

Prepared Statement of André E. Pruniaux
U.S. House Committee on Government Reform
Subcommittee on National Security,
Emerging Threats and International Relations

5 October 2004

Mr. Chairman, distinguished Members of the Subcommittee, my name is André Pruniaux. Since 1998, I have been employed as Senior Vice President of Cotecna Inspection, S.A. (“Cotecna”) in Geneva, Switzerland. I sincerely appreciate having the opportunity to appear before the Subcommittee today to clearly establish for the public record the limited technical role and performance of Cotecna as a contractor under the United Nation’s Oil-for-Food program.

Mr. Chairman, my primary duties at Cotecna consisted of managing operations in Africa and the Middle East, as summarized in my curriculum vitae, which has been presented to the Subcommittee as a part of my prepared statement.

My statement today will cover four main topics:

- (1) How Cotecna won the Oil-For-Food (“OFF”) contract;
- (2) What role Cotecna did and did not play in the OFF process, and how the OFF contract therefore differed from Cotecna’s other similar contracts;
- (3) What challenges Cotecna encountered, and how Cotecna and the United Nations (“UN”) addressed them, including legal, ethical and due diligence procedures Cotecna followed; and
- (4) What changes to the OFF programme’s structure might have better prevented Iraqi manipulation.

At the outset, I believe it is important for the committee to understand that Cotecna’s duties under its contract were limited to verifying that goods entering Iraq matched the list of goods authorized for importation, and in a limited number of cases to assessing the quality of the goods. Cotecna was not involved in selecting the goods to be imported, establishing the specifications of such products, selecting suppliers, negotiating the prices to be paid, or designating any sales intermediaries or sales commissions. In addition, Cotecna was not involved in handling any funds for the payment for any goods, but only with verifying that items, which had been approved for import, had actually been delivered.

My main point will be that Cotecna played a limited, technical role, albeit a difficult, dangerous and important one, and that Cotecna deserves high praise for its performance. I will seek to correct the public record that has been so misinformed and distorted.

(1) How Cotecna won the OFF contract:

On 9 October 1998, the UN issued a Request For Proposals (“RFP”), addressed to several companies, including Cotecna, for a six-month contract to provide inspection services supporting the OFF programme.

Cotecna had submitted a similar proposal previously, in 1992, at which time the UN had selected Cotecna. Cotecna and the UN did not negotiate and sign a contract following Cotecna’s 1992 selection, however, because Iraq rejected the proposed programme.

Cotecna had submitted yet another proposal in August 1996, in response to a July 1996 UN RFP. At that time, however, the UN selected another company, Lloyd’s Register.

On 2 November 1998, Cotecna submitted its proposal in response to the UN’s October 1998 RFP. Cotecna based its submission on proposed authentication procedures as set out in the RFP, Cotecna’s own Information Technology (“IT”) programme and telecommunication equipment, its staff (mostly inspectors coming from its African, Asian and European affiliates and agents), and the public information available on the OFF programme.

In early December 1998, the UN narrowed the list of respondents and invited Cotecna and another company for direct interviews to detail their proposals, respond to UN queries, etc. Cotecna, it was understood, had submitted a strong technical proposal at the lowest price.

The UN chose Cotecna on the abovementioned basis and invited it to enter into preliminary negotiations with the UN during December 1998. The UN then had Cotecna come to New York City for final negotiations (28 to 30 December 1998) and for contract signature (on 31 December 1998). Contract performance started on 01 February 1999.

(2) What role Cotecna did and did not play in the OFF process, and how the OFF contract therefore differed from Cotecna’s other similar contracts:

Cotecna’s UN-OFF contract was limited to the authentication of goods, imported under the OFF programme and entering Iraq. As stated in the UN’s October 1998 RFP and Cotecna’s December 1998 contract, the UN’s Office of the Iraq Programme (“OIP”) implemented authentication procedures as required by Security Council resolution 986. Such procedures required documentary control at three land border posts and at the Port of Umm Qasr.

The different contracts that Cotecna signed with the UN clearly define Cotecna’s role in the OFF process. I would call your attention particularly to articles 3, 4, 5 and 6 of Contract PD/CON/324/98 dated 31 December 1998 and articles A.3 and B.4 of Contract PD/CO144/01 dated 15 August 2001 (as well as various amendments to these two basic contracts), copies of which I believe have been supplied to the Committee. The contracts foresaw certain

“traditional” inspection techniques, mostly related to food supplies that arrived in bulk at the Port of Umm Qasr and that laboratory analysis would confirm was fit for human consumption (“FFHC”). In other ways, though, Cotecna’s role was “untraditional.”

I will provide more details about Cotecna’s role later, when I address certain strengths and weaknesses in the authentication process. For now, I would note that Cotecna’s OFF Contracts were particularly tough for the contractor (Cotecna) and imposed severe obligations, heavy (standard UN) general conditions, and very limited resources and support for Cotecna in case of evacuations, medical and security assistance, etc. Cotecna and its staff of inspectors had significant previous experience and references in working in remote, desert conditions and in controlling land border posts and port facilities, inspecting “sensitive” imports (such as oil products), in such developing countries as Niger and Chad. The OFF programme, however, was Cotecna's first involvement in a sanctions programme even though it had experience in commercial inspections in Saudi Arabia and elsewhere in the region also under difficult conditions.

(3) What challenges Cotecna encountered, and how Cotecna and the UN addressed them, including legal, ethical and due diligence procedures Cotecna followed:

The general working and living conditions for Cotecna inspectors were very harsh, and the environment hostile. Inspectors were awarded 15 days leave for every two and a half months of working on the sites. Cotecna and its inspectors encountered major problems in implementing its responsibilities under the contract. Among other challenges, the company:

- Had no insurance coverage for Cotecna’s capital investments in Iraq and, accordingly, no ability to recover any money after the war destroyed certain inspection sites and caused equipment to be looted, documents lost, etc.;
- Has had to bear high insurance costs, including recently kidnapping insurance, to cover inspectors;
- Has borne the cost of expensive security measures, requiring that Cotecna obtain and maintain top quality equipment and special facilities for transportation, water, power, cabins, etc.;
- Has had to carry tremendous telecommunications service and equipment expenses for the professional and personal use of our inspectors;
- Has been faced with providing and maintaining inspection equipment under the most extreme and, often, unforeseen conditions;
- Has been challenged with handling the administrative management of inspectors (leaves, salaries, dismissing, hiring, authorizations from OIP, etc.);

- Continues to successfully manage a highly diverse staff—some 30 nationalities—in the face of sickness, accidents, discipline problems and cultural tensions, both internal and with the Iraqis;
- Had to navigate Cotecna’s delicate web of contacts with UN’s Office of the Humanitarian Coordinator for Iraq (“UNOHCI”), Iraqi authorities, port officials, Iraq’s Ministry of Trade (“MOT”), to process visas, requests for dismissal, etc.;
- Had to maintain a positive working relationship with the UN Iraq-Kuwait Observation Mission (“UNIKOM”), for help during accidents and evacuations, and with Kurdish authorities (as well as with the Jordanian and Turkish officials);
- Had to deal with direct pressure from Iraqis;
- Had to provide its employees with the tools and training to survive extreme desert conditions, which sometimes poisoned the water and required organized catering;
- Had to deal with heightened dangers such as shootings, sandstorms, dangerous driving, and even camels and snakes – all of which made evacuations and the rotation of inspectors between sites difficult, as 1,000 kilometres separated Amman from Baghdad (all transportation in Iraq had to go through Baghdad); and
- Finally, had to deal with an inherited disarray of OFF records, and to respond appropriately when carriers presented incomplete or erroneous entry documents.

Faced with these challenges, Cotecna exhibited the highest degree of professionalism and followed all appropriate legal, ethical and due diligence procedures. Cotecna is a leading inspection companies and as such is a member of the International Federation of Inspection Agencies (“IFIA”) and adheres to its code of obligations and best practices. Cotecna is also International Organization for Standardization (“ISO”) certified. Cotecna properly enforced Standard Operating Procedures for UN contractors and wrote, distributed, implemented, and audited its own Specific Operating Procedures (“SOPs”) for each site. Cotecna inspectors were required to rigorously follow Cotecna’s detailed and highly specific Field Inspection Manual (FIM). Cotecna issued and regularly updated these confidential administrative procedures.

Generally, I would say that the UN also responded appropriately to the above challenges. When I describe authentication procedures later in my statement, I will discuss Cotecna’s coordination with the OIP, which I would characterize as fair. Meanwhile, relations with the UNOHCI were sometimes delicate, because Cotecna was required to report directly to OIP only, while UNOHCI-Baghdad was assisting Cotecna for logistics, visas, transportation authorizations, and complaints from Iraqi authorities related to Cotecna inspectors (discipline, behaviour, etc.). When receiving messages from Iraqi authorities regarding Cotecna's authentication activities, UNOHCI passed them to Cotecna in a way that often reflected a sympathetic attitude toward the Iraqi complaints or requests. Finally, dealing with UN-agencies was always a delicate task and a source of tensions, because these humanitarian agencies adopted a more sympathetic attitude

towards Iraqi and Kurdish entities. In direct response to concerns raised by Cotecna, UNOIP arranged for monthly coordination meetings in Baghdad with the various agencies and Cotecna.

(4) What changes to the OFF programme's structure might have better prevented Iraqi manipulation

Under the terms of its UN contract (from 01 February 1999 to 21 November 2003), Cotecna maintained between 54 to 67 inspectors at five entry points located on Iraqi territory at the borders with Turkey, Syria, Jordan and Saudi Arabia (first opened in November 2002) and at the sea port of Umm Qasr in the Persian Gulf. Umm Qasr operated on a 24-hour basis, whereas the land border inspection sites mirrored the opening hours of the individual border crossings. The UN required suppliers to present all goods approved under the OFF programme for authentication by Cotecna at these entry points. To assist in the authentication process, the OIP in New York supplied Cotecna with a live copy of the OFF database. The OFF database tracked each contract via a unique reference number referred to as the Comm. (communication) number. Before the export of goods, suppliers were issued an approval letter by OIP referred to as the O.C. (Official Communication) letter. The O.C. letter specified the point of entry (as stated by the supplier in its application to OIP), the list of goods to be shipped (item by item) and the date of validity of the approval letter, generally one year from the date of issuance.

Importantly, Cotecna had no mandate to inspect trucks or board vessels to ascertain whether the goods on board were approved for export to Iraq pursuant to Security Council Resolution 986 ("986 goods"). In addition to 986 goods, a vast stream of "661 goods" approved by the Security Council 661 Committee for export to Iraq, were the subject of private contracting and were not financed by the OFF programme; therefore Cotecna had no responsibility nor, more important, authority to inspect them.

Upon presentation of goods for authentication at the entry points (the five sites), Cotecna verified that the Comm. number concerned had been approved, that a valid OC letter had been issued by OIP, and that the goods were presented at the appropriate point of entry. Suppliers routinely presented goods at the wrong entry point or with expired approval letters. Cotecna sought guidance directly and only from OIP in all such cases. OIP adopted a facilitative approach to such problems, exhibiting a reluctance to slow the pipeline of humanitarian deliveries to Iraq. OIP therefore typically instructed Cotecna to proceed with the authentication process while OIP arranged with the supplier and relevant permanent mission to the United Nations to change the point of entry or extend the validity of the approval letter in slightly slower time.

Once satisfied that the goods had a valid approval letter, Cotecna verified that the quantity and type of goods listed on the database/O.C. letter matched the bill of lading, invoices, packing lists and any other relevant documentation presented at the sites. All 986 goods presented were authenticated. Cotecna authenticated by replicating shipment inspection reports to OIP and the UN Treasury via the OFF database. Receipt of the shipment authentication report triggered an instruction from Treasury to BNP Paribas to release funds from the Iraq account reserved against the letter of credit.

Cotecna performed physical examination on bulk or containerized imports in connection with approximately 10 per cent of consignments (in number). In addition, Cotecna drew samples of all food stuffs (mostly at the Port of Umm Qasr) and deferred authentication until laboratory analysis confirmed fitness for human consumption. This methodology was agreed with OIP, which in turn briefed the 661 Committee. OIP did not require Cotecna to perform quality control testing other than in connection with food basket items. On occasion, however, carriers presented goods for inspection that had obviously been damaged in transit. Cotecna referred all such cases to OIP. According to my recollection, these cases were amicably resolved after liaison between OIP, the relevant permanent mission to the UN, and the supplier, and the suppliers eventually agreed to withdraw the shipments and to send replacement goods.

Laboratory analysis occurred at Cotecna's laboratories in Amman (since crossing the Turkish, Kuwaiti, Syrian and Saudi Arabian borders was strictly forbidden). This obligation delayed the results of the analysis by an average of 7 to 10 days. The working relationship between Cotecna and OIP was close and continuous, and Cotecna sought guidance in every case where Cotecna observed a deviation from normal practice. Cotecna did not withhold authentication in connection with any consignment unless OIP specifically instructed this, and most cases were eventually resolved. Problems routinely arose when inexperienced suppliers or transporters neglected to present 986 goods for authentication at the sites and when the error came to light only after the carrier had delivered the goods to the receiving Ministry (mostly in Baghdad) and the suppliers sought payment. In such cases suppliers had to return the goods to the entry point for inspection; Cotecna inspectors were dispatched to inspect the goods in situ; OIP liaised with the Ministries in question to receive confirmation of receipt of the goods; or, if through documentary evidence Cotecna was satisfied that a prima facie case existed that the goods had been imported, OIP authorized Cotecna to authenticate without inspection. The latter course of action mostly applied to goods imported on the eve of the war in Iraq that Cotecna could not authenticate at the sites after the evacuation. The 661 Committee approved this measure. Notably, Cotecna had the authority to withhold authentication but not to detain goods.

The Iraqi Ministries complained continuously that the authentication process favored the supplier, often claiming that they had received substandard goods or delivery shortfalls. Iraq frequently exerted firm pressure on Cotecna to withhold or retract authentication. OIP directed Cotecna to refer all such matters to the UN, but this did not alleviate the pressure from the Government of Iraq ("GOI") upon Cotecna, particularly in Umm Qasr. It was the policy of the UN that such matters were in fact commercial disputes between buyer and seller, which the relevant parties should address through normal dispute resolution procedures.

For example, in May 1999, the Iraqi Minister of Trade, accompanied by more than 20 heavily armed guards, approached Cotecna inspectors outside of the camp. He informed them that Iraq would no longer allow discharge of any vessel before completion of analysis in Baghdad. This was an aggressive show of force that left many inspectors in Umm Qasr badly shaken. This aggression and intimidation continued and reached a peak in 2001. These actions coincided with a significant increase in traffic leaving the port, which we reported to OIP.

The Government also lobbied strongly with Cotecna and OIP to introduce a deferred authentication period to facilitate quality control testing by the Ministries. Cotecna and OIP

vigorously resisted such a measure, because it might have permitted the Ministries to influence the payment process by requesting payment of illicit fees by suppliers to ensure that quality disputes were resolved and that payment might go forth. OIP and Cotecna repeatedly and firmly requested the Iraqi Ministries to appoint commercial inspection companies in their contracts with suppliers. The UN specifically asked Cotecna not to act as a commercial inspection company for the OFF imports into Iraq. Cotecna strictly honored this obligation.

The Government continuously sought ways to influence the payment process. For instance, for a period in 2001 OIP instructed Cotecna not to authenticate goods until a carrier had physically removed them from the port of Umm Qasr. Within a short period of time congestion in the port of Umm Qasr became a serious problem, and suppliers began to complain, off the record, that the Government was refusing to remove containers from the port unless the suppliers paid a fee to the port authority. In other words, the Iraqi authorities began to influence the authentication/payment process for financial gain. After discussions with OIP, this process stopped, and the congestion situation immediately eased. Despite the pressure that certain Iraqi officials brought to bear, Cotecna managed to maintain a fair working relationship with Iraqi officials at the entry points and within the Ministries. In fact, inspectors did not feel under particular threat before the war in Iraq.

Cotecna occasionally experienced delays in receiving guidance from OIP or received advice that did not precisely correlate with earlier stances taken by OIP, but, in general, an occasional lack of coordination and some disagreements between various UN offices did not affect the authentication process and the execution of the contract. Cotecna did experience some delays in receiving payment, through a lack of coordination between the different UN entities (UN-OIP, PD, OLA) and often had to adopt to agreed changes, in good faith, before the UN managed to adjust the contract accordingly. The UN also occasionally neglected to make formal written changes to the contract to reflect agreed procedures in the field and a breakdown in communications between departments coupled with the war in Iraq resulted in the UN failing to reimburse Cotecna fully for the construction of a site in Ar'ar. These were not, however, matters that affected Cotecna's performance in Iraq.

Since the inception of its contract in Iraq Cotecna has authenticated the arrival of goods in Iraq with a total of \$29.2 billion, of which no single authentication has been proven to be erroneous. Criticism of Cotecna normally stems from ignorance as to the limitations of our mandate. For instance, Cotecna had no involvement at all in the contracting or approval process or the valuation of the goods shipped, and yet blame has been apportioned by some in the media to Cotecna regarding the alleged over-pricing of goods. Cotecna has also received unfair criticism for not inspecting every truck or vessel entering Iraq when, as stated above, the mandate was reactive rather than proactive and Cotecna had no authority to inspect all goods.

OIP appeared to make every effort to facilitate the flow of goods while restricting any influence of the Government of Iraq over the payment process which might have involved coercing suppliers to pay illicit fees to ensure timely payment. It is my opinion that Security Council resolutions 661 and 986 relied upon member states to police exports through their export licensing arrangements rather than providing adequate security at the borders of Iraq. Since Cotecna had no authority to search any vehicle or vessel other than those presented for

inspection, weapons or banned products could simply have been transported across the borders since no mechanism for security inspection existed other than the multinational maritime interception force operating in the Persian Arabian gulf. It is also my opinion that the Security Council could have adopted a resolution extending the role of the Independent Inspection Agent to include physical inspection of all imports to ascertain that only approved goods were entering the country. But, again, such was not the case.

This concludes my prepared statement, Mr. Chairman. I would be pleased to answer any questions members of the Subcommittee might have.

[CV APPEARS ON NEXT PAGE]

CURRICULUM VITAE

NAME: André E. PRUNIAUX
NATIONALITY: French
LANGUAGE: French, English, (Spanish/Italian/German)
CURRENT POSITION: Senior Vice President – Africa and Middle East
Cotecna Inspection S.A., Geneva – Switzerland

GENERAL QUALIFICATIONS

- > Chemical Engineer – Ecole Nationale Supérieure Génie Chimique, Toulouse, France, (1963)
- > Licence in sciences, chemistry and mathematics, (1962)
- > Post graduate research (Doctorate) in nuclear engineering – Centre d'Etudes Nucléaires de Cadarache, France (1964-1966)
- > Courses in Business Administration, Washington D.C. (USA), (1968-1969)

BRIEF CAREER HISTORY

1965-1968	Commissariat à l'Energie Atomique, France; various posts
1968-1969	American Chemical Society, Washington, D.C., USA; processing of data, scientific journalism
1969-1971	American Chemical Society, Frankfurt, Germany; Bureau Head
1971-1974	Oronzio de Nora Group, Milan, Italy; Manager of chemical and electro-chemical projects
1974-1987	Universal Engineering and Finance Corporation (UNEFICO), Geneva, Switzerland (subsidiary of Swiss Bank Corporation). Head of African activities, Marketing Director, General Manager
1987-1988	Société Générale de Surveillance, Geneva, Switzerland; Manager, Manufacturing Industry Department
1988-pres.	Cotecna Inspection S.A., Geneva, Switzerland, Senior Vice President

SPECIFIC EXPERIENCE IN TRADE SURVEILLANCE

- > Manager with SGS in the Manufacturing Industry Department
- > Overall Management of full inspection contracts for the Governments of Nigeria, Kenya, Benin, Pakistan, Comoros, Niger, Togo, Ghana, Tanzania, etc.