracts. **(Web Resources 1 and 3)**

The objectives, according to the Department of State, were "to address the humanitarian needs of the Iraqi civilian population" and "to continue constraining Saddam Hussein's ability to use oil revenue to build a military arsenal." **(Web Resource 3, p. 2-3)**

Subsequent UN resolutions increased the amount of oil that could be sold and expanded the range of goods that could be imported. In 1999, the Security Council removed all restrictions on the amount of oil Iraq could sell to purchase civilian goods. (**Web Resource 1**)

The OFFP was the largest humanitarian relief operation ever launched by the international community (with Iraq oil exports totaling more than $64 billion) and combined with the sanctions regime "constituted the most comprehensive and intrusive regime ever imposed by the [UN] Security Council." The program was administered by the UN Office of the Iraq Program (OIP). (**Web Resource 3, p. 2**)



(**Source: BNP Paribas; see Attachment 2**)

The over $64 billion in total revenue from the program funded $46 billion in humanitarian assistance (72% of the program funds), $16 billion for war reparations awarded by the UN Compensation Commission (UNCC) (25% of the program funds), and $2.65 billion to pay for the administrative costs of OIP, the UN Monitoring, Verification, and Inspection Commission (UNMOVIC), and the UN Special Commission (UNSCOM) (3% of the program funds). Of the 72% percent of the funds dedicated to humanitarian programs, 59% were dedicated to the central and southern provinces of Iraq and 13% to the northern, mostly

Kurdish, provinces. In addition, 0.8% of the United Nations administrative costs were allocated to the weapons inspection program and 2.2% to other administrative costs. Surplus administrative expenses were reprogrammed into humanitarian programs. (**Web Resource 3, p. 2, and Attachment 2**)

The UN and the Security Council monitored and screened contracts the Iraqi government signed with commodity suppliers and oil purchasers, and Iraq's oil revenue was placed in an UN-controlled escrow account in the New York City office of BNP Paribas, an international French-owned bank.[1] (**Web Resource 1**)

In May 2003, UN resolution 1483 requested the UN Secretary General transfer the OFFP to the Coalition Provisional Authority (CPA) by November 2003. Surplus funds in the UN escrow account, as well as new funds from the sale of oil, were subsequently transferred to the CPA-run Development Fund for Iraq (DFI). (**Web Resources 1 and 3**) The UN Controller reported the transfer of $8.1 billion from the UN account to DFI. (**Web Resource 4**)

RESULTS OF OFFP

As GAO noted, OFFP appears to have prevented or eased a humanitarian crisis in Iraq. According to the UN, the average daily food intake increased from around 1,275 calories per person per day in 1996 to about 2,229 calories at the end of 2001. In February 2002, the UN reported the program had considerable success in several sectors such as agriculture, food, health, and nutrition by arresting the decline in living conditions and improving the nutritional status of the average Iraqi citizen. (**Web Resource 1**)

Nevertheless, the Defense Contract Audit Agency (DCAA) concluded at least 368 of 759 contracts examined in a joint September report with the Defense Contract Management Agency (DCMA) were overpriced by at least 5% of the contract value, and some of the monies were used to purchase questionable goods, including a fleet of 300 "high-end" Mercedes-Benz automobiles. (**Web Resource 5**)

[1] Based on an April 14, 2004, staff briefing with BNP Paribas representatives, while the UN escrow account had some additional approval procedures, the account was to be run in accordance with standard banking procedures, and no transactions were made without the approval of the UN.

Furthermore, GAO estimates "the former Iraqi regime attained $10.1 billion in illegal revenues from the Oil for Food program, including $5.7 billion in oil smuggled[2] out of Iraq and $4.4 billion through surcharges on oil sales and illicit commissions from suppliers exporting goods to Iraq," despite the sanctions regime. **(Web Resource 1, Highlights)**

Allegations of OFFP corruption generally fall into three categories:

- Surcharges on oil exports;
- Kickbacks on humanitarian contracts; and
- Abuse by UN personnel.

SURCHARGES ON OIL EXPORTS

One avenue the Hussein regime used to generate illicit funds involved unauthorized surcharges on oil sales. In deference to Iraqi sovereignty, the Iraqi State Oil Marketing Organization (SOMO) was allowed to set a fair market price for Iraqi oil with the approval of the 661 Committee. However, SOMO kept the price low in order to conceal an extra 10 to 50 cents per barrel "surcharge" on top of the oil selling price amid fluctuations in global oil prices and costs involved in shipping to different destinations. These surcharges were secreted away by the Iraqi regime. **(Web Resources 3 and 6 and Attachment 3)**

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[2] According to U.S. government officials and oil industry experts, Iraq smuggled oil past the sanctions regime through several routes, often under the rubric of "trade protocols." These protocols were signed official agreements with Jordan, Turkey, and Syria to purchase Iraqi oil outside of OFFP and avoid sanctions. The proceeds from the resale of the oil were split into a cash and a trade account. Cash account monies were deposited through front companies in banks in Jordan and Lebanon. Trade account monies were used to purchase goods from the "trade protocol" partners. **(Web Resources 1, 3, and 6)**

Oil entered Syria by pipeline, which the Syrians claimed was "being tested," crossed the borders of Jordan and Turkey by truck, and was smuggled through the Persian Gulf by ship. **(Web Resources 1, 3, and 6)**

A number of oil smuggling operations were caught and stopped. The Multinational Maritime Interception Force (MIF) reduced the amount of oil being smuggled along Iran's southern coast by small vessels. Nevertheless, according to the State Department, the former Iraqi government "orchestrated the largest share of non-compliance with the [Security] Council's demands through outright oil smuggling and the procurement of unauthorized goods completely outside the context of the OFFP program." Moreover, oil smuggling increased after 2000, reaching a peak level of $2 billion in 2002, totaling an estimated $5.7 billion over the life of the program. **(Web Resource 3)**

Evidence of the surcharges surfaced "as early as the fall of 2000, when the UN oil overseers informed the 661 Committee of instances in which the GOI [Government of Iraq] was requesting imposition of an additional fee on the sale of Iraqi crude." **(Web Resource 3, p. 5)** In a March 7, 2001 report, the Secretary General warned that surcharges were not permissible. **(Attachment 4)**

In response the US and United Kingdom (UK) issued a December 15, 2000 statement that additional fees above the approved oil selling price were unacceptable and that all revenue from oil sales was to be deposited in the UN escrow account. Nevertheless, the surcharge scheme continued. In April 2001, the US and UK began blocking approval of Iraqi oil pricing and raised the issue in over 40 Security Council and 661 Committee meetings. **(Web Resources 3, p. 5-6 and 6, p 3.)**

Overseer documents requested by the US and UK revealed Iraq sought to charge an additional unauthorized fee of five to 50 cents per barrel. However, neither government was able to "secure agreement [within the 661 Committee] to deal with this ploy" **(Web Resource 3, p. 6)** Consequently, the US and UK made "creative use of the consensus rule governing decisions in the 661 Committee" to impose "retroactive pricing" of Iraqi oil sales. **(Web Resources 3, p. 6 and 6, p. 3)** Both governments would withhold support of SOMO pricing until the end of each month. This allowed experts from both countries to ensure that SOMO prices reflected the "fair market value" required under OFFP. **(Web Resource 3, p. 6)** Most of the illicit gains from this surcharge scheme were reportedly deposited into the Central Bank of Iraq. However, some of the cash generated by the scheme "was used to buy military equipment and other goods prohibited by international sanctions, without the knowledge of the U.N." **(Web Resource 6, p. 3)**

According to the State Department, the retroactive pricing had the desired effect and reduced oil premiums by "as much as 50 cents per barrel to an accepted industry variation of 3 to 5 cents per barrel." **(Web Resource 3, p. 6)**

It was reported that according to SOMO records, one quarter of the companies purchasing oil, mostly Russian, paid cash. The records also show the Iraqi embassies in Moscow, Turkey, Switzerland, and Vietnam received $61 million in cash from these companies. Some of the biggest oil companies in the world are listed as having paid surcharges, though most have denied doing so. However, when some companies complained to the UN about the surcharges, Iraq reacted by increasing loading fees, which were collected by two Jordanian companies, at its ports. (**Attachment 3**)

Under OFFP rules, oil was only supposed to be bought by end users, such as refineries. But, the Iraqis also used middlemen and front companies to act as intermediaries in the buying of oil and reselling it to end users. (**Attachment 3**) It was reported that smaller oil traders were often required to buy illicit vouchers through middlemen in the United Arab Emirates in order to get the opportunity to buy Iraqi oil. Sometimes the vouchers were also received as payment for importing illicit goods into Iraq. (**Web Resources 7 and 8**)

On January 25, 2004, *Al-Mada*, an independent Iraqi newspaper, released a list of 269 individuals who allegedly participated in the voucher scheme. Among those listed were individuals, political parties, and groups from over 50 countries, the bulk of whom were Russian. French, Malaysians, Chinese, Syrians, Egyptians, Swiss, Jordanians, Turks, Italians, Yugoslavians, and agents of the United Arab Emirates also figured prominently on the list. Also of particular note were prominent current and former government officials from France, Russia, Jordan, Indonesia, and the United Kingdom and the UN head of OFFP, Benon Sevan. (**Web Resources 7 and 8**) Russia, France, and China are permanent members of the UN Security Council, and in the period leading up to the Iraq war in late 2002 and early 2003, Syria served as a rotating member of the Security Council. (**Web Resource 9**)

KICKBACKS ON HUMANITARIAN CONTRACTS

In late 2000, allegations of a kickback scheme involving after-sale service fees on humanitarian contracts emerged. The US and UK raised the allegation with OIP and the 661 Committee, and in March 2001, submitted formal proposals to address these concerns. Citing a lack of conclusive evidence, the proposal received no support from the 661 Committee members. (**Web Resource 3**)

Proceeds from OFFP oil sales were deposited in the UN escrow account to be used primarily for humanitarian purposes. However, the Hussein regime ordered each government ministry to add a kickback, usually amounting to 10% of the contract value, to most humanitarian contracts. Vendors were told to inflate the price of the contract by the suggested amount and after being paid by the UN escrow account, "kick back" the percentage to the Iraqi government. For example, "a vendor would submit records to the UN indicating that it was selling $110 worth of goods to Iraq, when in fact the vendor was selling only $100 worth of goods, and was returning the additional $10 to Iraq as a kickback." The illicit funds were delivered in cash to the Hussein regime or used to purchase goods in violation of sanctions. (**Web Resource 6**)

In briefings by the UN and the Departments of State and Defense, it was repeatedly noted that a 10% increase in contract value, especially given the wide variety of goods purchased and sizeable amounts of the contracts, was difficult to detect. Consequently, DCAA noted, "OIP performed very limited, if any, pricing reviews or cost audits on individual contracts. The DCAA review team was further advised by UN officials that no contracts were disapproved solely based on pricing." (**Web Resource 5**)

As with the surcharges, it was reported that companies reluctant to include kickbacks in their dealings with the Iraqis were encouraged to work through middlemen or front companies. (**Attachment 3**)

Despite allegations, no actual evidence had come to light prior to CPA taking over administration of Iraq. (**Web Resource 3**)

ABUSE BY UN PERSONNEL

Benon Sevan, the Executive Director of OFFP, was listed in the *Al-Mada* article as one of those allegedly participating in the illicit vouchers-for-oil scheme. Mr. Sevan has denied the allegations, stating, "it was incumbent on those who published these allegations to provide the necessary documents." (**Web Resource 8 and Attachment 5**)

Concerns have also been raised in the media about potential nepotism involving UN Secretary General Kofi Annan. Kojo Annan, the son of the Secretary General, at one time worked for the Switzerland-based company, Cotecna. In December 1998, while Kojo Annan was still affiliated with Cotecna, the company was hired by the UN to monitor goods entering Iraq under OFFP. In 1999, the UN responded to initial questions about the relationship by stating Cotecna tendered the lowest bid and the UN was unaware of any affiliation between Kojo Annan and Cotecna. (**Web Resource 10 and Attachment 6**)

The monitoring activities of Swiss-owned Cotecna Inspection S.A. apparently did not live up to the company's contractual agreement with the United Nations.

According to a leaked copy of an internal UN Office of Internal Oversight Services (OIOS) audit report, "OIOS Audit No. AF2002/23/1: Management of the contract for the provision of independent inspection agents in Iraq," Cotecna was guilty of a wide variety of abuses: significantly over-billing the UN in one year by deploying fewer staff than obligated; never inspecting humanitarian goods destined for Northern Iraq's Kurdish area (the "13% program"), leading to a total discrepancy of more than $111 million with respect to the total value of goods paid for by the U.N.; accepting truck manifests at face value rather than off-loading trucks, unpacking boxes, and sampling goods to verify quality and quantity of shipments entering Iraq under OFFP; appointing a sub-contractor, in clear violation of UN rules on sub-contracting, even before the contract was signed. (**Web Resources 11 and 12**)

Prior to the dissolution of CPA, Cotecna won a renewal of the contract for authentication of OFFP deliveries into Iraq. The contract went into effect on July 1, 2004 for a period of 100 days. (**Web Resource 13**)

OFFP INVESTIGATIONS

Pursuant to the May 22, 2003, UN Security Council Resolution 1483, OFFP ended on November 21, 2003. During the May 22-November 21, 2003 timeframe, the Secretary General was authorized to "prioritize," in coordination with CPA and the Interim Iraqi administration, contracts agreed to by the Hussein regime in order to meet the needs of the Iraqi people. (**Web Resource 14**)

With the fall of the Hussein regime, oil smuggling and surcharges on oil exports stopped. In addition, according to the State Department,

> By June 2003, we had learned from Iraqi officials that many of the ministries had both records that documented and personnel with detailed knowledge of the "kickback" system under Saddam Hussein's regime, under which many suppliers had agreed to inflated prices and to pay a certain percentage of the inflated contract value into foreign bank accounts of regime officials. While the CPA was determined to avoid perpetuating any corruption related to these contracts wherever possible, the UN and CPA believed the Iraqis were best placed to determine what OFFP goods they needed to rebuild their country – including its oil, electrical, and public works infrastructure. Many of the contracts they selected included "kickbacks." It was agreed that the best way to deal with these "kickbacks" in the prioritized contracts was for the responsible UN agency to negotiate the removal of the "kickback." (**Web Resource 14, p. 3**)

By not addressing certain contracts, this prioritization effectively cancelled those contracts. (**Web Resource 14**)

On November 22, 2003, CPA began a successor program, the Development Fund for Iraq (DFI), to handle the sale of oil and purchase of humanitarian goods. (**Web Resource 14**)

Independent Inquiry Committee

In response to allegations of abuse by UN personnel, the Secretary General requested the UN Office of Internal Oversight Services (OIOS), which is similar to a US Office of Inspector General (OIG), to open an investigation into all alleged misconduct by UN employees. (**Web Resource 3**) On April 21, 2004, Secretary General Kofi Annan announced the formation of the UN Independent Inquiry Committee to conduct an inquiry into allegations of impropriety in the administration and management of the Iraq Oil-for-Food program. The main goals of the investigatory Committee, which is chaired by former Federal Reserve System Chairman Paul Volcker, are to determine whether: (1) there were violations of the procedures established by the UN for the processing and approval of contracts, the monitoring of the sale and delivery of oil and petroleum products, and for the monitoring of the purchase and delivery of humanitarian goods; (2) UN officials, personnel, agents, or contractors engaged in illicit or corrupt activities; (3) OFFP accounts were in order and maintained in accordance with UN rules and regulations. (**Web Resource 15**)

Congressional Investigations

Various congressional committees have conducted hearings on OFFP. The Subcommittee on National Security, Emerging Threats and International Relations, in its April 21, 2004 hearing, looked at accountability and integrity issues involving the program. (**Web Resource 19**) Issues of accountability and transparency in OFFP were the foci of the House International Relations Committee (HIRC) hearing in April. HIRC has continued its investigation to include several trips to Jordan and the Middle East. The House Energy and Commerce Committee looked at OFFP due to its jurisdiction over commerce and its interest in the effect of OFFP-related oil sales on the oil trade. The House Agriculture Committee sought to update OFFP investigations and look at the future of Iraqi agricultural production and trade. The Commerce, Justice, State and

Judiciary Subcommittee of the House Appropriations Committee is collecting data, interviewing people, and reviewing documents.

In July 2004, the House Committee on Government Reform issued a subpoena to BNP Paribas seeking "all records referring or relating to the Agreement for Banking Services Pursuant to Security Council Resolution 986" and all subsequent agreements between the UN and BNP relating to the Oil-for-Food program. (**Attachment 11**) A similar subpoena was issued to Cotecna Inspections S.A. (the company contracted by the UN to monitor the quality and quantity of humanitarian goods imported into Iraq). (**Attachment 12**) At approximately the same time, the Subcommittee on National Security, Emerging Threats and International Relations requested all OFFP-related documents – including contracts, transaction records, reports, and audits –from Netherlands-based Saybolt B.V. (the company contracted by the U.N. to monitor Iraqi oil sales and shipments at exit points). (**Attachment 13**) All three companies have expressed a willingness to be supportive of cvongressional investigations.

On the Senate side, the Senate Foreign Relations Committee has undertaken an inquiry into the Oil-for-Food program, with the first hearing held on April 7, 2004. And, the Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee has subpoenaed the records of BNP Paribas, Saybolt, and Cotecna.

There have been problems gaining access to many OFFP documents due to confidentiality and non-disclosure provisions still being enforced by the UN. Also, Paul Volcker has noted in briefings and publicly that his UN-established Independent Inquiry Committee should be ***the*** investigation and, according to a July 6, 2004 *Financial Times* article, ordered the UN not to have its personnel cooperate with rival investigations and not to release documents to other inquiries. (**Attachments 9 and 14**) The State Department has continued to negotiate with the Government of Iraq and the UN for access to OFFP documents.

Executive Branch Investigations

The Departments of State, Defense, and Treasury have all played a roll in trying to uncover corruption of OFFP.

CPA and State assisted in the prioritization and renegotiation of over 5,000 humanitarian contracts in order to recover kickbacks. In approximately 300 cases, suppliers refused to lower their fees by 10%, arguing they did not participate in the kickback scheme. "These cases were resolved by CPA querying the Iraqi ministry to confirm – and, where possible, to document – the presence or absence of the extra fee." By the end of the OFFP program in November 2003, 251 contracts had not been prioritized and renegotiated. The UN turned over those contracts to the Defense Contract Management Agency (DCMA) for renegotiation. That work is ongoing. Many OFFP contracts continued beyond June 30, 2004. (**Web Resource 9**)

DCAA provided "financial advisory services to support the transition of the Oil for Food program to the CPA in Northern Iraq" in order to strengthen the internal and financial controls of the CPA Office of Project Coordination (OPC). (**Web Resource 5**)

However, according to GAO, CPA officials provided inadequate staff to properly manage the transfer and implementation of OFFP even as CPA realized that UN data was incomplete. CPA also failed to privatize the food distribution system and delayed negotiations with the World Food Program (WFP) to administer the system, resulting in food shortages. (**Web Resource 5**)

Treasury has worked to identify and seek repatriation of Iraqi assets located outside Iraq and looted assets. These include those assets frozen under the sanctions regime "that exist in the countries that did business with Iraq either legally or illegally under the UN sanctions regime in place before March 2003 (called "trading states") – Jordan, Lebanon, Syria, and Turkey." Treasury investigations are led by the Internal Revenue Service Criminal Investigation Division (IRS-CID) as part a large coordinated effort directed by Treasury's Executive Office for Terrorist Financing and Financial Crime (EOTF/FC). Treasury Investigations have required coordination with the Departments of State, Defense, Justice, and Homeland Security, as well as the intelligence community. The result has been the creation of two interagency mechanisms, the Iraqi Asset Working Group and the Defense Intelligence Analysis Center (DIAC) Fusion Center. (**Web Resource 5**)

DISCUSSION OF HEARING ISSUES

1. What structural weaknesses made the Oil-for-Food Program vulnerable to diversion and exploitation?

The OFFP suffered from several weaknesses, including: a lack of support by certain Security Council member states; insufficient guidance and support from UN personnel; too much control by Iraqi authorities; too little authority and resources in the hands of contracted overseers; and a lack of transparency.

As the program developed, it became increasingly apparent the French, Russian, and Chinese had much to gain from maintaining the status quo. Their businesses made billions of dollars through their involvement with the Hussein regime and OFFP. Moreover, many of those business interests have been tied to senior officials in those and other governments – companies listed on the *Al-Mada* list have known ties to French President Jacques Chirac and include many of the largest political parties in Russia (**Web Resource 8**). If such allegations prove true, it is not only plausible, but likely business interests influenced the behavior of their governments.

The 661 Committee meeting minutes – which were viewed by staff, but remain classified – and discussions with former 661 Committee members, show that the French, Russians, Chinese, Syrians, and others continually refused to support the US and UK efforts to maintain the integrity of OFFP.

UN personnel also appeared to see the goal of OFFP strictly as a humanitarian program and not as a security program as well. The program touted the successes, but refused to acknowledge any failings. (**Web Resource 4**) Furthermore, UN personnel sometimes pressured agencies such as Cotecna to reduce their decline rate. In addition, allegations of corruption involving the head of the UN program, Benon Sevan, further call into question the willingness of the UN to address weaknesses in the program.

OFFP, however, was essentially run by Saddam. The Iraqis were able to determine with whom they did business. That allowed Saddam to set up a kickback scheme in which only those willing to participate in some form of kickback were allowed to participate, whether on the oil sales side of the program or the humanitarian goods purchases side. According to the State Department, while Saddam gleaned kickbacks early on in the program, "the regime first began to ***insist*** on 'kickbacks' beginning with phase 8 of OFF in June 2000." (emphasis added) (**Web Resource 14, p. 4**) OFFP became a reliable and substantial source of income for Saddam, a "cash cow."

In addition, the Iraqis exerted influence over who Saybolt and Cotecna employed and their access to mission-critical equipment and supplies – which were often either lacking or in disrepair. This slowed the inspection process, making it difficult for the inspectors to carry out their duties and easier for the Iraqis to pressure the inspectors or sneak things past the inspection regime.

The contractors also lacked sufficient support or supplies to carry out their jobs. Staffing was a constant concern for both Cotecna and Saybolt, with both questioning their capacity to do an adequate job with existing staffing levels. For example, tankers were often in port for days waiting to be laden with oil and then for permission and conditions to depart. Saybolt lacked the staff to monitor each ship 24 hours per day, which may have in part led to instances of "topping off," where tankers were filled with additional barrels of oil after inspectors had completed their inspection.

In addition, UN monitors with Cotecna had no authority to force authentication or inspection on shipments coming across the border, nor did they have the practical authority to detain shipments that failed authentication or inspection. While there is evidence the company fulfilled its contractual obligations, an obvious lack of real authority over quantity, quality, or legality of goods relegated the UN contractor to a marginal role, little more than a "paper tiger." (**Attachment 7**)

However, the greatest weakness of OFFP was the lack of transparency. Most transactions involving the program were done behind closed doors or sometimes illicitly. There was no good reason most of these transactions should have been done secretly or remain so. The list of oil purchasers was not known. The list of humanitarian providers was not known. Internal audits performed by the UN were not released and continue to be withheld from both member states of the UN as well as the public. The public did not know how or with whom Saddam did business, and it did not know how or how effectively the UN monitored those dealings. The UN continues to refuse release of these documents despite the end of the program.

If nothing else, it is critical the UN seize OFFP as an opportunity to increase systematic transparency of that critical organization.

2. What did Oil-for-Food Program managers and contractors do to prevent abuse of the program?

In the 661 Committee it is evident the US and UK took their oversight responsibilities seriously. Both nations repeatedly raised concerns with the committee only to have those concerns rejected by other committee members. Moreover, the French have argued the US and UK should not pass the blame on to others because they had oversight of OFFP. In a *Los Angeles Times* editorial earlier this year, the French ambassador to the United States wrote, "The complete contracts [for every humanitarian purchase] were only circulated to the U.S. and Britain, which had expressly asked to see them and would have been in the best position to have known if anything improper was going on." **(Attachment 15)** However, this statement belies the fact the French and other members of the 661 Committee shared the same responsibility for oversight of OFFP and worse, manipulated the consensus rule – that all 661 Committee decisions must be made unanimously – to prevent the US and UK from carrying out proper oversight when either government raised concerns about Iraqi manipulation of OFFP.

Similarly, OIP was responsible for implementing OFFP, including monitoring of oil sales and the purchasing of goods. Nevertheless, despite issuing a report calling for the end of surcharges, the UN launched no investigation into the alleged practice or other alleged manipulations of the program. In addition, when allegations of corruption emerged, the 661 Committee, which approved oil sales and humanitarian contracts, could have taken a harder look at what the Hussein regime was doing – even if such oversight was not a primary goal of the program. **(Web Resource 1 and Attachment 4)**

In meetings with staff, representatives of BNP Paribas have consistently asserted the bank's role was merely one of a neutral conduit. Given the public allegations of corruption in OFFP going back at least to 2001, the apparent incuriosity and lack of concern on the part of the bank raises questions about its internal due diligence and ethical safeguards. The bank never initiated a review of the program or the reputation of those involved, instead inappropriately relying on the UN to assure the integrity of the program.

Both Saybolt and Cotecna raised occasional concerns about their ability to carry out their duties and possible corruption. However, many of these concerns appear to have fallen on deaf ears at the UN or at least confused ears, as various UN offices gave ambiguous or contradictory responses to the contractors. For example, in October 2001, the Essex, an oil tanker, was "topped off" with oil in excess of its purchase quantity after Saybolt had completed its inspection. The Iraqis knew Saybolt lacked enough staff resources or camera monitoring equipment to properly oversee ships that were docked for days at a time. In a February 2002 instance, another ship, the Clovely, which had expired letters of credit to purchase oil, was loaded with oil by the Iraqis over the objections of Saybolt. Saybolt lacked any power to stop the loading.

WITNESSES

PANEL ONE

Ambassador Patrick F. Kennedy
United States Representative to the United Nations
for U.N. Management and Reform
U.S. Mission to the U.N.
U.S. Department of State

PANEL TWO

David L. Smith
Director
Corporate Banking Operations
BNP Paribas

Peter W.G. Boks
Managing Director
Saybolt International B.V.

André E. Pruniaux
Senior Vice President
Africa & Middle East
Cotecna Inspection S.A.

WITNESS TESTIMONY

Witnesses were told the purpose of the hearing is to examine the operation and management of the United Nations Oil-for-Food Program (OFFP) in Iraq. Witnesses were asked to explain:

- how their company won the OFFP contract;
- how the contract may have differed from similar contracts in which their company has participated;
- the role of their company in the OFFP process;
- what legal, ethical, and due diligence procedures their company had to follow and instituted;

- what challenges their company encountered fulfilling the contract;
- how their company addressed those challenges; and
- how the United Nations responded to those challenges.

Witnesses were also asked to address criticism of the performance of their company in OFFP and any insights they might have as to how the OFFP program might have been constructed to better prevent Iraqi manipulation.

Ambassador Kennedy is expected to discuss the history of the Iraq sanctions and OFFP program and the status of efforts to gain access to relevant documents.

Witnesses from the three UN Contractors, David Smith from BNP Paribas, Peter Boks from Saybolt, and André Pruniaux from Cotecna are expected to discuss the history of their involvement in OFFP and the challenges they encountered in the program.

WEB RESOURCES

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